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PARLIAMENT OF NEW SOUTH WALES

REPORT

OF THE

ROYAL COMMISSION

INTO

NEW SOUTH WALES PRISONS

Volumes I, II, and III

Front Cover:

Main Entrance, Bathurst Gaol

To:

His Excellency the Governor,

Sir Arthur Roden Cutler, V.C., K.C.M.G., K.C.V.O., C.B.E., K.St.J.

MAY IT PLEASE YOUR EXCELLENCY

Having been appointed by Royal Commission by Letters Patent bearing date of twenty-eighth June, 1976, to be Sole Commissioner with the following Terms of Reference:

To inquire into and report upon the general working of the Department of Corrective Services of New South Wales, its policies, facilities and practices in the light of contemporary penal practice and knowledge of crime and its causes and, without restricting the generality of the foregoing to inquire into and report upon:

- (a) The custody, care and control of prisoners and the relationship between staff and prisoners;
- (b) The selection and training of prison officers and of other staff engaged in training, correctional and rehabilitative programmes for prisoners;

and to recommend any legislative and other changes necessary or desirable in consequence of my findings.

I have completed my inquiries and have the honour to present to Your Excellency my report in relation to these matters.

J. F. NAGLE,
Royal Commissioner.

31st March, 1978.

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(PICTURE)

The gateway to 5 Yard at Malabar Complex

OVERVIEW
(Picture)

OVERVIEW *

" ... When 'society' inflicts a punishment on those who have offended against its laws, society is obliged to avoid subjecting them to a corrupting system in the place where they are held captive, not to increase their misfortune by increasing their vices. Society has the right to punish, but not to corrupt those punished. It is granted the awful power of killing the guilty; no one recognizes its rights to deprave them."

Gustave de Beaumont "Le Siecle" (7th September, 1843) published in de Tocqueville and de Beaumont "On Social Reform".

"The mood and temper of the public with regard to the treatment of crime and criminals is one of the most unfailing tests of the civilisation of any country."

Winston Churchill, House of Commons, 20th July, 1910.

The Prisons Act, 1952, entrusts the Commissioner of Corrective Services, subject to Ministerial direction, with the "care, direction, control and management of all prisons" and enjoins him to "make provision for the training, welfare and after care of prisoners."

Department of Corrective Services and N.S.W. Prisons

The present Commissioner, Walter Richard McGeechan, is the head of the Department of Corrective Services. On 28th May, 1976, the Department was responsible for the administration of some twenty-seven prisons of varying degrees of security and four periodic detention centres.

On 29th April, 1976, the total number of persons under its control, either in prisons or in the community, amounted to 12865. Of that number, 28.7 per cent were

in prison and 71.3 per cent were in the community under the supervision of the Department. Some ten of the prisons housed most of the prisoners in secured conditions, At least, 30 per cent of the prisoners were held in gaols built in the last century; two of the gaols, Maitland and Parramatta, were built over 130 years ago.

The operating expenditure of the Department for 1975-76 amounted to \$30,612,531 and the capital expenditure during the decade 1965-76 was \$32,150,979 (this figure does not include money spent on the Parramatta Linen Service), Grafton Gaol

In the early 1940's, the Government gave approval for the use of Grafton Gaol as a special institution for the treatment of recalcitrant intractable prisoners. On 17th August, 1943, the Deputy Comptroller of Prisons in New South Wales wrote to the Under Secretary of Justice requesting an extra payment for "capable, tactful and robust officers" who were to be employed in maintaining discipline over dangerous criminals at the gaol. The "capable, tactful and robust officers" were to be engaged,

- This overview was written before the Premier of New South Wales, the Honourable Neville Wran, Q.C., M.L.A., announced that Mr W. R. McGeechan had been replaced as Commissioner of Corrective Services. It was thought to be inappropriate to alter its contents.

said the letter, in duties of an "arduous nature". Like so much of the vocabulary employed over the years in what is now called the Department of Corrective Services, the extra payments sought were given the euphemistic title of "a climatic allowance". The prison community used less delicate but more honest words for these duties of an "arduous nature". The customary floggings of prisoners received at Grafton Gaol were described in its own argot as a "reception biff",

Until May, 1976-the Royal Commission's first day of formal hearings was 14th April, 1976-there can be little doubt that:

" ... upon first admission to the gaol, intractable prisoners were the subject of a 'reception biff', which consisted of a physical beating of the prisoner about the back, buttocks, shoulders, legs and arms by two or three officers using rubber batons."

These are the words of an admission made by the prison officers serving at Grafton and endorsed by their union-the Public Service Association, Prison Officers' Vocational Branch.

This admission added an account of the routine practised in Grafton Gaol should a prisoner breach any of the Rules "either written or unwritten". The formal rules are, of course, the subject of an Act of Parliament. This provides for a charge for any breach to be heard by the Visiting Justice or, in certain cases, the Superintendent. Notwithstanding these statutory provisions, if, in the opinion of any member of the custodial staff, any rule was breached by a prisoner, the officer immediately, and on his own initiative, set about the prisoner and beat him.

A mere reciting of the admissions tends to conceal the enormity of the conduct involved. Perhaps the full significance of the practices described is better understood by quoting from a witness whose evidence the Royal Commission accepts. The witness spoke of his arrival at Grafton and of the Deputy Superintendent explaining to him the somewhat extraordinary rule that prisoners were not to look prison officers in the face:

"Look at the ground. Don't look at us, mongrel."

He then described how, after being ordered to strip, he was seized by the hair and dragged naked into a cell where he was beaten by a number of officers who-

" ... did not say anything at all to me during the beatings. They were

talking to each other saying such things as, 'We'll fix this bastard up ... We'll teach him to hit one of our mates.' They hit me about the back, shoulders, buttocks and back of the neck and head. This bashing went on for about five minutes and during this time I remained upright in the corner trying to protect my head and private parts."

A one-time Superintendent at Grafton described the method used in obtaining compliance with the written and unwritten rules as "using a little psychology". This meant two or three officers hitting prisoners-

" ... around the buttocks with batons and if they sought to cover or to protect themselves or to retaliate they would get hit on their back or on their legs as well."

The prison officers have claimed that the routine at Grafton was "departmental practice". Although some of their members had taken part in what they now describe as "indefensible conduct", it was said they were not to blame because they were acting in accordance with the practice under superior orders. The Commission would not wish to under-estimate the difficult circumstances facing ordinary custodial officers in the execution of their duty but such a defence is redolent of other debates concerning more sinister and more notorious happenings.

In his evidence the Commissioner of Corrective Services, Mr McGeechan, was reluctant to accept the possibility of a routine "reception biff" at Grafton. It was therefore necessary to describe to him the circumstances of these bashings of prisoners by prison officers. He then expressed the unqualified view that if such conduct had occurred at Grafton, or any other gaol, it was "improper and reprehensible".

There can be little doubt from the evidence before the Royal Commission that these practices had been in vogue in Grafton for at least thirty years. More recently, they had attracted attention in Parliamentary debates and had been widely publicized in the media and elsewhere. Mr McGeechan admitted his awareness of this publicity. He knew about them by "rumor and reputation", but maintained that he had no actual knowledge of the situation. This lack of knowledge is not only surprising but, even if it were to be accepted at its face value, disturbing. Against a background of persistent publicity and rumour, the head of the Department of Corrective Services was unwilling or unable to discover practices in one of its gaols utterly opposed to normal standards of decent human conduct.

Bathurst Gaol

Unfortunately, brutality practised on prisoners by departmental officers was not confined to Grafton. One incident involving large groups of prisoners and prison officers occurred at Bathurst Gaol. The Commission examined it in some depth; but time did not permit a full investigation of other more particular incidents of alleged assaults on prisoners by prison officers. However, this incident revealed to the Commission behaviour on the part of a Superintendent and some prison officers at Bathurst equally vicious as that at Grafton.

In October, 1970, a disturbance occurred at the Bathurst Gaol which involved confrontation between the prisoners and prison officers and some destruction of property. Eventually the prisoners agreed to return to their cell blocks and were allowed to associate overnight in various cells, not necessarily their own. In some cases, between four and six prisoners went into one cell. On the following morning the prisoners had to be moved back to their own cells. According to the evidence, to accomplish this task the Superintendent armed his officers with rubber

batons in the circumstances a quite unnecessary precaution and led them into the cell block where the prisoners were. The shameful conduct which followed was indefensible. It began when the Superintendent greeted an unarmed prisoner, not showing any aggression, with the words:

"You were pretty tough yesterday. Let's see how tough you are today.
Cop this!"

The Superintendent then struck him in the face. Almost simultaneously, the prisoner was hit from behind and pushed into an open cell. There followed a wholesale bashing of prisoners. Heads were cut open. Some were left lying unconscious or semi-conscious on the prison floor. One was seen huddled and whimpering in the corner of his cell. Another lay naked on the floor surrounded by seven or eight prison officers who beat him with batons. These are a few sordid examples of what occurred. These prisoners had complied with the directions given to them without showing any sign of aggression. The beatings by the Superintendent and the officers were in most cases completely unprovoked.

In this instance, an admission also was made by the Prison Officers' Vocational of the Public Service Association after certain prisoners and one former prison had given evidence. The admission was that:

". . . in October, 1970, following a sit-in at Bathurst gaol, some prison officers participated in a systematic flogging of a large number, if not all, of the prisoners in the gaol. Such flogging was carried out under the leadership and control of the Superintendent . . . and was regarded by the officers as representing official policy."

Commissioner of Corrective Services found difficulty in accepting this admission, that it was perhaps made as a tactic or manoeuvre on behalf of the Prison Vocational Branch, and not on behalf of particular officers. The Royal Commission has no such difficulty. It considers that it would be flying in the face of reason to reject the admission; in any case, it was corroborated by evidence of prisoners and prison officers.

Mr McGeechan's obstinate refusal to accept the conclusion, rendered inevitable the evidence and the admission, that some prison officers had illegally assaulted at the Bathurst Gaol in October, 1970, was dictated not by the wish to "the quality" of his life (his words) but because he would not, and could not admit to such outrageous conduct of the officers of his Department. Indeed, in , 1971, a legal officer of the Department who had conducted an inquiry satisfactory-into the incident reported that:

"At first blush upon a reading of all the statements, a prima facie case exists against prison officers generally at Bathurst Gaol but upon a consideration of all the material, no case exists against any specific officer."

In addition, late in 1970 and early in 1971, some members of the Prison Vocational Branch and the Branch itself brought the matter directly to the attention of Mr McGeechan. In February, 1971, officers of the Branch held a conference with Mr McGeechan and some of his senior officers. They expressed concern at the happenings at Bathurst in October, 1970, and requested the Department to hand down ...

". . . a written policy as to its stand on the use of force by officers under the direction of senior officers of the Department. That the Department ensures that its policy is clearly understood by all officers. Further, no force will be used by any officer under direction of senior officers of the Department until the Department does hand down this written policy."

In the opinion of the Commission, despite protestations to the contrary, the Commissioner

of Corrective Services was aware-by February, 1971-of the illegal by the Superintendent and prison officers on prisoners at Bathurst in the of October, 1970. Not only did he do nothing to prevent a recurrence of an incident but in fact he attempted to conceal it. There was no denunciation events. Neither then nor subsequently did the Commissioner or the Department satisfactorily inform its officers about any policy on the use of force by prison against prisoners.

The result was that when in February, 1974, the prisoners at Bathurst rioted burned the gaol down, the Superintendent who had led the bashings in 1970 was in charge and the Department had still remained silent in the face of the clear for advice by the Prison Officers' Vocational Branch.

The events at Bathurst Gaol in February, 1974, will be examined at length later in this Report. It suffices to remark here on some of the factors contributing to the riot. These were: the actions of a limited number of difficult prisoners; the procedures adopted in the day-to-day running of the gaol which were oppressive, unjust and unnecessarily preoccupied with trivia; a staff with a large proportion of untrained, unsuitable and incompetent prison officers; the failure of the Superintendent and, ultimately, the senior administration of the Department to give any clear and effective leadership either before or during the riot.

It has been said that the study of a gaol riot illuminates the general workings of a prison department.' The Bathurst riot illustrated the general and continuing workings of the Department of Corrective Services: idle inmates; unsuitable and badly trained Superintendents and staff; poor morale; arrogant enforcement of petty restrictions; the unfair application of disciplinary rules; and, finally, an unsympathetic Commissioner with an administration of selected senior officers remote from their charges.

In 1970, the Department distributed to its officers a "Manual of General Information-Custodial Division". This manual categorically stated:

" ... each institution must maintain a comprehensive and objective riot control plan which is clearly understood by its staff."

There was no riot control plan for the disturbance at Bathurst in February, 1974. It is worthy of noting that even at the time of the hearings of this Commission, no riot plan had been prepared for any gaols in New South Wales. On the day of the riot, the absence of a riot plan and the lack of any effective direction or control by either the Superintendent or the representative of the Commissioner of Corrective Services had sent to Bathurst contributed in no small measure to the failure to control the prisoners and regain control of the gaol at a much earlier time.

Proper control, either as a result of a pre-determined riot plan or at least an on-the-spot decision about who in fact was in command, should have prevented the indiscriminate shooting and the unnecessary and unreasonable use of force by some officers on prisoners. The position was further exacerbated by the Commissioner of Corrective Services taking command of the operation to restore order from his office in Sydney. In evidence, he agreed that this action constituted the "height of folly".

During the events of February, more than fifty prisoners were injured, either by shooting or by being beaten with batons. In most cases, the injuries were inflicted by prison officers illegally using unreasonable and unnecessary force. The injured included

one prisoner who was rendered paraplegic and another so badly beaten by batons that doctors noted three lacerations of the scalp and thirty lineal weals on both sides of his body. In the circumstances, as detailed in the evidence, it was only to be expected to hear of a prison officer coming to the front gate of the gaol in the early hours of the morning, throwing down his helmet and baton saying:
"I don't want any part of this."

The replacement cost of the damaged gaol has been estimated by the Department at \$5 million.

The Public and Prisons

Generally, the public has scant knowledge of, and pays little regard to, prisons. The important role of the Department of Corrective Services is called on to play in "social defence" is unrecognized. The public's occasional interest in prisons and

prisoners is largely morbid, and usually generated by a sensational treatment of the in the press; otherwise it is abysmally ignorant of the whole subject. It accepts the view that those who have offended against the law should be away, out of sight and out of mind.

Most comment is ill-informed. At one extreme are those who expound the of imprisonment as a deterrent, maintaining that conditions for prisoners have become too soft and that inmates are being housed in "country clubs". At the other extreme are those who confidently suggest that if proper rehabilitative measures were introduced, the problem of crime would disappear.

Some prison sentences obviously have a deterrent effect on some offenders. A ready example is the case of the laws against the drunken driver. But the majority informed opinion indicates generally that the effect of imprisonment as a deterrent is limited and in some cases counter-productive. One authority, judging on past and present experience, states that:

"... the only result to be expected from the implementation of a more punitive policy in prisons would be greatly intensified unrest, turbulence, riot and revolt, and a substantial increase in death and injury for both staff and prisoners"

The Superintendent of Medical Services of the Department of Corrective Services told the Royal Commission:

"The longer a prisoner remains in custody ... the higher is the risk that he will get into trouble again."

An equally depressing reply is given to those members of the public who see administered prisons reforming the inmates. In a recent authoritative work, says:

"With a few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism."

A corrective to popular opinion is to be found in the opening chapter of a report on Corrections by a United States National Task Force:

"The failure of major institutions to reduce crime is incontestable. Recidivism rates are notoriously high. Institutions do succeed in punishing, but they do not deter. They protect the community, but that protection is only temporary. They relieve the community of responsibility by removing the offender, but they make successful reintegration into the community unlikely. They change the committed offender, but the change is more likely to be negative than positive."

Again, it is suggested that the solution to the community's problem could be found

by ensuring that those whom the Courts sentence should be securely locked up for the period of their sentence and that the prisons should be escape-proof. Undoubtedly, their containment will prevent a repetition of their criminal activities for a time. This sort of argument is usually accompanied by a call for heavier

Building a prison from which escape is impossible is problematical. Whether such an institution, if it were built, would be acceptable to community standards of decency and humanity is doubtful. And the costs involved would be enormous.

For instance if the object were merely to detain all those in the custody of the Department in the present maximum degree of security, the annual budget would rise from the present figure of \$30 million to about \$40 million and the capital cost of the new buildings required would be astronomical. If all prisoners were housed in buildings similar to Katingal, the annual budget would be in the region of \$120 million and huge sums of money would be needed for building costs.

This, of course, does not take into consideration the effect on the prisoners and the great increase in recidivism and violence which most criminologists would predict. The protection of society from increased crime and violence and the humane treatment of prisoners are far more important considerations than the false security thought possible by the temporary incarceration of some criminals in so-called escape free prisons.

Prisons belong to the community. Subject to the needs of proper administration and security, they should at all times be open to scrutiny by the public, interested bodies and the media. The more prisons are open, the less the risk of abuses in the system being hidden. A fuller knowledge of the world of prisons and the workings of the Department is necessary to dispel public apathy and make possible open and healthy comment and criticism.

The Department has complained of hindrance to its programmes of reform by conservative public opinion; but it has never attempted to inform the people of New South Wales of its problems or the state of the prisons. Indeed, it has actively impeded the public from gaining the knowledge it is entitled to have and has effectively shut off the prisons from view. It is surprising to find how many reputable and distinguished citizens have been banned from entry to prisons. They include the present Premier, Mr Wran, other members of Parliament including some who are now Ministers of Cabinet, barristers and solicitors, members of the public interested in prison reform and representatives of the media. This restrictive policy is incomprehensible.

When Mr McGeechan spoke or wrote of the prisons under his control, it was in "half-truths". At times, he deliberately hid the facts including in his reports to Parliament. The Royal Commission is not surprised that the community, so inhibited and obstructed, should, at times, be ignorant of the situation. And how it could be expected to have an informed opinion on the illegal assaults at Grafton and Bathurst when the Department and its Head consistently denied that anything untoward had happened?

The Department, The Public Service Association and the Officers

Those representing the Department at the Royal Commission suggested strongly that the Public Service Association, Prison Officers' Vocational Branch, and its members were a reactionary force, incapable of moving with the times. The Department's spokesmen maintained that they represented a complete bar to most, if not all, of its attempts to improve the prisons of New South Wales. Even assuming that the union and its members were totally opposed to all attempts to improve and reform the prison system, there is very little evidence, if any, either oral or written, to suggest that any attempts by the Department to introduce changes in the prison system were foiled by the union and its members.

The Royal Commission is prepared to accept that, at times, the interests of Association and the officers were in conflict with the views of the Department. However, it is not prepared to accept that this excused the Department from taking necessary action. At times, the position the Prison Officers' Vocational Branch on behalf of its members was understandable and not remarkably different industrial action by other unions in the interests of members. But the Department usually appears to have invited confrontation rather than discussion.

It is barely tried, through discussion or worthwhile training, to convert its to a more enlightened approach to the treatment of prisoners and general reform. The Commissioner failed to discuss with the officers the problems of the union and its members. Instead, he insisted on procedures and which emphasized his solitary and absolute control of the Department. He any challenge which threatened that control.

The Department's Budget

Another excuse by the Department for its failures was that in the past it had starved of funds. It is, of course, the responsibility of Parliament to assess the expenditure of public money. There are areas of great need everywhere and, undoubtedly, there are other areas of activity in which the community more willingly see its money spent. However, the community has the responsibility for those it imprisons. Unless prisons and prison administration are properly funded and proper use is made of those funds, the cost to the community will be great. There will be the ever-present possibility of gaol burnings, such as the one at Bathurst. But of even greater significance, prisoners improperly and unfairly handled in gaol because of the Department's lack of money, will return to the community more lawless, more violent and more prone to return to crime.

It is important to correct the misconception that, under the administration of McGeechan, the Department has been financially worse off than under previous Comptrollers General of Prisons. The operating expenditure for the Department for 1969-70 was some \$6.5 million; for the year 1975-76, it had increased some four-fold and was about \$28 million. The Commonwealth Consumer Price Index shows an index of 79.9 per cent during that period. During the same period the basic wage from \$35.85 to \$49.50. The prison population was approximately the same. There had been an increase in the number on parole, but their cost has been excluded.

Age of the Prisons

The Department has maintained that it has been greatly hampered by the old prisons it inherited. The only solution to what it sees as an impasse is to embark on a multi-million dollar replacement programme. Certainly the New Wales prisons are old, but so are many prisons in Australia and in other parts of the world. Mere age has not prevented prisons from being used in a way and the oft-quoted passage from penological literature is not appropriate:

"If only I had the right staff, I could run a good prison in an old red barn ..."

The material before the Royal Commission indicates that however desirable it would be to have new facilities and institutions, a much more practical way for immediate future is to convert and improve the old institutions and use them in accord with modern penal philosophy—for example, arranging smaller numbers of prisoners in old cell blocks. There should at the same time be a plan for the expenditure of capital funds on new institutions to replace the old gaols.

At one extreme it has been argued that all imprisonment should be abolished

prisons should be used for other purposes. Some of the arguments advanced a certain validity. But informed criminological opinions hold with virtual

unanimity that institutions, in one form or another, will be necessary for the foreseeable future as society's final sanction for the recalcitrant wrongdoer. Therefore the Commission rejects this proposition. However, it does not wish to suggest that any building programme for new gaols should in general be other than as replacement for old gaols. In addition, however daunting the task may appear at present, society, in the words of Sir Winston Churchill in his famous speech to the House of Commons on prison reform, must continue its " ... tireless efforts towards the discovery of curative and regenerative processes."

The community has no other choice even though progress may be slow. Parliament and the public must recognize the dimensions of the problem, and the importance of confronting it with prompt and positive action. There is an obvious preference, particularly in times of economic stress, for the allocation of public funds benefiting more deserving members of society rather than those transgressing its laws. But it must not be forgotten that those considered "less worthy" are nonetheless the responsibility of society.

Recommendations – General

The Royal Commission's specific recommendations will be found at the end of this Report but the more important and more general of these are as follows:

1. The present Commissioner of Corrective Services should be relieved of his office. It has been demonstrated to the Commission that he has proved himself incapable of carrying out the admittedly difficult task with which he has been faced. Unfortunately, when appointed, he lacked the necessary custodial experience and his knowledge of penological theories and practices was then, and still is, superficial. He has made little attempt to weld the officers of the Department into an efficient team. Any changes he has made in the system were correctly described by others as cosmetic only. He has knowingly presided over a system which condoned the illegal use of force on prisoners. In the main, he has been responsible for the poor morale and inefficiency of the Department. His administration has been a contributing factor to the undoubted prison unrest and disturbance during his time in office.
2. A Board of Commissioners, comprising a Chairman and two full-time and two part-time Commissioners, should be appointed to replace the single Commissioner.
3. The selection and training of all ranks within the Department should be improved. This includes the initial selection and training and advanced training. Every attempt should be made to improve the status of prison officers. As Lord Mountbatten put it:

"... the public only gets the Prison Service it deserves. Unless prison officers are recognized as men and women fulfilling an essential task for the safety and well-being of the law-abiding public, no amount of leadership can give them that sense of pride and responsibility without which a really high morale cannot be built up."

A proportion of officers should be recruited from outside the Service to occupy executive rank (Assistant Superintendents and above). They should receive an intensive course of theoretical training followed by on-the-job training attached to a serving officer.

4. Superintendents should have primary responsibility for the order, good management and administration of their own gaols. The Department should only exercise an over-riding control in order that its general policy guidelines are implemented.

5. The Department should, as a matter of routine, hold frequent consultations with the Public Service Association, Prison Officers' Vocational Branch, and the Branch should be consulted on any changes proposed by the Department which could affect conditions of employment. The Department should also consult with employers' representatives and trade unions about the existing prison industries, or those to be introduced, and the marketing of any products.
6. At all times, the public should be kept fully and properly informed of the activities of the Department and its prisons. Community organizations should be encouraged to take an active interest in prisons, prisoners and the Department.
7. A building plan should be drawn up until the year 2000. The aim of this plan should be to replace old gaols which cannot immediately be satisfactorily altered by new facilities. All planners should bear in mind the possibility of using present and future prisons for other purposes for example, as hospitals.

Any replaced gaol should be handed over for other public use or destroyed. The plan should be flexible, as it can legitimately be hoped that the prison population will not necessarily continue to increase proportionately to any population increase because of, inter alia, the adoption of alternative modes of punishment and improvements in the organization of society.

These general suggestions indicate the main areas where action must be initiated, lid our prisons of practices as degrading as the lock-step; as pointless as the treadmill; as cruel as the cat-o'-nine-tails. The changes are considered to be within practical bounds.

It is not suggested that they will provide a complete cure-perhaps none But the Commission hopes that action along the general lines recommended discussed in greater detail in later pages of this Report) will introduce into South Wales a system of imprisonment which notwithstanding the tragedies-a necessary concomitant of any form of imprisonment-will demonstrate to prisoners and public that those whom society decrees should be punished will lose only their and the law will not desert them when the prison gates have changed shut behind them.

References

1. Lloyd E. Ohlin: "Sociology and the Field of Corrections", Russell Sage Foundation, 1956, p.14.
2. Gordon Hawkins: "The Prison, Policy and Practice", University of Chicago, 1976, p.46.
3. Douglas Lipton, et al; "Effectiveness of Correctional Treatment – A Survey of Treatment Evaluation Studies", New York, Praeger, 1975.
4. Report of the United States National Advisory Commission on Criminal Justice Standards and Goals – entitled "Corrections", January, 1973, p. 1.
5. William C. Nagel: "The New Red Barn", Walker & Co., New York, 1973, p.. 15.
6. Report of the Inquiry into prison Escapes and Security by Admiral of the Fleet the Earl Mountbatten of Burma. U.K. Home Office, December, 1966, para. 24.

CHAPTER 1

INTRODUCTION

On 28th June, 1976, His Excellency Sir Arthur Roden Cutler, V.C., K.C.M.G .. K.C.V.O., O.B.E., K.St.J., the Governor of New South Wales, by letters Patent. directed to me a Commission as sole Commissioner:

“. . . to inquire into and report upon the general working of the Department of Corrective Services of New South Wales, its policies, facilities and practices in the light of contemporary penal practice and knowledge of crime and its causes, and, without restricting the generality of the foregoing, to inquire into and report upon:

- (a) The custody, care and control of prisoners and the relationship between staff and prisoners.
- (b) The selection and training of prison officers and of other staff engaged in training, correctional and rehabilitative programmes for prisoners;

and to recommend any legislative and other changes necessary or desirable in consequence of your findings."

Prior to that date, His Excellency had issued a Commission in similar terms to Alexander George Mitchell, Esq., and Sydney Conrad Derwent, Esq., and myself. but that Commission was revoked when the sole Commission was directed to me.

History of the Commission

There had been a growing unease in the community about prisons for some years before the disturbance at Bathurst Gaol, on Sunday, 3rd February, 1974. This had been evident both in the media and in Parliament for some time prior to that date, but it might well be said that the final precipitating factor which prompted the setting up of the Royal Commission occurred on that day. It was then that a prisoner at the gaol threw a home-made bomb into the crowded chapel where inmates were watching a film. A riot followed, during which many prisoners were injured and the gaol was wrecked.

A series of prosecutions of prisoners followed in the District Criminal Court.

They were charged:

"For that they on 3rd February, 1974, at Bathurst in the State of New South Wales were each one of persons riotously and tumultuously assembled together to the disturbance of the public peace who unlawfully, and with force, did destroy certain buildings being part of the Bathurst Gaol."

At the hearings, the juries declined to find anyone guilty of that crime, although a number were found guilty of causing damage to the gaol.

During the trials, many allegations were made of mistreatment of accused prisoners by prison officers. The allegations themselves were of doubtful relevance on the question of guilt, but they added to the existing community disquiet about the

conduct of the prisons in New South Wales. Again, requests were made in the Assembly for a Royal Commission to inquire into the "whole prison system State".

No one could cavil at the width of the Terms of Reference. Perhaps it would more in point to suggest that the terms were so wide as to invite the fate of the Commission. That Commission in the United Kingdom, with somewhat similar disbanded after two years without making any report.

Although the terms did not specifically refer to the disturbance at Bathurst for that matter any other of the State's gaols, the clamour for the Royal had concentrated on the allegations of ill-treatment of prisoners and specifically at Bathurst and Grafton. Later, the criticism had extended to other gaols in the State. Accordingly, the Royal Commission felt to consider first the allegations of ill-treatment and mismanagement at Bathurst and Grafton. As the issues raised under these headings involved grave criticism of the putment and its officers, it was considered necessary to conduct that part of the in adversary fashion.

Although this procedure was time-consuming, much of the evidence was not to the more general matters the Commission had been asked to consider, dris oral evidence threw light on the more general issues:

"A study of a prison system in trouble is a fruitful starting point for the analysis of the system, for it is during such incidents as prison riots that the structure of the prison organization is most clearly revealed".'

Analysis of Terms of Reference

An examination of the Terms of Reference indicate the wide scope of the They clearly enjoin the Commission to make an inquiry into:

“ . . . the general working of the Department of Corrective Services in New South Wales, its policies, facilities and practices . . . “

and the investigation was to be made:

“ . . . in the light of contemporary penal practice and knowledge of crime and its causes.”

This latter phrase presented a yardstick for critical analysis, comparison and of the Department's activities.

There followed several specific areas to which inquiry was to be directed without restricting the generality of the direction to inquire. They were as follows:

- (i) The custody, care and control of prisoners;
- (ii) The relationship between staff and prisoners;
- (iii) The selection and training of prison officers;
- (iv) The selection and training of other staff engaged in training, correction and rehabilitative programmes for prisoners.

After such an inquiry, it was then incumbent upon the Commission in consequence findings to recommend any:

- (a) legislative, and
- (b) other changes

thought necessary or desirable.

Two matters should be stressed at the outset. Firstly, the Royal Commission's inquiry was limited to and directed at the New South Wales prison system. The Report is not, and does not purport to be, a general discussion of particular aspects of penology and criminology. Secondly, perforce there has been some selection of the issues raised and discussed and procedures have differed in dealing with particular issues. Issues raised requiring a decision on facts have, generally, lent themselves to normal evidentiary procedures, but in other cases " ... oral evidence given in the course of . . . enquiries has proved to be the least profitable. Considering the time spent listening to it, or even rapidly reading and analyzing interminable questions and answers-still more, the money spent over them-the yield of solid fact is absurdly small".²

Soon after the original Letters Patent had been issued, the Department of Corrective Services was instructed to bring the Terms of Reference of the Commission to the notice of inmates under its care, and to indicate the procedures to be followed if any prisoner wished to give evidence or make representations before the Commission. The response was immediate and the numbers large.

Senior and junior counsel were appointed to assist the Commission and leave was granted to the following principal parties to appear:

A large number of individual prisoners who instructed the Public Solicitor:
and other prisoners.

The Department.

The Public Service Association, Prison Officers'

Vocational Branch. The Council for Civil Liberties.

The Penal Reform Council of

New South Wales. The

Prisoners' Action Group.

Women Behind Bars.

Aboriginal Legal Service.

In addition, there were appearances for certain Superintendents and, from time to time, other individual witnesses.

The Commission began its hearings by taking evidence from the former Commissioner Of the Department of Corrective Services Mr W. R. McGeechan, and departmental officers about "the policies, facilities and practices of the Department" and its general working".

Bathurst Gaol

The Commission next turned its attention to the events which occurred at Bathurst Gaol. Evidence of these events was first provided by prisoner witnesses who were cross-examined at some length by Counsel for the Department and Counsel for the Public Service Association, Prison Officers' Vocational Branch. So far as it could be gleaned from these cross-examinations, it appeared that the suggestion to be made was that not only was the prisoner evidence exaggerated but much of it was fabricated. Of necessity, in dealing with such a large volume of evidence, the proceedings were slow. On 7th October, 1976, some three months after the Commission had begun taking evidence, the Royal Commissioner announced that, in future, it would be necessary to limit the number of prisoner witnesses. Otherwise, the proceedings would have been interminable and any ultimate report of doubtful value. At the same time, Counsel for the Department and Counsel for the Prison Officers' Vocational Branch were informed that, on the conclusion of the prisoners' evidence, they would be called upon to answer the allegations made; and a request was made for some particulars about the general outlines of their defence.

On 4th November, 1976, Counsel for the Prison Officers' Vocational Branch certain admissions which considerably shortened the evidence to be called in to Bathurst Gaol.

On 1st February, 1977, the position was re-assessed. The Commission indicated it did not wish to hear any further evidence relating to Bathurst and stated that it intended to direct attention to the following topics, not necessarily in the order cited, of possible overlapping:

"Firstly, women prisoners and ex-prisoners.

Secondly, Her Majesty's Gaol, Grafton, and I will take a sampling of the evidence before me in regard to that gaol.

Thirdly, other gaols where evidence could reveal problems of gravity that have not been previously dealt with.

Fourthly, aboriginal prisoners.

Fifthly, prisoners selected, after general consultations on general prison conditions.

Sixthly, general topics."

Grafton Gaol

Once again, at the conclusion of a large body of evidence given by prisoners, after a request to Counsel for the Department and Counsel for the Public Association, Prison Officers' Vocational Branch, for information about the outline of any defence they wished to present to the allegations made by the statements were read to the Commission on behalf of the Prison Officers' Branch and serving prison officers at Grafton, and the former Superintendent and Deputy Superintendent Penning.

The officers admitted subjecting intractable prisoners to a physical beating reception to the gaol and upon the breach of any rules of the gaol, written or unwritten.

A similar statement (when expanded in evidence) was also made on behalf former Superintendent and the Deputy Superintendent of Grafton.

Some time later, a lengthy and convoluted statement was made on behalf of Department of Corrective Services. So far as it is necessary to make reference here, the view was expressed by the Department in its statement that there was evidence before the Commission tending to prove that some prisoners were upon reception to the - gaol and that thereafter all prisoners were subjected to discipline, probably derived from the practice of military prisons".

No evidence was ever called, nor were specific instances mentioned, about the practices in military prisons. But it would seem that the statement was not to represent any form of admission by the Department, for the statement on to say:

"The Department's files disclose little or no information on the practice at Grafton. Nevertheless, by 1969, some senior members of the administration of the Department were aware by rumour and reputation, of practices involving physical repression of prisoners at Grafton. Information on this level the Department believes to have been widespread throughout the prison community, governments and the community at large."

It will be observed that the Department's statement carefully refrains from mentioning whether "senior members of the administration" had specific knowledge of the practices referred to. But later in the evidence, Mr McGeechan denied that at any time he had any knowledge of the illegal assaults said to have taken place at Grafton Gaol.

Four other matters were the subject of adversary procedures and oral evidence was taken.

Reporting by Mr McGeechan to Minister

The first of these concerns the question of reports said to have been made by Mr McGeechan to his then Minister, the Honourable J. C. Maddison, M.L.A. On the evidence, there was a clear contradiction between these two witnesses which it was necessary to resolve. Several of the parties represented before the Commission requested that Mr Maddison, Sir Harold Dickinson and a Mr Whybrew be called as witnesses. At relevant times they were respectively the Minister of Justice (who was in charge of prisons), the Chairman of the Public Service Board (which exercised some measure of control over the Department of Corrective Services) and an Inspector of the Board.

Mr Maddison was called, but his evidence was restricted to the nature of the reports made to him by Mr McGeechan and to instructions given by him to Mr McGeechan. The Commission's Terms of Reference did not include any inquiry into the propriety or otherwise of the actions of Mr Maddison as Minister or of the Public Service Board.

The Newling Incident

The next incident arose during the course of taking evidence relating to Goulburn Gaol. In a sense, the issue that arose took time from issues which might be considered more important of resolution. It referred to one particular officer, Keith Frederick Newling. Although the charge made against him by prisoners was serious, it would not normally have justified the time spent on examining it. The members of the Goulburn Sub-Branch of the Prisoner Officers' Vocational Branch at the time expressed their vigorous concern about allegations being made which they were not given the opportunity to rebut, and in this particular incident their Counsel stated that Mr Newling desired "to have the opportunity of denying and supporting his denial". It was in these circumstances that the Commission thought it proper to embark on the particular inquiry. Otherwise it would have represented a breach of faith of the Commission's statement that it would investigate matters raised before it. To have avoided the inquiry would have had a marked effect on the confidence of the prisoners, the prison officers and the public generally.

In passing, it is worthy of note to remark that, although on other occasions allegations of a far more serious nature were made against officers, they never accepted the oft-repeated invitation to give evidence. However, as in many other instances, the examination of the particular issue assisted in throwing additional light on the general working of the Department.

Milson Island

There was a cursory examination of certain events at Milson Island. In the overall picture, this issue was of minor significance, too, but it was raised and it was thought appropriate to determine it.

Allegations of Bribery made by Mr B. McDonald, M.L.A.

The final incident occurred after the Commission had adjourned for the Report. It concerned allegations of bribery within the Department made in by Mr B. McDonald, M.L.A. A separate Interim Report relating to this already been published.

Generally

Questions of time prevented the Commission from examining other grave of the illegal use of force against prisoners at certain other gaols, notably and Maitland. Having decided that there were clear illustrations that illegal being used both officially and unofficially within the Department, the considered that, having regard to the dictates of time, it should direct to matters of a more general nature rather than pursue further individual of the illegal use of force.

It became obvious also that many other complaints and problems raised by prisoners could not practicably be examined by the Commission. For many of procedures of a Royal Commission were in any event inappropriate as too cumbersome and expensive.

For these and other reasons, the Commission made Interim Recommendations be appointed specially but temporarily to hear and determine the of prisoners which the Commission itself referred to him.

The Commission recommended that the person to be appointed be someone the Ombudsman, for a number of reasons-including doubts as to the the Ombudsman to deal with some of those complaints and in relation to ll:dures to be followed.

These Recommendations are reproduced as an Appendix to this Report.

The Government declined to make such an appointment as recommended, complaints left unresolved by the Commission-where instructions were to do so-have been referred to the Ombudsman for investigation.

The Commission has been informed by the Ombudsman that he is to make his to Parliament in relation to those complaints.

Because of the representation of different interests before the Commission, and of the issues involved, the initial hearings were conducted in an adversary. Where any party or person represented before the Commission was revealed in the evidence to be under attack, that party or person was offered the opportunity to present a case in reply. However, there were some few instances where issues were not either because the Commission considered they were not of sufficient significance because the evidence was not sufficiently convincing to call for a reply. But party or person was attacked and was not represented before the Commission, Secretary of the Royal Commission, wherever possible, wrote and acquainted or person with the allegations and invited attendance at the hearing. Retired prison officers were treated as a special category to which reference is made in Chapter 4: Bathurst: October, 1970.

The witnesses called by parties were considered partisan to their case and to this extent Counsel assisting the Commission did not interfere by seeking statements from or consulting with them. Indeed, they and their instructing solicitors would have, been in an extraordinarily difficult position had they acted otherwise, for such witnesses were represented by separate Counsel and solicitors at the inquiry. If these witnesses had been called by Counsel assisting the Commission without the advantage of prepared statements or having any conference with them, then not only would examination and cross-examination have been difficult and time-consuming, but from a practical point of view, of very little avail.

Counsel for the Department of Corrective Services and for the Prison Officers' Vocational Branch at various times were asked whether they intended to call evidence and mention was made of certain inferences which could be drawn by the Commission; if witnesses were not called. In the case of the Prison Officers' Vocational Branch, the selection of witnesses were called after statements of their evidence had been provided to the Commission. In addition, at the request of Counsel assisting the Commission the Department provided a list of prison officers who had retired and who were thus not represented as members of the Prison Officers' Vocational Branch of the Public Service Association.

Counsel who ultimately appeared for the Department demonstrated a curious reluctance on the part of his client to provide statements from witnesses whose presence in the witness box might have been anticipated. On two occasions, he baldly stated that he did not intend to call any evidence on behalf of his client. This was contrary to and could not have been anticipated from, statements made by the two Counsel who had previously represented the Department at the inquiry.

It would be pointless to say that this tactical manoeuvre did not hamper the workings of the Commission, but it did not prevent the Commission being reasonably satisfied in its conclusions which are later set out in this Report. The manoeuvre may have resulted in a great saving of time in that the Department did not waste time in attempting to defend a position which was in many respects indefensible.

So much for a description of the procedure adopted when clear issues presented themselves. As already stated, these issues were tried in an adversary fashion. Those making the charges were obliged to prove them.

A different procedure was adopted in relation to issues of a general nature which arose from the Terms of Reference. Once again, conscious of the time involved, the Commission made a selection of most of the more important topics. The Commission with the assistance of the parties represented before it, drew up a series of General Issues. Submissions were invited on them and the Department was requested to furnish reports on special matters. In addition, the Commission had discussions on these subjects with prisoners, prison officers and those experienced in prison administration and allied fields. Finally, it relied upon the extensive literature on the subjects and on an extensive tour of prisons both in Australia and overseas.

It took this course mindful of the statement of the Honourable Mr Justice Goff, referring to his position as Royal Commissioner and reiterating the views other Royal Commissioners:

"I was entitled to get evidence as, where and how it was available, and . . . I was entitled to take into consideration all material I discovered or which was placed before me which would best enable me to arrive at the truth of the matters into which I was charged to inquire."³

After a necessary discussion on "The Objectives and Aims of the Department" a brief glance at "A Perspective", this Report examines past happenings in the South Wales gaols. The more general issues raised in the Terms of Reference of Royal Commission are then discussed. The Report concludes with a list of recommendations.

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References

- ¹ Lloyd E. Ohlin: "Sociology and the Field of Corrections", Russell Sage Foundation, 1956 p. 14, and Overseas Book, p. 80.
- ² Sidney and Beatrice Webb: "Methods of Social Study", 1932, p. 142.
- ³ 335 A.L.I. 271 at p. 275. See also Royal Commissions by I. D. Holmes (later the Mr Justice Holmes) 29 A.L.I. 253.

A PERSPECTIVE

"The treatment of criminals through the ages is a fascinating tale, not least when we realize that much of what we think has already been thought by others, that what we say has been said before, and that what we do has already been done and in days when resources were minimal in comparison with our own."

The history of penal administration in New South Wales bears out this statement. It was made by a former Director-General of the National Swedish Correctional Administration, Torsten Eriksson, in the preface to his book published in 1976.¹ It is the recurrence of basic penological ideas, although they may be expressed in ways.

A history of imprisonment in New South Wales is given as an Appendix to this Report. It is not proposed to discuss here the various facets of that history, except to two points. The first is this recurrence of penological thinking. The other failure of many previous administrations to act upon recommendations made for change.

At various stages of New South Wales penal history, recommendations have been aimed at ameliorating the position of prisoners. In some instances, the recommendations made in this Report repeat recommendations made many years ago but never. This Royal Commission can do no more than make recommendations. It is to be hoped that they will fare better than many have in the past.

Between 1779 and 1840, New South Wales was a penal colony, receiving transported convicts from England. In many respects, convicts led a more hopeful and tolerable existence than did prisoners under the later penitentiary system. Indeed, the claimed innovation of the "open" prison system which was introduced in New South Wales in 1914, it was, in some respects, no more than a return to practices that had existed 100 years earlier. And the ticket of leave system for convicts bears resemblances to Work Release and Parole.

The New South Wales Prisons Act, 1840, was influenced by the English "separate" system. This involved the total isolation of each prisoner in a separate cell. There was no contact for twenty-four hours each day except for a brief period of silent exercise. It was said to be a reformatory measure in that the prisoner was removed from the demoralizing influence of his fellow prisoners, and through silent meditation could state of contrition. This system had been adopted in the United States towards the end of the 18th century and later in England. It remained in vogue for more than a century despite the fact that many prisoners who were subjected to it were driven insane. It appears that prison administrators gave no thought to the potential effect of isolation on the mental health of the prisoner. The same could be said of those responsible for the erection of Katingal more than 100 years later.

In 1861, a Select Committee under the chairmanship of Sir Henry Parke recommended the introduction of an effective system for the inspection of gaols. Such a system still does not exist today.

In 1878, a Royal Commission was appointed to inquire into allegations of cruelty at Berrima Gaol. Its terms of reference were later widened to include an investigation into the entire system of management and discipline at that institution. That Royal Commission was established after allegations of brutality at Berrima which were not dissimilar to allegations made about conditions at Bathurst and Grafton before the establishment of this Commission. In its report the Royal Commission condemned the practice of "spreading" . It approved of the "separate" system, acknowledging that it could be harmful if imposed over a long period. To enable some association to take place between prisoners with "as little contaminating influence as possible" it advocated a refined system of classification, to take into account the character, habits, training and antecedents of the prisoner as well as details of his crime. Nearly 100 years later the same hopes are held out for a proper classification system, but it still does not operate effectively.

The Berrima Commission approved the use of the "gag" for difficult prisoners. Now we would not approve of the use of such an instrument. But is the overuse of the hypodermic needle or medical sedation better?

During the early part of this century, various reforms were introduced, including the establishment of alternatives to imprisonment for inebriates, children, mental defectives and others. It was argued that these people are not criminals. We are still in the process of legislating to say so.

In 1946, the then Premier, the Honourable W. J. McKell, appointed a Committee to report, inter alia, on prison reform. A number of its recommendations are startlingly similar to those made by this Commission in this Report because they have not yet been carried out.

In 1973, a Working Party under the chairmanship of the Honourable Mr Justice McClellens considered the Prison Act and Rules. In this Report many references were made to recommendations made by that Working Party and never introduced. One wonders whether the lessons of the past have ever been heeded.

In 1968, Mr J. A. Morony on his retirement after eight years as Comptroller General of Prisons wrote in a mood of scepticism and disenchantment:

"Imprisonment as a concept is not a desirable state for man or animal it should be carefully justified and not dispensed without careful thought."

Mr Morony's scepticism which replaced the buoyant optimism of earlier times remains; unconsciously perhaps it permeates this Report.

This Royal Commission has seen evidence of the type of inefficiency and maladministration which aroused the criticism of similar inquiries in the 19th century. It has also seen evidence of violence and brutality practised on prisoners similar to that in New South Wales prisons in the early 19th century. More importantly, it has witnessed the efforts of some senior administrators within the Department of Corrective Services to justify such treatment on similar bases. The ideas for reform and improvement of the present system expressed by some bear a marked similarity to the confident assertion and assumptions concerning human nature which characterized the programmes so confidently espoused in previous years.

However sceptical one may be, such a mood should not lead to an abandonment attempts to improve our penal system and to create a just and fair system for we imprison. As the Swedish Minister for Justice, Herman Kling, said in his opening address to the United Nations Congress for the Prevention of Crime and the Treatment of Offenders in Stockholm in 1965:

“We must practice humanity without expecting anything in return. Humanitarianism should be regarded as a fundamental obligation to mankind, no matter where it leads. It is particularly important that we be steadfast in our allegiance to this principle in criminal policy, a prejudice-riddled area in which vengeful feelings are so easily aroused. The treatment of a criminal should not be designed according to what appears to be worthy of the individual in question. It should be worthy of society itself. I fear that we in Sweden, as in all other parts of the world, have to admit that our methods in this field are still not entirely worthy of society.”

Reference

1 Torsten Eriksson, "The Reformers", 1976.

OBJECTIVES AND AIMS OF THE DEPARTMENT

For any prison system to function efficiently for the present and to plan effectively for the future, it must adopt a penal policy which is both clearly understood and consistently applied.

In its investigation of the "general working" of the Department of Corrective Services, the Commission has been unable to discern any clear or consistent penal policy to which the Department has adhered.

Any aims and objectives it has have remained obscure to both prison officers and prisoners alike, and its future planning is confused and incomplete. Above all, the public has no idea of nor interest in the work the Department is doing because of the total failure of the Department to keep the public informed of its aims and objectives.

The policy followed by the Department was described by Mr McGeechan in his first statement to the Commission. That description is quoted below in full, as no paraphrase could do it justice, replete as it is with abstruse and inexact jargon and meaningless cliches. The Department's failure to express this policy clearly has been one of the prime causes of the problems facing the Department over the last ten years. As St Paul said:

". . . except ye utter by the tongue words easy to be understood, how shall it be known what is spoken? for ye shall speak into the air."!

The Commission criticizes Mr McGeechan's statement of policy, however, not only for the imprecise way in which it has been expressed but also for the imprecision of thought that expression betrays. The policy was described as follows:

"The function of the Department is to carry out the sentences imposed by the Court.

All policy developments of the Department have been directed at reducing the incidence of future crime in the community.

The Department appreciates that its first duty is to protect the community by containing prisoners in its care. It must safeguard its officers and it must safeguard its prisoners. The concern of the Department is then with the improvements of the behaviour patterns of prisoners.

Without taking into account the qualities of deterrence in sentencing philosophies, it is internationally recognized that in areas of penal administration and philosophy, two other major elements emerge, i.e., retribution and, secondly, reformation.

The Department has attempted to introduce a further dimension or factor, specifically, the reduction of future crime by persuasive, motivational techniques. This is not precisely the same as reformation.

From my study, I have drawn the conclusions that in a democratic society, the general penal aims appear to be as follows, although not necessarily in the order stated:

demonstrating society's non-acceptance of the criminal act;

reducing the frequency and incidence of behaviour prohibited by the criminal code;

the focussing of punishment to cause a minimum of suffering, whether to offenders or to others;

ensuring that offenders are exposed to the opportunity to reform; expiating offences but without attracting unofficial retaliation or inhumane suffering on (sic) the offender, and without increasing the incidence of offences;

distinguishing between a person who has intentionally done something prohibited, and a person subject to detention for reasons arising out of his own mental ill health;

protecting offenders and charged non-convicted offenders against unofficial and informal retribution.

Moving from this analysis, a management plan or charter was established for the Department of Corrective Services.

This plan or charter was tested in a number of different ways and in critical atmospheres, both academic and practical. In 1972, it was circulated within the Department as a statement of policy. It has, at times, since been modified in word usage, but in principle and substantially, it has remained unaltered. The document includes the general penal aims pre-viously stated and otherwise . . ."

There followed six so-called "statements", but they added nothing to that preceded them and do not bear repetition here.

A more readily understood statement of the reasons for imprisonment was to the Commission by one of the prisoners:

"As I understand it, the basis for putting a man in gaol for breaking the law is firstly to take away his freedom as punishment for his crime and secondly to protect the public property and the public interest."

Having stated the Department's "policy", Mr McGeechan went on to point sad experience of the Department when seeking to put its principles into practice:

"The realities of practice in any area of endeavour, need not be expected to correlate perfectly with the ideals expressed in any doctrine of convention. As a consequence, it is not suggested that the ideals expressed in the foregoing material by way of policy have universal and unqualified acceptance in terms of practice at different levels within the prison system."

This appears to have been a forewarning of the Department's constant defence at the hearings of the Commission whenever undesirable practices or omissions were out-paraphrased thus:

"We gave instructions but, unfortunately, they were not carried out."

Further reference is made to this attitude in Chapter 11: The Department and the Commissioner.

The Commission does not suggest, nor could it, that the formulation and definition of overall policy is an easy task. The daunting nature of such a task can be seen from the following recapitulation by Sir Leon Radzinowicz, the distinguished criminologist:

"In 1864, Sir Henry Maine could already say, 'All theories on the subject of punishment have more or less broken down . . . and we are again at sea as to first principles.' Some forty years later, Professor Kenny, after examining current opinions of judges and legislators alike, reached the same conclusion; ideas on punishment had failed to assume 'either a coherent or stable form'. Twenty years later, discussing the position in the United States, Dean Roscoe Pound spoke of the 'fundamental conflict with respect to aims and purposes' pervading both penal legislation and penal administration. And now, after another lapse of twenty years, Professor Jerome Hall has shown that the divergence of views is as wide as it was a century ago."²

Nor have attempts by Royal Commissions in the past met with success where learned criminologists have failed. One such Royal Commission in particular must be mentioned, and not only because of the marked similarity between its Terms of Reference and those of this Commission.

In August, 1964, a Royal Commission was appointed in the United Kingdom under the chairmanship of Lord Amory. Its Terms of Reference were expressed as:

"In the light of the modern knowledge of crime and its causes and of modern penal practice here and abroad, to consider the conditions and purposes which should underlie the punishment and treatment of offenders in England and Wales ... "

Almost two years later, after a change of Government and the resignation of several of its members, the Amory Commission was dissolved without making any report.

Sir Rupert Cross has subsequently identified the extreme breadth of the Terms of Reference as one of the possible reasons for the failure of that Royal Commission. He went on to comment:

". . . such progress as has been made with regard to penal methods has not been made (in the 19th and 20th centuries) in consequence of an 'overall look' but as the result of a specific reference.t"

This comment by Sir Rupert Cross would obviously have found favour with at least one member of the Amory Commission, Sir Leon Radzinowicz, who had asked a witness appearing before it:

"Is it really necessary to agree specifically what the purposes of punishment have to be in order to introduce important changes in our penal system? Can we not really introduce a great number of changes without putting down on paper in a form which must always necessarily be irritating and which must produce conflicts?"

It appears that the Amory Commission at that time had spent a large amount of time and energy debating the niceties of penal philosophy, as it was obliged to do by its Terms of Reference. Such a task was not in line with the pragmatic approach of Sir Leon, who described the "common objective" as one "to control crime as far as we can and give some form of protection satisfactory to society". Some ten years earlier, Sir Leon had written:

"I sometimes wonder how far . . . we should pursue arguments about the principles of punishment . . . It is not, at least nowadays, arguments about first principles that influence the strength or direction of public opinion or

awaken public response to the need to cope with crime and criminals. What does appeal to the imagination and move public feeling, is the successful salvage operation . . . It is this empirical approach rather than jurisprudential disquisition on the calculus of utility of punishment that has produced progress."4

But, having pointed to the difficulties involved in formulating and defining an policy of aims and objectives, and having referred to the views of at least one criminologist that such a task in any event is probably an unnecessary one, This Commission remains critical of the Department's, and in particular of Mr Mcfailure properly to carry out that task.

It criticizes Mr McGeechan because of the inevitable confusion his failure to any clear policy has caused and because it is obvious that he has attempted up that failure by the use of the abstruse and inexact jargon and meaningless to which reference has already been made.

In an endeavour to remove some of the obfuscation by which his statement of was surrounded, Mr McGeechan was asked a number of questions concerning in which he had sought to put the principles he expressed into practice.

In that part of his statement referring to policy, Mr McGeechan referred to which the Custodial Division had had to face because of a "changing culture". Mr McGeechan saw the need to diversify the "new roles" to be by his custodial officers. He described three of these "new roles".

The first was that staff employed in high security areas had to adopt an attitude balanced by "persuasive and intellectual techniques". Asked to explain McGeechan gave the example of the Katingal Special Security Unit where, the day-to-day programmes were based far more "on persuasion than any form of management"-a claim discussed in more detail elsewhere in this Report.

The second "new" role that the custodial officer was obliged to adopt was "a guidance role with over-tones of parental relationships". This phrase, it out, meant telling the prisoners what was good for them.

The third was a "wholly persuasive management role". Such a role was said to exemplified by the Project Survival and the Work Release II programmes. Mr [ikechan was unable to give any satisfactory explanation of what was meant by this of meaningless jargon.

The great advance which Mr McGeechan saw in the Department's approach to containment of prisoners has already been quoted, but it bears repetition. Mr described it as the introduction of a "further dimension", namely, "the of crime by persuasive motivational techniques". This, he said, was "not the same as reformation". This may be so, but the Commission was not any further in its understanding of this somewhat curious phrase by Mr ~chan's suggestion that the words were used only in "a management sense". Mr IJkechan explained the idea conveyed to the prisoners as being "it is infinitely better pursue crime on simple economic grounds, that it is far better to do it (sic) in other ways".

When asked how he planned to introduce this new "dimension" which he said, as so desirable, Mr McGeechan replied:

"Largely by the infiltration, if one uses the word in that sense, of probation and parole officers and social workers and psychologists into the system. Increasing numbers so that more advice is available, and leads up to another point that I will not embark on. Reformation in a penal sense seemed to have religious connotations to it."

Mr McGeechan also sought to contrast the present policy of the Department with systems of imprisonment of the last century:

"By contrast today, the emphasis in New South Wales gaols has been social re-education. The aim is to produce within each institution, a suitable institutionally life in which it is essential re-education can take place.

The style of custodial care is expected to reflect the prisoners' integration into the limited gaol society not, as heretofore, his separation from it.

The emphasis parallels the emphasis that one finds in life of society outside the gaol, i.e. the emphasis on activity and achievement in contrast to solitude and contemplation. In practical terms, this translates into work, industry, involvement, play and recreation, as a type of social therapy aiming to integrate each prisoner in a civilized way into the society in which he finds himself."

It is little wonder that the diffuse and obscure statements of policy by Mr McGeechan created confusion in the general working of the Department.

In its final submission to the Commission, the Department relied on a statement by Professor Gordon Hawkins on the difficulties in providing any simple formula to describe the primary task of a prison system, and continued:

"Sutherland and Cressey isolate four major objectives with regard to the control of crime with imprisonment advocated by contemporary society as a means of attaining each of them:

- (i) Reform, rehabilitation and treatment of criminals.
- (ii) Protection of society from criminals.
- (iii) Retribution.
- (iv) Reduction of crime rates by deterring the general public from behaviour punishable by imprisonment." 5

The Department, however, was able in that submission to state its own objectives in no more detailed way than this:

"Whilst the objective of retribution might be implicit in the court decision; departmental objectives exclude retribution and advocate inter alia deterrence and rehabilitation."

It is essential that the Department formulate a clear and consistent policy, enable the public and the prison community to see where the Department is headed, and, to enable the Department itself to plan for the future.

Despite the difficulties involved, and notwithstanding Sir Leon's doubts on the necessity for doing so, the Commission proposes a statement of policy of aims and objectives which it believes to be the one most acceptable and most generally acceptable in modern penology.

There are two issues involved in formulating such an overall policy and sometimes they overlap. The first is the reason why people are sent to prison. The second is the way in which they are to be treated when they have been sent there.

People are sent to prison to be punished for their infraction of society's rules. It is said to take

People are sent to prison to be punished for their infractions of society's rules. Society is justified in taking this action for several reasons. One is to deter the offender and from similar actions and as a retribution for the offence against society. Another contains the offender to prevent him from offending for a period in the future, thereby to protect society.

It is wrong to say that one purpose for which offenders are sent to prison is to rehabilitate them or to cure them. They are sent to prison by the Courts on behalf of society for the simple purpose of punishment.

Once the offender has been sent to prison, his treatment becomes the responsibility of the Department on behalf of society. And it is important to society that, in prison, the offender is treated humanely, in a manner befitting his humanity and that the least harm possible should be done to him there so that, so far as possible, he emerges from prison no worse, mentally or physically, than when he

It has for some time and until only comparatively recently been a strongly held belief that, while in prison, the offender can and should be rehabilitated by education and training. So educated and trained, it was thought, his chances of offending again would be reduced. Mr McGeechan was an adherent to this school of thought; indeed, he has retained a greater confidence in the rehabilitative ideal than most penal administrators.

Unfortunately, research has not supported this theory. The latest figures compiled by criminologists in the United States show that, no matter what attempts are made at rehabilitation, the recidivism rate is much the same as if no attempt had been made. Indeed, the Department in its final submission to the Commission relied on this conclusion in answer to criticisms levelled by others at the failure of its "rehabilitation model". The U.S. conclusion has also been reached recently by the Home Office in the United Kingdom.⁶

This is not to say that attempts to rehabilitate should cease. Far from it. All Commission members are of the opinion that a purpose of imprisonment is to rehabilitate the offender, and that one measure of the success of imprisonment is the reduction of recidivism in those said to have been rehabilitated. The Commission believes that there is a chance that offenders, by education and training or otherwise, can be rehabilitated or reformed to any extent while in prison and the attempt should be made to do so. (One generally accepted result of such attempts is at least to lessen the crippling effects of institutionalization on long-term prisoners.)

But under what conditions is the offender to be held, accepting that he is to be treated humanely in a manner befitting his human dignity and so that the least harm should be done to him?

The most that can be stated here is, in effect, a number of mainly negative conditions which, when applied to specific circumstances, should guide and direct the treatment in its future planning.

The first is well expressed by the widely-quoted aphorism: "A person is sent to prison *as* punishment and *not* for punishment". That punishment is fundamentally the loss of that person's liberty. Deprivation of liberty is certainly not a mine: punishment, for:

". . . even under the best conditions, it remains true that imprisonment is, in itself, a severe punishment. Many kinds of deprivation are inseparable from it; the loss of status, dignity and independence, the loss of liberty, choice, possessions and responsibility, deprivation of normal human relationships, including contact with people of the opposite sex, with wife, husband, children, friends. Blankness and frustration accumulates with the length of sentence. The most that the so-called 'comforts' of prison can do is offer some alleviation.

Nor is there any evidence that prison becomes a more effective deterrent when its regime is deliberately made more severe."?

There are many in the community who nevertheless believe that the loss of liberty is not sufficient punishment. They assert that for a prison system to be effective it must be a sufficient deterrent to persuade prisoners to avoid offending (and imprisonment) in the future. This is in addition to the deterrent nature of the sentence imposed in the first place. The Commission's view is that these beliefs are untested and unresearched, and should not be accepted. Those holding them might ponder the ill-success of Dr Goebbels in Hitler's Germany when he boasted in 1935: "The criminal shall once again tremble before the State". Despite his energetic endeavours to carry out his promise, professional criminals flourished in Germany as never before or since.

The better view in modern criminology is that the deterrent effects of punishment are limited. What research has been possible cannot point with any confidence to the general success of deterrence as a policy. Quite the reverse: Research in the United States into the deterrent effect of capital punishment revealed that the homicide rate is in fact lower in States which have abolished the death penalty compared to those retaining it-by as much as one-third to one-half." Similar research in Europe supports the American findings.

Many criminals never consider the penalty-some because they are mentally disturbed or retarded, others because they are acting under the stress of great emotion. More often, the criminal does not envisage the possibility of being caught.

This is not to suggest that deterrence does not play some part in keeping down crime, especially crimes by particular classes of offenders. A good example is the case of the drunken driver. Nevertheless, the great majority of criminals will not be deterred, whether by a flogging or by the loss of their life. A far greater deterrent is the certainty of being found out.

The second proposition in the Commission's statement of aims and objectives is that, while in prison, the inmate should lose only his liberty and such rights as expressly or by necessary implication result from that loss of liberty.

Thirdly, as few as possible should be incarcerated in prisons, and then only when all appropriate alternatives have been exhausted.

Fourthly, those who are imprisoned should be incarcerated for as short a time as possible. If alternatives to imprisonment (such as probation or parole) are inappropriate at first, they should be used as soon as it is reasonably safe.

Fifthly, those who are in prison should be housed in the lowest appropriate security.

If these aims are adopted by the Department, with the general object of treating humanely in a manner befitting their human dignity, it is to be hoped the prisoners will at least leave prison no worse than when they entered it.

That is as far as the Commission is prepared to attempt any definition of the duty the Department should set itself. Indeed, most of the prison administrators the Commission spoke to, in Australia and overseas, would go no further.

The Commission believes that the objectives and aims it has stated are almost accepted by criminologists in all advanced societies.

References

- 11 Corinthians 14, 9.
- ¹ Sir Leon Radzinowicz, "Ideology and Crime", 1966, p. 114.
- ² Sir Rupert Cross, "Punishment, Prison and the Public", 1971, p. 189 .
- Sir Leon Radzinowicz, "Criminology and the Climate of Social Responsibility". An to the Howard League for Penal Reform, p. 21.
- ³ The reference in the Department's submission as to "Criminology", Sutherland and pp.497-9.
- ⁴ "A Review of Criminal Justice Policy, 1976", a Working Paper published by the Home Office, 1977.
- ⁵ Sir Leon Radzinowicz and Joan King, "The Growth of Crime-The International , 1977, p. 277.
- RJ. Thorsten Sellin, "Capital Punishment", 1967, pp. 135-138.

CHAPTER 4

BATHURST: OCTOBER, 1970

Her Majesty's Gaol, Bathurst, "was by its design the antithesis of what was required in a modern institution": Mr W. R. McGeechan, Commissioner of Corrective Services, 2nd December, 1976.

Whether due to that design or to the way in which it was operated, Bathurst Gaol had, as Mr McGeechan told the Royal Commission, long been a trouble spot in the gaol system. In his evidence, Mr McGeechan claimed that past Comptroller General's reports showed that of the twenty-five major incidents which had occurred between 1889 and 1975, fifteen had been at Bathurst.

Perhaps the most eloquent and honest description of Bathurst Gaol before its destruction by fire in February, 1974, was that given by the then Director of Establishments, Mr W. H. Morrow. "Changes that have occurred in the prison system since about 1969 had largely left Bathurst untouched", Mr Morrow said, "Indeed, I have thought to myself that if a Superintendent of seventy or eighty years ago came back to Bathurst he might still find his pen in the same place. Almost nothing has changed. The nature of the prison officer workforce at Bathurst was parochial. They did not respond to change because they did not agree with change. On the other hand, the prison population of the 1970's is not like the prison population that existed when I entered the Service or, indeed, for many years afterwards. The things that could be done then and would be accepted by the prisoners, cannot be done today.

"However, as the Bathurst Gaol was administered, no real attention had been paid to that fact and it seemed to me to be to them a source of pride that the old rulebook was strictly adhered to and that very little, or nothing at all, that was new was done."

One prison officer, who started service in January, 1969, gave evidence that the most "hard core old-timers" at Bathurst from whom he received his early training "actually preached that the only good prisoner was a dead prisoner".

"The slightest consideration or leniency towards a prisoner was regarded as a weakness," he added. "Prisoners had either to conform or be broken. But the same applied to junior prison officers as well. The seniors demanded that you complied with the Rules to the letter and that contact and conversation with the prisoners was strictly out."

The prison officer identified those seniors as the Superintendent, the Principal Prison Officers and all the officers of senior rank at Bathurst (with one exception — a Mr Norris).

It is clear the Department Head Office was aware that further trouble was imminent at Bathurst Gaol immediately before the events of October, 1970.

Mr Morrow was aware of the build-up of tension at Bathurst for some time and had reported this to his immediate superior, the Assistant Commissioner responsible Administration, then Mr N. S. Day.

Another prison officer gave evidence that there had been a feeling of frustration the prison officers for some time. They were being given different orders on the same subject at different times, and did not know exactly what they should be. The senior officers were totally unreceptive to any suggestion by staff for change the institution. Anything that might make things a little easier for prisoners relieve tension was viewed with some suspicion that the officer making the IBCiun was "involved" with prisoners.

Evidence of this increased tension was also given by several prisoners. They spoke of deteriorating relations between the prisoners and the prison officers, violent between prisoners which, in some instances, led to stabbings, fights which were sometimes allowed to continue without intervention by prison officers, increased strikes by the prison officers which kept the prisoners locked in their cells for longer periods normal, "screw baiting" by the prisoners-s-behaviour designed to frustrate and the prison officers-and a fire in one of the workshops which reduced the meagre amount of work to keep the prisoners occupied.

One event which appeared to play a large part in building up the resentment against the prison officers was a decision by the officers to discontinue mid-week sports. This occurred about a month before the events of October. The mid-week had been introduced only four or five months earlier. Prisoners were permitted take part in competition basketball, touch football, weight lifting and paddle tennis. were discontinued because they were said to interfere with workshop production.

These new irritants were imposed upon an already unhappy gaol population.

The main bone of contention was the food. According to the then Superintendent, Mr J. W. Pallot, if prisoners wanted to make a complaint, then meals would be "number one". In other words, Mr Pallot was saying that the food was the subject of complaint, no matter how good or bad the meals were.

Despite Mr Pallot's insistence that the meals at Bathurst were "beautiful", there is no doubt that there was a lot concerning the meals to complain about. Meals were cooked hours in advance and served in dixies placed in tiers on slats barrow with a canvas cover. A steam hose was then inserted to reheat the meals, the result that at least some of the dixies lower down the barrow collected the as water, soaking the food, which was left floating in water and inedible.

The meat was kept for up to a week in the cool room and smelt before it was. Particular complaint was made that the sausages were often green, and had a smell. Curries and stew were regularly served to camouflage, it was said, the state the meat when it had been too long in the cool room. Many prisoners said that suffered from diarrhoea after eating the sausages, which appeared to be a regular on what was described as a monotonous diet.

The "moosh" (a form of rolled oats) served for breakfast was full of weevils.

Many of the food complaints fell into a pattern suggestive of collusion, but there is little doubt that the complaints at Bathurst were constant, to the extent that the Superintendent devised a procedure whereby prisoners were instructed to take the meals to their cells whether they wished to eat them or not. They were charged with failing to comply with an order if they did not take the meal. The point of this procedure, Mr Pallot said, was to prove that there was no objection to the meal, even if it was merely thrown down the lavatory.

In common with all maximum security gaols built last century, Bathurst had no glass in the windows. Prisoners, who spent about eighteen hours a day in their cells, frequently had their bedding wet by rain and sleet. There was no heating in the cells despite the extreme cold experienced in Bathurst. The cells could be stifling in summer. Screens were not permitted on the windows, and the piggery operated by the gaol outside its southern wall (between towers 4 and 6) contributed to the flies and insects and all types of odorous smells which invaded the cells in summer.

Sewerage created health problems when lavatories regularly overflowed or cisterns jammed.

Prisoners were permitted only two or three showers a week and the water-heating facilities were inadequate.

Complaints were made of the way ramps were conducted by some prison officers. A ramp was the name given to cell searches for contraband. They were frequent at Bathurst—up to two or three times a week. Many prison officers were considerate and respected the prisoners' private belongings. Others, it was said, left cells looking as they had been in a hurricane. Prisoners complained that property was lost or thrown out of the cells onto the landing.

There was also a petty insistence upon a rigid adherence to rules which were often relaxed at other major security gaols.

For example, the Superintendent insisted that, no matter what the weather, prisoners must wear jackets on musters. Mr Pallot initially sought to justify this in evidence by saying that the prisoners' numbers were on the jackets, but then conceded that the shirts also had the prisoners' numbers sewn on them. He said that the rules relating to clothing in the then applicable Manual for Staff Instruction and Guidance (Exhibit 6) had a lot to do with his insistence on wearing jackets. The rule relating to clothing (page 27) provided:

“Prisoners shall attend all musters fully dressed with clothing properly adjusted and in as smart and uniform appearance as practicable.”

Mr Pallot recognized no discretion in a Superintendent to permit the prisoners to attend musters without jackets in summer. In any event, he objected to the idea that some prisoners would be wearing jackets and others not. It was up to the Commissioner of Corrective Services to make it uniform throughout the State that jackets did not have to be worn in summer.

Mr Pallot's passion for uniformity, as well as his inability to make any decision without reference to Head Office, was also shown by his attitude to haircuts. Prison Regulations place the onus on Superintendents to give directions, from time to time, on hair cutting. The Manual for Staff Instruction and Guidance advised that the times and methods of haircutting should be determined by the Superintendent within

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the framework of the general principles laid down ("the style of haircut and dressing in accord with style in vogue amongst the average members of the public"). Mr Pallot found it necessary, however, to write to Mr McGeechan for a ruling on I-form style and length of haircuts.

Mr Pallot's background and training (or its absence) is dealt with elsewhere Report. At this stage, it is enough to remark that with a Superintendent of mental calibre in charge, it is easy to accept the prisoners' complaints that they subjected to friction and frustration at every point.

Some prison officers also referred to the rigid adherence to rules and the lack of flexibility in Bathurst Gaol.

Jumpers were not allowed in summer, no matter how cold; shirts were not to be in summer, no matter how hot. Prisoners had to remain fully dressed even in cells,

Prisoners were not allowed to sit down and smoke in the yard, although y they had little work to do.

It is against this background that the events of October, 1970 (as they have known) must be examined. The Royal Commission's decision to examine events was made despite strenuous and repeated submissions by the Department they should not be looked into.

During early evidence about the Bathurst riot in February, 1974, Counsel the Commission, Mr David Hunt, Q.C., announced that it was intended mallow that evidence with evidence on the events of October, 1970. Counsel then for the Department, Mr D. I. Cassidy, stated:

"I do not want to be taken to agreeing that it is within the terms of reference to the time did arise when the Department was requested to produce its records on of October, 1970. Mr Cassidy then submitted that the assistance to be such an inquiry was so slight as not to warrant the expense and time involved. A preliminary ruling was given that the terms of reference included the events of October, 1970.

Further submissions were put by Mr Cassidy that to go back voluntarily to something which was over six years old would unnecessarily delay a report on the more general aspects of the terms of reference, but the decision was nevertheless made to investigate the events of October, 1970.

That investigation has proved to be invaluable to the Commission in a number ways. Not only has it assisted in a better understanding of the events of February, it has also provided an insight into many of the workings of the Department, into the ways in which it has reacted to public criticism and in which it has sought to inquire into allegations made against it.

Moreover, it was about the events of October, 1970, that the first public call came for a Royal Commission into the Department. This was a document entitled "Bathurst Batterings-October, 1970", published on 28th June, 1971. The preface of that document stated:

"A Department that must conduct its business in the manner suggested by this record can only be described as demoralized. The time has come for us to hold a Royal Commission into the practices, purposes and functions of our prison system."

The Royal Commission agrees that, in the light of the events which it finds did occur in October, 1970, and in the light of the events which it finds succeeded them during the remainder of 1970 and during the first half of 1971, that call was fully justified.

Friday, 16th October, 1970

Soon after 4 p.m., about 150 prisoners began a "sit-in" in two yards at Bathurst Gaol after being addressed by four prisoners from the roof of the shed which divided the two yards. The demonstration was peaceful. The prisoners listed a number of demands in this order:

1. That there would be no reprisals directed against them for having participated in the sit-in.
2. That 3 ozs of tobacco be issued weekly.
3. That they be permitted to sit in the yards during exercise time.
4. That medical treatment be improved.
5. That the food be improved.
6. That they receive higher wages.
7. That the gaol radio remain on until 11 p.m.
8. That they be permitted to have their lights on in their cells until 10 p.m.
9. That they be permitted to write eight letters a month.
10. That prisoners with trade qualifications be employed in their own trade.
11. That the prisoner employed as the gaol barber be dismissed for lack of skill.
12. That conditions in the pound be improved.
13. That sentences be back dated.
14. That prisoners on charges be permitted to call outside witnesses in their defence.
15. That verbal confession evidence be disallowed on the hearing of charges.
16. That modern styles of haircuts be allowed.
17. That the Superintendent be replaced.

These demands were categorized as "silly" by the Deputy Superintendent of the gaol, Mr J. W. Medway, but as soon as he was told of them Mr McGeechan granted five (no reprisals, the right to sit in the yards, extended time for the radio and lights in the cells and haircuts).

According to most witnesses, the sit-in was spontaneous, although for some days there had been informal discussion among the prisoners about the need for a demonstration to draw attention to conditions in the gaol.

The sit-in remained peaceful, according to most witnesses and reports. A later conducted by a departmental legal officer with the then Medical Officer, Dr van Gelderen records the doctor's description of that evening: "The air seemed to be and the animal noises coming from the prison itself was (sic) appalling". This decision cannot be accepted. Nor is there any real evidence to support Mr McGeechan's conclusion about which he said he had "no reservations" that this was disturbance . . . which escalated from a peaceful demonstration into an . This conclusion was said by Mr McGeechan to be the basis for his from Sydney at about 11 p.m. to break out the fire hoses and to flood the which the prisoners were congregated to ensure that they

So importantly did Mr McGeechan regard the failure to carry out this instruction, however, that the first step he took after the events yet to be described was to Deputy Superintendent (who had been in charge during the absence in Sydney on the Friday of Mr Pallot) brought to Sydney to explain that failure.

To return to the Friday evening. At some stage, the prisoners were clearly given psmdnd that one of their number had personally spoken to Mr McGeechan on the telephone, and that Mr McGeechan had promised to come to Bathurst on the Monday to discuss their grievances.

The situation surrounding such a telephone call is confused. It is unnecessary it. The Commission accepts Mr McGeechan's denials that he spoke to any on the telephone, or was proposing to go to Bathurst. It seems more 'iiKeLY 'imn .aoner did speak to Mr Day, then an Assistant Commissioner, and that it was to send a senior officer to Bathurst to speak to the prisoners. Indeed, the of Establishments, Mr Morrow, was ordered to Bathurst for that purpose by Mr He subsequently confirmed this order to Mr Pallot (who had returned from Sydney at about midnight).

The fact remains, however, that the prisoners (as well as some prison officers) that Mr McGeechan was to come to Bathurst on the Monday. And it was of this belief that the prisoners voted to return peacefully to their cells at about on the Saturday morning.

This belief was to have an important consequence on the Monday.

The Weekend, 17th/18th October, 1970

Mr McGeechan told the Royal Commission that he was conscious that there was violence in the prison over the weekend. A known informer was stabbed, he said, was some in-fighting among the prisoners.

This "consciousness" of Mr McGeechan is, to some extent, supported by the evidence. One prisoner (whether he was an informer was not established) was stabbed in 6 Yard on the Sunday, and there was some antagonism between prisoners who had been involved in the sit-in and those who had not. All this added to the tension through the gaol.

Too much emphasis should not be given to these incidents. In every other way, the atmosphere at the gaol over the weekend was normal-at least normal for Bathurst. So much so that five officers from the Establishments Division sent to Bathurst on the Friday evening when the sit-in began (but who remained throughout the sit-in at the gateway of the gaol and thereafter wholly outside the gaol) were ordered back to Sydney at 9 o'clock on Sunday morning.

As soon as they arrived back in Sydney, however, they were ordered by Mr Day to return to Bathurst. They reached Bathurst just after dinner that night. It appears that the Deputy Superintendent, Mr Medway, was told by a prisoner at some time on Sunday that a riot was to take place at the morning muster on the Monday. There is no other record of this disclosure and the prisoner himself, who was called, gave no evidence about it.

More seriously, however, intelligence was received from an unidentified source that it was intended to take the Superintendent and the Deputy Superintendent hostage and, according to Mr McGeechan, to kill the Superintendent.

According to Mr McGeechan's roughly contemporaneous report to the Minister (extending only to the Monday):

"Intelligence sources revealed that a planned insurrection was being organized and that the younger prisoners intended to take over the gaol after first taking as hostage the Superintendent and the Deputy Superintendent to provide them with a basis for negotiation. During Sunday and the morning of Monday, 19th October, I took appropriate security precautions to ensure as far as I could that the possibility of prisoners taking a hostage was reduced."

This Commission does not doubt that such intelligence was received, nor that it was reasonable for Mr McGeechan to have taken security precautions to ensure that hostages were not taken. It disagrees that the precautions were "appropriate". The) are described in the next part of this Chapter. The point which the Commission makes is that Mr McGeechan does not appear to have considered the provocative and unfortunate effect those precautions were to have upon prisoners. Most prisoners had no knowledge of the so-called "planned insurrection". and all were expecting someone from Head Office (if not in fact Mr McGeechan himself) to arrive from Sydney to discuss their grievances.

That the precautions taken were likely to be unnecessarily provocative was foreseen, at least by Mr Morrow.

And so they inevitably turned out to be.

Monday, 19th October, 1970

The five Establishment Officers reported for duty at the gaol before 7 a.m. and, in accordance with Mr McGeechan's instructions, four of them took up positions, armed, in the chapel. They were told by Mr McGeechan to use their own judgment and, if necessary, their weapons on the prisoners to protect their superior officers and others from attack.

The chapel at Bathurst was situated in what was known both as the Pentagon and the Circle, at the centre of a series of buildings or wings radiating out from the chapel on one side of a five-sided area. This design, it was said by Mr McGeechan, served at the same time to focus attention on the "religiosity of the whole concept" and as an aid to supervision. When prisoners were released from the wings, they passed through the Pentagon to go to their respective yards and had to pass the chapel.

As soon as the prisoners were released after breakfast at 8 o'clock on Monday they quickly saw the armed officers in civilian clothes in the chapel. They then members of the Special Operations Division (known among the as the "Mod" or "Sod Squad") used for riots.

It is clear the prisoners were concerned. Feelings ranged from resignation – that they were going to be told something by Mr McGeechan that they would not like – to indignation – that they had been tricked, as Mr McGeechan was not going to

Their feeling that something had been achieved on the Friday was shattered. The sight of the officers in the chapel caused apprehension. It also caused the antagonism which had existed between the prisoners who took part in the sit-in and those who did not to disappear. The atmosphere, although electric, was also one of solidarity.

Mr Morrow arrived after the Establishment Officers were already positioned in chapel. There was a discussion between him and Mr Pallot on whether the prisoners should be kept locked up or let out according to ordinary routine. Mr Morrow rang Mr McGeechan in Sydney, who gave "advice" that they should be let out and the prison returned to normal discipline.

This interchange points up what this Commission believes to be one of the mental weaknesses in the way in which the whole situation was handled. No one

Mr Pallot gave evidence that he regarded Mr Morrow as his superior when he walked into the gaol. He actually referred to Mr Morrow as having taken over. Mr Morrow said that he did not take charge of the situation, despite the impression which have been gained by some officers. He firmly believed that it was Mr McGeechan made the decisions. Mr McGeechan, on the other hand, saw himself as concerned with "the overall role", and that it was Mr Morrow's "command area". He did, however, make some decisions which might well have been thought to be more within Mr Morrow's "command area" – such as the unfortunate one to install armed officers in the chapel.

But – to move ahead in time somewhat – Mr McGeechan declined to accept responsibility for the decision to let the prisoners out of their cells the next morning. He claimed merely to have discussed it with Mr Morrow and others on the scene, their advice on whether it was the "appropriate" decision. His order to Mr Morrow – again to move forward in time – to return to Sydney on the Monday night, was described by him as a "command decision".

No wonder, with this sort of confusion, that the events of Monday proceeded in such disarray with little guidance from those who should have given it.

Inquiries during the morning about whether Mr McGeechan had arrived to discuss the prisoners' grievances elicited no positive information. Prisoners were told no more than that he had not yet arrived. Nobody thought (or knew) to tell them that Mr Morrow had been sent to Bathurst for this purpose. Mr Morrow certainly did not try to discuss the prisoners' grievances, although he was in the gaol from early in the morning.

The precise event which detonated the eruption is not clear. There was evidence of talk among the prisoners during the morning of a further demonstration eve of a riot at lunch time. This was confused and not very satisfactory evidence of the starting point of the riot itself. Even less satisfactory was the evidence of one prisoner that it was the actions of prison officers with batons and shields bashing prisoners in front of C Wing which caused panic throughout the gaol, leading to the riot. That evidence is rejected.

The "Bathurst Batterings-October, 1970" document, suggested that prisoners were informed by a prison officer that, as a reprisal for the Friday sit-in, five of the ringleaders were to be shanghaied at lunch time to Grafton Gaol, but there was no evidence of this before the Commission.

The Commission believes that the riot was caused principally by the failure of the Head Office to ensure that, as promised, the prisoners' grievances were with them and by the understandable reaction of the prisoners to Mr. Inappropriate and unnecessary provocative decisions to have armed guards in plain clothes positioned in the chapel where obviously they could be seen by the prisoners.

At about midday, as the prisoners assembled for a muster, a large number of the "boys" (prisoners under twenty-three years of age) broke away, apparently in response to a call by someone to "riot". They ran into C Wing. The outer door wing was thereupon locked and the rioting prisoners were thus contained inside the wing. Estimates of the number of prisoners involved at that stage varied, but it is thought there were about sixty of them. Suggestions were made in evidence that an attempt was made to take one officer (Mr. Paget) hostage, but this evidence falls short of establishing that as a fact. It is clear, however, that another prison officer (Mr. Wilcox) was hit on the nose by prisoner George Meaney, who was himself hit in the eye by an unidentified prison officer. The Commission is unable to determine the precise circumstances which led to these blows, but the events themselves were of some significance the next morning.

Inside C Wing, the prisoners did a great deal of damage. Glass windows (which were located at the end of the wing-the cell windows had no glass) were broken. Lavatories in the cells were broken. Doors were removed and locks were removed. Tables and chairs were broken up. Prisoner records kept in the wing were destroyed. The safety nets between the landings were cut. Property belonging to the prisoners was thrown onto the landings and, together with doors and mattresses, were from the landings down to the ground floor. Barricades were erected at doors, prisoners made weapons out of the broken furniture.

To this stage, the prisoners outside C Wing were not involved in the riot. A shot was fired from No.6 Tower (located nearest to C Wing) at a prisoner in the fence between 7 and 8 Yards (located between C and D Wings). This about 1 p.m. It produced an immediate reaction among the prisoners outside C. They climbed the fences into the Circle and, in the words of one prisoner, there was a rampage, smashing locks, doors, tables and the kitchen. According to another prisoner, the prisoners swarmed into the Circle, "turning into animals as they came smashing and destroying everything in their paths", causing a "wholesale rape of the prison". Knives were looted from the kitchen.

The officers had by this time retreated, and the prisoners were left to themselves. The prison officers were directed to contain the prisoners, but this direction was then countermanded. This happened on at least two occasions.

This lack of clear direction had an unfortunate effect upon the attitude and morale of the prison officers, who were critical of the decision not to proceed with the containment of the prisoners by force. One officer threw his baton on the ground and openly called abuse to Mr Pallot. Criticism of the lack of any riot control plan is made elsewhere in this Report.

Negotiations between the prisoners and Mr Morrow were undertaken. The barricades were removed from C Wing at about 2 p.m. The prisoners from within C then joined the other prisoners outside to avoid identification. A great deal of evidence about the negotiations was given by the prisoners, many of whom saw themselves as playing a greater role in those negotiations than the facts would warrant. It is, however, unnecessary to go into the detail of these negotiations.

Agreement was finally reached, as Mr Morrow put it, that there would be no "biff" (physical assault by way of reprisal) and that the prisoners would be permitted to associate together in the cells as a form of assurance that they would not be assaulted.

A number of prisoners claimed that an assurance was sought and given that would be no repercussions against the prisoners for having taken part in the riot, it is by no means clear from the prisoners' evidence who gave such an Mr Morrow's evidence, to which reference has already been made, appears have proceeded on the assumption that such an assurance was given. The Commission finds that it was given, although it cannot identify by whom.

Mr Morrow told the Commission that Mr Pallot was present and heard and observed all that was going on in the negotiations. In particular, Mr Morrow said that Mr Pallot knew that the arrangement involved no "biff" and that the reason why the prisoners wanted to associate was as a protection against assault.

On the other hand, Mr Pallot could not recall the prisoners being told that there would be no reprisals. He agreed that the prisoners were told they could associate in any cell they liked, but he would not agree that such association was sought to protect them from assault. He disagreed with Mr Morrow that any assurances had been given that there would be no "biff", although he agreed that such assurances had been sought.

Mr Pallot insisted that no promises of any kind were given to the prisoners. This was a stand he took consistently, both about the events of October, 1970, and those of October, 1973. When being tested about the stand he took, Mr Pallot found it hard to say that he could give an assurance even that the prisoners would not be flogged, although he recognized that such a flogging would be unlawful. However, he said that he would have been able to give an assurance that the prisoners would not be shot. Such an action was, Mr Pallot suggested, "the last resort . . . the last card in the pack".

The Commission accepts the evidence of Mr Morrow on these issues in preference to that of Mr Pallot. It is satisfied that assurances were given and Mr Pallot knew they were given—that there would be no "biff" and that the prisoners were permitted to associate as protection against assault.

There were a number of other matters discussed in the negotiations, but these were the principal ones. Their import was clear: the prisoners feared repercussions from the officers of a physical nature and wished to protect themselves. Mr Morrow's agreement to permit the prisoners to associate in the cells in greater numbers than usual was dictated not only by the fact that a number of cells were unusable after the riot; it was, the Commission believes, a realistic acceptance that the prisoners genuinely feared assault by the officers. It should also be stated, of course, that Mr Morrow himself saw no particular problems in permitting the prisoners to associate overnight.

Such an agreement might well be interpreted as a concession that the prisoner's fears were, to some extent, justified. The Commission does not propose to interpret it from this fact alone. The Department obviously feared such an interpretation and it so conducted its case-a matter to which some attention will be paid later in this Chapter.

Armed with the assurances, the prisoners began to return to the cells at 3.30 p.m. A body count of the prisoners was conducted; this required the officers to open the cell doors to see the number in each cell. This operation in C Wing; example, was conducted by only four officers. None was assaulted by any prisoners, who were associating up to six in a cell in that Wing.

No search of the prisoners or of the cells was attempted. Mr Pallot's evidence that the prisoners were rubbed down as they moved from the yard into the Wing was probably an understandable confusion with similar events in October, 1973, or February 1974. The prisoners were called upon by either Mr Morrow or Mr Fearn (a Principal Prison Officer) to throw all their weapons out of the wings, and a pile of weapons built up. That a number of prisoners did not respond to that call is clear from evidence about the following morning.

All prisoners were accounted for by 5 p.m. and they were fed, apparently without incident.

In the meantime, however, another event of some significance was taking place. At 4.45 p.m., Mr Morrow informed Mr McGeechan that the officers had a meeting with him and that he had received ultimatums both from the officers and from the prisoners. They were graphically described in Mr McGeechan's contemporaneous note in these terms:

"Prisoners don't come out or we won't man gaol. Prisoners-we come we burn gaol."

Mr McGeechan conceded that these ultimatums might have led him to believe there could be trouble the next morning.

The prison officers, anxious about the security of the gaol, had sought from Mr Pallot a double watch that evening and had been refused. This led to a meeting of prison officers with Mr Morrow, which began at 6 p.m. Some witnesses said that both Mr Morrow and Mr Pallot attended the meeting. Mr Pallot told the Commission that he could not recall being there, and Mr Morrow asserted that Mr Pallot was not there. The Commission accepts that Mr Pallot did not attend the meeting.

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Mr Morrow described the feeling of most of the prison officers at the meeting as one of very strong resentment. He was met with strongly worded objections about the restraint that had been shown in the face of the riotous behaviour that day. Officers expressed the opinion that they should have been permitted physically to repress the When Mr Morrow thanked the officers for not allowing themselves to be provoked violent situations, he was met with heckling and booing, and cries of: "What are thanking us for, we didn't do anything, you wouldn't let us do it."

Evidence was given that just before the meeting closed, one prison officer asked Mr Morrow: "How about we give them a touch of the liquorice stick in the morning?", or words to that effect (the short black rubber baton was also known as the "liquorice stick"). Mr Morrow replied "that's another day" or "we'll see about that in the morning", or "we'll work that out later on", or words which certainly did not rule out use of force.

Mr Morrow had given his evidence about six weeks earlier and this allegation never put to him, but it was put to Mr Pallot. He recalled Mr Morrow repeating a remark to him, although Mr Pallot could not recall whether it was taken by them or not. It was a tragedy that they did not do so.

Mr Morrow reported the views of the meeting to Mr McGeechan at about 6.30p.m. Mr McGeechan was told of the prison officers' resentment that they were not allowed to repress the prisoners physically. He was also made aware that some officers had been inclined to make an immediate attack on the prisoners. This was, Mr McGeechan thought, a natural and a typical reaction by the prison officers to the situation.

Reference has already been made to the two ultimatums of which Mr McGeechan had been informed. He told the Commission that he thought that (contrary to Mr Morrow's evidence) it was only a minority of the prison officers who were vocal. He did not believe that they might, when letting the prisoners out of the cells the next morning want to do what they had wanted to do the previous day, but had been prevented from doing – attack the prisoners.

In retrospect, Mr McGeechan thought, one could interpret these events as a warning that there would be violence the next day, but he maintained that he did not do so that evening. Instead, he took what he described as a "command decision" to recall Mr Morrow to Sydney because, he said, he needed Mr Morrow to deal with troubles at the Malabar Complex.

It is always difficult to avoid judging past actions with the necessary benefit of Nevertheless, the Commission cannot but view that "command decision" – to withdraw the Department's senior and most experienced custodial officer from Bathurst before the prisoners were released from the cells as a disastrously wrong one.

The background to the riot, the riot itself and the attitude of the prison officers, all as reported to Mr McGeechan, and his own realization earlier in the day that there could be trouble the next morning, make that decision indefensible. Mr McGeechan sought to explain that he never understood the attitude of the officers to be as contemplating other than the lawful use of force.

The Commission does not accept that explanation. It assumes a child-like innocence on the part of Mr McGeechan which he did not possess. The explanation necessarily avoids reference to the officers' inclination to attack the prisoners, of which McGeechan admitted that he had been told on the Monday night and that he knew that the physical violence was intended as a punishment.

Mr Morrow's statement of evidence, prepared by the legal advise to the Department and circulated in advance, referred to this inclination of some prison officers to make an immediate attack on the prisoners during the riot, and to the complaint by the prison officers that they had not been allowed to do so. These statements were the basis of the cross-examination of Mr McGeechan by Mr Hunt, eliciting the admissions referred to, although on one occasion Mr McGeechan did seek unsuccessfully to retreat from that admission.

The Commission does not overlook that Mr Morrow tried to explain that he word "attack" was perhaps the wrong one to have used when he reported to McGeechan, and that he had meant only "to move in on the prisoners". Mr Morrow did, however, agree that the degree of force he foresaw and feared if the officers had "moved in" on the prisoners would have caused bloodshed. The Commission finds that Mr Morrow used the word "attack" when he reported to Mr McGeechan, and that in its context it could have been understood only as an unlawful use of force.

Mr Morrow said he had believed that evening that the officers would "cool down" overnight and realise that avoidance of physical confrontation was the more desirable way to handle the difficult situation. At the same time, he also believed that the decision to release the prisoners the following morning depended on the outcome of conversations between Mr Pallot and Mr McGeechan. He felt that if he had not had other commitments in Sydney he would have stayed on. The Commission's view that Mr Morrow's evidence that the officers would "cool down" overnight was more an exercise in self-justification than an accurate recollection of the facts.

Mr Morrow departed from Bathurst Gaol at about 8 p.m., leaving it under the command of Mr Pallot to release the prisoners from the cells the next morning.

That evening, Mr McGeechan signed a report to the Minister, in the form of a Submission. It dealt with the events of the Friday, Saturday, Sunday and Monday. Mr McGeechan said that its purpose was to get a statement as quickly as possible to the Minister, briefing him, at a point when it was felt that the difficult time at Bathurst was behind them.

Mr McGeechan told the Minister in this report that "the insurrection ... appears to follow the pattern identifiable on a world-wide basis as a challenge to authority in a large number of areas of social defence". He expanded this in evidence to mean "an expression of the times, times of prison unrest, times of challenge to the entrenched prison philosophies".

Mr McGeechan certainly did not, however, tell the Minister in this report the horrifying news he had received from Mr Morrow that evening that some prison officers wished to attack the prisoners-not in those words or in anything like it. He claimed, however, that in discussions the Minister was made "aware" of the prison officers' threats to use physical violence against the prisoners as a punishment. Mr McGeechan did not expressly state that he had told the Minister of these threats, and the Commission is not prepared to infer that he did so. It finds it extraordinary that no reference was made to the threats in the detailed written report. Moreover, the Commission does not accept that Mr McGeechan could honestly have believed that the difficult period at Bathurst was behind him.

Not only did Mr Pallot, by his instructions, invite the officers under his command to act unlawfully; by his example, he encouraged them to do so.

At about 7.15 a.m., Mr Pallot led the officers into C Wing and up the top landing. The first cell he came to contained four or five prisoners, among them Michael Bowen. Bowen came out of the cell peacefully and without showing any signs of resistance. Mr Pallot struck him on the side of the face with his hand. Mr Pallot said words to the effect: "You were pretty tough yesterday. Let's see how tough you are today. Cop this!" This was in full view of the officers who had accompanied him.

Mr Pallot denied striking any prisoner. He characterized the action attributed to him as a most reprehensible example to the other officers who had accompanied him into the Wing, especially the young officers and the probationary officers who were present. His case, as first put by his then Counsel (Mr Cassidy) in cross-examination, was that the prisoner had come toward him and he had put his hand up to ward him off and that hand had come into contact with the prisoner's face. In his own evidence, Mr Pallot restricted any such action on his part to two occasions on the staircase when a prisoner had passed him. He had put his hand up to steady the prisoner down with the result that the prisoner ran into his hand.

The Commission accepts the evidence against Mr Pallot on this issue. In doing so, it does not overlook some inconsistencies in the evidence by some prisoners about it, nor that the prisoner Bowen gave a somewhat less serious version of the assault when subsequently interviewed in curious circumstances to which reference will be made in the next Chapter.

The whole operation was, as Mr Pallot conceded, under his direct control. This was at the very beginning of an operation in a situation which he himself described as grave and potentially dangerous, and in the clear knowledge of the confrontation which had been threatened the previous evening. The Commission finds such behaviour by Mr Pallot to be disgraceful. Moreover, it adopts Mr Pallot's own characterization of such behaviour as a most reprehensible example to the other prison officers present.

What followed may be aptly summed up by an admission made by Mr F. McAlary, Q.C., appearing for the Prison Officers' Vocational Branch of the Public Service Association of N.S.W.:

"Some prison officers participated in a systematic flogging of a large number, if not all, of the prisoners in the gaol."

The admission continued, in this exculpatory manner:

"Such flogging was carried out under the leadership and control of the Superintendent, Mr Pallot, and was regarded as representing official policy."

The precise status of this admission, the weight to be given to its exculpatory addition and the attitude of the Department towards the events to which it relates will be dealt with later in this chapter. It is sufficient, at this stage, to say that there was enough evidence before the Commission, apart from that admission, to make a finding in its terms.

Evidence of the systematic flogging of prisoners was given by prisoners, prison officers and one former prison officer. It is necessary to make some general comments about the way in which this evidence was adduced, the approach taken to that evidence and the weight to be accorded to it.

In accordance with the recommendations of and for the reasons expressed by the Bail Four Committee on the Procedures of Royal Commissions (Command Paper 5235, 1910), the evidence of almost all witnesses was given in the form of a prepared statement, circulated in advance to all appearing before the Commission. When called, the witness swore that the contents of the statement were true and he was then cross-examined. Witnesses were called by Counsel appearing for the interest they represented.

The evidence from the prisoners was led first. It began on 26th October, 1976, some fourteen prisoners and Maxwell Hanrahan, a former prison officer, gave evidence before the Department was called upon to present its case in reply. The Department's case began on 2nd December. Mr Pallot started his evidence on 16th and continued after the four-week adjournment over Christmas. The prison officers were not called upon to present their case until 19th January, 1977. Few prison officers were called in reply to the allegations made by the prisoners. One serving prison officer was called by Counsel assisting the Commission on 26th January. The officers implicated by his evidence gave evidence in reply, starting on 17th February.

This timetable assumes some importance when consideration is given to the claim, seriously made and persisted in by Counsel for the officers, that findings against the prison officers would involve a violation of their constitutional rights. The basis for this submission was that there had been a denial of natural justice in that the individual prison officers concerned had not been "told that his conduct is under investigation and what he is expected to answer". The prison officers had statements of the evidence to be given by the prisoners (tested in cross-examination by their Counsel) in some cases up to three months before they were given the opportunity to present their case. This alone disposes of Counsel's claim. There are other reasons, but it is unnecessary to state them.

When a prisoner gave evidence, his or her criminal record was tendered, together with the prisoner's gaol record and, in most cases, the relevant gaol and medical files. A full description of these files is given elsewhere in this Report. At times they contained reports on each prisoner from Classification Committees, senior officers from each gaol to which he or she had been sent, the evidence in support of charge on disciplinary offences, medical reports (often including psychiatric reports), and complaints made by prisoners to Superintendents or others in authority.

Little attention was paid in cross-examination to the credit of prisoners as witnesses, although on some occasions cross-examination established conflict and often exaggeration in their evidence.

A conviction is generally regarded as being relevant to a witness's credit, as establishing untruthfulness and impeaching his testimony. Prisoners who gave evidence before this Commission were invariably convicted criminals. Prison officers who gave evidence denying that given by the prisoners were invariably persons who had no such record. The ordinary attitudes and values relied upon in litigation obviously could not always be applied to the same extent.

The Commission accepts the submission relating to the credit of prisoner witnesses made by the N.S.W. Penal Reform Council that the gaol community does not reflect the attitudes and values of the normal community, but more a set of deviant and often destructive values of its own. It is easy, for example, to rely upon the failure of prisoners to make complaints when the opportunity arose to do so, until its realized,

as the Commission came to realize, that wrong conclusions may well be drawn from such a failure in a community which does not accept the norms of the outside community. A great deal of cross-examination was directed to this issue but, in the end, it was of little assistance to the Commission.

On the other hand, the impression was clearly gained by the Commission that there had been well orchestrated attempts to bring about peer pressure on prisoners to complain and to nominate some prison officers in a particularly unfavourable light. There was also, in some cases, an obvious desire for revenge by prisoners against prison officers by whom they had been charged for disciplinary offences or from whom they had obtained unfavourable reports.

Allegations of the type made in these proceedings are easy to make and difficult to meet. The passage of six years since the events added to that ease and aggravated that difficulty. Some allegations were so vague as to amount to nothing.

In many instances, the prisoners either did not know or were unable to identify the officer from whom they had received their flogging. Often the prisoner was an aggressor and the force used by the prison officer was obviously both "needful" (to use the wording of the old Rule) and reasonable in self-defence, and therefore justifiable.

The Commission has tried to take all this into account in judging the credit of both prisoner and prison officer witnesses. It has not been easy.

Although many of the allegations made against prison officers are of ill-treatment amounting to criminal assault, the standard of proof adopted has nevertheless been the civil standard of proof. In making these findings, the Commission has required a reasonable satisfaction, according to the probabilities, that an event occurred, bearing in mind the seriousness of the allegations made, the inherent likelihood of such an event, and the gravity of the consequences flowing from a particular finding on that event.

These are not criminal proceedings. This Commission makes a report to His Excellency, the Governor; it does not convict any person of a crime, nor does it determine any issue between parties as in ordinary litigation.

The proceedings, as far as they have concerned the events at Bathurst Gaol, have been conducted in the style of adversary litigation. This was a necessary consequence of the nature of the allegations and of the representation appearing before the Commission. Hearsay evidence has been ignored.

It was made throughout the proceedings that the failure of individual prison officers to give evidence in answer to allegations made against them would taken into account in resolving where the truth lay. The failure of a person against whom such allegations are made to give evidence, when the opportunity to do so arises, in common sense leads to the natural inference that any evidence which he could give would be unfavourable to his case.

However, a problem arises in the application of this well-known principle to this Inquiry. Mr McAlary, Q.C., appeared throughout for the Prison Officers' Vocational Branch of the Public Service Association of N.S.W., and (except for four specific prison officers to whom reference is made later, for the individual prison officers who gave evidence. Since October, 1970, many prison officers involved have retired or died. These were not represented at the hearing, and, apart from the continuous publicity given to the Royal Commission, no notice was given to retired prison officers of specific allegations being made against them.

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an opportunity to deny evidence given by prisoners, but in the end this was not followed. The principal reason for not doing so arises from the nature of the recommendation which are to be made about prison officers against whom findings are made. does not propose to recommend the criminal prosecution of prison whether retired or otherwise.

These events occurred more than seven years ago. Although the truth was from the public by the Department until they were eventually examined by this Commission, they have now been well ventilated. Retired prison officers (such Pallot) are no longer subject to the jurisdiction of the Public Service Board, in any event has power to impose no more serious a punishment than dismissal the Public Service. The fact that these men are no longer employed in the

Service avoids the need to remove them from any position where they could This Inquiry itself constitutes a powerful deterrent against other officers the same mistakes. The Commission sees no purpose at this late stage of recommending criminal prosecutions.

It cannot be too strongly emphasized that the proceedings of the Royal Commission are not to be taken in any sense as committal proceedings arising out of allegations made of assault.

The accidental fact of legal representation has not been the criterion by which person's conduct has been judged. Evidence against prison officers who have since

has been less readily accepted, without corroboration, because of their absence the hearing. No inference has been drawn from that absence.

The Commission has made findings where it believes that assaults have occurred. has done so on the evidence and on the inferences which arise from that evidence.

prison officers or former prison officers should be charged, either criminally departmentally, is a matter which the Commission leaves to the appropriate

The Commission now turns to the evidence establishing the admission that prison officers participated in a systematic flogging of a large number, if not all, the prisoners in Bathurst Gaol in October, 1970.

After Mr Pallot struck the prisoner Bowen, Bowen and the other prisoners had spent the night in his cell were ordered to get up against the wall of the cell and to remove their clothes for what was known as a "strip search". Because there were too many prisoners inside the cell, all except two prisoners were removed. The two who remained were Keith Clark and George Meaney. Meaney was the prisoner who had hit Prison Officer Wilcox outside C Wing the previous day.

A discussion began between two prison officers about whether Meaney had been one of the ringleaders in the riot. Prison Officer Paget (whom the prisoners had attempted to take hostage outside C Wing the previous day) reached out and knocked Meaney to the floor. The top of Meaney's head was split and blood flowed. Another prison officer, who was unidentified, hit Clark in the kidneys with his baton. Clark fell into the lavatory in the cell. The cell door then closed. Clark could hear sounds of screaming coming from outside.

Then the cell door opened again. Prison Officer Wilcox entered with a - of the officers. He said to Meaney: "Come out here you little black bastard can get a go at you". Wilcox hit Meaney with his baton from the front while Officer R. P. Morgan hit him from the other side. Prison Officer Paget baton on Meaney's legs. Morgan admitted having used his baton on Meaney, but that he had to do so because Meaney "offered resistance" because "he refused to get out from behind the bed". Morgan was unable to see whether Meaney weapons.

Meaney was a small man, about 5 feet 3 inches tall. Prison Officer over 6 feet tall. Prison officer Morgan was also a much larger man than Meaney

A fourth officer, W. Aitken, then entered the cell and hit Clark on the his head. As Clark doubled up, he hit him twice more, breaking the called for another baton and proceeded to hit Clark with his fists in the and ribs. Clark was also a slightly built man. Prison Officer Aitken was a weighing over 15t stone. He was handed another baton and struck Clark on t~

When this evidence was given by Clark, it was ridiculed by appearing for the Department (Mr Cassidy), who sought unsuccessfully to witness give a demonstration with a similar baton on a cast concrete head. Officer Aitken, however, admitted that he did indeed break a baton when usir.; a prisoner. He claimed that the prisoner (whose name he did not know) ha; what looked like a piece of wood in his hand in a threatening gesture, and had used the baton only on the prisoner's shoulder. He conceded that he rr; punched him after the baton broke or grappled with him. The Commissior Prison Officer Aitken's explanation and accepts the evidence of Clark and of

prison officer who saw the events, Mr R. G. Atkins.

Prison Officers Aitken, Morgan and McLeod then hit Clark with batons fell. Prison Officer Douglas entered the cell and kicked Clark on the leg, then c him in the stomach, the neck and the chin.

The assault on Meaney was seen in part by prisoner Martin Kennedy, " in a cell opposite and who was watching through the peephole in his cell door. l. was in the cell with two other prisoners. One was William Hill. Four prisot entered the cell. Although he could describe them, Kennedy did not knc .. names. He had recently had an operation and asked that if he were to be area of the operation be avoided. He was hit on the head with a wooden bat prison officer, who called him "a smart bastard". Kennedy denied the accusa.a

a prison officer that he had been in the riot. A second prison officer in the face and stomach and he was hit around the legs. Hill also received ~ with rubber batons from two of the prison officers. These prisoners had done to barricade their cell or of an aggressive nature when the cell door first

Prisoner J. V. Bobak was in a cell on the top landing of C Wing, with prisoner. A number of officers entered the cell. They included Prison Officers. Klok and Milton. Mutton hit Bobak on the head with a baton, sending hie. floor with blood running from the wound. He was kicked while on the floe: thrown against the wall. He stood against the wall and was hit with batons arms, neck and back.

He described them as really hard blows and said that he screamed as being hit. Prison Officer Klok denied the allegations, but the Commission c accept his denial.

One cell on the top landing of C Wing contained four prisoners:

Warwick John Palmer, Walter Vinden and Douglas Nelson. They could hear shouts, ~ms, moans and crashing and thudding sounds from outside their cell. These

merged into a general din. When the cell door opened, a number of prison officers entered and hit the occupants with their batons, even after fallen to the floor. Palmer and Nelson were dragged onto the landing and

strip, then to face the wall with their hands up and feet spread. Three prison flogged them while their backs were turned. They were placed in a fresh cell

again by a number of officers, including two who had previously assaulted

Most prisoners who gave evidence told of the screams they could hear as they worked their way through the cell block, a few cells at a time. Some described

detail their feelings as they heard the screams coming closer.

Prisoner M. L. Baldwin, who was with four other prisoners in a ground floor of C Wing, heard the screams for about three-quarters of an hour before the door cell was opened, and he was dragged into the corridor with the other prisoners. clothes were forcibly removed and they were made to stand reaching above

heads with their hands on a conduit pipe on the wall. For no cause, Baldwin was with fists and batons until he lost consciousness. He was unable to identify assailants, although a Mr Chapman was present when he was removed from the His head was cut in two places. He saw Mr Pallot nearby when he was dragged of the cell.

Prison Officer R. G. Atkins told of seeing a number of assaults on prisoners by fellow prison officers. It was suggested to him in cross-examination by Counsel for the Department (Mr Fisher, Q.C.) that he had made these allegations to divert attention from allegations made by prisoners against himself. Only one of the allegations made against Atkins related to the events of October, 1970, however, and it is rejected by the Commission. The remainder related to the riot in February, 1974. Moreover, Atkins gave a statement of his evidence to Mr Dodd, a solicitor, early in the hearings, well before he was aware that allegations were being made against him.

Prison Officer Atkins was called by Counsel assisting the Commission to avoid the difficulty his evidence posed for those representing the Prison Officers' Vocational Branch of the Public Service Association. Three of the prison officers named by Atkins who were still members of the Branch (Klok, Doorey and Aitken) were also given separate representation.

Atkins gave evidence of assaults on prisoners by each of those named. Most of these have already been referred to or will be referred to when the assaults in B and A Wings are described.

Atkins said that he saw Prison Officer Doorey striking a prisoner with a baton on the top landing of C Wing. The prisoner was standing with his hands outstretched against the wall. Atkins was unable to remember the name of the prisoner, whom he believed to have been employed in the bookbinders' shop. He knew the name of one of the prisoners in the same cell to be Cornwell, which suggests that Doorey was one of the prison officers concerned in the flogging referred to earlier. Doorey denied having taken a baton or having delivered any blows or having struck any prisoner with his fists. He claimed not to have seen any batons being used to strike prisoners. He quite seriously claimed never to have seen any violence at all that day. The Commission does not accept Doorey's evidence.

Atkins saw Prison Officer Aitken hit a prisoner Brian Castle with a baton, without reason. Aitken said that he did not recall doing so. The Commission finds that he did. Later Castle, in a semi-conscious condition, was hit by Prison Officer Klok, opening up a bad scalp wound. Klok's denial is not accepted.

After dealing with the prisoners in C Wing, the officers moved to B Wing. Before entering the Wing, Mr Pallot warned the officers: "Be careful in here, the old men". Mr Pallot could not recall saying this and he did not think that he did; it, although it was a Wing which housed a number of old men. The Commission that Mr Pallot did say it.

Prisoner J. A. Kelly, who was not one of the old men, heard prison officers entering B Wing and the opening of cell doors on the ground floor. Soon after he heard a lot of banging and crashing, screaming and yelling. He and the three prisoners in the cell with him barricaded the door with mattresses as the officers came nearer. The door was eventually opened by prison officer Mutton, who told them to throw out their weapons and threatened them with a steam hose if they did; Weapons were thrown out and the prisoners left the cell. They were ordered to

One of the other prisoners in the cell with Kelly was A. T. Morrison. Before he was able to remove all his clothing, Morrison was hit with punches and fists by Prison Officers Mutton, Klok, Best, Draper, Judd and Morgan. Mr . was present in the Wing and was watching this incident. Morrison was placed in a separate cell, where he was again assaulted. Kelly could hear Morrison scream Morrison lost consciousness; when he regained it, his left arm was swollen and his kidneys ached. Kelly was also placed in a separate cell, and Prison Officers Klok, Tuck and Best entered it. Kelly was told to spread himself against the wall, and he was then struck a large number of blows with batons over the head, back, legs and feet. He received injuries to an ankle and his mouth was split. Officer Best hit Kelly in the testicles with his baton. Some time later, Prison Officer Paget saw Morrison and expressed concern at his physical condition. He and Officer Plunkett took Morrison to the gaol hospital, where he received seven stitches in his head. The concern shown by these two officers was in marked contrast to that of many other prison officers that morning.

In A Wing, prisoner A. R. P. (Tony) Green shared a cell on the ground floor with another prisoner. Green described as terrible the animal screams and the sound of men crying. He had never heard men cry so pathetically, he said. The two officers were terrified as they waited their turn. Prison Officers Douglas, Judd and entered their cell and ordered them to strip and then to face the wall. They then beat them with short batons across the shoulders, back, buttocks and legs. - Officer Douglas also punched Green in the kidneys. Green said that, while the beating could have been worse, it was nevertheless the worst beating and the most humiliating experience he had ever suffered. He saw a number of other prisoners beaten, in the presence of Mr Pallot. He also saw some prison officers who attempted to enter the cell to prevent the beatings and who appeared to be disgusted. He named one as Mr ~ Green had been one of the spokesmen on behalf of the prisoners the day before.

Another prisoner from A Wing who had been a spokesman was Errol . Prison Officer Atkins saw Prison Officers Aitken and Klok hit Baker, who was a prisoner; he possessed a knife. They continued to hit Baker even after he had been disarmed; Baker's screams were heard by another prisoner, L. W. Boyle, whose cell was ~ opposite. Prison Officer Aitken said that he did strike a prisoner several blows . : upper arms and shoulders to force him to drop a knife with which that prisoner was threatening him, but he could not say whether the prisoner was Baker.

at the attempt to stab him was a very serious matter, Aitken never charged . He could give no satisfactory reason why he did not, if such an attempt made, although he had charged other prisoners for much less in the past.

Officer Klok said that he did not know Baker. He said that he had had a dozen or more prisoners with knives or similar weapons, and did not use his rubber baton to strike these prisoners over the forearm or shoulders to

drop their weapons. He denied continuing to hit any prisoner after he disarmed. The Commission accepts the evidence of Prison Officer Atkins that Prison Officers Aitken and Klok applied unjustified force in continuing after he had been disarmed.

It is clear from the assaults on Green and Baker that, as Prison Officer Miller evidence, the ringleaders or the prisoners believed to be ringleaders received treatment in the floggings. Miller also made it clear that prisoners who had part in the riot were also flogged.

L. W. Boyle, another prisoner on the top landing in A Wing and conceded on not to have been involved in the riot, was asked by Prison Officer Mutton to his private property "until the disturbance was properly settled". He was

the cell with only the bed and the steel locker. Boyle heard the screaming and doors slamming, firstly from the other wings and then from his own. one prisoner screaming "please dont', please, I wasn't in it". There were loud and thudding sounds interspersed with the screaming. He could hear sobbing

cries of pain.

Then the door to his cell was flung open and Prison Officer Best, with blood shirt and forearms, entered and struck Boyle on the head with a wooden baton. officers intervened to prevent further blows. They were Prison Officers Bartlett one identified only as "Harry the Porn". Boyle was taken to the hospital where male nurse inserted seven stitches to his scalp. There were a number of other in the hospital receiving attention for wounds.

Boyle also saw Prison Officers Douglas and Smith kicking a prisoner lying on floor of a cell opposite his. He identified a number of officers who had not, so far he was aware, taken part in the beatings: Prison Officers Stephens, Bartlett, Sands, IMU"aban, Plunkett, Patterson, Oslington, Single and "Harry the Porn". The Commission satisfied that Prison Officer Bartlett was involved at least in the assault on Green. other prison officers are to be commended.

Prisoner Baldwin, who had earlier been assaulted in C Wing, was returned to own cell in A Wing. Soon after his return, several officers entered his cell. He asked whether he had any weapons, to which he replied that he did not. His was searched in a rough manner and he was then confronted with the lavatory which has a wooden handle (an item in every cell). Baldwin was called a liar, he was then hit by the prison officers with their batons. He was able to name only of the officers, Prison Officer Mutton. Another he identified by his nickname, "Helicopter" (so named "because he was just buzzing round the joint").

Two A Wing sweepers were suspected of having stolen a set of keys from prison officer Mutton or prison officer McAuley. The two sweepers (who were identified) were hit mercilessly on their backs, shoulders and buttocks with fists rubber batons by Prison Officers Mutton, Douglas, McAuley and Aitken until they confessed and disclosed where the keys (and a knife) were hidden. Evidence of this incident was given by two prison officers, Atkins and Miller, although Miller said that

he could not recall the identity of the officers involved. Aitken emphatically taking any part in these efforts to obtain a confession from the sweepers, although: was aware of the incident. The Commission does not accept his denial. No how serious the breach of discipline involved, this use of force was utterly

Prison Officer Atkins also saw Prison Officer Best assaulting prisoner Dow; the top landing of A Wing. Best kept repeating to Dowd "call me sir" and hitting as he shouted this at him. Dowd did call out "sir", but Best continued to hit :

There had been no provocation on Dowd's part, nor any resistance when he was Dowd's nose was broken. The blood on Best's shirt has already been referrec Atkins described Best as having worked himself into a lather of sweat and Irothir ; the mouth, shouting and screaming.

There was a great deal of other evidence about the flogging throughout the Much of that evidence did not identify either the assailants or the prisoners Prisoners also spoke of seeing bruises on other prisoners when under the shower>

The Commission has no doubt that a systematic flogging of prisoners took r on the Tuesday morning at Bathurst Gaol.

Mr Morrow, the Director of Establishments, agreed with the suggestion PLhim that if an assault on most of the prisoners took place in such circumstances it cowardly. The Commission puts it much higher than that. The whole episode w disgrace in terms of ordinary human behaviour and repellent to any stand arc decency to be expected of a prison system.

It is necessary at this stage for the Commission to deal with the ques: raised earlier, but put to one side, concerning the admission made by Mr

Q.C., and the attitude of the Department towards the events to which it relates.

Mr McAlary appeared for the Prison Officers' Vocational Branch of the Service Association, which is a branch of the General Division of the largest union representing Crown employees in this State. The Branch has more than members and is divided into sub-branches. Broadly speaking, each institution has , own sub-branch. Each of these sub-branches has an elected executive, and under the direction of a central management committee comprising delegates from, sub-branches and an executive elected by a State-wide vote of all members.

The admission by Mr McAlary-that there was a systematic flogging of a ., number, if not all, of the prisoners in the gaol-was authorized by the Branch (tha: the State-wide organization), which, Mr McAlary said, declined to make any admiss. regarding individual prison officers. Mr McAlary also made it clear that he made admissions on behalf of any individual prison officers whom he represented.

Counsel for Mr Pallot objected to any use of this admission, on the basis it must be understood as having been made only on behalf of the men who took in the flogging, and Counsel for the Department objected on the contrary basis the admission could not bind those individuals. Mr McGeechan said that, because admission had been made on behalf of an industrial trade union and not the indi officers, he declined to accept it. He was intrigued to know the strategy behind admission and could not accept it at its face value.

The Commission is not concerned to examine the distinction sought drawn. In the face of these curious (and sometimes conflicting) attitudes, it to rest its findings on the evidence given by both prisoners and prison officers.

"It does not, however, dispose of the exculpatory addition to the admission, the prison officers rely strongly in their defence. To repeat what Mr said:

"Such flogging was carried out under the leadership and control of the Superintendent, Mr Pallot, and was regarded by officers as representing official policy."
Reference has already been made to Mr Pallot's concession that the whole was under his direct control. Findings also have been made that Mr Pallot's to the prison officers to use batons to force the prisoners out of their cellsawful and that Mr Pallot's assault on the prisoner Bowen at the start of the was a most reprehensible example to the other prison officers.

But what more is there to support the exculpatory addition to the admission?

Mr Pallot's instruction to use batons unlawfully did not amount to an invitation to flog the prisoners. His assault on the prisoner Bowen, however reprehensible, not honestly have been interpreted as an incentive to the savage onslaught followed. Nor did any prison officer say that he was misled into believing the flogging of prisoners (as opposed to the unlawful use of batons) was official

It is well-settled law that a criminal act is not excused because it was done in the order of a superior, whether civil or military. In some circumstances, if carried out in good faith, may destroy the mental element for criminal liability. Those circumstances certainly do not apply in this

The Commission finds against the Prison Officers' Vocational Branch of the Public Service Association in its attempts to have its members escape responsibility on this ground for the flogging they inflicted. The defence did not succeed in the Nuremberg Trials; it does not succeed here.

The Commission makes no finding that either Mr McGeechan or Mr Morrow knew or approved in advance of the flogging. The Commission has already, in this chapter and elsewhere in the Report, criticised Mr McGeechan, in particular, for his handling of the events of October, 1970. The inquiry by Mr McGeechan and the Department into those events is the subject of the next chapter.

It is appropriate, however, to refer to the curious attitude the Department took at the hearing of the evidence about these events.

Reference has already been made in describing the negotiations on the Monday afternoon to the agreement that the prisoners would be permitted to associate together in the cells as a form of assurance that they would not be assaulted. That agreement, the Commission has said, was dictated by Mr Morrow's realistic acceptance that the prisoners genuinely feared assault by the officers because of their participation in the riot.

The Department, however, appears to have feared that such an agreement would be interpreted as a concession that the prisoners' fears were, to some extent, justified. It set out to conduct its case accordingly. In doing so, the Commission regrets to say, the case put forward and persisted in by the Department was false, and false to the knowledge of those within the Department responsible for instructing its legal advisers during the Commission's hearings.

that this evidence was a recent invention after speaking to other prisoners given evidence, an issue which consumed forty-two questions in crossCounsel for the Department then objected to attempts to re-examine how the evidence came to be omitted from the prisoner's statement of And so the attack on such evidence went on, with every witness who The final written submissions of the Department are curiously silent about this **The** case stated by Mr Cassidy, adopted by Mr McGeechan and not refuted by nevertheless still stands.

h was a false case and false to the knowledge of those within the Department for instructing its legal advisers during the Commission's hearings.

Chapter 5 BATHURST THE "INQUIRY"

CHAPTER 5

BATHURST: THE "INQUIRY"

"They will never keep this behind four walls": Principal Prison Officer A. R. G. Chandler to Senior Prison Officer M. Hanrahan, on the top landing of C Wing, on Tuesday morning, 20th October, 1970.

The first prisoner due to be released from Bathurst Gaol after the c which have been described was Warwick John Cornwell, who had with three prisoners been flogged in a cell on the top landing of C Wing, Mr had made a special note of Cornwell's name at the time. He denied because of a fear of what Cornwell might have to say on his release. Mr ^{U''AID.} claimed that he was concerned that in the aftermath of the riot Cornwell detained after his discharge date.

Soon after his release, Cornwell was interviewed on a Sydney radio The text of that interview is not available, but Mr McGeechan described allegations, which he had not himself heard, as ones "from which an assault could arise."

These allegations had followed public accusations by some Vietnam dem. tors the previous month of inhumane treatment they had received at Long matter which had been raised in Parliament. The Minister asked Mr McGeecl: investigate these further allegations by Cornwell and to report back to him.

Mr McGeechan acknowledged that he was concerned to ensure that allegations were properly investigated. He made no attempt, however, to have interviewed. It was, he said, a matter of departmental practice not to approach L prisoners and, in any event, he did not know (and did not take the trouble to fine whether Cornwell had alleged that he was himself assaulted.

It is difficult to understand this attitude of the Department, particularly public complaints are made by prisoners after their release. Mr McGeecha[that, if further information were ever needed about such complaints, the Depar; would write to the former prisoner concerned and invite him to attend f'interview. He seemed surprised that they rarely responded to such an invr ;

All that Mr McGeechan did on this occasion was to have the three pris who shared the cell with Cornwell examined by the local Medical

Dr van Gelderen. It was upon the basis of the doctor's report that Mr McGe: made his own report to the Minister.

Mr McGee chan also acknowledged that he was concerned generally to ,,= that proper reports were made to the Minister on matters such as this, so the:

Department could be defended in the House, and he conceded that the M:depended almost exclusively upon the reports which he gave to the Minister

that such reports had to be complied with great care to ensure that they were impartial and fair. He was concerned particularly to ensure that a faithful and accurate report was made to the Minister on Cornwell's allegations, as the Minister insisted to have this particular report.

The three prisoners who had shared a cell with Cornwell during the floggings Nelson and Vinden were paraded before Dr van Gelderen on 26th October. They were seen individually, but in the presence of Superintendent Pallot, Mr Chandler and a number of other prison officers, including at least two officers who had been for flogging the three prisoners.

Palmer told the Commission that his left shoulder was swollen and that his whole of the left side of his body and the back of his thighs and legs were badly bruised. He described how the bruises and swelling were well in evidence when he was stripped for Dr van Gelderen. Palmer told the doctor he had no complaints to make. This is hardly surprising when he was asked the question in the presence of the officers who had flogged him.

Dr van Gelderen thereupon recorded that Palmer had no sign of injury and no complaint of disability or injury. The conclusion expressed in the first part of that record appears to have been dictated by the fact stated in the second part of the record that the doctor did the same about Nelson.

With Vinden, however, Dr van Gelderen noted bruises on the side of his chest (under the armpit) and on the thigh. He recorded Vinden's statement that caused him no discomfort or disability and his belief that they had been

caused by the officers who had flogged him. Although he did not "remember the method" by which he has sustained them. This also was said in the presence of the officers who had flogged him.

Mr McGeechan's "faithful and accurate" report made no reference to the bruises on Vinden's chest, nor to Vinden's belief that he sustained his injuries about 20th October. Moreover, Mr McGeechan's report added the comment, not made by Dr van Gelderen, that the bruise on Vinden's thigh was "consistent with a minor bump". Mr McGeechan was unable to say where he had obtained this information.

Mr McGeechan agreed that his report to the Minister was misleading. It certainly was. The circumstances in which the medical examinations had taken place were calculated to prevent legitimate complaints being made. That was bad enough; Mr McGeechan is unlikely to have known of those circumstances. But his own report was, on the basis of what he did know, not only misleading, but dishonest.

Mr McGeechan's report to the Minister was also unfair. It was, of course, obvious to the Minister that he was dealing with allegations of assault made by a former prisoner. The implications as to the credit of the person making such allegations against prison officers are and were obvious. Not content with what was obvious, however, Mr McGeechan thought that it was pertinent for the Minister also to have a list of Cornwell's previous convictions and disciplinary offences within the prison system.

This was a pattern followed in relation to every prisoner who made allegations of assault arising out of the events of October, 1970. It was done, Mr McGeechan asserted, because in the final analysis the word of the officers should take precedence, as a matter of principle, over the word of prisoners. The Commission sees no justification for such a practice, either in "principle" or in fairness.

Within a week of the Cornwell incident, the Minister sent to Mr McGeechan a signed statement by one of the Vietnam protestors about the Long Bay disturbance (which had taken place on 18th October), in which it was alleged that a number of prison officers had assaulted prisoners and caused serious injuries. The statement included an assertion by a prison officer that a number of his fellow officers involved, in those assaults had volunteered to go to Bathurst the next day because "they got _ taste of blood and wanted more".

Notwithstanding that this signed statement was filed with the Department: Bathurst 1970 papers, Mr McGeechan could not recall following up that assertion; The Department's files contain no indication that he did. Mr McGeechan did advise the Minister that the suggestions made by the ex-prisoner were based on cliché: hysteria or "malific (sic) spite", a tautologous phrase which became a standard answer to almost every allegation made against the Department.

The next former prisoner to make allegations about what took place at Bathurst; was Keith William Clark. Clark was released on 20th November. On 27th November he made a statutory declaration before Mr W. G. Petersen, M.L.A. (the Member who had raised the Long Bay allegations in Parliament), who sent it to the Minister.

This statutory declaration contained a detailed account of the events of October: It described not only the flogging which Clark had himself received; it also recounted on a hearsay basis the assault by Mr Pallot on the prisoner Michael Bowen. Because of a subsequent matter, it is important to note the terms of this hearsay allegation

"Mick told me later that he had been bashed personally by the Governor ~ Mr Pallot."

The statutory declaration also described assaults by a number of officers upon other prisoners, including prisoner George Meaney.

The Minister requested Mr McGeechan to have Clark's allegations investigated by a legal officer and to report back. This was the first time that such a departmental investigation had been made by a legal officer. It was not an auspicious beginning; to such a practice.

Despite the width of the Minister's request, Mr McGeechan gave the legal officer, Mr E. A. Quin, very limited instructions. He was told, firstly, to interview Bowen about the allegation that he had been "bashed personally by the Governor Mr Pallot" and, secondly, to interview Meaney about the allegations by Clark concerning assault upon him. At each interview, the then Chief Superintendent of the Malabar complex, Mr D. J. Stewart, was to attend "as a witness".

Mr Quin was not, at that stage, requested to follow up either those or any of the other allegations by interviewing the officers named or anyone else, prisoner; or prison officers, who could throw some light upon their truth.

Later, and then only because Mr Petersen had released to the press copies of Clark's statutory declaration (deleting the names of the officers involved), Mr McGeechan instructed Mr Quin to interview the officers against whom the allegations were made. At no time was Mr Quin instructed to interview anyone else who could throw light upon their truth.

Mr McGeechan thought nevertheless that the instructions were "very broad",

he had not intended Mr Quin to have "a universal charter". Despite his the Commission is satisfied that Mr McGeechan expected the prison officers

that allegations, yet he saw no need to test the prison officers' denials by

interviewing other prisoners or prison officers. He had, however, earlier given direct that every prison officer at Bathurst was to be interviewed to

ascertain what

should be laid against prisoners arising out of the events of October.

He saw then why allegations against prisoners and prison officers should be treated same way, although he did, in retrospect, concede to the Commission that it have been better to have done so.

When asked why he did not permit Mr Quin to interview others for the purpose seeking corroboration or otherwise of the allegations, Mr McGeechan said that

were "broad connotations that flow from allegations against a prison officer sense that it causes a good deal of disquiet if you range too far with your I think most institutional services are founded in paranoid attitudes".

Mr Quin interviewed Bowen in the presence of Chief Superintendent

Stewart 3rd December. It is obvious from the transcript taken of that interview that Bowen not a very willing participant. The circumstances in

which he was being questioned

never explained to him, despite Bowen's request to be informed of them and - complaint (repeated more than once) that he did not know why he was there or why he had been selected for questioning. When told that an allegation had been made against prison officers that he had been assaulted by them, Bowen was quick to point out that he could not recall making any such allegation and was not

any charge. "How can I make allegations against anyone if I'm in gaol?" asked.

He declined to name any of the prison officers involved because, as he said, he still had fifteen years to serve.

Bowen was not prepared to name anyone because "you can't win". The accuracy of that reason was clearly demonstrated for him by Mr Quin who pointed out that Bowen would be charged with having made a false statement if it was found that he was not telling the truth.

Pressed, Bowen finally did allege that Mr Pallot had grabbed him by the throat from the front, had shouted at him and, when he had not answered, he had thrown him into another cell, but he denied that he had been "bashed" by Mr Pallot. It is obvious, however, that his account of what did happen-so far as he was prepared to give any account in the circumstances-amounted to an unlawful use of force by Mr Pallot (Mr McGeechan suggested that it was an "unusual" action). Bowen also described a number of assaults on him by other officers.

There are a number of matters surrounding the circumstances of this interview which must be stated. Bowen had not sought the interview, and had no knowledge of its purpose. It took place in the presence of a very senior custodial officer. Prisoners who speak to the authorities are generally regarded by their fellow prisoners as "dogs", with unpleasant results. There is also a widely held belief among prisoners that complaints made against prison officers are usually decided in favour of the officer. Moreover, prison officers are able to settle grievances by meting out unjust and summary punishment to prisoners who prefer complaints against them. And, finally, a prisoner may well believe, as Bowen appeared to believe, that if he tells the truth but is nevertheless disbelieved, he will be charged with preferring a complaint which was false to his knowledge (Prisons Act, 1952, Section 23 (f)).

Mr McGeechan conceded the validity of all these circumstances, but said -he probably took none of them into account when deciding what weight should given to Bowen's statements. It seems to the Commission to be extraordinary a man who had reached the position of the Commissioner of Corrective did not consider them.

It is significant that, after reading the transcript of this interview, McGeechan did have some feelings of disquiet, not about what Bowen had to say. only about what Mr McGeechan described as "the principles he held out to Whatever Mr McGeechan may have intended to convey by that expression interview does not appear to have raised-at least not at that stage-any susr in Mr McGeechan's mind that the allegations were true. The feeling of d: which arose from those suspicions came to Mr McGeechan a few months later, he

Meaney was the next to be interviewed. He had been "shanghaiied" to Gas one of the troublemakers in the riot (he had pleaded guilty to assaulting Officer Wilcox). Despite the distance involved, Chief Superintendent S:_ accompanied Mr Quin to Grafton to act "as a witness".

Mr McGeechan said that this was "in keeping with the Service requirerne -which he lieflneli as nece'i'v\|aI'j hom "an lni\|i'i\|.Ila\ relat\ot\.'&bi\)'&tat\..II\)\Olt\..e. He reierred to Mr Stewart's presence when the -prisoner;; were inte\Nieweu as "an appropriate climate" to "ensure that we tried to gather the iacts", anu he 'i\|l ggested that the prisouers were more liKely to speaK \l') in the presence 01 a

It is unnecessary to go into similar detail about Meaney's interview. McGeechan conceded that Meaney was, like Bowen, put into a "difficult" poin the interview. Mr Quin raised, at the outset, the spectre of charging Me with preferring a false complaint. Meaney nevertheless supported the allegations Clark's statutory declaration.

While this interview was taking place, McGeechan received another This was from four psychologists employed in the Department's Psychological at Malabar. The leading role was taken by Mr L. H. Evers. In the light of is now known to have happened at Bathurst, it is worthwhile quoting this comj in full:

"Since the recent prison riots, in the course of our professional duties have been given information, from a number of sources, which we found deeply disturbing, both as citizens and as professional officers 0; Department. In brief, making due allowances for exaggeration anc emotional involvement of the informants, we have come to believe a systematic and calculated brutality has been perpetrated against by some officers of the Department of Corrective Services. particularly, though not only, to what can only be termed as reported to have occurred in Bathurst Gaol, on the morning Authorities had regained full control of that institution.

If it is the policy of the Department to allow such actions to go unche: then we wish to go on record as declining to support or to give to such policy. If, as we believe, the policy of the Department countenance such methods of re-establishing discipline (if such

Mr McGeechan moved swiftly. He directed the ubiquitous Mr
Quin to take statements from the four psychologists "which may be
helpful to me in my inquiries into this very serious allegation made by
these officers". The instructions continued:

"May it be noted as a matter of record, that in allegations of this nature, I
may not recognize the suggestion of confidentiality and I will
insist that all allegations of this nature be fully explained."

can be dignified by being credited with that intention) then we urge
immediate steps be taken to ensure that departmental policy is fully
understood by officers in charge of all institutions, so as to make clear that,
in future, no prison officer, however senior, can disregard with impunity
the dictates of common humanity, even when dealing with the most violent
and recalcitrant prisoner.

We also desire to bring to departmental attention the fact that so far no use
has been made of Psychological Unit Staff in dealing with the mutinous
prisoners. This seems to us to be a disregard of a useful departmental
resource for the management of problem prisoners.

In conclusion, we wish to emphasize our earnest desire to co-operate fully
with what we believe to be the real aim of the Department of Corrective
Services, the effective but humane treatment of inadequate human beings."

This was a departure from Mr Quin's previous instructions. Mr McGeechan
told the Commission the attitude of some officers that statements by
prisoners should be confidential made administration "very difficult". He
thought that such an attitude was expressed merely in the pursuit of a
professional image by those who held it, although he finally conceded that
there could be a real fear that the disclosure of sources would lead to
reprisals against those sources.

Mr McGeechan's rationale for this instruction does not, in the
view of the Commission, resolve the difficulty the instruction created; it
required a full explanation of the allegation which was being reported-a
requirement which went to the psychologists' purpose in making the report
rather than to the truth of the allegation reported.

Mr Evers was interviewed first. He described his sources to Mr
Quin as prisoners, prison officers and other professional officers, including
chaplains. Mr Evers expressed the understandable fear that if he disclosed
the identity of those sources, there could be reprisals. He told Mr Quin that
one prisoner who had already complained to the authorities had been
charged with making a false statement and had been given eight days'
cellular confinement.

Nevertheless, Mr Evers produced a statement by prisoner
McGoldrick containing details of the floggings. He named the prisoner
Bowen and identified Prison Officer Hanrahan as being willing to make a
statement. He described his personal observations of the injuries suffered
by some prisoners who had been transferred to Sydney from Bathurst. He
also suggested that Mr Quin talk to the Reverend K. H. Marr.

Mr Quin then interviewed the other three psychologists, who
added little other than hearsay support to their original complaint. His
methods of interrogating them, however, were unfortunate. Even Mr
McGeechan was forced to agree that Mr Quin had been heavy-handed in
his approach. At one stage, he accused one of the psychologists, Miss
Mathews, of breaches of security and seemed to think it necessary to
remind her of a public servant's obligations under the Public Service Act to
give information "to senior officers . . . I am just letting you know the
position".

Mr McGeechan subsequently described the contribution made by Mr Eand his fellow psychologists as demonstrating a definite pro-prisoner bias and a lack of professional objectivity, and as not "indicative of factual events". In a conversation, Mr McGeechan referred to the psychologists as "gossipers", and complained as "based on hysteria and hearsay".

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The sins committed by Mr Evers and his fellow psychologists been their acceptance that prisoners might be telling the truth and, questioned the Department's conduct and attitudes.

Mr McGeechan personally took up the suggestion that Mr Marr should be spoken to. Mr McGeechan described the statements (that there had been

at Bathurst) as "fancy or malefic ally spiteful comment" and "the most outrageous allegation, that I find reprehensible". He found not only the allegation itself but the making of that allegation reprehensible. And it was in this conversation he criticized the psychologists' statement as "a representation based on hysteria hearsay".

Mr Marr, who had not been present when the floggings took place, was unable to assist Mr McGeechan beyond a repetition of that

Mr McGeechan admitted to the Commission that he was himself not biased, and that he had automatically rejected the allegations upon an basis. Having done so, it seems to the Commission, he was not prepared to do anything which could demonstrate the truth of those allegations. This, and the mentality under which the Department operated, dictated the course to be with sorry results for Mr McGeechan, the Department, the prison community and the public.

The next step in the inquiry was Mr Quin's interview of Mr Hanrahan. Hanrahan was called into Mr Pallot's office at Bathurst Gaol after a "hard work", without warning and without notice of the purpose of the interview. Mr ~ was present, as was Mr Stewart, still "a participant in an observing Mr McGeechan put it. Mr Hanrahan was interrogated for three hours.

He said, and the Commission accepts, that he was suspicious of the men's motives in relation to an internal investigation and believed that the Department was likely to take action against anyone who was prepared to make a "complete full disclosure" of what he had seen. A genuine basis for that belief was available. Moreover, Mr Hanrahan was at that time the President of the Sub-Branch of the Prison Officers' Vocational Branch of the Public Service Association and was alive more than most to the Department's reaction to matters such

Mr Hanrahan's reluctance to take part in the interview clearly shows the transcript which was taken. He did tell Mr Quin that in some cases too force was used on prisoners, one of whom he saw with cuts on the top of his head and some of whom had not been involved in the riot, but he did not Mr Quin the detail of the assaults which he gave to the Commission. Mr Quin upon Mr Hanrahan's union activities and, in the opinion of the unnecessarily harassed Mr Hanrahan in the course of this very long interview.

As the first of a number of interviews with prison officers, Mr McGeechan's interrogation of Mr Hanrahan did not encourage confidence in the integrity of the Department's internal inquiry.

The next information Mr McGeechan received was a handwritten statement a prisoner named Stewart, in which appeared detailed allegations similar to those by Clark in his statutory declaration. This statement was given to the Department by Mr Evers, but ignored. Mr McGeechan admitted that the statement came his attention, but he was unable to explain why he did not have Stewart's allegations. The earlier statement produced by Mr Evers (by the prisoner McGoldricken, passed on to Mr Quin for

Mr McGeechan's instructions to Mr Quin included the following:

"The specific terms of reference should be the allegations of unprovoked assault by prison officers against prisoners, but this need not be deemed your absolute terms of reference so far as this man is concerned."

was construed by Mr McGeechan as a suggestion to Mr Quin that he "could as wide as he needed". Mr McGeechan was unable to say why this instruction given solely in relation to McGoldrick.

The interview proceeded in a familiar way. When asked by Mr Quin whether was any truth in the allegations made in his statement, McGoldrick immediately any intention of making allegations against prison officers; everything, he was based on hearsay. Mr Quin did, however, discover during the interview McGoldrick had been talking to Mr Evers that morning-about the work he doing in the prison.

The interview took place at Long Bay, where Mr Evers was employed as a Psychologist. Mr McGeechan conceded that it was part of Mr Evers' duties to assist prisoners with their work problems. He also conceded that he had given Mr no instructions not to speak to McGoldrick and that there was no discussion into the facts that McGoldrick

Notwithstanding the facts so conceded, Mr McGeechan expressed a strong in the opinion of the Commission, a wholly unjustified criticism of Mr Evers' in his report to the Minister about this incident. Mr McGeechan told the Minister that Mr Evers had "appeared to specifically seek him (McGoldrick) out for undisclosed reason", and that subsequently McGoldrick had altered his story "quite Mr McGeechan took some comfort from the fact that he did not name

Mr in his report to the Minister and he did not see the matter as "seriously" as Commission did. He conceded that Mr Evers would have objected to the report he had known about it (which of course he did not) and Mr McGeechan agreed his accusation against Mr Evers was made on even less basis than he believed existed for those made against prison officers. Mr McGeechan suggested that perhaps the report would have been enhanced by leaving it right out; but it was put in".

The Commission believes that Mr McGeechan's treatment of the psychologists, of Mr Evers in particular, was disgracefully unfair, prejudiced and unjust.

When Mr Pallot was in Sydney for another purpose, Mr McGeechan took advantage of the occasion to put to him the allegation in Clark's statutory declaration he (Pallot) had "bashed personally" the prisoner Bowen.

The circumstances of this interview were curious. Mr Pallot had no recollection of the interview, but a transcript was taken by the Department and produced Commission. Mr McGeechan started with this statement:

"Mr Pallot, and I impress upon you that this question is essentially a - of record so far as I am concerned, and it causes me some concern to put the question to you, but I think it is in the interests of the and in your own interests that an allegation of this nature should be answered."

There could not have been a clearer invitation by Mr McGeechan to Mr Pallot to deny what was to be put. Mr McGeechan continued:

"The allegation is, and I notice that it is once removed, that is on the fact that you 'bashed personally' a prisoner in your care and custody. Michael Bowen. In respect to this allegation, is there anything you would like to note by way of record at this time?"

As to be expected, Mr Pallot replied: "No, I did not strike the prisoner."

At this stage, of course, Mr McGeechan had read Bowen's interview, and that the version of the incident given by Bowen (no doubt for the reasons to reference has already been made) differed substantially from the hearsay version given by Clark. He did not, however, put Bowen's version to Mr Pallot, but (Pallot) had grabbed Bowen by the throat from the front, shouted at him when he had not answered, thrown him into another cell. Mr McGeechan "clearly did not" put that to Mr Pallot, although he conceded to the Commission that it would have been proper for him to have done so. It was conceivable, he said, that he had overlooked it at the time. The Commission does not accept that Mr McGeechan overlooked it at the time. To have put Bowen's version to Mr Pallot may have produced an embarrassing answer.

thus:

Far from seeking such an answer, Mr McGeechan concluded the interview with Mr Pallot, at this time I am satisfied, as I have been satisfied for some time with your administration and the manner in which you personally discharge your duties, and I have no further questions of you."

This statement was not true. By that time, Mr McGeechan had become dissatisfied with Mr Pallot's administration. He told the Commission that he thought that:

Pallot was nevertheless entitled to his moral support and to an indication of confidence of the Department in the face of what he described as "uninformed criticism. The Commission believes that this was just another refusal by Mr McGeechan to face the reality of the allegations being made against his Department. As Mr McGeechan said in evidence, he "could not accept the allegations . . . nor would

One of Mr Evers' colleagues drew the attention of the Department to another firsthand account of the floggings. Mr McGeechan said that he had recollection of the matter (the letter enclosing it bears a notation in his margin) but he could not explain the total failure of the Department to investigate the allegations which were made. The action of the psychologist in drawing this account to the attention of the Department was described by Mr McGeechan in his report to the Minister as "officious".

Having interviewed only three prisoners-Bowen, Meaney and McVioldr; Mr Quin was then instructed to interview the prison officers named in the allegations. As expected by Mr McGeechan, each of the fourteen officers interviewed denied allegations against him. Mr McGeechan thought that this was a sufficient investigation of the allegations. The Commission certainly does not.

disciplinary offences within the prison system. Moreover, quite disgracefully, .
McGeechan added to this report extracts from letters written by Clark when suffer:c
from a form of mental instability some five years earlier. He had been from the
mental institution in May, 1966. The embarrassing contents of those
will not be repeated here. It is sufficient to say that, despite Mr McGeechan's den: the
Commission concludes that these letters were quoted to prejudice the _ ... against
Clark. There was another, equally crude, attempt to create prejudice Clark by a totally
and admittedly irrelevant reference to his association with known political opponent
of the Minister.

Mr McGeechan's description in his report of the events of October, 19~ bore
little relationship to the facts-either as Mr McGeechan knew them or as t happened.
The prisoners are described as having equipped themselves with body arm, in a
planned assault upon the prison officers when they were to be released from cells on
the Tuesday morning. Mr McGeechan was unable to point to any basis up which that
allegation was made. Nor could there be.

The description of the assault on Bowen by Mr Pallot was seriously
understate; even distorted. The hearsay allegation by Clark had been that Bowen had
been "bash personally by Mr Pallot. This is reduced by Mr Geechan to an allegation
that Pallot had "placed his hands on him (Bowen)". Bowen is said to have alleged, wj
interviewed, that he had been assaulted but to have declined to identify the That was a
direct lie.

All the prisoners involved are denigrated by reference to the circumstances
their crimes. A somewhat emotive extract from the Judgment of the Court of Crimi
..... Appeal is quoted against Bowen which, Mr McGeechan conceded to the
Commissi:

had absolutely nothing to do with his credit as a complainant. There is the
and unfair attack on Mr Evers and the psychologists, to which reference has alre been
made. There was more than a slight extravagance by Mr McGeechan-a admitted by
him to be so-in the assertion that statements had been taken from officers who "could
have been deemed to have some awareness of the alleged situations Another "fairly
careless statement" (as Mr McGeechan described it) was the follow.rs
assertion:

"A careful examination of all statements produces no real uniformity of except
generally to repudiate the allegations of assault specifically identifia:
with the individual."

In fact, as Mr McGeechan conceded, both Bowen and Meaney in supported the
allegations in Clark's statutory declaration.

Mr McGeechan's conclusion must be stated in full:

"On the balance of probabilities, it is feasible to assume that there may he been an
isolated act or acts of retaliation where unjust and summary puni ment was
meted out to prisoners, but most certainly not within the scan knowledge,
awareness or sanction of supervising officers. This observation speculative
and is an expression of opinion that in all probability some min grievances
were summarily adjusted under the cloak of riot control procedureThis is in
no way incriminatory so far as prison officers are concerned, but isimple
expression of some lamentable human behaviour in combat conditio; On
analysis, it comes to whether the word of law enforcement officers is take
precedence over the uncorroborated, probably malific (sic) allegations
people with long criminal histories and demonstrated unreliability as
sible members of society.

On the basis of my preliminary inquiry, I recommend to the Minister that no further action be taken on the statutory declaration lodged by Mr Keith William Clark. The document is, in my opinion, unreliable and motivated **with** intent to defame the law enforcement service rather than to seek justice."

Mr Clark's intention as seen from his statutory declaration may have been the Commission's view, seems to have been fairly self-evident-Mr intention from his report appears, in the light of the evidence, to have

to defame Mr Clark, to deceive the Minister and to deny justice.

Mr McGeechan claimed that he had been handicapped in the inquiry by a lack of resources. Nowhere in his report did he say so. Nor did he tell the Minister that 'w...llr' had suffered from such a lack. Notwithstanding his own conclusion that wrong had happened at Bathurst, Mr McGeechan

expressed himself as nothing had been proved because, he said, he had "reached a logical conclusion". He had made what he described as "a preliminary report" to the Minister. He had "sought further instructions". The report itself puts the lie to that. In no way does it accord with such a description. Certainly it had been a preliminary. But it was certainly not a preliminary report. Nor did it seek instructions. Mr McGeechan recommended firmly and with considerable force that no further action be taken on Clark's allegations.

Mr McGeechan claimed that the Minister knew of his lack of resources, but pointed only to the Minister's instruction to use a legal officer as a basis for the Minister's knowledge. He asserted that because the Minister was himself a lawyer he had been aware of the deficiencies from the face of the report itself. Because transcripts of the interviews were attached to the report, Mr McGeechan claimed, the Minister would have been able to work out for himself the lack of perspective of and the inaccuracies in the report.

This ingenuous view of the Minister having the considerable time required to read with care and to analyse the whole of the voluminous attachments, when he had what purported to be an accurate summary of their contents in the report (which contained no disclaimer as to the accuracy of that summary), simply cannot be accepted. Mr McGeechan's reliance upon such a view served only to underline the Commission's conclusion that Mr McGeechan knew very well that his report was inaccurate and unfair, and that Mr McGeechan had attempted, successfully, to deceive the Minister about the true situation which had obtained in Bathurst.

Mr Quin was then instructed to interview the prison officers named in yet another statutory declaration sent to the Minister by Mr Petersen, M.L.A. This was made by former prisoner Smedley. Although shorter, it was similar in detail to Clark's statutory declaration. It named many of the prison officers named by Clark, although in relation to different incidents.

Mr Quin's instructions included:

"So far as the individual officers are concerned, I would invite you to read to them the full content of the declaration, but the name of the declarant need not be disclosed at this time. I do not think any hardship would be placed on the officers concerned by not identifying the declarant for reasons which will be quite obvious to you."

The reasons were not obvious to the Commission. Smedley was no longer in custody, so no question of possible retaliation arose. Mr McGeechan could not recall why Smedley was accorded such confidentiality when neither Clark nor the psychologists had been accorded it.

Once again, only the prison officers named in the allegations were to be interviewed. Mr Quin was directed that the interviews were to be conducted in presence of Mr Pallot.

And, once again, as to be expected, Mr Quin obtained only denials from prison officers he interviewed.

In reporting to the Minister, Mr McGeechan complained that his inquiry been severely hampered, not by any lack of resources, but by "the fact Smedley's declaration has received extensive publication in the mass media, in the Bathurst area". Mr McGeechan told the Commission that he had the which he could not justify, that "any hope of getting a specific piece of fact" is by such publicity.

The report on this occasion was short, but it was equally as direct as concerning Clark's statutory declaration. Mr McGeechan said:

"In my opinion, the declarant is unreliable, the information lodged is corroborated and the evidence suggests that rather than Mr Smedley beir ; tranquil demeanour, he demonstrated aggression and defiance to constituted authority."

Smedley himself had not, of course, been interviewed. He should have been. McGeechan concluded:

"My appreciation of the position is that the allegations of Mr Thomas Olip Smedley would have little similarity with fact and, further, his overall social and criminal history would suggest a reason to attempt to law enforcement service. Accordingly, I recommend to the Minister that no further action be take: the declaration lodged by Mr Thomas Oliphant Smedley."

So much for the worth of that investigation.

Although not strictly part of the departmental inquiry, nevertheless of some significance in relation to the knowledge of the Dep and more particularly of Mr McGeechan, about what happened on Tuesday, _ October, 1970. That event was the meeting on 2nd February, 1971, between McGeechan and representatives of the Prison Officers' Vocational Branch of the P Service Association to discuss, at the request of the union, the use of force by officers.

This meeting followed a resolution passed by the Long Bay Sub-Brand: previous December, requesting the Department "with all urgency, to hand dow; written policy as to its stand on the use of force by officers under the directic: senior officers of the Department". The union's request for the meeting stated:

"With the possibility of a recurrence of the serious prison disturbance recent months, the Association wishes to discuss departmental polic relation to the role of officers during such disturbances."

Attending the meeting with Mr McGeechan were Messrs Day and JvL (both Assistant Commissioners) and Mr Cleary (a legal officer). The union represented by Messrs Hanrahan, Ristau and Engleheart (President, Secretary Assistant Secretary of the Prison Officers' Vocational Branch).

During the discussion there were several references to the disturbance at Bathurst. Mr Ristau criticized the drift of the discussion, saying that it was no use in generalities, the specifics should be faced and what had happened at Bathurst a fact which had to be dealt with. In the course of outlining what had happened, Ristau told Mr McGeechan that "the officers went in and inflicted quite a bit of libration for the riot, after the prisoners had been assured that no reprisals would be

. Mr McGeechan asked Mr Ristau to say who he considered was responsible what had happened. When Mr Ristau replied that he considered the Department blame, Mr McGeechan asked him whom he meant when he referred to the

Mr Ristau replied that he meant the departmental administrators. "In future," Mr McGeechan said, "whenever you refer to the Department, you will refer to 'we', because you and I and everybody are all part of the Department. Therefore do not say the Department, say 'we'."

told the Commission that he believed that he was being ridiculed by Mr McGeechan because of this insistence by him that every time he referred to the he had to use the pronoun "we".

McGeechan asked Mr Ristau how he knew anything about the Bathurst as he was not there. Mr Ristau replied that he had been told of the events capacity as secretary of the union by prison officers who had been there, as by prisoners who had been transferred to his own institution from Bathurst. McGeechan thereupon asked him to identify his sources. Mr Ristau refused; as a official he could not disclose confidential information given to him in that he said, and he was unable to guarantee the safety of any prisoner he named. allegations were dismissed by Mr McGeechan as "all hearsay and ... not admissible evidence". He was then directed to appear before Mr Quin.

It is not surprising that little came of Mr Quin's interview with Mr Ristau. information was indeed hearsay, and he maintained his refusal to identify the of information, despite Mr Quin's references to his obligations under the Public Act to answer questions and despite what Mr Ristau described as Mr Quin's to brow-beat him. Mr Ristau explained to the Commission that his failure give this information to both Mr McGeechan and Mr Quin arose from his fears any prison officers he named would incur the wrath of the Department, and that would himself be left without the support of his union. He did, however, point to fact that he had publicly called for the appointment of a Royal Commission at the a call which in the event caused serious trouble for him at the hands of Mr

The Commission has referred to the meeting Mr Ristau and the others had Mr McGeechan in this Chapter because it is clear from what was discussed at meeting that, in the opinion of the Commission, the conclusion Mr McGeechan already come to (that something had happened at Bathurst but which he was

to prove) should have been confirmed beyond doubt.

Mr McGeechan's insistence that he had no admissible evidence upon which to charges against any particular officer does not excuse his continued rejection of allegations of brutality in his reports to the Minister. In the light of his own (later confirmed in his meeting with the prison officers' union), there was, the opinion of the Commission, no excuse for his assertions in the two reports to that the allegations of brutality were no more than attempts "to defame the law enforcement service". This constituted a positive failure by Mr McGeechan to give

the reports to which he was entitled. This is a matter to which the must return shortly.

Despite the previous less than appreciative reaction from Mr McGeehan, the Department, Mr Evers sent to Mr McGeehan yet another first-hand account -floggings at Bathurst. This was a statement by prisoner Morrison, who comp of being stripped, spread-eagled, baton-whipped and left for some hours " medical treatment for injuries he received in the assault. Morrison is referred the previous Chapter. Mr Quin was directed to interview Morrison in the of Chief Superintendent Stewart.

The interview which followed (in the presence not only of the Chief Superintendent but also of the Superintendent of the Central Industrial Prison) differed from those of the other prisoners interviewed previously. Morrison named a prison officers (all of whom had been named by the other prisoners), and he the bruising he saw on other prisoners when having showers. He concluded by s-

"I wouldn't be here saying this if it didn't happen. As I said . . . i: had come around, well, you have got to expect some trouble. I have gaol before, I have come up against warders, I have had arguments anc was it, that is fair enough, but when they come around like that, it good."

An undertaking was given by the Department that all relevant documents: been produced to the Commission.

No records of any interviews with the prison officers named by Morrison produced, but Mr McGeehan when reporting to the Minister stated that a 'denial' had been entered by each of those officers. Mr McGeehan claimed to

When Mr Quin reported to Mr McGeehan :c: interview with Mr Morrison, he took the opportunity -: observation about all the interviews he had condu::c::

"At first blush upon reading of all the statem=:::against Prison Officers generally at Bathurst g~- - of all the material no case exists against any spec::':-

That comment coincided with Mr Quin's departure fr:role was subsequently taken over by a Mr Cleary. Mr McGee:::-' tion that this change in legal officers resulted from Mr Quin-" -may, after all, have been something in the allegations. Mr Quin did not take up the Commission's invitation to an " ~ evidence concerning his conduct of the departmental if":- in the

The Department submitted that Mr McGeechan's evidence on the subject was That submission cannot be accepted. Mr McGeechan's evidence was anything He was unable to swear specifically to such a communication; he was to resort to the assertion that he "would" have reported to the Minister on

On the other hand, the Minister (the Honourable J. C. Maddison, M.L.A.) positively to the Commission that he had received neither an oral nor a written of Mr Quin's observation, and that he had never received a copy of Mr Quin's containing that observation.

The Commission has no hesitation in accepting Mr Maddison's evidence on these in preference to that of Mr McGeechan.

Mr McGeechan had been reporting to Mr Maddison in almost identical terms before and after Mr Quin made his observation, strongly rejecting the allegations had been made. Such could not have been the case if he had at some stage Mr Maddison that a prima facie case existed, a proposition which was directly to the rejection of the allegations which he advised. Moreover, in a submission 8th July, 1971 (annotating the "Bathurst Batterings" document), Mr McGeechan the trouble to quote a passage from Mr Quin's report which immediately the observation that a prima facie case existed. It is incredible that, if he had Minister to know the truth, Mr McGeechan did not go on to quote that in that submission. But he did not. Further reference is made to this ~~in~~ later in this Chapter.

The only place within the Department's documents where Mr Quin's report, ~~is~~ his observation that a prima facie case existed, was to be found was in . bundle of papers entitled "Related papers arising from a disturbance by prisoners

Bathurst prison-October 1970". A photostat copy of this bundle of papers was ously left at the office of the solicitors for two of the groups appearing the Royal Commission, Messrs G. D. Campbell & Co., soon after the public .~~Dis~~ of the Commission began. This bundle of documents was subsequently authenticated by the Department as a copy of a similar bundle still held by it. It was then tendered and it became Exhibit 108. The bundle of documents describes itself as "an appreciation of overall situation at this point of time, i.e., July 9, 1971". It is not in the usual form of a "Submission to the Minister", for which specially printed forms are used. Mr McGeechan thought that it had, nevertheless, been lodged with the Minister. There is no record of it having been lodged, and Mr Maddison denied having received it as Minister.

The submission by the Department on this issue followed a curious logic. Other than the statement already referred to-that Mr McGeechan's evidence on this subject was "clear"-it totally ignored Mr McGeechan's evidence, or the lack of it. Instead, it fastened onto Mr Maddison's answer to a Question Without Notice in the Legislative Assembly on 6th May, 1971, in which Mr Maddison had said that the report of the legal officer conducting the investigations gave the lie to the allegations made in the statutory declarations. (Such an answer was, of course, totally inconsistent with the receipt by Mr Maddison of any information from Mr McGeechan concerning Mr Quin's observation that a prima facie case existed.) This answer, the Department submitted, was untrue because Mr Maddison *had not* received any such report from the legal officer through Mr McGee chan. As he had told lies to the House, the submission continued, the Commission should find that Mr Maddison had told lies to the Commission when he denied having received the report and thus the Commission should find that Mr Maddison *had* in fact received the report from Mr McGeechan.

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Such a submission was untenable. It was nevertheless pursued seriously. It is, of course, not within the Commission's Terms of Reference to inquire into the conduct, and in particular into his conduct in the House. However, insofar as the Department (for whatever reason) seeks to have a finding made on whether Maddison's answer in the House was a lie, as a supposed necessary preliminary to a finding whether Mr McGeechan had informed Mr Maddison of Mr Quinn's observations, this Commission has no hesitation in finding Mr Maddison to be a witness of truth and that he did not seek to mislead the House when giving the answer he

The Commission finds that Mr McGeechan did not inform Mr Maddison of Mr Quinn's observation. The Department's submissions concerning this issue are illogical and are rejected.

It follows that Mr McGeechan was gravely wrong in not informing the Minister of this report. This failure, however important, was only one of many such failures:

Mr McGeechan's part in his inquiry into the events of October, 1970.

According to the Department's voluminous documents produced to the Commission, there was at this stage a pause of several months in the inquiry, ended by the anonymous publication of the "Bathurst Batterings" document, to which full reference is to be made later in this Chapter.

At this stage, it is important to consider the evidence given by Mr McGeechan on his personal reaction to the allegations which had been made and to the findings which had been uncovered by that inquiry.

By the time he spoke to Mr Pallot in December about Clark's declaration, Mr McGeechan claimed, he experienced "a growing sense of although he could not accept the allegations ... nor would not"-because reflected "against the whole system" and attacked his "sense of loyalty to the

Within a few weeks of speaking to Mr Pallot, when reporting to the Commission concerning Clark's statutory declaration in January, Mr McGeechan had taken the view that "something had happened" which he could not prove. By February, he had become concerned that "some of the allegations may have been true".

Somewhere between January and March, Mr McGeechan said, he took a different attitude towards the allegations. Between March and May, his sense of unease developed into "a growing disquiet" and Mr McGeechan felt that "there was some substance to what was being said".

Despite these personal reactions, Mr McGeechan did not in writing swerve from his advice to the Minister that the allegations should be rejected. In evidence, however, that he had discussed his growing disquiet with the Minister many times, and that he had specifically informed him of his own doubts.

Mr McGeechan agreed that there was nothing in writing to confirm discussions. Mr Maddison said in evidence that he had no recollection whatsoever of any such discussions.

MEDIA COMMUNICATIONS

The Department did not, in its submissions, seek to justify Mr McGeechan's that he had discussed his growing disquiet with Mr Maddison many times. It posed the much narrower issue of whether Mr McGeechan had expressed to Mr Maddison as a reason for supporting a public inquiry into the (at the time that public demands were being made for a Royal Commission) Even leaving aside the usual difficulties in construing Mr McGeechan's evidence there is nothing that the Commission can find in that evidence which expressly

the suggestion that Mr McGeechan gave such a reason to Mr Maddison supporting a public inquiry. Throughout his evidence, Mr McGeechan stated his support for such an inquiry stemmed from his wish to clear the air, merely matter of administrative convenience.

Indeed, it is significant that the Department, in the end, was obliged to submit the only appropriate course was to make no finding on this precise issue. The Commission does not see why.

Mr Maddison's recollection was that Mr McGeechan's support for a public was based on administrative convenience rather than any feeling of disquiet. Evidence of any basis of disquiet for Mr McGeechan's support for a public would have been inconsistent with Mr Maddison's own public statements at

time that if he personally had any doubts he would have recommended to Cabinet a Royal Commission be appointed.

The Commission is satisfied that Mr McGeechan did not convey to Mr Maddison the feelings of disquiet which he had at the time. That conclusion is based only on a disbelief of Mr McGeechan's evidence on this issue; it flows also from McGeechan's conduct at the time that "Bathurst Battering" document was published in June, 1971.

The full title of this document was "Bathurst Battering-October, 1970. The case for a Royal Commission into the Department of Corrective Services of New South Wales". The document set out verbatim the statutory declarations lodged by Clark and Smedley, the complaints of the four psychologists, the statements by Stewart, Morrison, Bowen and McGoldrick, to which references have already been made. It also included a further first-hand account of the Bathurst floggings by a prisoner named Castles and a few other letters dealing with other gaols. There is also a number of extracts from Parliamentary debates concerning Bathurst Gaol.

The preface to the document begins:

"The record of events given here, if true, suggests that the administration of the Department of Corrective Services of New South Wales is founded on parsimony, incompetence, treachery, violence, intimidation and deceit."

This preface also contains the statement:

"A Department that must conduct its business in the manner suggested by this record can only be described as demoralised."

The preface then calls for the appointment of a Royal Commission to inquire into the practices, purposes and functions of the prison system.

MEDIA COMMUNICATIONS

Thus the only information concerning Bathurst gaol the document which was new to Mr McGeechan was the statement by the prisoner Castles. investigation into the allegations in Castles' statement was undertaken by the ment. Mr McGeechan asserted, however, that the growing disquiet he was ing had been confirmed to some extent by what he described as "the legal contained in the "Bathurst Batterings" document. With due respect to the anonym authors of that document, the Commission does not detect any such analysis it covers. Mr McGeechan's assertion cannot be accepted.

His annotations of the "Bathurst Batterings" reflected the same advice he had previously tendered.

details of each prisoner's convictions and disciplinary offences. The extracts Clark's letters written five years earlier when suffering from a form of mental insta were repeated, as were the references to his association with a political opponen: the Minister. Reference has already been made to the selective quotations from report by Mr Quin, omitting the reference to his observation that a prima facie - . existed.

Of the prisoner McGoldrick (who had told Mr Quin that his statement to psychologists was based only on hearsay), Mr McGeechan asserted that when viewed McGoldrick had retracted and denied what he had said to the psychologss This was simply untrue. Mr McGeechan told the Commission that this assertion not intended to mean that McGoldrick had denied the truth of what he had the psychologists. The Commission cannot interpret it in any other way. McGeechan conceded that this assertion was misleading and said that it could been better stated. It certainly could have been.

The annotations of McGoldrick's statement conclude: Mr McGeechan claimed that this was no more than a statement that was of no further assistance to his inquiry. He denied that it was expressing a not to rock the boat by pursuing the inquiries any further. It was open to interpretation.

Mr McGeechan was forced to agree that his annotations on "Batterings" document reflected an identical stand to that which he January when he had reported to the Minister on the two statutory the allegations they contained should be rejected. This was, of course, a far cry ~_ the expression of a change of attitude professed by Mr McGeechan, or free reflection of the growing disquiet on his part which he claims to have discussed the Minister.

The widespread publication of the "Bathurst Batterings" document public debate on its subject; an almost nightly parade of allegations appearec national television. One consequence was a reactivation of the departmental inc The new legal officer, Mr Cleary, was directed to interview the prisoner Boyle whom reference was made in the previous Chapter. Mr McGee chan was unab.: recall why Boyle had been selected. The documents supplied by the contain no explanation.

gave Mr Cleary details of the assaults and the descriptions of injuries other prisoners. He subsequently gave similar evidence to the Commis

the interview with Mr Cleary, these questions and answers were
Would you say at any time there was a systematic and calculated assault perpetrated against prisoners by prison officers? (These were near enough to the words used in the complaint by the four psychologists) --A. Yes, I would use different words.

What words would you use--A. I would say cold-blooded, indiscriminate, systematic battering."

reported to Mr McGeechan:

"I am unable to accept the complete account given by Boyle, but I am convinced that sections of his statement would be a fair account of events,"
in which the record of interview and Mr Cleary's report to Mr McGeechan found has been annotated in Mr McGeechan's distinctive handwriting. Mr "imagines" that he must have seen it, although he was unable to recall it. is no indication that any report was made by Mr McGeechan to the Minister information obtained from Boyle or Mr Cleary's report.

Mr McGeechan did, however, make an immediate report to the Minister after next event which occurred in the departmental inquiry. In July, The Sunday

newspaper published a full page article with banner headlines, over an
"WAS OCTOBER 20, 1970, A DAY OF RECKONING IN BATHURST GAOL?"

The article quoted Mr Evers as having stated that his information about the at Bathurst, contained in the complaint of the four psychologists, had come prisoners who had been at Bathurst at the time and also from a prison officer

that gaol.

This was, of course, nothing new. Mr Evers had said exactly the same thing interviewed by Mr Quin several months earlier. But he had not said it publicly. He was paraded the next morning before Mr McGeechan and Mr Cleary.

Mr Evers again declined to name the prison officer who had been his source, because he had not had the opportunity to obtain permission from that officer to do so and he did not feel free to disclose that officer's name without permission. He also sought the opportunity, which was denied him, to obtain legal advice, as Mr Cleary was present to advise Mr McGeechan and he was without such advice.
was made to the Minister immediately, outlining the details of the

At about the same time, Mr Ristau made his public call for the appointment of a Royal Commission. Mr McGeechan's reaction was a recommendation that Mr Ristau be charged for having publicly criticized the Department. Mr McGeechan told the Commission that by doing so he hoped that Mr Ristau would disclose the source of his information. The Commission's view is that this was an abuse of the procedures laid down under the Public Service Act.

Mr McGeechan then compiled his "appreciation of (the) situation; as at 9th July, 1971. This accompanied the various records of interview and to the Minister which eventually comprised Exhibit 108, referred to earlier Chapter. Mr McGeechan thought that this may have been "an administrative to put it all together", but he could not recall the purpose for which it had put together.

This "appreciation" added little new to the reports Mr McGeechan had to the Minister. In referring to the prisoner McGoldrick, it does quote part c; evidence quite out of context (as Mr McGeechan conceded could be the thus repeating the untrue assertion which appeared in the annotations to the "Batterings" document that McGoldrick had retracted what he had told the

The "appreciation" also perpetuates a number of the more deceptions the previous reports to the Minister had contained. It also attacked Prison Officer Hanrahan's credit by a less than fair reference to part only evidence-an unfairness which Mr McGeechan conceded.

Mr McGeechan agreed that the "appreciation" was consistent only with a rejection of the allegations which had been made, with not one word in it of his and confirmed feelings of disquiet, or of his view that something untoward happened at Bathurst on the Tuesday morning, or of his inquiries having hampered by the Department's lack of resources, or of Mr Quin's conclusion prima facie case existed.

The next event in the inquiry also arose out of an article published *Sunday Australian*. A front page news story quoted the Roman Catholic of Bathurst Gaol as saying that a prisoner in the gaol had sent a report of the to the Roman Catholic Bishop of Bathurst.

The circumstances relating to this incident are worth recording. They are taken from contemporaneous reports by Senior Prison Officer Mutton Superintendent Pallot.

The Bishop celebrated Mass at the gaol on Christmas Day. Prisoner W handed him a typed statement alleging brutality by the prison officers on morning, 20th October. This fact, but not the identity of the prisoner, was to Mr Mutton by a second prisoner. The informer told Mr Mutton that he disclose the identity of the prisoner unless he received a transfer from the to the less secured X Wing outside the walls, and thereafter to a prison Mr Mutton informed the second prisoner that he would do what he could to such a transfer, and Wahrlich was then identified. Wahrlich was searched, a me statement was found and Wahrlich was charged with "clandestine correspondence and locked in his cell. Mr Mutton was then approached by a third prisoner told Mr Mutton that Wahrlich had arranged with him to inform the Roman chaplain should Wahrlich be locked up as a result of passing the statement to the Bishop. This third prisoner, according to Mr Mutton's report, "asked for my whether to say anything or not". The report continues: "I informed (the third prisoner) that his application for a prison cam; on the line. (The third prisoner) stated, that he would mind his own and say nothing to the priest."

MEDIA COMMUNICATIONS

Mr Pallot saw nothing improper in Mr Mutton's inducement to the second to disclose his information, but agreed, on reflection, that there was something in Mr Mutton's action preventing Wahrlich's communication with Yet he did nothing at the time; and he sent Mr Mutton's report to who also did nothing at the time, although in evidence before the Mr McGeechan thought Mr Mutton's behaviour "strange".

Nobody thought at the time to inquire into the allegations which Wahrlich made in his statement to the Bishop. An inquiry was not begun until after the was published on the front page of *The Sunday Australian* over six months

When interviewed by Mr Cleary, Wahrlich gave another first-hand account of floggings. Mr Cleary, in his report to Mr McGeechan, was not impressed with 's attempts to tell all that he knew, but he did not suggest that his account untruthful as far as it went.

Nothing was done to inquire further into the allegations Wahrlich made during interview.

Mr Cleary was next directed to obtain a report from Mr Pallot on the events and 20th October. When asked whether this was the first occasion that he

realized that no such report had previously been made, Mr McGeechan tried suggest that there had probably been an earlier report which had been lost, but he

that the terms in which Mr Cleary recorded his direction did not any suggestion that there had been an earlier report from Mr Pallot on 17th and 18th October 1970. (87)

When the report was finally received from Mr Pallot, it was combined with which had been made the previous October by the Deputy Superintendent and

Prison Officer. These were sent to the Minister under the heading Officers' Reports, Bathurst gaol, 17th to 20th October, 1970, inclusive", document omitted any mention of the dates upon which the individual reports completed, thus cloaking the fact that Mr Pallot's report had not been made nine months after the other two had been made.

Only Mr Pallot's report dealt with the events of the Tuesday morning.

He of the allegations with one sentence:

"What force was used was necessary to return this institution to a state of normal discipline."

McGeechan told the Commission that he personally accepted that assertion as when he sent it on to the Minister. When asked how this acceptance could be with the feelings of disquiet and the rising doubts he had felt at the time, IMcGeechan replied that he did not know whether or not they were present at that in July. This was

Mr Cleary's next task was to interview a prisoner named

Hughes. Mr ~chan was unable to recall how Hughes was selected. He was, however, accorded

no other prisoner had been granted. All references to his name or to by which he could be identified were obliterated by Mr McGeechan from • cord of interview sent to the Minister. .Mr McGeechan had

forgotten the
for this.

The last prisoner to be interviewed by Mr Cleary was named Thompson. Hughes and Thompson gave first-hand accounts of the floggings, but nothing done to inquire further into the allegations they made.

The final interview conducted by Mr Cleary was of Dr van Glederen, told him that he had seen "some deal of bruising" on the prisoners after the of 17th to 20th October.

And there, so far as can be deduced from the Department's documents from the evidence, the inquiry into the events of October, 1970, ended. It was no inquiry at all. Its purpose, and effect, was not to expose but to conceal the It was a deception of the Minister, the Parliament and the public.

The Department submitted that the inquiry had been conducted at the and under the authority of the Minister. There could be and was, however, suggestion that the manner in which that inquiry had been conducted and, particularly, had been reported on was directed by the Minister. The submissions (made after Mr McGeechan had been cross-examined on the referred to in this Chapter) described the inquiry as:

"The usual and normal type of inquiry carried out by a public service ment not in the nature of an inquiry under the Public Service Act but . an internal departmental inquiry for the determining of the veracity or wise of complaints made."

If this be the case, which the Commission doubts, the Public Service Board shou.; requested to ensure that each of the departments within its jurisdiction is thoronphly aware of .its obligation *to report fuJlyand nonestly upon inquiries* . at the direction of its Minister so that a deception of this magnitude can repeated.

Mr McGeechan sought to counter criticism of his ambivalent attitude the material disclosed in the inquiry by emphasizing that none of this sufficient to support a charge of misconduct against any particular officer.

From a lawyer's point of view, clearly there was sufficient material to such a charge. What Mr McGeechan apparently believed was that he was to obtain a finding of misconduct if the only evidence he put forward was prisoners. Such a belief, if it existed, is a sad commentary upon the procedures of the Public Service Board. The Commission does not accept it accurate one.

Mr McGeechan claimed that his reports to the Minister were concerne; with the question whether there was some basis for charging a particular They were not, he said, intended to deal with the more general question of something untoward had happened at Bathurst on the Tuesday morning.

He conceded that his duty as Permanent Head of the Department was than merely to see whether any officer should be charged, and that he was obli] ensure that the Department was functioning properly. That would, he said. been in his mind when he made these reports to the Minister.

On his duty to ensure that the Department was functioning properf whether the inquiry had revealed evidence that this needed looking into, Mr MeG told the Commission:

"The rules were quite precise, I thought, for the management of prisons had been looked at from time to time."

No matter how many prisoners complained and no matter how their complaints be corroborated by medical evidence or otherwise, Mr McGeechan said, there during 1970-71 no basis upon which an inquiry could be warranted unless there **.orne** basis to charge a particular officer.

The Commission cannot accept that such a restricted attitude was held at time either by Mr McGeechan or by anyone else. He was asked if he had ever to the Minister generally upon the very unsatisfactory situation at Bathurst. that he had done so in the Annual Reports. The Commission can find in the reports to justify that reply. Mr McGeechan imagined that he would have made such a report directly to the Minister, but was unable to produce it requested.

Although, of course, he did not say so, this belief that the only purpose of inquiry was to ascertain whether there was a basis for charging particular officers have been Mr McGeechan's reason for not drawing the Minister's attention to Mr observation that a prima facie case existed. Mr Quin, it will be remembered, the curious distinction between the prima facie case which he found existed "prison officers generally at Bathurst Gaol" and the case which did not against any specific officer.

Such a distinction, if acted upon by Mr McGeechan, was not, in the ComO";""~\o view, justified; and in particular it was not justified because Mr McGeechan

mind, as he conceded, his wider duty to see that the Department was functioning properly.

It must, however, be said that the Commission does not accept Mr McGeechan's evidence that his reports to the Minister were concerned only with whether there was some basis for charging a particular officer. On their face they were not restricted to such an issue. They went much further, as did the allegations with which they dealt.

To allege a "systematic and calculated brutality . . . perpetrated against prisoners by some officers" (to use the terms of the psychologists' complaint) or a "systematic flogging of a large number, if not all, of the prisoners in the gaol" (to use the more recent terms of the union's admission) is to allege far more than singular acts of misconduct by individual officers.

Mr McGeechan's reports purported to deal with this far wider question. They denied the truth of the allegations, and recommended that no further action be taken. The allegations were based on either hysteria, hearsay or "malefic spite", and were attempts to "defame the law enforcement service". The inquiry had proceeded in such a manner and in such circumstances as to ensure that the allegations were not supported. But the reports to the Minister, both verbal and written, sought to justify the action taken by the Superintendent and the officers (whose word in any event was, in the final analysis, to take precedence over that of the prisoners) as proper and reasonable.

Mr McGeechan is unfit to be in a position where any Minister of the Crown has to rely upon the accuracy of his reports. His conduct in relation to the departmental inquiry was disgraceful and warrants his removal from the office of Commissioner of Corrective Services upon that basis alone.

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BATHURST: FEBRUARY, 1974

At some time prior to that date (3rd February, 1975) you had had a view that the ultimate end of Bathurst was to be a violent disturbance?--Yes.

In discussions with the Minister I had taken that view.

Was this fulfilling your prophecy?--I would not use the word prophecy.

It was gloomy foreboding I think."

(Witness: Mr W. R. McGeechan, Commissioner of Corrective Services, 7th December, 1976.)

A logical starting point in describing the ultimate end of Bathurst Gaol by a disturbance is the sit-in which occurred the previous October.

Like so many similar events, the sit-in arose out of a small incident which to a head discontent among the prisoners about a number of general matters.

The immediate cause of the sit-in (which took place on the morning of Monday, October) was the sacking of four or all prisoners employed in the Carpenter's

was some dispute as to the number involved-when one of the carpenters something at the officers in No.4 Tower. The circumstances of this incident not investigated by the Commission.

The real discontent was based on the conditions in the gaol.

Physically, the conditions at the gaol had not altered since those described in a Chapter dealing with the events of October, 1970.

Prisoners in their cells remained open to the elements (despite a recommendation the Advisory Council, no steps had been taken to glaze the windows). It had been cold winter. Water often froze in the pipes, making the lavatories and washbasins ... sable. Most prisoners went straight to bed after the evening meal (eaten at 4 p.m.)

warmth that the regulation nine blankets issued gave them. It was too cold to in bed, even to hold a book. Those undertaking the few educational courses [available at Bathurst found it impossible to do their assignments because they could not work at night in the cold.

The sewerage problems had, if anything, become worse. The raw sewerage regularly overflowed, particularly in C Wing. The prisoners were given no disinfectant to help clean this up.

Every prisoner who gave evidence complained about the food. The situation had not altered since 1970.

Ramps continued to wreak havoc among the prisoners' personal belongings. Photographs stuck into cardboard frames (made within the gaol) were destroyed, as Superintendent Pallot feared that prisoners might conceal contraband in the frames. The Department regarded as contraband anything which the prisoner was not permitted to have in his possession.

Educational opportunities were even further reduced when weekend tutorial classes were banned. Prisoners were not allowed to conduct debates unless the Warden was present, which effectively limited this activity to week days. Personal work was confiscated as a punishment, and prisoners were in (unrelated to punishment) denied pencils and paper by the officers.

Hobbies were not permitted in the cells.

There were many complaints about letters. No prisoner could keep more than six letters in his cell at any one time-for so-called security reasons. Any more were destroyed.

Buy-ups (goods ordered by prisoners and paid for out of their earnings) were a constant problem. Goods were scarce and over-priced. The range was poor. Prisoners were from time to time not permitted their buy-ups, with no reason. Buy-ups were often cancelled for the whole gaol.

Opportunities for employment had not improved. Most of the routine job completed by mid-day and the afternoon was spent in idleness in the yard, prisoners were not allowed to take library books into the yards. Mid-week sports: often cancelled at the last minute. There was no weekend sport.

The sit-in to discuss the dismissal of the carpenters and these other grievances took place in 2 Yard at about 10 a.m. About 150 prisoners were involved. That there were no boys (prisoners under twenty-three years old) involved.

As soon as he became aware of the disturbance, Mr Pallot rang Mr McGeachan who despatched Mr Morrow (the Director of Establishments) to Bathurst to control. Mr Pallot was ordered to telephone Mr McGeachan every half hour to him informed.

After lunch had been dished up by the officers (and the meal dished up on steam hoses), Mr Pallot directed the prisoners through the gaol's public system to return to their wing musters for the meal. He gave the order three times. No one obeyed.

The prisoners remained in the yard during the afternoon in a reasonable and orderly fashion. Mr Pallot again ordered them to pick up their evening meal. Order was given three times. (Mr Pallot saw some magic in calling out the same three times.) Again, the prisoners did not respond.

Mr Morrow arrived at Bathurst at 8 p.m. Members of the Special Division under the command of Mr Metters arrived at about 10.30 p.m.

Mr Metters, in accordance with Mr McGeachan's instructions, asked Mr Morrow where best he could secrete his men without them being seen by the prisoner, thereby antagonizing them. Mr Pallot assured Mr Metters that his men could react; cookhouse without being seen. They were, however, quickly seen by a prisoner in one of the wings who alerted the prisoners in the yard.

After this discovery, Mr Metters was anxious not to let the prisoners know many men he had with him. He deployed his men to give an impression that there were more.

The Special Operations Division men assessed the situation as potentially very
The prisoners remained quiet until just before midnight when they
tore timber the shelters in the yard and burnt it to keep warm.

Mr Pallot alleged that at about this time the prisoners were throwing pieces of
and weightlifting equipment at the officers. This was denied by the
prisoners, swore that the weights had been given to one of the senior
officers, Mr Mutton, the afternoon.

At about midnight, Mr Morrow and Mr Pallot spoke to the prisoners in 2 Yard.
Morrow told them that he had been sent to Bathurst by Mr McGeechan to
things out. They listened to the prisoners' grievances.

There was some public dispute between Mr Morrow and Mr Pallot
about whether carpenters should be reinstated, Mr Pallot refusing to
do so.

Mr Morrow told the prisoners that he would refer their grievances
to Mr McGeechan. He gave them an assurance that there would be no
repercussions such as
or "shanghais".

The prisoners finally returned to their cells, peacefully, at about 2
o'clock on Tuesday morning, after being searched. They were then fed.
The prisoners were confined to their cells for the rest of the week.
Discipline returned to normal the following Monday, apart from some
matters to which reference be made.

The Department took this disturbance seriously. Upon their return
to Sydney, Metters and two of his Special Operation Division officers
(Messrs Osborne and
were interviewed by Assistant Commissioner Barrier and Mr Maughan, a

A transcript of the interview was taken. This was
produced to the

The Special Operations Division officers were critical of Mr Pallot's
handling of the sit-in. They said that he took it too lightly and either did
not or would not recognize how dangerous his situation was. There was no
organization in case the prisoners tried to escape. The Bathurst officers
were utterly confused because Mr Pallot gave them no leadership. He ran
the gaol by the book and was unable to use his initiative to solve some of
the simple problems posed by the prisoners. There was no communication
with either the staff or the prisoners. Prison officers had told S.O.D.
officers that they were unable to get decisions from Mr Pallot. Moreover,
he had failed to give Mr McGeechan a full picture of what was happening.
"Everything that seems to have happened at Bathurst seems to stem back
to the Superintendent", Mr Barrier was told. The general view expressed
was:

"As far as the overall fixing of the situation is concerned, I can't see it
unless there's a change of authority at the top."

When told of these views, Mr McGeechan declined to take them at their face value.
He thought that they were coloured by a rivalry between the Special Operations Division
and the Establishments Division. He did not find the report alarming. He saw no need to get
a report from officers of the Establishments Division who had also been at Bathurst.

The Minister then agreed to allow two members of the
Council of Civil Liberties to speak to the prisoners at Bathurst. Mr R. J.

B. St. John (now the Honourable)

Justice St. John) and Mr T. Lynam went to Bathurst to speak to a depute; prisoners. They reported back to the Minister and to Mr McGeechan. They pointed out the potentially explosive situation at Bathurst, and expressed the view that the problem was Superintendent Pallot.

Mr McGeechan thought the problem more deep-seated than merely Mr He then obtained a report from Mr Morrow.

Mr Morrow told Mr McGeechan that a riot was to occur on a weekend, and that there were to be taken and certain prisoners had been delegated to harm or kill police officers.

Mr McGeechan said that he could not accept this advice from Mr Morrow, without qualification.

He went to Bathurst himself later in the year and pronounced Mr Pallot: "an officer of some competence, more than ordinary competence, in a difficult role." This view was in marked contrast to the views Mr McGeechan had previously expressed.

All was not well at Bathurst gaol.

Despite the promise that there would be no "shanghai's", seven men were sent to Sydney with the returning Special Operations Division prisoners were unhappy at this breach of faith.

Discipline had been tightened even more. The gaol was indeed run by the
Prisoners generally were not allowed to sit down in the yards despite the long time they spent there. Some officers permitted this, but prisoners could be charged with offences, officers after such permission had been given. Prisoners were locked up or fined for trivial violations, such as having a shirt button undone. Beds had to be made in a certain manner and all articles in the cupboards had to be placed in certain One prisoner was punished because the wind had blown his shaving brush into the lavatory. The washing of clothes in the cells was prohibited.

All mid-week sport was cancelled for both men and boys, although the boys had not been involved in the sit-in. Even weightlifting was stopped. Buy-ups became more than ever.

The loss of sport, Mr Pallot agreed in evidence, increased the tension in the gaol. It led to a sit-in by the boys on 15th January. This took place in 7 and 8 Yards. They were persuaded to return to their cells by Mr Pallot and Mr Mutton. An ultimatum was given by one or other of these officers that no one would be charged with an offence as a result of the sit-in. But each of the thirty or so prisoners involved in the sit-in was charged with disobeying a lawful order to return to his cell and was given three months of solitary confinement as a punishment.

It was apparently at this stage that the serious preparations for the riot

Intelligence about plans for the riot filtered through rapidly. Prison Officer had been told early in January that a fire would be started in the Chapel. On 13 January, his informant gave him more detail of arrangements being made for the reported this to the principal Prison Officer and a search was made for petrol the gaol. On 31st January, Mr Morgan was told that the riot was to take weekend. He passed this information on to Mr Pallot, who dismissed it as the talk he heard every day. Mr Morgan did, however, have the presence of mind for a 500 gallon storage tank of distillate to be moved outside the main

The Education Officer, Mr Higgins, was told the week before the riot that was to be a fire in the Chapel that Saturday. He told Mr Pallot. Mr Pallot could not recall these warnings other than a reference by Mr Higgins disturbance in the Chapel. He told the Commission that it was his invariable to communicate any rumour thought to be reliable to Head Office. There was of his having done so on this occasion. The Commission agrees that in most gaols rumours of impending escapes, riots other disasters abound. Many of them are fostered to divert the prison officers their task. Not everyone can be taken as a genuine warning.

But everything which had happened at Bathurst since the events of October, had pointed to trouble again. Mr McGeechan had, he said, the gloomy foreboding Bathurst would end in a violent disturbance. Yet he appears to have shut his eyes the warnings which had been given.

Against this background, the Commission turns to the events of Sunday and ~ay, 3rd and 4th February, 1974, and the violent disturbance which ended Bathurst

Sunday afternoon

At about 1.30 p.m., eighty to ninety prisoners were gathered in the Chapel, ~tching a movie "Women in Love". They were mainly boys. A few men-wing lweepers-also were present. There had been general talk among the prisoners in the that there would be a riot during the film. As the second reel of the film began, an unidentified prisoner shouted "stand and a petrol bomb was thrown as the prisoners stood in obedience to the order. are widely differing accounts of where the bomb came from. Some said it was from the rear towards the screen; others from near the front row towards the wall. The Department submitted (without the benefit of any evidence from the "ffi(pT<:) that it was thrown at officers present.

It was alleged at one of the subsequent District Court criminal trials ansmsg of the riot and the destruction of the goal which followed that the prisoner ."possible for throwing the petrol bomb was Billy Kennedy.

The Crown case rested main upon the evidence of Prison Officer Milton. In answer to a special .. uesuon, the jury found that Kennedy did not throw the bomb. Kennedy did, however,

a chair at Milton in the confusion which followed the throwing of the bomb. claimed that he did this at the direction of another prisoner, without knowing why.

The flames were quickly extinguished by the officers present, and both prisoners and prison officers left the Chapel in some haste. Prison Officer McAuley leapt from the first floor landing outside the Chapel into the garden area outside the Circle of Pentagon which surrounded the Chapel building.

The prisoners were returned to their appropriate yards and, apart from mine: stirring by some prisoners, there was a period of relative quiet.

Soon afterwards, Prison Officer Milton, attended by Prison Officers O'Donne. and Mason, called for Kennedy by his number (342). They ordered him to leave 5 Yard and accompany them to C Wing. After some hesitation, Kennedy went:

Despite evidence from some prisoners to the contrary, the Commission is satisfied that Kennedy was not assaulted while being escorted to his cell in C Wing. A number of prisoners, whose evidence the Commission accepts, and the one prison officer who was called on this issue (Mr Sullivan), swore that Kennedy walked unaided, did not resist and was not pushed. Kennedy himself made no complaint.

About ten to fifteen minutes after Kennedy was taken inside C Wing, the prisoners in the yards heard screams coming from his cell. The prisoners began shouting to each other that Kennedy was being bashed and to the officers to leave him alone.

Whether or not he was bashed is probably immaterial to what followed. There is no doubt that he was screaming and there is no doubt that the prisoner assumed that he was being bashed.

Kennedy gave evidence that the three officers followed him into his cell, with prison officer Milton demanding to know why Kennedy had thrown a chair at him in the Chapel. When Kennedy did not reply, Milton started to punch and kick him, and he continued to do so for a considerable period until Prison Officer O'Donnell suggested that he stop. Kennedy alleges that Milton kept hitting him after O'Donnell had intervened. During the assault, Milton's watch fell to the floor. It was returned to him by Kennedy as he and the other officers left the cell.

Kennedy was a particularly unsatisfactory witness. The Commission would be hesitant to accept his evidence without some form of corroboration. Prison Officer Milton was present at the Commission's hearings during the evidence of many of the prisoners on these incidents, but was not called to deny the evidence against him. No acceptable explanation was given why three officers were needed to put Kennedy into his cell. Counsel appearing for the officers (Mr McAlary, Q.C.) put the suggestion to Kennedy in cross-examination that he had been bashed during the afternoon by two other prisoners, Newman and McHannigan, for having precipitated the riot earlier than had been planned. This suggestion was denied by Kennedy, and it was also denied by Newman when he gave evidence. No evidence was called to support what must be assumed to have been Mr McAlary's instructions.

The Commission concludes that Prison Officer Milton did assault Kennedy in retaliation for throwing the chair at him (although the assault was by no means as extensive as Kennedy alleged). It is also satisfied that after the officers left Kennedy began to scream or continued to scream in a deliberate and successful attempt to stir up the prisoners in the yards. This is supported by Prison Officer Sullivan's evidence that the three officers had returned to the Circle when the prisoners were still calling out to stop the bashing.

Aftermath of February, 1974, fires at Bathurst-(top right) looking down from No.4 Tower on the carpenter's shop, laundry, engineering shop and other facilities; (top left), the Chapel;
(below) inside C Wing

Another petrol bomb was then thrown, this time from 1 Yard into the C. landing close to the Chapel. The prisoners in 1 Yard used a stool to pull down barbed wire on the fences, and a tennis net was draped over the fence to enable prisoners to scramble over into the Circle. Locks on other gates were smashed the prisoners from all yards poured into the Circle.

At this stage, the officers left the Circle and retreated to the area near main gate, known as 1 Post.

The riot then got under way. Prisoners went from building to smashing lavatories in the cells and bending bolts on the cell doors with iron Kennedy was released from his cell by other prisoners using a pair of bolt cutters from the Engineering Shop.

Almost immediately, petrol bombs were thrown into most of the prison A and C Wings, the Chapel building, the CAM (Cardboard Articles Shop, the clothing store, the Bookbinders' Shop, the cookhouse, the boiler-room. Engineering Shop, the laundry and the Boot and Brush Shop, all were set on and were either partially or wholly destroyed by fire.

The prisoners threw pieces of waterpipe, fluorescent light tubes and piece; concrete from the Circle into the front garden area which stretched from the Chi building to 1 Post.

At about 3 p.m., the bell tower of the Chapel collapsed and the refrigerator unit on the ground floor of that building exploded.

The fire brigade arrived, but withdrew after several fire bombs were at them from the Circle.

Two prisoners became trapped on the landing high on the water tower '1' fire threatened them. They were rescued by sliding down fire hoses. The evid did not disclose why they had climbed up the water tower.

The rioting prisoners then congregated in B Wing and 1 and 2 Yards, A and B Wings and under No. 4 Tower in the southwestern corner of the They prepared for a long siege there with food taken from the food store.

Meanwhile, the officers drew arms and took up positions in the towers at Corner of the gaol. Superintendent Paiiot arranged for a call to be broadcast by local radio station for all off-duty officers to return to the gaol. Mr Pallot also to contact Mr McGeechan, but was able to speak only to an Assistant Mr Barrier.

In addition to .22 rifles, the armament included shotguns and revolvers at least one .303 rifle.

As the off -duty officers returned to the gaol they also were issued with The supply of firearms was augmented by a number of .22 rifles from a local store. A hurried and apparently somewhat ineffective demonstration of how these was given outside the front entrance to the gaol, where one round was tally discharged.

prison officers started firing on the prisoners at about 3.30 p.m. Nobody
them to do so. They fired from three of the four towers and from
the Officers' Amenities Block east of the main gate. Most
shots were fired **110**. 4 Tower, which overlooked 1 and 2 Yards.

Why these firearms were used is difficult to understand. Prison officer Gunning
rifleman armed with the .303 rifle) shot up the garbage bins outside
where some prisoners had congregated. This was, he said,
to stop them towards the Paint Store. He was unable to explain
how shooting up the bins would have achieved that purpose. He
had not thought of ricochets, and that it was quite safe to have
fired down into the gaol from the towers. He

a .38 revolver in his pocket, despite the shortage of firearms generally.
The Commission recognizes the need to prevent prisoners
gaining access to the Store, with the inflammable liquids it
contained; but the evidence suggests that

the gaol there was an indiscriminate use of firearms, with
no proper given or understanding gained of when or where
to use them.

Subsequent medical examinations revealed that just under twenty
prisoners wounded by gunfire, some of them seriously. One (Bugg) is
now a paraplegic, been shot in the back from a .22 rifle. The bullet
passed through a lung before in his spinal cord. Another (Connors)
received injuries to his lung, liver stomach from a bullet which
entered the low rib region, passed through his lung entered his
abdomen. Other prisoners were found to have wounds to the
forehead, the parietal area at the side of the head, in the skull behind
the ear, in the jaw,
arms, upper and lower back, spinal area, abdomen, knees,
legs and ankles. were from pellets, others from the .22 rifles. A
few wounds were superficial.

The overall result, however, was an appalling illustration of the
dangers inherent having no riot plan.

This shooting was, moreover, in direct contravention of
instructions Mr Pallot **laad** received from Mr McGeechan, who by this
time had been contacted and who had (**as** in 1970) assumed control by
telephone from Sydney. Mr McGeechan gave the specific direction that
no one was to use firearms unless an officer's life was in jeopardy. **Mr**
Pallot acknowledged that he had received this direction. He did not pass
it on because, he said, of the situation which existed.

The Commission believes that this disobedience of Mr
McGeechan's clear instruction was inexcusable. It was the cause of
needless, and in some cases serious, injury to the prisoners.

The shooting may, however, have encouraged many of the
prisoners to surrender. There was one mass surrender of about fifty
prisoners under No.6 Tower at one stage. By 4 p.m., only eighty
prisoners remained at large, and these had retreated into B Wing. Prison
officers, particularly those in No.4 Tower, continued firing into the
windows at the end of B Wing closest to the tower.

A few prisoners inside B Wing had been wounded and these
were assisted to surrender. One of them was Bugg, who was carried by
two other prisoners (Von Falkenhausen and Harrison) under a white flag.
They were fired on by officers in the
tower.

The burnt-out entrance of A Wing, Bathurst Gaol, after the February, 1974, riots

The prisoners who surrendered at this stage were placed in the special yards at the back of the gaol under No. 23 Tower in the north-west corner (known as the Special Yards). Prisoners were usually placed there for protection or segregation.

Soon after 6 p.m. the prisoners sheltering in B Wing began negotiations for surrender. The two prisoners mainly involved in these negotiations were Wally and Carson. Bishop carried a white flag and a prison officer's whistle. Despite flag, he was fired on and shot in the back. The negotiations were conducted by Chief Prison Officer Mutton.

The prisoners agreed to leave their weapons inside the wing and to submit search before being placed in the special yards at the back of the gaol similar to Special Yards. These were known as the Back Special Yards. Mr Mutton stated that there would be no reprisals and no further shooting.

The prisoners then left B Wing. The remaining wounded were taken to an area near the main gate, where they were treated by Dr Doust, then Government Officer for Bathurst. The rest of the prisoners—sixty to seventy—were lined up in 2 Yard with their hands against the wall of B Wing and searched.

At this stage, Mr Pallot entered 2 Yard. He said that he had heard that some prisoners wished to speak to him. Mr Mutton replied: "Fuck off you silly old fool. They've burnt your gaol down, what's there to talk about?"

Mr Pallot then walked away carrying a white flag.

The prisoners were marched around to the Back Special Yards in groups of Carson was placed in one of the special yards alone. These yards were separated each other by brick walls and roofed with bars (except for a small covered at one end). They faced the rear wall of the gaol and were almost immediately

No. 6 Tower in the southeast corner. transfer to the Back Special Yards, there was a long period of

During the afternoon, Mr McGeechan—as already stated—had assumed control of the telephone from Sydney. He frankly admitted that it was the height of folly to attempt to run such an operation from over one hundred miles away in Sydney. The

A recording was made of Mr McGeechan's side of various conversations he had the course of the afternoon and evening with Mr Pallot, the Deputy Commissioner (Mr Weston), an Assistant Commissioner (Mr Barrier) and the Minister (the

J. C. Maddison, M.L.A.). Transcripts of these conversations were prepared for the Commission. They reveal a curious approach to the events which were taking place at Bathurst.

The prisoners were throughout generally described as the "warriors" who were down Bathurst. At one stage, Mr McGeechan also referred to the officers as

. During his evidence, Mr McGeechan repeatedly referred to the events as a "combat situation" (Mr McGeechan had seen some service during World War II).

He also gave directions that the "wolves" were to be separated from the "lambs". Mr McGeechan told Mr Pallot (whom he described to the Deputy Commissioner as "not entirely rational") that he wanted these prisoners dispirited, dejected, tired and to lose interest. Mr McGeechan denied that this was intended as an instruction to provoke the prisoners. And he agreed that there was no longer any need to obtain such a reaction once the prisoners were contained in the Back Special Yards, but in the context in which this instruction was given to Mr Pallot it is clear that it was intended to refer to the period the prisoners spent in the Back Special Yards.

When giving directions on the removal of the prisoners from the Back Special Yards, Mr McGeechan expressly authorized the use of batons. He did this with full knowledge that the officers were, as he put it himself at the time, of "the emotional view" that they should "rush in with clubs". He also knew that they were getting "trigger-happy". Mr McGeechan told the Commissioner that he imagined "that the destruction of the prison, their livelihood, the events of the afternoon, would be very quickly having an impact on the officers".

Mr McGeechan was fully alive to the fact that this removal of the prisoners from the Back Special Yards was the major problem in the evacuation of the gaol and an occasion when the prison officers might emotionally react and use excessive force.

Moreover, Mr McGeechan believed even then that the inevitable result of the destruction of the gaol would be a Royal Commission. He was "conscious" of the need to ensure, on the one hand, that the prisoners got the blame for the riot and for the damage to the gaol and, on the other hand, that there should be no accusation against the part played by the officers. In one telephone conversation, Mr McGeechan spoke of not wanting "any after events of recriminations and stories of atrocities and what have you"-a direct reference to the events of 1970, as he agreed.

Yet Mr McGeechan did nothing to ensure that somebody in authority was present when the prisoners were removed from the Back Special Yards who could give a truthful account of what occurred. He had sent Mr Barrier to Bathurst, but he gave him no instructions or advice to be on hand at the time this major problem was to be dealt with. Indeed, he made certain that Mr Barrier would not be in a position to see what went on by his insistence that his Assistant Commissioner telephone him every half hour-the telephone being in a position almost as far away from the Back Special Yards as it was possible to be and still be within the gaol.

Mr McGeechan says that he gave no thought to the matter, but one might infer that he did not want anyone in authority to be in a position where he could see what went on.

Mr McGeechan told the Commission that his understanding of the officers' duty was to apply force by the *use* of their batons if the prisoners were aggressive towards either an officer or property. The rule relating to the use of force has been discussed elsewhere in this Report. There was no warrant for such an understanding. If it were conveyed to the officers-as it appears to have been-it had serious and unlawful consequences.

Early Sunday evening

At about 7 p.m. the Special Operations Division, under the command of Mr Metters, arrived from Sydney and took up a position in No. 6 Tower. Mr Barrier arrived at 7.15 p.m.

Sunset at Bathurst was at 8.05 p.m., as certified by the Government Astronomer.

Reinforcements from Parramatta arrived at about 8.30 p.m. The Dubbo Squad (consisting of police and volunteers) arrived at the gaol at about 9 p.m. up emergency lighting equipment, to which further reference will be made.

Independent of prison officers from the Malabar Complex arrived at 10 p.m.

Most of the prison officers who had been sent to Bathurst and who gave remarked upon the confusion and the lack of any specific instructions given on their arrival. Most took themselves off on their own volition for a tour damaged gaol. They were fed and given a blanket and room in which to

until called upon.

The Reverend R. F. Brand, from the Malabar Complex, arrived at Bathurst 10 p.m. He had been sent to Bathurst because, Mr McGeechan said, outsiders to reduce tensions and stress and Chaplains were a calming influence on the community. "He was placed there to demonstrate the interest of the Church the entire proceedings", he said. Mr McGeechan saw no contradiction in this his instruction to Mr Pallot that the prisoners were to be kept dispirited, dejected, and to lose interest.

Mr Brand himself said that he was told only that it would be a good idea have a Chaplain at Bathurst and that he had had to draw his own conclusions that would be so. He frankly thought it was a "bit of a window dressing". Brand also described the confusion and uncertainty which reigned when he At no time GIO 'he go 'into fne area om WhIch 'Ihe !saCK 'Specnil "r-:H-trs 'WeYe

Mr Barrier, after an inspection to satisfy himself that the gaol could no longer be used, established himself in the Superintendent's office where he remained for the rest of the evening. With Mr Pallot as his "joint commander", Mr Barrier arranged with Mr McGeechan for transport to transfer the prisoners to Sydney.

Late Sunday evening

Lights were erected by the Dubbo Rescue Squad on the towers and near the Back Special Yards. Their exact position has been disputed, but the Commission is satisfied that there was sufficient light in the area of the Back Special Yards to provide reasonable visibility.

The erection of the emergency lighting signalled the end of the long period of relative quiet. A great deal of obscene abuse was exchanged between the prisoners and the prison officers. Much of it was educational but nevertheless irrelevant to this Inquiry. The reactivation of the riot was due in part to the obvious moves being made to remove the prisoners from the Back Special Yards; it was also due in part to a certain amount of provocation by the officers. Mr McGeechan's instruction to "keep these inmates restless and moving all night", as well as his earlier direction to make them dispirited, dejected and tired, had been passed on to the officers by Mr Pallot.

At some time between 11 and 11.30 p.m., the prisoners were ordered to leave the Back Special Yards. They did not do so. The order was repeated. The prisoners' reaction was to increase the flow of abuse at the prison officers.

The cookhouse (top right) and CAM Shop (Cardboard Articles Manufacturing Shop) at Bathurst after the 1974 riot: Below are the Back Special Yards

One prisoner, Baldry, told the officers that they would not leave the yards the prisoners had spoken to a representative of the Department. Mr Brand to speak to them, but his offer was rejected because, it was said, it would be -aous for him to do so. Mr Barrier, although he believed that there was no in trying to talk to the prisoners in the Back Special Yards, told the Commission he also offered to speak to them but was advised that it would not be worthwhile.

The Commission's view is that the two "outsiders" sent to be Mr McGeechan's and ears" in the gaol failed utterly to see or hear what they had been sent to to see and hear. The danger to both had they gone to speak directly to the in the Back Special Yards is obvious enough. But there was nothing to them or either of them watching, or even speaking with a loud hailer, from

safety of No.6 Tower. But they did nothing-because the very officers they had sent to watch advised them against it.

The prisoners began to dig holes through the brick walls between the yards, lengths of waterpipe wrenched from the lavatories in the yards. Bricks and were thrown at the officers. The prisoners said that they wished to associate the one yard for protection. The officers assumed, with justification, that the were attempting to escape from the yards altogether.

At about midnight, the vehicles to be used for transporting the prisoners to Sydney arrived at the gaol, and the decision was taken (after seeking Mr McGeehan's approval) to use tear gas to force the prisoners to vacate the Back Special Yards before they were able to escape. Early Monday morning

Word was passed among the officers that the prisoners were to be removed from the Back Special Yards. Few officers received any direct order about what was to be done. Members of the Dubbo Rescue Squad in No. 6 Tower were ordered either to leave the tower or to lie on the floor (apparently because of possible effects from the gas).

The narrow area which stretched along the eastern side of the gaol between the wall and the ordinary yards, down to the Back Special Yards, was known as 17 Post. It had a narrow gate, one-third of the way along the wall, about two feet wide.

All officers who entered 17 Post beyond the gate were issued with riot gear: helmets, shields and large batons. Not all officers wore this gear. From all accounts, the situation was obviously confused. Prison officers spoke of milling around without knowing what to do.

Some smaller vans were parked on the northern side of the gate in 17 Post. Buses were parked in 1 Post, just inside the main gate.

The officers formed into three groups. One group was positioned to the west of the Back Special Yards, to prevent the prisoners moving away from 17 Post across the back of the gaol. Another group was positioned behind the Back Special Yardsthat is, to the north of them and not between the yards and the tower-to prevent the anticipated break-out from the brick wall at the back of those yards. The third and by far the largest group was spread along 17 Post towards the vans on the other side of the gate.

There were about 150 officers near the Back Special Yards by this time. (There were sixty to seventy prisoners.)

Between three and five canisters of tear gas were thrown, by hand, from No. 6 Tower into the Back Special Yards at about 1 a.m. The prisoners were kept locked in the yards for about ten minutes. They rushed to the taps to wash the gas from their eyes, but in the crush many could not reach the taps to get relief. Prison officers wearing gas masks turned hoses on the prisoners.

The gates were then unlocked one at a time.

The first prisoner to be released was Carson, who had been kept in one of the yards alone. As he emerged, he was surrounded by a number of officers in what he described as a gauntlet.

The Commission does not accept the existence of a gauntlet at this stage or at that place. There is no doubt from the evidence that at least five prison officers surrounded Carson when he came out of the Back Special Yards. He was the first prisoner to emerge, and he was escorted by them to one of the vans parked on the far side of the gate on 17 Post. This group of officers had to push their way through one hundred or so officers gathered along 17 Post. The Commission is satisfied that Carson was hit with batons while he was being escorted, although not to the extent he claimed.

The officers on 17 Post appear at that time to have been milling around without knowing what they were required to do other than to see that prisoners did not escape on their way to the vans or buses.

Meanwhile, the remainder of the prisoners emerged from the Back Special Yards. The most prominent of these was Baldry, who came out with a length of waterpipe in his hand and held above his head. The officers outside the Special Yards fell back as the prisoners emerged. One officer in No.6 Tower, however, told Baldry: "Drop that pipe or you're dead." The order was obeyed. The officers then converged on the prisoners.

A description by one prison officer, whose evidence the Commission accepts, was given in these terms:

"The tension was electric. Suddenly a roar went up and prison officers and prisoners were going in every direction. Fists were flying, bricks were thrown, batons were being used, and the picture was one of struggling, grappling and wrestling prisoners and prison officers."

Another prison officer said:

"Prison officers swarmed forward and there was a 'free-for-all', A great roar went up and there was a big melee which I likened to a big serum."

The prisoners then divided-apparently naturally-into two groups. Most prisoners were man-handled to the eastern wall below No. 6 Tower and were made to lie down on the ground, face down, after removing their shoes and socks and their belts. They remained there for up to half an hour.

The Commission is satisfied that a number of officers treated these prisoners and that there was an unlawful use of force on occasions, even a spiteful force-for example, when officers trod on the toes of prisoners lying on the floor. There seems to be no point, however, in seeking to disentangle the conflicting,

order and confused evidence about these more minor events.

Some of this group of prisoners were eventually returned to the Back Special for a period before being marched to the buses in the front of the gaol.

The prisoners who were not made to lie down along the eastern wall were sent, in any event went, directly to the vans at the other end of 17

Post. The scene can be described as chaotic. One prisoner, whose evidence the Commission accepts, how he ran from the Back Special Yards around into 17 Post where he was and kicked by several prison officers before he turned and ran along the back of the Back Special Yards towards the water tower. The officers in that area turned back and he then ran along the inside of the building still known as the Morgue store room directly north of the Back Special Yards), thus escaping from the body of officers in that area, until he reached the gate in 17 Post and was placed

It was along 17 Post, stretching from the Back Special Yards past the Morgue about thirty yards, that it was alleged by the prisoners that the officers (numbering 100 and mainly Bathurst officers) had formed a gauntlet through which they to run while being hit with batons, punched and kicked.

The word "gauntlet" is an emotive one. Its derivation is from two Swedish words meaning a passage and a course. It was originally used to describe a military or naval punishment, in which the delinquent soldier or sailor was forced to run, stripped to the waist, between two lines of men equipped with sticks or knotted ropes. They were expected to deal out as severe a punishment as they were able while the man ran past them.

The sense in which it was, and generally is, used denotes a degree of organization by those taking part.

In this sense, the Commission is satisfied that no gauntlet existed. The whole operation was so disordered that a gauntlet could not have been organized.

But most prison officers went further. They denied the existence of anything resembling a gauntlet. They maintained that the prisoners had had to push their way through this milling throng of prison officers and that, as some officers may have stood apart to let them through, only the appearance of two lines of officers may have been given to the prisoners.

The Commission rejects that suggestion. It finds that there were two lines of officers which formed up for a period of twenty minutes or more with the officers facing each other-about half of them armed with batons-through which the prisoners had to run toward the gate in 17 Post.

The Commission bases this finding generally upon evidence given by prisoners and specifically upon the evidence of Mr McTaggart, then a Principal Officer with the Establishments Division, and now Chief Superintendent of the Malabar Complex.

Whether through fear of the consequences of such a concession or otherwise, most prison officers who gave evidence would not concede even that requiring prisoners to run through two lines of men stretching from point A to point B would be an efficient way of ensuring that prisoners were moved without escape. The Commission sees nothing wrong with such a procedure in normal circumstances.

What was wrong with the procedure on this occasion was that isolated and individual acts of violence and of brutality took place under its cover.

There can be no doubt that, as Mr McTaggart put it, many of the prisoners were belligerent and needed to be pushed along. But many prisoners were fearful and others were resigned; these required no application of violence. Yet they received it. As Mr McGeechan had foreseen, "the destruction of the prison, their livelihood, the events of the afternoon" had certainly had an impact on the officers.

Mr McTaggart told the Commission that he sensed feelings of shock, anger, apprehension and dismay among the Bathurst prison officers; and Bathurst prison officers formed most of those who took part in the gauntlet.

Dr Doust described seeing Prison Officer Milton in an extremely excited condition, shouting "Let's shoot the cunts." He was complaining that there would be no jobs now that the prison had burned down. Milton had had to be calmed by a senior officer.

And Mr McGeechan had, as already stated, expressly authorized the use of batons.

The Commission does not, for the reasons given in the Chapter dealing with the events of October, 1970, intend that its hearing should be taken as committal proceedings arising out of the allegations made of assault.

Nor, in the light of its finding that the gauntlet was not a result of organized brutality, does the Commission believe that the allegations of assault which were made warranted the same degree of investigations as did those arising out of the 197C floggings.

There were, however, some assaults which should be described to disclose the extent of the bashings which did take place.

Bosko Saric was said physically to resemble the prisoner Baldry. Whether for this reason or not, Saric received a bashing that can be described only as savage. When seen by Dr Doust a short time later, he had three lacerations to the side and back of his scalp and at least thirty lineal weals four to six inches long and one to one and a half inches wide on the back of his body, on his shoulders and on the back of his upper arms. These lineal weals were in a geometric, criss-crossed pattern: which the doctor thought was consistent with the prisoner running through a gauntlet of officers wielding wooden batons. It was suggested at one stage that the prisoner might have inflicted injuries of this type on each other with bricks or iron bar; during the riot. Dr Doust said that the injuries were not consistent with such suggestions.

When Saric was seen the next day at Parramatta Gaol by the Prison Medical Officer, Dr Mutton, the entry on his medical file was made in these terms:

"The above prisoner was today examined by Dr Mutton. He had no complaints. He was given Tetanus Toxoid Booster injection."

said that he would have expected evidence of the injuries to have remained **upon** an examination the next day.

Dr Doust also saw linear lacerations on the scalp and back and shoulders of a named Bradshaw, about ten lacerations in all. Dr Doust would have expected to have been visible upon an examination the next day, he said. Dr a medical officer at the Metropolitan Remand Centre at the Malabar Complex, only bruising on the right foot and right lower leg.

Neither Saric nor Bradshaw gave evidence before the Commission; but the IDOlission has no doubt that both received their injuries as described by Dr Doust in gauntlet in 17 Post.

Prisoner Quinn described being punched and kicked as he ran through the He was found on examination to have welts on the buttocks, centre back, arm and left forearm and abrasions on his left ear and right shin.

Another prisoner, Saunders, was struck by Prison Officer Robinson with a across the buttocks; a claim which was supported by the medical evidence.

Prisoner Harling claimed to have been struck by prison Officer Hahn with a with resulting bruises. Despite a denial by Hahn, the Commission accepts the ~prisoner's evidence, supported as it was by evidence of another prisoner.

The prisoner Bishop already referred to was struck by Prison Officers Gunning and McAuley, receiving fractured bones in his hand and bruising on both his shoulders and his buttocks. The Commission does not accept Gunning's denial of this incident.

Prisoner Schwarz was struck by Prison Officers McAuley and Miller in the neck, back, kidneys and buttocks, producing bruising seen the next day even by Dr Mutton.

Prisoner Brennan was struck by Prison Officer Silis with a baton. The Commission does not accept Silis's denial of this incident.

Prisoner Harris was struck by Prison Officer Draper, causing a swelling to his forehead.

Both the prisoners who had been marched around to the front of the gaol and those who had been placed in the vans and unloaded in front of the gaol were assembled outside the hospital building adjacent to 1 Post. They were ordered to strip and to lean against the iron fence with their hands above their heads. They were then searched A number of prisoners were hit by officers during this search. As one prison officer told the Commission:

"If prisoners were told to do something, and they refused, they were hit."

The Commission's view is that there was no justification for such an attitude.

Prison Allen told the Commission that he had been hit by Prison Officer Morgan, from the Engineering Shop, during the strip search. He claimed that Morgan called out: "You and your mate burnt down my shop", and then punched him and kicked him before he could answer: Morgan hit him with his hand as he turned around, kicked him while he was on the ground and then punched him on the side of the face. He punched him only once, but kicked him with his boots in the stomach and the ribs.

Prison Officer Morgan admitted having grabbed Allen by the shoulder, turning him around and giving him a backhander across the side of his face. He denied having kicked him, claiming that he was wearing only thongs.

He told the Commission that Allen had been a source of irritation and annoyance to him for a long time. He was at that stage tired and disappointed as his shop, into which he had put quite a deal of work, had been destroyed. Allen had provoked him by the way in which he had laughed at the destruction of the shop. He had lost control of himself and had hit Allen in disgust. He readily conceded that his actions were wrong.

The Commission finds that Morgan did kick Allen. The medical evidence supports the injuries he claimed. Morgan's denial on this matter is not accepted.

Some prisoners who had been handcuffed while in the vans had difficulty, understandably, in stripping for the search. Their shirts were torn off them by officers.

Once the search had ended, the prisoners were ordered to dress and to board the buses for the trip to Sydney.

Mr Brand did appear at this time. He told the Commission that he saw a number of prisoners pushed, shoved and prodded by the officers towards the buses. Although he saw that some prisoners had cuts about their heads and that they and others were bloodied. Mr Brand did not

Baldry and Newman were placed in cars to be driven to Sydney by members of the Special Operations Division. The Commission is satisfied that Baldry was bashed by a number of officers before being placed in his car.

Some prisoners remained in Bathurst overnight. These were mainly those who had surrendered earlier in the day and who had been kept in the Front Special Yards. Those who were taken from the Front Special Yards for transfer to Sydney were also subjected to strip searches and some were bashed.

Van Heythuysen was hit with batons by Prison Officers Miller, Gunning and Clark on the rear of the shoulders, the buttocks and back and behind the legs. The medical evidence supported his claim. The denials by Miller and Gunning are not accepted.

Later, **Monday morning**

The remaining prisoners from the Front Special Yards were removed at 7.30 a.m. and strip searched. Further bashings took place. Prison Officer Klok hit a prisoner named Bloomfield with his fist three times. Klok was six feet five and a half inches tall and weighed nineteen and a half stone. Bloomfield was five feet eight inches tall and weighed less than ten stone. Klok's denial of the incident is not accepted. This was a disgraceful assault.

Mr Brand arrived at the gaol at about 8 a.m. and saw no violence from the he arrived. He told the Commission that when prisoners told him that they feared bashings he conveyed those fears to Mr Barrier and to Mr Metters. Mr Metters

"As far as I'm concerned, there won't be any violence during the loading of the prisoners onto the bus, but I can't guarantee it if any of the Bathurst prison staff are used."

Metters then spoke to Mr Pallot:

"Get rid of your Bathurst fellows and there'll be no problems."

Pallot did not reply.

The prisoners then dressed and were handcuffed in pairs and taken to the buses transfer to Sydney. In boarding the buses, some prisoners were pushed, and some treated roughly. But the allegation that another gauntlet was formed at this is rejected.

The first contingent of buses from Bathurst arrived at Long Bay between 6 and 7 a.m. They were driven to 13 Wing at the Metropolitan Remand Centre, a wing which had been kept empty for emergencies such as this. It was equipped with special yards for security purposes.

Each bus pulled up above a ramp leading to the special yards and prison officers were lined up in rows between the bus and the gate. Since the prisoners were handcuffed, they were taken off the bus in pairs. The chain on the handcuffs was then grabbed and the pairs of prisoners forced to run down the ramp, being jerked from side to side with the occasional baton blow to ensure that they ran faster.

After the removal of the handcuffs, the prisoners were placed in the special yards and ordered to face the wall and to stand with their hands above their heads against the walls with their noses and toes touching the wall. They were obliged to remain in that position or they were punished. After about three hours, they were allowed to sit down to eat breakfast, but as soon as the meal was finished they had to return to the wall for about another hour.

Dr Murphy, the prison doctor, then examined those prisoners who wished to see him. The accuracy of his records has already been adverted to by the Commission.

For the next few days, a very strict regime was imposed in 13 Wing. Every time the cell door opened, the prisoner had to stand up and face the wall opposite the door. For lunch, the prisoners were called out individually and made to run out the gate, along the corridor and past the other yards, through an enclosed passageway to 13 Wing. Here they would pick up their meal and they would then run up three flights of stairs to their cells. Prison officers were placed about every ten yards along the way with batons which were used to ensure that they ran faster. This procedure was reversed after lunch and was repeated for tea at night.

During the time that the prisoners remained in the M.R.C., they were deprived of all privileges such as letters, tobacco, visits, sport and radio.

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A number of prisoners were sent to Parramatta Gaol directly from Bathurst: they reported a rather uneventful reception. Superintendent Bush insisted that there should be no violence.

Many of the prisoners at Parramatta spent the whole of their time in the Circle the punishment yards at that gaol.

The Aftermath

After an immediate inspection of Bathurst Gaol by the Minister (Mr Maddison: accompanied by Mr McGeechan, the Government announced that a Royal Commission would be appointed to inquire into the destruction of the gaol "by fire and violence" The press statement by the then Premier (the Honourable Sir Robert Askin) making this announcement was issued on the Tuesday. It quoted Sir Robert as saying:

"Departmental inquiries are still proceeding."

On 19th February, Mr Maddison announced that the appointment of the Royal Commission would be delayed until criminal charges against prisoners arising out of the fire and riot had been disposed of. The Minister's press statement referred to the assignment of a large squad of police to investigate the incident.

Mr McGeechan told the Commission that it was general Public Service Board policy not to pursue actively investigations into matters which were the subject of police investigation.

In his statement to the Commission (which he swore was true as directly known to him), Mr McGeechan put forward the Minister's press statement and the Public Service Board general policy as reasons why the Department had made no inquiry into the allegations of brutality in February, 1974.

In his statement, Mr McGeechan described the Minister's press statement as one "in which he directed that inquiries into allegations should await the outcome of the findings of the Royal Commission". No such interpretation could possibly be placed upon that press statement, as Mr McGeechan had to concede.

The police had been directed to investigate the cause and origin of the fires and whether any criminal offences were associated with the fires and other damage caused to the prison buildings and installations. Mr McGeechan was aware of those limits to the police inquiry.

During these inquiries, however, allegations were made to the police by a number of prisoners of brutality they had suffered or seen during the Sunday night and Monday morning. Details of these allegations were made available to Mr McGeechan so that the Department could investigate possible breaches of discipline by its officers. The Commissioner of Police told Mr McGeechan that no attempt had been made by the police to investigate these allegations.

Mr McGeechan conceded that it was wrong to suggest, as he had suggested, that the allegations of brutality were the subject of police investigation. His assertion that the general policy of the Public Service Board therefore dictated that the Department should not pursue its own investigation into those allegations was also wrong, as Mr McGeechan had to concede.

reasons given by Mr McGeechan for the Department not making inquiries allegations of brutality were thus shown to be false.

Mr McGeechan was unperturbed by this demonstration of his falsehood. His line of defence was a reliance upon the Minister's direction to the Commissioner not to pursue the allegations of brutality made by the prisoners, by way of a reference to the Commissioner's report in these terms:

"These matters should await the Royal Commission Inquiry."

no such direction had been given him about inquiries by the Department, Mr McGeechan moved on to the next line of defence.

The Minister had, he said, orally instructed him within a couple of days of the time to gather statements from all the officers "as to their impressions of the situation at Bathurst". These statements were to be made available to the proposed Royal Commission. Mr McGeechan told the Commission that he deduced from such an instruction that he should do nothing more.

By that time, however, neither Mr Maddison nor Mr McGeechan had received from the Commissioner of Police the details of the allegations of brutality made by the prisoners. Nor had there been any publicity about the allegations.

When it was pointed out to him that the Minister's instructions given at that stage could hardly have been intended to cover the allegations of brutality made known only some weeks later, Mr McGeechan then moved to his final line of defence. He had, he said, referred to these allegations of brutality in conversations with Mr Maddison, who had "reinforced" his previous instruction to obtain statements from the officers so that a record of events would be available for the Royal Commission.

There was nothing in writing to confirm such "reinforcement". And Mr McGeechan admitted that there had been no specific direction by the Minister that the Department should not investigate the allegations of brutality.

Mr Maddison also gave evidence on this issue. He told the Commission that he "certainly did not give any direction orally to Mr McGeechan that investigations into those allegations were to await the findings of the proposed Royal Commission".

It appears from Mr McGeechan's evidence that he had construed the Minister's instructions about the collection of statements as meaning that he should do nothing more about the allegations of brutality. Such an interpretation was, of course, a convenient one for Mr McGeechan. He had told Superintendent Pallot on the Sunday night:

"I don't want another two years' inquiry hanging over my head because it generates extra work for me."

The quality of that work in relation to the events of October, 1970, has already been discussed in an earlier Chapter.

The Commission does not accept Mr McGeechan's attempts to explain his lack of activity in inquiring into the allegations of brutality. It is satisfied that he deliberately avoided making any such inquiry because he knew that, if he did so, he would discover the uncomfortable facts he had discovered earlier about 1970.

The Department's submissions on this issue are based upon the proposition that because the Minister had directed both the police and the Public Service Board not to investigate the allegations of brutality, that policy "would apply equally to all three bodies"- the police, the Public Service Board and the Department.

No argument is addressed to support that proposition, and it is rejected. There could not be a clearer distinction between the duties of each of those three bodies to inquire into such allegations.

Mr McGeechan did not exhibit much resolve in complying with Mr Maddison's instructions. He told the Commission that he was not sure that legally he had the power to compel his officers to make a statement. A simple question of the Crown Solicitor should have disabused him of any such doubts. In any event, he said, he could not do so industrially. Mr McGeechan's attitude to such "industrial" problems is discussed elsewhere in this Report.

So he "invited" the officers to make statements. Those who did not accept the invitation were told that their failure would be "indicated as a matter of record" at the Royal Commission. Mr McGeechan could give no sensible explanation of what this meant, for he sought to have the Commission draw no inference from the failure of officers to give the statement requested.

Mr McGeechan expressed the view that some of the statements he did receive were not adequate. He did nothing to inquire further, he said, because of the delicate situation-both industrially and, he claimed, legally.

The Commission agrees with the view Mr McGeechan expressed. Many of the statements were wholly inadequate. Some nakedly attempted to justify the use of force on the prisoners by making assertions which were quite fanciful. For example, one prison officer alleged that, despite the search conducted before the prisoners were placed in the Back Special Yards, the prisoners possessed steel from the Engineering Shop and knives from the kitchen. Other statements-most of them-made no reference at all to what had happened in the vital period when the prisoners were released from the Back Special Yards.

Moreover, many of the statements alleged a complete lack of planning throughout the events in February. Mr McGeechan might, he said, have discussed these allegations with his senior officers, but he did nothing to follow up the problem they exposed.

The Department, as Mr McGeechan conceded, deliberately refrained from making any other investigation. If any such investigation had followed the example of those described in the previous Chapter, it is unlikely to have been of much assistance.

It seems that the Department's attitude at the hearings of the Commission that it would not assist in seeking the truth and apparently did not wish to know the truth-had been determined at a very early stage.

Chapter 7 GRAFTON- THE INTRACT ABLES

GRAFTON: THE INTRACTABLES

It was precisely fifty years after its establishment in 1893, that Grafton Gaol first opened its gates to "intractable" prisoners. Thus began one of the most sordid and shameful episodes in N.S.W. penal history.

In 1942, there was a substantial upsurge in prisoner unrest in New South Wales, leading to a dramatic increase in breaches of prison discipline. There were several serious assaults on officers. As a result, permission was granted to use Grafton as "a special institution for the treatment of recalcitrant and intractable prisoners". Appropriate structural alterations were made to the buildings and additional officers were recruited.

In a letter to the Under-Secretary of Justice dated 17th August, 1943, the then Deputy Comptroller of Prisons said: "It will be necessary for capable, tactful and robust officers to be selected to staff the institution and, in view of the arduous nature of the duties which they will be required to undertake in maintaining discipline in a prison containing a large proportion of dangerous criminals, I think it is reasonable that they should be granted additional remuneration."

It became abundantly clear during the Commission's hearings that the "arduous" duties required of these officers largely consisted of inflicting brutal, savage, and sometimes sadistic physical violence on the hapless group of intractables who were sent to Grafton. It was for this purpose that the officers at Grafton needed to be "robust". As for their "tact", it became apparent that this related not to their dealings with prisoners, but to the need to conceal the excesses of the regime from the outside world. The additional remuneration was justified as a "climatic allowance".

This was an extraordinary description when one compares the climatic conditions at Grafton with those at places such as Cooma, where the officers received no such allowance.

Mr Frame, whose evidence will be discussed later, was an officer at Grafton from 1941 until early 1943. During that time the officers carried no batons. When he returned six months later, the first intractables had already arrived. He was issued with a baton and told that he must be prepared to use it.

Between 1943 and 1976, Grafton remained the end of the line for a number of the misfits within the prison system. A prisoner who could not be contained in the normal prison community was likely to be classified intractable and sent to Grafton. The number of intractables varied from time to time. It rose to as many as twenty-five, although the average was about fifteen.

Grafton was never used exclusively as a prison for intractables. A separate part of the gaol was for local prisoners, both convicted and unconvicted. In general, local prisoners were not subjected to the same violence and brutality as were the intractables. They were not entirely free of physical repression: The cases of two of them will be discussed later. However, it was the intractables who were deliberately and calculatedly marked out as victims of the regime of terror at Grafton.

During the Commission's hearings, many prisoners told of violent treatment had received at Grafton. Towards the end of the hearings, after much of this evidence had been given, important admissions were made on behalf of the prison then serving at Grafton, and on behalf of Mr Frame (Superintendent of Grafton between 1970 and 1976) and Mr Penning (then Deputy Superintendent of Grafton). The officers' admission was:

- "(a) That at the date when such officers first commenced service at Grafton gaol, and continuously thereafter until 1st May, 1976, the following conditions applied in relation to the control of intractable prisoners at that gaol:
- (i) that upon first admission to the gaol intractable prisoners were the subject of a 'reception biff' which consisted of a physical beating of the prisoner about the back, buttocks, shoulders, legs and arms by two or three officers using rubber batons;
 - (ii) that following such 'reception biff' although the prisoner was subject to strict discipline further physical force was never used against such prisoner unless the prisoner breached the rules in force in the gaol;
 - (iii) upon breach of any rules, written or unwritten, in force in the gaol, the prisoner was liable to be physically punished for such breach, the degree of punishment being conditioned to the significance of the breach, but never of the order of the initial 'reception biff'.
- (b) Although the above procedures remained in force unchanged until 1st May, 1976, over recent years, namely from 1965 onwards, the severity of their application materially abated.
- (c) Officers were not specially rostered for the reception of intractable prisoners; such receptions were conducted by the officers on duty in accordance with the normal weekly roster.
- (d) That officers regarded such procedures as official departmental policy as they remained in force unchanged over at least thirty-three years and with the apparent approval of six different superintendents."

The relevant portions of the admission made by Mr Frame and Mr Penning are: "(4) The lack of proper physical facilities plus the nature of the prisoners concerned necessitated a different style of control from that in other gaols.

- (5) The only means at the officers' disposal to effect efficient control was by force and the prisoners' fear of physical punishment. No more physical force was ever used than was absolutely necessary to carry out the duties in compliance with the accepted policy of the Department.
- (6) Officers were issued with rubber batons and were instructed to carry them when on duty, firstly for their own protection and secondly to subdue aggressive prisoners. No explicit directions were given to officers regarding their use, only that common sense and discretion must always be used.
- (8) All ranks of officers were fearful for their own safety and believed that intractable prisoners could be controlled only by force. Consequently any attempt by the administration to change the system would have resulted in aggravation of officers' fears, probably insurrection among prisoners and loss of respect and co-operation from prison staff.

(9) It was believed that relaxation in the discipline of intractable prisoners would have placed the staff in jeopardy and consequent danger to the public.

(10) Under these conditions a superintendent was bound to the existing system and nothing could be done to alter it until the erection of a more suitable institution for the containment of intractables."

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The extent to which the Department knew about the violence at Grafton, and was responsible for it, will be discussed later.

An examination of these admissions shows clearly that the prison officers were prepared to concede considerable force was used only when necessary. Mr Frame and Mr Penning. They did not mention the reception biff, and indicated that force was used only when necessary.

Mr Frame and his Deputy Superintendent, Mr Penning, were summoned to give evidence before the Commission. Mr Frame conceded in a statement presented to the Commission that a reception biff did take place when an intractable prisoner was brought to Grafton. He said that its purpose was to give the prisoner "a short sharp shock to show him that he was now in Grafton gaol".

According to his statement, the biff consisted of a few baton blows delivered in the vicinity of the buttock or the back. He denied that prisoners would be kicked. He said that if a prisoner tried to defend himself he might "get it around the legs or the arms". He denied that prisoners would be kicked or the back. According to his version, prisoners' descriptions of the reception biff were grossly exaggerated.

He conceded, however, that while he was Superintendent at Grafton he had never seen a reception biff. He had spent seven years at Berrima, he had not seen a reception biff since 1963. He was merely relying on what his officers had told him.

On the use of physical violence to punish prisoners, Mr Frame conceded that a prisoner who disobeyed an order would be "kicked" with a baton. Nobody was ever brutally beaten, he said, and he had never seen a prisoner being kicked.

Clearly, Mr Frame was the essence of the "tactful" officer who would protect the reputation of his institution at all costs, even at the expense of his own veracity. He admitted as much when he was questioned concerning an ABC television program. He was asked whether discipline at Grafton was "maintained by the baton and the fist". He denied it. Before the Commission he tried to justify his denial by saying that it would have been detrimental to the Department to tell the truth.

It is impossible to attach much weight to the evidence of such a witness. The appalling stories told by prisoners through the intractable section at Grafton make the conclusion inescapable that the regime was very much more brutal than Mr Frame prepared to concede, even at this late stage.

Mr Penning went to Grafton in 1972 as Principal Prison Officer. He later became Deputy Superintendent. He indicated that the successful applicant should be in good physical condition, and would receive an

allowance". On arrival, he was handed a baton and told by Mr Frame must be prepared to use it when prisoners became violent, and to forestall any attacks by prisoners. It was stressed that he would be dealing with prisoners who not be controlled by any other means.

From the evidence of the prisoners in Grafton during Mr Penning's time, it appears that he did use his baton and his fists on many occasions when there was no violence or provocation by the prisoners. He denied these allegations, but they were numerous and so consistent that it is impossible not to give them some credence. He presented himself badly in the witness box. He was reluctant to admit to any form of violence at Grafton, and did so only when the evidence supporting such violence was overwhelming.

At first, he tried to justify the reception biff by saying that the prisoners, on Grafton, offered resistance to the officers, and this called for some form of retaliation. It is difficult to see how intractable prisoners could display any form of violence or resistance when they arrived at Grafton. They were almost invariably clothed in shorts and slippers, with a security belt holding their arms to their sides. They were handcuffed to the belt. He later conceded that in many instances prisoners biffed and beat the officers.

The admissions made on behalf of the officers, Mr Frame and Mr Penning go some way towards supporting the prisoners' versions of their treatment at Grafton, but they in no way reveal the horror of the regime which existed for three years. Even accepting that many of the prisoners were exaggerating their treatment, the story they tell is still a terrible one. To appreciate this, it is necessary to explore the details of each prisoner's allegations about Grafton, but merely to give some indication of the humiliation, hopelessness and brutality which they experienced there.

The clothing worn by intractable prisoners on their arrival at Grafton has been described. In some instances, the beatings began even before the belt and handcuffs were removed. The beatings were usually administered three or four officers wielding rubber batons. The prisoner was taken into a cell, searched, and then the biff began. The word biff by no means describes the brutal beating which ensued. A former prison officer, Mr J. J. described it: "Sometimes three, four or five of them would assault the prisoner with batons to a condition of semi-consciousness. On occasions the prisoner

loses consciousness, and his nervous system ceases to function normally". If most of the allegations are to be believed, the officers had no compunction about beating them on their backs and heads; nor were they averse to kicking them when they were on the ground. They invariably abused them while they were hitting them, calling them "cunts", and "motherfuckers". Sometimes the men were treated to a "biff" which was intended to kill.

According to the prisoners, this initial beating invariably left them severely bruised with baton marks over the whole of the body. Some prisoners complained they passed blood in their urine for some days after the reception biff. Either during or immediately after the beating the prisoner, still naked, was taken to his cell. Sometimes the violence continued, and he was punched and beaten in the cell. Eventually he was left to recuperate. As one prisoner put it: "I . . . a long night propped up with a mat and blanket under my chest as that was the only way to get through the night. It was one of the few places I had not been struck. I was in great pain and frightened

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The brutality did not end there; most prisoners were subjected to extreme for some days, or even weeks, after their reception at Grafton. For some stopped. Mindless beatings were inflicted for trifling "offences", such as out of the yard in which a prisoner worked, or failing to fold blankets in an

~D1e manner. The prisoners coined their own phrases for Grafton: "S.N.T.", stark, naked terror; and "J.C.'s", meaning fore and backhand slaps across so called because of the actor James

After a taste of the "discipline" at Grafton, new prisoners were forced into a which was at once rigid, monotonous, and designed to strip prisoners of all of individuality. No amenities were allowed. Each prisoner occupied a separate cell, in which he spent over seventeen each day. The only furniture was a small cupboard with two shelves, and an immovable block of wood which doubled as a table and a chair. The bed two coir mats on the concrete floor. Until about ten years ago there was no in the cells at Grafton, and the prisoners were issued with rubber buckets.

there is a lavatory in each cell. prisoner had to have his cell cleaned and his folded in a particular manner. At seven o'clock the cell door was opened he placed his bedding and tea mug outside and collected his shoes. Shortly the door was again opened and he collected breakfast. Each time the opened and while it remained open the prisoner had to stand and face the furthest from the door.

This is an inadequate description of the almost farcical routine which each had to follow with minute precision: the time taken, the hand used, and the in which each object was either placed outside the cell or taken in to it had to I:orrect to the last detail. Any minor deviation from that routine was treated as of an unwritten rule and earned the prisoner some form of physical ~m:ill: at best a slap on the face; at worst a beating with

The blankets posed a particular problem for the new inmate: they had to be in a way which could only be learned through experience. This learning was often a painful one, accompanied as it was by punches and beatings.

At eight o'clock the prisoners were ordered out of their cells and taken to shops where they worked. There were usually four or five prisoners in each To get there they had to march in step, in single file with heads down, arms and fingers outstretched. Once there they took their allotted places, and . work of sewing prison uniforms or writing braille. Any deviation from .rouune earned some form of beating.

A total of twenty minutes each day was spent "exercising". According to one this involved "marching non-stop abreast in cell order up and down the with our coats and hats on and all buttons done up. Our eyes as always had kept on the ground. Our exercise distance was about twelve feet".

Prisoners returned to their cells for about one and a half hours at lunchtime, went back to the workshops in the afternoon. They were finally locked in their at 3.50 p.m., where they remained until 8 o'clock the next morning.

Chapter 8

KAI1NGAL - SPEOAL SECURITY UNIT

CHAPTER 8

KATINGAL: SPECIAL SECURITY UNIT

The reasons for Katingal

Variouly described as an "electronic zoo" and a "major humanitarian reform". Katingal is now the end of the line for a variety of misfits within the prison system.

The Commission remains uncertain about the precise reasons Katingal was built. Towards the end of the evidence, the Department was asked to give these reasons. In response, Mr McGeechan made a statement and later gave evidence. The reasons still remain obscure. A number of conflicting statements have been made, and one is inclined to agree with the tentative conclusion of Dr W. Lucas, a consultant psychiatrist, that its original purpose and intention was something other than its present use.

The inflexibility in the design of Katingal gave rise to Dr Lucas' speculation. His view was supported by the Commission's inability, despite repeated attempts, to get any coherent statement on the philosophy which led to Katingal.

What type of prisoner was intended to be kept in Katingal? Here again, it appears the original intentions have been changed.

The earliest statements available to the Commission on the reason for a special security block appear in correspondence between the Department and the Public Works Department between September, 1968, and March, 1972. It could be reduced to one reason: the containment of potentially dangerous prisoners. The letters stressed the urgent need for secure containment of "dangerous violent criminals" for the protection "of the community and of prison officers in particular."

Prisoners requiring protection from other prisoners, now a small but significant proportion of Katingal inmates, were not mentioned. Indeed, "dangerousness" is only one of a number of possible criteria for the transfer of a prisoner to Katingal. Significantly also, no mention was made of the regime at Grafton which was said by Mr McGeechan, in his evidence, to be his motivating force in urging a start on the Katingal project.

This is not to say that Mr McGeechan admitted to knowing that unjustified violence was inflicted at Grafton. According to his evidence, he was under the impression that the "physical repression" at Grafton was a measure of self defence by the officers. His evidence on this was both inconsistent and unsatisfactory.

According to Mr McGeechan, in response to the Commission's inquiries, the building of Katingal arose directly out of his general dissatisfaction with Grafton. The physical repression was only one feature of Grafton which he listed as being unsatisfactory. Others were the secrecy with which it was surrounded, its physical remoteness, and the unsuitability of its officers. When one considers the secrecy with which the Katingal project has been shrouded, this objection to Grafton takes on an air of spuriousness and unreality.

Three aspects of Katingal-the sterile interior (top left and below), the stark exterior (top right)

The first statement made by Mr McGeechan to the Commission had annexed to it, as Schedule T, a document which, according to Mr McGeechan, set out the purpose and philosophy of Katingal. This document was written by him in 1970 or 1971, when he was seeking approval for the project. It stated that there was no really secure prison in N.S.W. He advocated filling this gap by the building of a small secured unit within the metropolitan area. Mr McGeechan apparently realized at that time that the establishment of this unit, which was to contain dangerous and difficult prisoners within the one area, ran counter to the prevailing view of English penal authorities, who favoured the dispersal of dangerous prisoners through a number of penal institutions. No acceptable reason was given for his rejection of the English approach.

It is impossible to extract any "purpose or philosophy" from this document, apart from a list of "general aims of the maximum security concept", which was phrased in such convoluted language as to be almost meaningless. For example:

"The intention of expiating offensive behaviour but without attracting unofficial retaliation or inhumane applications of punishment on the recalcitrant, and without increasing the incidence or probability for offence;

the intention to endeavour to unify the moral value of the inmate community."

The one significant fact which emerged from Schedule T was that, by the time it was written, the category of potential inmates had already broadened to include prisoners in need of protection.

This document will be mentioned again, not because of any information it imparted, but because of the totally inaccurate and misleading statements it contained. It presented the proposed institution in such a glamorous light that it is impossible to accept that Mr McGeechan genuinely believed the exaggerated claims and optimistic predictions made about it.

Although not volunteered, Mr McGeechan admitted in cross-examination that the possibility of terrorist activity was one reason for Katingal being built. He refused to concede that this was the substantial reason, only that it was "part of the reason". However, it is clear that impregnability against attack from the outside was at least as important as security against escape from the inside. This is unique among N.S.W. penal institutions. Mr McGeechan did not mention this in Schedule T, nor would it be a necessary feature if the purpose of Katingal were as stated by Mr McGeechan-to contain dangerous prisoners in a secure environment. In the absence of positive evidence one can only speculate, but it does appear that concern about containment of terrorists might well have been a substantial reason for Katingal.

Katingal is a small unit, housing a maximum of only forty prisoners. That number is substantially reduced if any inmates need to be isolated from other prisoners. Each block contains five adjacent cells, four of which are unuseable in such a situation. The maximum of forty represents about one per cent of the N.S.W. prison population,

One type of prisoner which represented a departure from the original proposals put forward by the Department was the one needing a high degree of protection. It is appreciated that some of these prisoners are happy to be in Katingal, probably because of their fear of the general prison community. However, it is a particularly harsh punishment to inflict, as many of these prisoners require protection because of the

Mr McGeechan admitted that Katingal was built on purely custodial lines: "It was a purely custodial model built to custodial specifications . . . it was an expression of a custodial programme." He was less willing to admit that no psychiatrists or psychologists had been consulted during the planning stage, but it clearly emerged that this was so. The whole project, in fact, was characterized by the Department's acceptance of the architect's model, without seeking any independent assistance or assurance about its suitability for its original purpose.

Had the two psychiatrists who spoke about Katingal been consulted, they would have suggested alterations or modifications during the planning stage. Dr Lucas criticized the inflexibility of the design and partially attributed this to the lack of consultation with the medical profession. This inflexibility manifested itself in insufficient communal areas for prisoners and inadequate facilities generally. He said that the lack of flexibility could lead to a high degree of isolation, which could be damaging to prisoners if continued over a long period.

Dr Houston, Superintendent of the Prison Medical Service, said that the Service was never consulted during the planning stage. Once construction had begun, he asked to see the plans to find out where the medical clinic was going to be. He found that no provision had been made for a clinic. This is only one of a number of deficiencies in the facilities at Katingal, as will be discussed later.

On 23rd August, 1972, construction began on a site adjacent to the Malabar complex of prisons. The building work was fraught with obstructions and delays. Builders' labourers placed a ban on the building, and at one time a bomb exploded, causing considerable damage. A further bomb was discovered and de-fused. According to Mr I. Sanders, Director of Special Security Units, it was professionally made and placed, and could have totally destroyed the building.

These obstructions were exacerbated by the Department's obstinate refusal to enter into any public discussion about the new unit, or to concede that there was any fault in the original design.

Even the Corrective Services Advisory Council, formed to advise the Minister on matters relating to prisons and prison administration, was not informed of the proposed unit until it was too late to make any but the most superficial alterations to it. Professor Encel said that early in 1972 the Committee, of which he was then a member, inspected the Malabar complex of prisons, but no reference was made to the proposed building. It was not until November, 1973, that the Advisory Council was made aware of the erection of Katingal. He himself raised the matter at a meeting of the Council in March, 1974, and expressed his indignation that the Council had not been consulted. Mr McGeechan, who was present at the meeting, said: "There is nothing you can do now".

Mr McGeechan's statement turned out to be correct.

On 19th April, 1974, the Council chairman, Mr Justice Hope, wrote to the then Minister, Mr Maddison, about "S Block", as Katingal was then called. He informed Mr Maddison of four resolutions recently passed by the Council. These were:

"(1) The Council expresses its concern at the absence of visual access to the outside world in the present structure of the cells of S. Block and requests the Minister to take steps for the modification of the present building to provide visual access.

- (2) The Council recommends that the proposed Advisory and Management Committee for S. Block should contain at least one independent member with no official connections with the administration of the Department of Corrective Services.
- (3) The Council recommends that the Minister obtain from the Health Commission of N.S.W., a report on the possible effects of living in a closed environment such as provided by S. Block in its present form.
- (4) The Council recommends to the Minister that intensive research on an organized basis be carried out in respect of all persons placed in S. Block."

About a month later, on 24th May, 1974, Mr McGeechan reported to the Minister about the Council's recommendations. On the first resolution, he said that building was specifically designed not to allow "visual access to the outside world", that he would invite architectural comment. In the event, a small modification was as a result of the Council's recommendations: The cell doors, which had at first designed as grille doors, were changed to solid iron doors, purportedly to allow prisoners more privacy. On the recommendation of the Advisory Council, a small window was inserted in each door, allowing inmates to look out of their cells .. an electric clock on the opposite gallery. Mr Sanders conceded in evidence that, - without this modification, inmates could well have suffered from disorientation.

In all other respects, the building remained unaltered, with no increase in the inmates' visual access to the outside world.

The Council's other resolutions fared no better: On the second resolution - that the Management Committee should comprise at least one independent member - Mr McGeechan reported to the Minister that he opposed it both personally and officially. It was clear that he resented any intervention by the Council, probably 'because he feared that it might threaten his own power base.

Although Mr Maddison indicated that he was not opposed to some independent membership on the Management Committee, Mr McGeechan's opposition to it clearly prevailed. All the members of the Committee are either officers of the Department -or are in some way connected with it. The only concession made by Mr McGeechan was to appoint Professor K. O. Shatwell as an official observer at committee meetings. Even Professor Shatwell, however, is not entirely independent of the Department. He was a member of the Advisory Council, and has sometimes acted as a consultant to the Department.

Mr McGeechan's opposition to the appointment of an independent member to the Management Committee is extraordinary in the light of his stated reasons 'for starting the Katingal project in the first place. In particular, his statement in response to the Commission's inquiry about Katingal, contained this passage: "The secrecy which seemed to surround Grafton . . . could, in a new gaol, be broken down 'by a new style of management conceived as a Committee of Management, with 'independent citizens of distinction not drawn from departmental ranks upon it."

When questioned about this glaring inconsistency between his stated attitude and his actions, Mr McGeechan could say only that his views had changed over the years, and that he now favoured some independent membership of the Committee. He was unable to reconcile his stated reason for starting Katingal with his subsequent rejection of the Advisory Council's recommendation.

Mr McGeechan was similarly opposed to the third recommendation of the Advisory Council. He said in the Katingal "was never intended as a psychiatric exercise ... it was intended purely as a pro-tern containment for the prison community with a degree of protection from recognized predators". He was also highly critical of the fact that its officers lacked experience or awareness in the field, and that he would not accept the Commission's recommendation as beneficial.

It appears that subsequent events similarly led by Mr McGeechan to change his views on this matter. Following an earlier investigation into the possible effects on the mental and physical health of Katingal inmates with widespread criticism.

The fourth recommendation was the only one fully accepted by Mr McGeechan.

Its implementation, however, was another matter. When Mr Sanders gave his evidence, in September, 1976, although the unit had then been in operation for almost a year. As far as the Commission is aware, this research had

Naturally, it was necessary to maintain a degree of confidentiality about the Katingal project. It would be good security to give every detail of its construction to anyone who showed an interest. Nevertheless, it is difficult to maintain secrecy in which this project was shrouded from its inception. Even responsible people from other penal systems inspected the building. They included interstate prison administrators. State and Federal Parliamentarians were also excluded.

In 1973 and 1974, there was considerable adverse publicity about the project, and a number of concerned Members of Parliament expressing their disquiet. The replies contained veiled reproaches for having been so easily misled about the project by the media. In some cases, they contained material which can only be described as inaccurate, misleading and, on occasions, information was ever imparted.

By way of illustration: correspondents who expressed concern about the psychological effect of living in a security block were told that the programme had been carefully planned, with the involvement of many highly specialized people. Psychiatrists or psychologists were involved in planning.

A number of correspondents who expressed concern about the absence of any outside windows were told that the security block was air-conditioned areas without windows, and that it was, therefore, surprising that this should take on a punitive colour for prisoners. After two well-phrased and well-deserved replies which pointed out the numerous differences between the conditions of a worker and that of the prisoner, this approach was discontinued.

Early in 1974, a letter was composed which assured the inquirer that the Department operated in a humane manner, and that the new security block was necessary for the isolation of incorrigible prisoners. This letter was a response to correspondence about Katingal, regardless of the source of the correspondence or its particular area of concern.

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An inquiry from Turramurra branch of the Australian Labor Party about research, if any, had been done before starting the project, met with this reply. A similar fate befell a detailed questionnaire from the Group for Social Responsibility Science. The fact that the reply was in no way responsive to the inquiry was either overlooked or ignored. The only object appeared to be to silence would-be critics.

Mr Sanders was appointed to the new position of Director Special Security Units. As such, he was responsible for the final preparation of

unit before it became operational. He recommended the name Katingal after the advice of the noted anthropologist, Professor Elkin.

It apparently means of rigorous initiation undertaken by tribal Aborigines who have broken their laws. After this initiation, which involves separation from all social contact, are re-united with their tribes. It would have been more valuable if expert had been sought in areas which really mattered.

When the building was completed, the Department's psychologist was consulted about the colour of the cells. This appears to have been the only time that any psychiatric or psychological advice was ever sought.

The history of Katingal is thus not a happy one. Born of an obscure and ill-considered philosophy, it was designed with insufficient consultation and constructed with elaborate secrecy and defensiveness. Little wonder, therefore, that any success

which it has achieved has been at very great cost.

How Katingal Operates

The accommodation area in Katingal is divided into eight units, each comprising five cells. Each cell is 84 square feet, contains a toilet with a separate tap, a food hatch which doubles as a table, and a bed made up of a cement block with a mattress on it. As already mentioned, the door is solid iron, with a small window which looks over to the gallery opposite. The prisoner can be observed at any time through an eyehole in the back of the cell. Each cell is identical to the next: there is no variation in design.

Outside each group of cells is a corridor which leads at one end to a workshop and to an exercise yard at the other. The yards are small, elevated and have high concrete walls on all sides. There are overhead bars, and one would have thought that escape was impossible. However, this has now been proved to be wrong, with a consequent tightening of security in the building.

Even before the prisoner Cox's escape, prisoners were complaining about spending insufficient time in the exercise yards. The situation has now worsened. Extra staff supervise all exercise in the yards. As a result, the prisoners now have their exercise only when the staff are available.

The workshops are also small. Each one contains a bench, five stools, a television set, and any other equipment which the prisoners manage to obtain for their education or recreation.

There is no natural light in the building. Only from the exercise yards can the prisoners see the sky, and then only through bars. The building is air-conditioned.

Clearly, one of the basic aims of Katingal's designers was to **eliminate** any possible physical contact between prisoners and officers. All doors in accommodation units are operated electronically, some from a control panel on the gallery, and others from the administration office. Food is provided through a hatch at the back of the cells, and the officers need only come into direct contact with prisoners if an emergency arises or if prisoners are taken outside their cell blocks. Whenever this happens, a minimum of three officers accompany each prisoner.

The administration of Katingal is largely supervised by the Management Committee. This comprises seven members, under the chairmanship of Mr Sanders. In addition, there are three official observers. The Committee meets monthly. Much of the time is devoted to interviewing prisoners. Generally, unless a prisoner asks to see the committee or there is some other special reason, the prisoners are interviewed every three months. The minutes of these meetings are invariably shown to the Commissioner. Mr McGeechan took an active interest in the running of Katingal, making numerous suggestions, comments and queries on the minutes.

Indeed, it was Mr McGeechan who decided which prisoners were to be transferred to Katingal. In this sense, he exercised ultimate control over the unit. In making his decisions, however, he normally acted on the advice of Mr Sanders.

It was therefore both surprising and disquieting to find a fundamental and irreconcilable conflict between the evidence of Mr Sanders and that of Mr McGeechan about the basis on which many prisoners have been transferred to Katingal.

Mr Sanders was emphatic that Katingal was not, and never had been, part of the segregation programme within the Department. He strongly denied that any prisoners had been placed in Katingal under Section 22 of the Prisons Act. That section provides that in certain circumstances, the Commissioner, or "the Superintendent" of a prison may segregate a prisoner from other prisoners. It imposes restrictions on the length of such segregation and on the extent to which a segregated prisoner can be deprived of privileges.

Mr Sanders' denial that Katingal was in any way connected with Section 22 was supported by a circular distributed by the Department in December, 1975, which stressed that Katingal was not part of the segregation programme.

Mr McGeechan, however, thought otherwise. He said that not every inmate of Katingal was there under section 22, as the section did not apply to prisoners in need of protection. However, those prisoners in Katingal as a result of their own misbehaviour in the prison system had been transferred under section 22. This is a matter on which one would have expected Mr McGeechan to have full knowledge, as section 22 provides that a prisoner shall not continue in segregation for more than three months without the Commissioner's direction or for more than six months without the Minister's sanction. At the time Mr McGeechan gave his evidence, many prisoners had been in Katingal for more than three and six months.

On prisoners in need of protection who do not fall within Section 22, Mr McGeechan said that he derived the power to transfer them through section 27 of the Act. This section merely empowers the Commissioner to order the removal of prisoners from one institution to another. It has nothing to do with segregation or with the deprivation of privileges.

Mr McGeechan conceded that prisoners in Katingal were deprived of privileges afforded to prisoners in other institutions.

If Mr McGeechan's version were correct, it revealed a strange and anomalous situation. Section 22 was clearly designed so that prisoners are protected from excessive retribution. Section 27 contains no such safeguards. Yet the prisoners who have misbehaved enter Katingal under the protective umbrella of section 22. Those in need of protection from other prisoners are deprived of any such rights.

When a new inmate arrives at Katingal, he is handed a document, "Information for Inmates". This gives essential information about how prisoners are expected to behave in given situations, and about the facilities and privileges available. These privileges depend to a large extent on which so-called programme a prisoner is in. There are three programmes at Katingal, and prisoners ideally progress from Programme One through to Programme Three.

Under Programme One, a prisoner is allowed less contact with his fellowinmates and fewer and shorter visits than a prisoner on Programme Two or Three. His reading matter is more restricted, and he has no newspaper or radio. As he progresses through to the pinnacle of achievement represented by Programme Three, he gains the right to have a wall drape and a bedspread in his cell (although the wall drapes have never been completed), he is issued with a parcel containing more Minties and potato chips, and he is allowed a daily newspaper.

It seems these "programmes" were devised on some crude Pavlovian theory. Inmates would respond to incentives by conforming to the discipline of the institution. Mr Sanders, however, conceded that many of the privileges conferred in Programmes Two and Three would not, in reality, constitute any effective incentive to conform. Indeed, he conceded that they were not really programmes at all, but merely provided a system of graduated amenities.

No other so-called programmes are available at Katingal. It is interesting to compare this reality with the statements made by Mr McGeechan in his Schedule T, the document written in 1970 or 1971. Among other claims, he said:

"The new installation is designed on the basis of flexibility with facilities for a variety of programmes and use."

"Programmes will be developed for small inmate groups to encourage inmate/staff inter-personal relationship involvements."

"There will be both short and long-term programmes."

"The programmes will be geared towards diagnosis and individual prediction." "The programme will have a work content; the work will be of a gainful and constructive nature."

In his evidence, Mr McGeechan explained the first of these statements by saying that there were architectural aspects of Katingal capable of variation. He said: "There is quite a remarkable range of flexibility there in programmes because of the nature of the building and the potential for alteration from time to time."

Even Mr Sanders was forced to disagree with this. He conceded that there was little flexibility in the "programmes" at Katingal, and that there was no potential at all for altering the building. Dr Lucas also commented on the extreme inflexibility in the design of the building.

As in most prisons, the mail to and from prisoners in Katingal is censored.

In addition, all incoming mail is photocopied: the copy is given to the prisoner, and the original retained by the administration. This is apparently motivated by a fear that the paper might be impregnated by drugs, presumably LSD. Several prisoners who gave evidence resented this, and considered that they should be allowed to receive

their original correspondence.

All visits to Katingal must be approved by the Commissioner. This is apparently a security measure, and on occasions he has refused permission for a visit. The facilities for visits are meagre. A visiting box-not unlike a phone booth-was originally provided, but this was deficient in that the sound equipment for transmitting the voices of prisoners and visitors through the dividing glass wall was ineffective. As a result, visits took place either at the entrance to the "secured" area, with prisoners and visitors standing on either side of a grille door, or in the conference

room.

Visits in the conference room are contact visits, although in the presence of an officer. Legal visits have been held in this room in the presence of officers. This is to enable the visit to be conducted in the sight of an officer as the rules require. But complaints have been made-which appear to be justified-that in those circumstances the visit could not proceed-as the rules also require-out of the hearing of

the officers present in the room.

Since the taking of the sound equipment in the visiting box has apparently been replaced, and the box is now also used for "legal visits". That box, however, does not comply with the requirements of Rule 236, which clearly contemplates legal visits proceeding in circumstances whereby documents can be passed between the prisoner and his legal advisers. This is impossible

in the Katingal visiting boxes.

Conversations in the visiting box are monitored, and facilities are available for tape-recording. The monitoring and possible taping of their conversations has given rise to complaints from some prisoners, who consider it to be an invasion of their privacy. Monitoring is in accordance with the Prison Regulation and the Commission has been assured that the taping facilities have not been used.

Visitors can enter

facilities, and visitors can enter Katingal only by appointment. This has also given rise to complaints from prisoners whose visitors have arrived without any prior appointment and been turned away.

Far from Katingal being flexible in design, its efficient operation has been severely impaired by inadequate facilities which the rigid structure of the building has not allowed to be rectified.

The cost of Katingal is enormous. It cost approximately \$1.5 million, a huge sum when it is considered that the building can house a maximum of only forty prisoners, a number rarely reached. In addition, its running costs are very high. Between March, 1976, and February, 1977, it cost \$86.35 a day to keep a prisoner

at Katingal, whereas the average daily cost per prisoner in other institutions

One of the main reasons for the high running cost is the very high ratio of officers to prisoners. With a prisoner to inmate ratio is 1: 1.35. Once again, this is considerably higher than the staff-inmate ratio in any other prison. of the large amount of electronic gadgetry in the building: one would have expected it to reduce the officers' work number of officers required.

Katingal thus continues to cost the State an enormous amount of money.

This makes all the more surprising and disturbing the Department's narrow and secretive approach towards the building planning stage. Had a more open approach been adopted, it is likely that the building would now be more humane and less expensive.

Favourable Aspects

There is no doubt that Katingal effectively isolates prisoners who are difficult to contain in the normal way who would otherwise be threatened. Whether it is the most effective way of treating them is another matter to be considered elsewhere. But, to this extent, it achieves the primary object for which Katingal was said to be designed. As mentioned in this chapter, the category of inmates has widened since the project was first conceived, and numerous prisoners are forced to endure the same stringent isolation.

Katingal is not the only means whereby the prison community can be protected from its predators. There are other ways which favour the dispersal system in which such prisoners are contained in one of a number of units dispersed throughout the prison. The reason why the dispersal system cannot be resumed in New South Wales and the Commission considers it to be impractical containing dangerous prisoners. This is discussed in more detail elsewhere in the Report.

It must also be said in Katingal's favour that, within the limits of a most impersonal and isolation-prone system, an attempt has been made to adopt a more humane approach towards inmates and their problems. Until recently, there was no talk about any physical violence on the part of any officer at Katingal. Many of the inmates came directly from Grafton: instead, they received a reasonable degree of courtesy and some helpful information. It is clear that the inmates are generally well-motivated, and attempts to discuss prisoners' problems with them in a constructive manner.

This is not to say that all such attempts are successful. Katingal is clearly not a place to which a prisoner with a high sense of individuality can easily adapt. A few such prisoners appeared before the Commission and gave evidence of problems arising from authoritarian attitudes on the part of officers, and personality clashes with members of the Management Committee.

Authoritarian attitudes are not confined to the officers. The present Superintendent, Mr Bowden, has disallowed uncensored letters addressed to the Royal Commissioner, presumably on the basis that a circular from Mr McGeechan permitted uncensored letters only if addressed to the Secretary of the Commission. The Superintendent has also disallowed uncensored letters addressed to the Deputy Ombudsman rather than the Ombudsman.

Nevertheless, the pressures on these prisoners to conform with the discipline of the establishment generally arise from a desire for advancement, rather than a fear of retribution. Katingal is undoubtedly an improvement on Grafton.

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Apart from the fundamental error of relying on "concentration" rather than "work content", Katingal is quite unsatisfactory as a penal institution in a number of

Some of these have already been mentioned. Many of them stem from lack of consultation or forward thinking during the planning stages. For example: there is no medical clinic; the visiting facilities are clearly inadequate; the exercise yards too small and allow insufficient exercise to prisoners; and there are no facilities for any working or industrial programme.

The lack of working facilities has led to some of the most trenchant criticism of Katingal. It must be remembered that Mr McGeechan referred in Schedule "T" to the "work content" of Katingal's programmes, at a time when he should have known that there was no space available to permit any organized working activity in the building. He also said in Schedule "T" that "by an overt demonstration of the extreme difficulty of a successful escape attempt the inmate's intellectual abilities can be successfully channelled into more gainful pursuits".

When asked during his evidence what "gainful pursuits" were then available, he only recalls that one prisoner was interested in music. Mr McGeechan might well remember that prisoner, for his request to be allowed a guitar in Katingal was refused by the Commissioner. The prisoner, who gave evidence before the Commission, was extremely upset about this: he said that his studies in musical theory were severely impaired at Katingal by the lack of a musical instrument.

Some prisoners at Katingal undertake educational courses, but the available courses are severely restricted by the nature of the institution: only courses which can be wholly completed by correspondence are available, and then only if they can be physically undertaken within the confines of the prisoner's cell and workroom.

Dr Houston considered that long-term incarceration of prisoners at Katingal would be detrimental to their mental health. He apparently defined long-term as any period over one year. He considered that the lack of any "constructive programme of work" was a highly damaging feature of the project.

A number of prisoners complained of boredom, listlessness and lack of purpose, all of which can be associated with the lack of any organized working activity. The absence of facilities to provide working activities constitutes such a substantial flaw in Katingal's operation that it is difficult to conceive how the Department could have accepted its design with such an obvious omission.

Considerable discussion about sensory deprivation took place during the latter stages of Katingal's construction. This was largely because of the design of the building: it has no external windows. Such a design, of course, leaves the inmates with no visual access to the world outside. Their world is contained within a very confined area, which is artificially lit and air-conditioned, and in which any moveable parts are electronically operated.

Mr McGeechan justified the lack of outlook for prisoners by saying that had outside windows been provided, security would have demanded a high concrete wall around the building, thus achieving much the same result. It is questionable, however, whether the result would be the same: merely to see the sky and weather changes must be important to prisoners who are otherwise deprived of almost all contact with the outside world.

On the question of sensory deprivation, he said that the sensory world of the prisoners was limited, but not significantly so. He was more concerned about the possible abuse of Katingal in the future than he was about its present use: the design of the building is such that a very high degree of solitary confinement is possible. He questioned what might happen if, for instance, terrorists were to be contained there. He said: "The temptations may be great to use the facility to its fullest and impose a very high degree of social isolation, which is damaging."

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In May, 1976, Dr Lucas wrote a paper, "Solitary Confinement: Isolation as Coercion to Conform". (Australian and New Zealand Journal of Criminology, September, 1976.) He made the point that solitary confinement can, in some circumstances, amount to torture. He referred to Katingal, and criticized the "very high degree of confinement and social isolation" to which its inmates were subjected.

Some prisoners, he said, felt a sense of confinement at Katingal, which could be damaging if continued for a long period, such as a year. In his evidence, however, he appeared reasonably satisfied that the administration was attempting to introduce some flexibility into the programmes.

Dr Lucas considered that the Prison Medical Service should be consulted before any prisoner was transferred to katingal, so that unsuitable people could be screened. In spite of his view that the present administration was trying to make the best of an inflexible and badly designed building, his last words about prisoners at Katingal were:

"They are deprived, compared to people in other parts of the prison system-you must not forget that."

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Mention has already been made of social isolation, a problem which is different from sensory deprivation, although frequently caused by similar conditions. Mr Sanders admitted that prisoners having limited contact with the outside world through visits might well suffer from social isolation. Inmates are isolated, not only from the general prison community, but from most other prisoners in Katingal. Each prisoner's associates are confined to the other prisoners sharing the same accommodation unit, a maximum of four. Mr Sanders conceded that some prisoners had shown symptoms of stress, and at least one prisoner complained to the Commission about the tensions which inevitably developed in such small groups with no outside contact.

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The prisoners had many other complaints, some of them serious and some fairly trivial. It is clear, however, that even apparently small complaints-that some officers were banging the food hatches, or that the opening and shutting of the electronic doors was excessively noisy-build up into major grievances to prisoners who are confined in the same physical surroundings, which the same daily routine, and with no immediate expectation of change.

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The effect of living in Katingal can best be described by someone who has endured it. One of the prisoners who gave evidence about Katingal said this in his statement:

"I think Katingal has affected me in the following ways:

- Boredom.
- Depression.
- Humiliation.
- Dulling of the mind.

The boredom is caused through the same routine every day with no variation seven days per week. I have nothing to look forward to and am confined to the same small area with the same few prisoners month after month. T.V. is inviting to pass the time, but soon drives me to boredom. Depression is caused through the type and amount of food and the consequential hunger, having to ask for anything I wish, no matter how trivial, knowing that most requests will not be met, that reports are continually made on me, my

reluctance to show emotion unless an officer or the Committee misinterprets it, the continual confinement, knowing that I am classified as being amongst the worst one per cent of prisoners in the State when I believe I am not the person I am made out to be . . .

Humiliation is caused through lack of privacy and the regimentation. There is no individuality and I may as well be a piece of machinery. I am not given a chance to do anything creative . . . I find it humiliating having to ask permission to do anything no matter how trivial. Dulling of the mind is caused through depression, boredom and humiliation. No fresh experience with people or places, no creative activity, too much television, being overly familiar with the attitude of prison officers and knowing that they have complete power over my existence."

It is clear that the cost of Katingal is too high in human terms. It was illconceived in the first place, was surrounded by secrecy and defensiveness at a time when public discussion should have been encouraged. Its inmates are now suffering the consequences. However well-motivated the Management Committee and the officers may now be, they cannot change the physical structure of the building. Nor can the possible future abuse of the building, such as feared by Dr Lucas, be discounted.

The Commission has already stressed that it favours the dispersal system for containing dangerous prisoners. It recommends that Katingal should be abandoned and the dispersal system adopted. It makes this recommendation with full knowledge of the substantial economic cost ensuing.

Katingal, which has been a highly expensive operation, will become obsolete as a penal institution if this recommendation is implemented. This is one of the prime objects of the recommendations: in the Commission's view the Katingal experiment has not been successful, and must now be abandoned, whatever the cost.

The use to which Katingal can be put, is a matter on which the Commission does not profess to have any expertise. However, it is probable that, with substantial architectural modifications and alterations, some use can be made of the building. The Commission recommends the immediate forming of a Committee with representatives of the medical and architectural professions, as well as members of the Public Service, to determine the most appropriate use.

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CHAPTER 9

GOULBURN: THE NEWLING ISSUE

In March, 1977, five prisoners from Goulburn Training Centre, some of whom had already given evidence about general conditions, made statements which, in general terms, accused Prison Officer Keith Frederick Newling of making homosexual advances to prisoners. The five prisoners gave evidence before the Commission on Friday, 18th March, about a week after making their statements. Subsequently, between 31st March and 15th April, four other prisoners, Newling himself and eighteen other prison officers, gave evidence.

The issue arose towards the end of the Commission's formal hearings, and was pursued on the insistence of Mr McAlary, Q.C., who was appearing, inter alia, for the custodial officers at Goulburn.

The evidence relating to these allegations extended over five full sitting days. It goes without saying that substantial resources were thus consumed in the examination of this issue. The Commission was engaged for a full week in taking evidence and the Department must have been put to considerable expense and inconvenience in undertaking its own investigation.

The statements of the original five prisoners were handed to representatives of the interested parties, including the Department, on Wednesday, 16th March. On Friday, 18th March, Mr Fisher, Q.C., on behalf of the Department, indicated that an inquiry had begun that morning at Goulburn to find out if there was any substance in the allegations.

This seemed a strange course. At that time, Newling and the five prisoners were in Sydney attending the Royal Commission and one was entitled to wonder how effective an inquiry at Goulburn could be in their absence. Nevertheless, the departmental inquiry continued, and its report, dated 28th March, 1977, was tendered. The Department's investigators concluded, without having interviewed four of the five original prisoners, that the allegations were probably unfounded, and that the five prisoners must therefore have conspired together to make them.

It is interesting to note that, although there have been many serious allegations made to the Commission about severe brutality and physical violence by a number of prison officers, the Department has not seen fit to react as quickly or as decisively as on this occasion. Presumably, in embarking on this inquiry, it shared Mr McAlary's view that these allegations were the most serious made to the Commission, as far as the individual's reputation and standing were concerned.

The Commission finds it difficult to share this view. In essence, the allegations against Newling were that he was over-familiar with a number of prisoners, and that he made specific homosexual advances to at least one. Although Newling's actions as a prison officer were in question, no injury was inflicted or harm suffered as a result. The same cannot be said about many of the violent beatings and sadistic actions alleged to have been perpetrated by a number of other prison officers.

At the time the allegations were made, Newling had been employed as a prison for about nine years. He had spent the whole of that time at Goulburn Training He was initially a custodial officer, but was later transferred to the industrial For the last three years, he had been second-in-charge of Tailor's Shop No.2.

immediate superior was Mr A. J. McTernan, Senior Overseer.

The allegations against Newling largely concerned his relationship with one Colin Clarke. Clarke had been working in Tailor Shop No. 2 for about nine apart from a relatively short period when he was at Long Bay for medical He was one of the five prisoners who initially gave statements to the Public about the allegations, and was the first to give evidence.

In his statement, Clarke alleged that Newling had frequently made suggestive ur~nts and remarks to him, and had told him that he loved him. He described one

when Newling had touched him on the penis. He later implied that this happened frequently, even claiming that the last time Newling had touched him only about five minutes before making his statement.

According to Clarke, Newling frequently blew him kisses, and constantly wrote to him-he estimated at least 100. He also stated that while showering, Newling "practically get in" with him, and would stand there looking at him.

Each of these allegations became the subject of considerable evidence before Commission, and will be discussed in detail. However, it is first appropriate to

the circumstances in which these five prisoners first made statements onthe allegations.

Clarke said that he was the last of the five to make a statement. This seems be supported by the other four. On the Thursday or Friday, 10th or 11th March, giving evidence, he was called out to see the Public Solicitor. He said he did know that the Public Solicitor would be there, and had not asked to see him. appeared that another prisoner, Harris, had been responsible for his being requested make a statement. When he arrived at the solicitor's room, the other four, Harris, Moskal McKenzie and Johannesen, were already there. They remained there while he made his statement.

Harris was the next prisoner to give evidence. He was an intelligent young man, with a higher level of education than most prisoners. He had previously made a statement but it had not mentioned Newling.

Harris said that he and three other prisoners, Moskal, McKenzie and Roberts, saw the Public Solicitor on the morning of Friday, 11th March. With the possible exception of McKenzie, who had already written his statement, they all made their statements at lunchtime. They were then handed to the Public Solicitor that afternoon. It was then that Clarke was called over and asked to make his statement.

There was considerable conflict about how and when the statements were obtained from these five prisoners. Moskal said that he had made his allegations to the Public Solicitor on a Thursday, when the solicitor had taken notes. The solicitor returned with a typed statement the next morning. McKenzie said that he had written his statement on a Wednesday, and handed it to the Public Solicitor on a Friday. Johannesen, who was not mentioned by Harris, said that he first made his statement to the Public Solicitor some weeks earlier. Roberts, who was mentioned by Harris, apparently made no statement at all at that time.

Harris was almost certainly the moving party in making the allegations. Clarke admitted that it was Harris who called to make his statement. Harris himself said that he had discussed, with other prisoners, Newling's allegations months before making the allegations.

Moskal admitted having discussed the matter with Harris before making his statement. He said that Harris made a statement about Mr Newling?"

Both McKenzie and Johannesen denied discussing the matter with Harris beforehand, but neither could explain the coincidence whereby they all happened to converge on the Public Solicitor at precisely the same time with a similar nature, none of which had been made before.

One of them, McKenzie, had made a complaint about Newling in a previous statement, on a matter with Newling's sexual proclivities. He was at a loss to explain why he did not include the allegations about Newling's statement.

Harris was shown to have a reason to dislike Newling. Harris had befriended a prisoner, Bruce Roberts, for a considerable amount of time in each other's company. It was an unlikely friendship, as Roberts was an unintelligent and outgoing. Nevertheless, it appeared to have been a genuine friendship, and Harris's evidence of a protective attitude towards Roberts.

In February, 1977, the month before the allegations were made, Newling sacked Roberts from the Tai Tam Prison. Some conflict about how this occurred: Some prisoners said that Newling deliberately contrived to provoke a conflict which became annoyed with him and abused him, as a result of which he was sacked. Newling denied this. One prisoner said that it was Harris who urged Roberts to be insolent to Newling. However, this seems unlikely, as the evidence shows that Newling was upset about the sacking of Roberts, and that his attitude towards Newling changed after this incident.

It is possible that Harris, having determined to revenge himself on Newling, arranged for these allegations to be made impossible to accept the proposition that each of these prisoners separately, spontaneously, and without any evidence, make allegations at precisely the same time.

The matter, however, does not end there. Even accepting that the motivation for making the accusations was to revenge, it does not mean the allegations had no substance. It is therefore necessary to examine the evidence. It is proposed to do this by examining the evidence of allegation, and to discuss both the supporting and the opposing evidence.

The Notes or Love Letters

The notes, or love letters, alleged to have been given by Newling to Clarke, became one of the central pieces of evidence. As Clarke was able to produce two notes, both capable of suggestive meanings, which he said Newling had given him, one of them bore the signature "Keith F. Newling, Esq." in

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handwriting which, on his behalf, that he had. However, the circumstances were very much in dispute.

Clarke said he received from Newling's Solicitor. He said he had signed one of the statements. He had asked him why he himself should sign it. He then signed the document, which became Exhibit SS.

handwriting which was unmistakably Newling's. It was never denied, on Newling's behalf, that he had typed these notes or that his signature was on one of them. However, the circumstances in which he typed the notes and signed his name were very much in dispute.

Clarke said that these were merely the latest in a series of notes he had received from Newling, but they were the only ones he still had when he saw the Public Solicitor. He said that neither note was signed when he received it, and that Newling had signed one of them only a few hours before he first saw the solicitor and made his statement. He denied that he had requested Newling to sign it. He said that Newling had asked him what he was going to do with the notes. Newling suggested that he himself should sign them, and that Clarke should keep them in a scrapbook. Newling then signed the note which Clarke had in his pocket. This and the other unsigned note became Exhibit 551.

Newling gave a different account of how the notes came to be typed. On 9th March, he brought the *Daily Telegraph* into the shop, as was his habit, and while he was reading the comics during the morning tea break, Clarke came past and asked him what his stars were. Having found out that Clarke was a Sagittarian, Newling read him the prediction for that day. Clarke then asked him to type it out for him. Later in the day, Newling did so, and handed the typed "note" to Clarke. The note read:

"The more responsive you are to loved ones, and the more sensitive you are to their needs, the happier this day will end. Be productive."

the last two words were typed in black. The words "Be productive" was this note which bore Newling's signature.

to Newling, a similar conversation took place the next morning. He again copied the prediction for Sagittarians from the *Daily Telegraph* the typed prediction to Clarke. This note read:

exceptional first meeting where personal attraction is concerned may leave emotionally exhausted by day's end. Don't go overboard."

the last words, "Don't go overboard", were typed in red. some support of this otherwise incredible explanation, Newling produced to the *Daily Telegraph* of 9th and 10th March. The astrological predictions for Sagittarians were identical with the notes contained in Exhibit 551. However, adequately to explain why he used red type for the final portion of each. Indeed, his general credibility was adversely affected when he said that the "productive" was typed in red to remind Clarke, who was not very productive that he should "get on with it". Later, in a different context, he described

average worker and a competent machinist. He was unable to provide explanation for the red typing on the second note.

Newling said these conversations with Clarke took place in the office at the end Tailor's Shop, in the presence of Mr McTernan. Mr McTernan said that he could not recall the conversations, although he would not deny they might have taken

It was unfortunate that Newling's version of these events was never put directly in cross-examination. All that he was asked was whether he was interested in the stars. His denial was most convincing.

On the signing of the first note, Newling said that the only paper he had ever signed for Clarke was handed to him the day after a number of photographs had been taken in the Tailor's Shop. Newling had appeared in most if not all of them. After the photographer had left, there was some poking between him and the prisoners about his being a "star". According to Newling's version, which was supported by some witnesses, but not by others, there was also joking about giving his autograph. The next day he said that three prisoners, including Clarke, approached him and asked for his autograph. This must have been on 9th or 10th March, as the Department has indicated that the photographs were taken on 8th or 9th March.

According to Newling, the paper which he signed for Clarke was blank.

Nevertheless, he admitted that the signature "Keith F. Newling, Esq." as it appeared on the note in Exhibit 551 was the one which he signed on this occasion. His explanation was that Clarke must have folded it over before handing it to him to conceal the typing on the top of the paper. He strenuously denied that he had knowingly signed

the astrological prediction.

Newling's story about Clarke getting his signature in this way was, to some extent, supported by the prisoner Van der Wegen. He said that he obtained Newling's signature the day after the photographs were taken, and he knew that Clarke also did, although he did not see Clarke's paper after it was signed. Nevertheless, Newling's version cannot be accepted. His demeanour while giving evidence was most unconvincing. In addition, it is clear from an examination of the note that it had never been folded over in a manner which would conceal the typing on the top and leave room

only for the signature on the bottom.

Although there were unsatisfactory aspects of Clarke's evidence, he appeared to be truthful when he denied any interest in the stars and when he denied having asked Newling to sign the note. Newling's evidence on the signing of the note cannot be accepted. In the light of Clarke's denials, his explanation about how it originally came into existence must also be rejected. The Commission has no hesitation in

accepting Clarke's version and rejecting Newling's.

The conclusion is that Newling typed these predictions and handed them to Clarke because of their suggestive content. There could be other reasons for his typing them, but, with other evidence, the probability is that this conclusion is correct.

The notes have been discussed in considerable detail because, in one sense, they were the pivot of the prisoners' allegations against Newling. They were the only pieces of objective evidence against which the credibility of the various witnesses could be assessed. If Newling's explanations had been accepted, then they would have clearly shown that the prisoners had embarked on a deliberate conspiracy to invent the allegations against him. However, a rejection of his explanations undoubtedly assists in the

inference that there was substance in the allegations.

It is impossible to know how many notes Newling gave to Clarke. Clarke said in his statement that he had received at least 100, but there is little doubt that he was exaggerating as he did about a number of other matters. Only two other prisoners said that they had seen notes which Newling had given to Clarke. One was Harris who said he had seen several; the other was Van der Wegen, who said he had seen two. One was typed in black and red, and the other was handwritten. It said: "Roses are red, violets are blue; beer turns me on and so do you."

It is clear that this poem, if it could be graced with that name, originated in a birthday card which Harris received from a girlfriend. Newling himself said that he had seen a large card containing this rhyme addressed to Harris in the Deputy Superintendent's office. He had subsequently joked about it to Harris. He denied that he had ever written it on a card and given it to Clarke.

Harris was not asked about this in cross-examination, but during his questioning by the departmental officers, he confirmed that he had received such a card for his 21st birthday. He said on that morning Newling had suggested that he look at the poem which Newling had just given to Clarke. Harris had read the rhyme, "Roses are red, violets are blue, beer turns me on and so do you". Later that day he had received his birthday card, and had recognized the same rhyme. He was upset about it because it indicated that Newling had been reading his mail.

The only other witness who mentioned the card was the prisoner Huntley. He gave evidence which was clearly intended to exonerate Newling of any unseemly motives in relation to this note, but which was inconsistent with much of the other evidence. He said that he saw Harris show Newling his birthday card. Newling was so enchanted with the rhyme that he copied it out himself to show it to Clarke. The Commission cannot accept Huntley's version of these events nor, for that matter, can it accept any other part of his evidence.

It is perhaps appropriate to make a general comment about Huntley's evidence. During earlier questioning by departmental officers, he had revealed himself as one of Newling's most outspoken accusers. By the time he gave his evidence before the Commission, he had totally switched allegiances. The whole of his evidence was designed to exonerate Newling and to provide evidence raised during evidence by other prisoners. While he was in the witness-box, he was constantly looking at Newling who, no doubt embarrassed by this, avoided his gaze. The Royal Commission has little doubt that some arrangement had been made for this volte face.

Huntley had no explanation for switching sides. He admitted that the statements he had made to the departmental officers were fabrications, and could only say he was telling the truth under oath. Even Mr McAlary, on behalf of the Prison Officers' Branch, submitted that Huntley could not be believed.

The significance of Huntley's evidence, however, is that such a dramatic switch in allegiances was quite possibly caused by some external pressure. It is difficult to envisage that anyone other than Newling himself would have had any motive to apply pressure on Huntley to change his story. This again raises grave suspicions on the

general merits of Newling's case.

Indecent Acts by Newling

The allegations about Newling's touching prisoners fell into two categories: Those which were unambiguously homosexual, such as rubbing or touching a prisoner's penis; and those which were merely suggestive of homosexual tendencies, such as putting his arm around a prisoner, or pinching or patting his bottom.

Most of the evidence on the allegations that he used to touch prisoners in an unambiguously homosexual manner concerned his association with Clarke, who was generally considered by the prisoners in the Tailor's Shop to be Newling's favourite. Even Huntley conceded that Newling was attracted to Clarke's personality. Newling admitted that he sometimes had favourites among the prisoners, but denied that Clarke

was one of them. However, there is little doubt that Newling must have spent considerable time with Clarke. Even if he had been forced to warn Newling not to become too familiar with prisoners, and that he was talking and joking with Clarke.

Clarke's evidence about Newling touching him on the penis tended to become more exaggerated as it progressed. He said that virtually every day since he had been in Tailor's Shop No.2, Newling had "mauled" him, rubbing his hands between his legs, and sometimes undoing his pants. The undoing of his pants had not been mentioned in his statement. He said that Newling used to fondle him quite openly, in front of both prisoners and officers.

Harris also said that he had seen Newling rub Clarke around the penis. He said that Newling did this openly in front of prisoners, but not in front of officers. However, he affirmed that both Mr McTernan and Mr Moran, the Principal Prison Officer, knew about it. The prisoner Johannesen gave evidence that he once looked through the window into the Tailor's Shop, and saw Newling and Clarke in a position which appeared to be one of mutual masturbation. McKenzie said he twice saw Newling rub the inside of Clarke's legs.

Van der Wegen said that he once saw Newling leaning down over Clarke while Clarke was sitting at his machine. Newling had one hand on Clarke's back, and was apparently touching Clarke's private parts with the other. However, he later admitted that he could not see the other hand, and it was possible that Newling was only touching the garment which Clarke had been working on.

This would have been sufficient to defuse this allegation, but one's suspicions about it were immediately re-aroused when Huntley subsequently referred to it in a way which was clearly intended to exonerate Newling.

He said that he once saw Newling come up to Clarke, who was sitting at his machine. Newling put his hand on Clarke's back, looked at the garment which Clarke was working on, and told him what a good job he was doing. One wonders why Huntley would bother to volunteer this totally innocent and unmemorable incident unless he had been asked to corroborate Newling's denial that he had ever leaned over Clarke and touched him on the penis.

The only other prisoner who said that he had seen Newling touch Clarke's private parts was Roberts. He said that on three occasions he saw Newling touch Clarke "on the fly". There were various inconsistencies in Roberts' evidence on this and other matters. He was of well below average intelligence, and no real weight could be attached to this allegation.

It goes without saying that Newling denied all these allegations. In support of his denial, he called eighteen prison officers, including Mr McTernan and Mr Moran. Each of them denied ever having seen Newling approach a prisoner in an improper or indecent manner.

It became clear during this evidence that the Deputy Superintendent and other senior officers in the gaol frequently visited and inspected Tailor Shop No. 2 on a random basis. There was also evidence that because of the noise of sewing machines, their approach could not be heard inside the shop. It would thus appear unlikely that

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would be foolhardy enough to carry on in the manner or with the frequency by Clarke. On the other hand, the weight of the various officers' evidence is considerably reduced by their denials that they had ever seen Newling touching in a way which Newling himself admitted to during his evidence.

There is little doubt that Clarke's evidence on this point was greatly exaggerated. If his account had been correct, one would have expected all the prisoners, and at least of the officers, to have seen Newling fondle him. The fact that a number of did not mention any such fondling substantially reduces the weight of his assertions. Nevertheless, it is difficult to discount all the evidence and, on the Commission's view, it is probable that Newling did, on occasions, touch Clarke in the way he described.

Such a tentative finding as this would not, in itself, constitute sufficient basis for a general conclusion adverse to Newling.

In addition to the allegations about Newling and Clarke, accusations were also made by McKenzie and Roberts about Newling's relationship with prisoners who were not identified or had not been mentioned by any other witness. These allegations are either too general or insufficiently corroborated to take further. The only other allegation about Newling touching a prisoner's penis was made by Johannesen. He said that Newling sometimes searched him during the muster between the mess hall and the Tailor's Shop. About twenty times, Newling patted him on the bottom while searching him and said: "You're right". Once, Newling grabbed a prisoner by the penis. The prisoner pushed him away and abused him. Johannesen was questioned further about this, and said that it had happened at a muster the previous year. Three other officers attended the muster, all of them standing at the end of the row of prisoners. One of them was named Doherty, but he could not identify the others. It was said that the officers frequently talked to each other during the muster, and would not have noticed what was happening.

Newling denied this incident, and called Doherty and each of the other officers who might have been present. Each denied that such an incident could have occurred. However, the weight of their denials was, to some extent, reduced in cross-examination. One admitted that he would not have been able to see such an incident at the back of the row of prisoners; another admitted that the officers talked between themselves during the muster, although he denied that they chatted.

It is difficult to believe that Newling would have been foolish enough to make a blatantly homosexual approach in such a setting. The Commission is not satisfied that this incident, as described by Johannesen, occurred.

Many allegations were made about Newling touching prisoners in an affectionate or suggestive manner. It is not necessary to go into them in any detail, as Newling himself admitted the truth of many of them. He admitted placing his arm on prisoners' shoulders while helping them with their work; he admitted rubbing his hand up and down prisoners' backs, and even to pinching a prisoner on the bottom. He said that he could see no harm in this. He denied that he had touched Clarke more frequently than he would have touched any other prisoner. However, this is difficult to accept in view of the prisoners' consistent allegations that he spent considerably more time with Clarke, talking to him, joking with him and touching him, than he did with others.

These admissions by Newling were highly significant for two main reasons.

said that such action would constitute a breach of the regulations.

Not one of the officers was prepared to admit that they had ever seen any of these admitted as Newling and a prisoner. Even Mr McTernan, who was in the Tailor's Shop almost the entire time that Newling never seen any physical contact between Newling and a prisoner. This strains one's credulity, and leads to that either the officers were not telling the entire truth about what they saw between Newling and the prisoners, supervision was much more lax than they were prepared to admit. Whichever was the case, it substantiates the evidence called on Newling's behalf.

Blowing Kisses to Prisoners

Three prisoners-Clarke, Kooistra and Roberts-said they had seen Newling blowing kisses, mainly to the prisoners, never having blown kisses to anybody. However, the evidence of these prisoners on this aspect impressed the fact that Newling's admitted familiarity and intimacy with a number of prisoners, it is not difficult to imagine this as Newling's Behaviour in the Showers

Clarke complained in his statement that when Newling supervised his showering he "practically get Newling would stare at him, asking him to stand in different ways, and make suggestive remarks to him, strangely enough, by Huntley, who had previously told the departmental officers that he had moved away from Clarke's because he was embarrassed at the way Newling would stare at Clarke while he was showering. The Commission, Huntley admitted changing cubicles, but denied that this was due to any embarrassment caused

The only other complaint about Newling's behaviour in the showers came from Johannesen. He said that Newling came over while he was showering and stood staring at him. Johannesen turned and faced the wall, but Johannesen had not returned to those showers, but had showered in X-wing, under the supervision of other officers

Newling, in substance, admitted Johannesen's allegation, but explained it this way: He said that Johannesen was pointing his penis at the prisoner in the adjoining cubicle. Newling walked up to Johannesen so that he was seen. He did not report him, and apparently did not even speak to him. That was the last time Johannesen was under Newling's supervision.

Much evidence was adduced on Newling's behalf about the way he supervised the prisoners' showering, showing an inconsistency between the various prison officers about the normal method of supervising the showers. Some officers usually stood outside the door of the shower block, others said he stood inside it. Others said that he stood down between the cubicles. However, they all agreed that Newling did nothing out of the ordinary while supervising the showers. Nor did any of the other prisoners have any complaints about his supervision.

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Nevertheless, something did occur which deterred Johannesen from returning showers under Newling's supervision. It is difficult to imagine that the incident

by Newling would have had this effect. Nor is Newling's explanation a -aug one. If Johannesen was indeed misbehaving, why didn't Newling report

« at least reprimand him at the time?

The Commission accepts Johannesen's version and rejects that of Newling. It is little doubt that Clarke's allegations were grossly exaggerated, as were most accusations against Newling. Nevertheless, they cannot entirely be discounted, particularly in view of Huntley's statements to the departmental officers, which he was to refute in his evidence before the Commission. Mr Irliog's Discussions with prisoners

There was a distinct shift in Newling's case about the extent to which officers ~d matters of a personal or sexual nature with prisoners. In his cross-examination

Mr McAlary, on Newling's behalf, suggested that there were frequent discussions between officers and prisoners of a sexual nature. Every prison officer who asked about this denied that he had ever heard prisoners talking to officers about matters. They also expressed disapproval of such familiarity between officers and

This clearly placed Newling in a difficult position. On the one hand, it had clear from much of the prisoners' evidence that he had told them a considerable amount about his private life. On the other hand, it was put to him that, as a prison officer he should not have sexual discussions with prisoners. He took what must have been the easy way out, and denied that he had ever had such discussions. He himself as a person who, when forced into a difficult situation, would attempt

to communicate himself by telling a lie.

Many facets of his private life mentioned by the prisoners (which were admitted Newling to be correct) could have been learned only from Newling himself, the inference being that he spent considerable time discussing matters of a personal nature.

He also told Harris that he was bi-sexual, but said in his evidence that he had understood bi-sexual to denote a person who enjoyed the companionship of both sexes. He maintained that he had not appreciated its true meaning until after the allegations were made against him.

On Newling's behalf, it should be added that he did not always have a correct understanding of words. For example, he maintained he did not really know what the phrase "set-up" meant, nor the slang word "cockatoo". The Commission finds it difficult to accept his professed ignorance of the meaning of bi-sexual; but if this were the only piece of evidence, it would not be prepared to draw a firm conclusion against him because of his admission to Harris that he was bi-sexual. The evidence is not confined to this admission.

The allegations discussed constituted the main complaints of a sexual nature made by the prisoners against Newling. There were, in addition, certain allegations of violence, particularly towards Harris. It is not proposed to discuss them here. They are largely irrelevant to the main complaints against Newling, and in any case, it is

Chapter 10

MILSON ISLAND PLACE OF DETENTION

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MILSON ISLAND PLACE OF DETENTION

Milson Island Place of Detention is on an island in the middle of the Hawkesbury River about two kilometres upstream from Brooklyn, on the outskirts of Sydney's suburban area. It is an open security establishment with about 120 inmates. It was, perhaps, the unusual location of the prison which led to wide publicity being given to allegations against Superintendent Bradley by Prison Officer Ristau. These allegations were made at the hearings of the Royal Commission in late 1976.

It could also be assumed that it was this publicity which resulted in the Department setting up its own Committee of Inquiry into the allegations made by Mr Ristau. The most serious of his allegations were that the Superintendent had:

- been inconsistent in his conduct toward staff and inmates;
- given instructions that prisoners go to the mainland to strip abandoned cars to provide spare parts for vehicles on the island;
- allowed a prisoner, Kenneth Markham, to handle and fire an air rifle;
- used Kenneth Markham as a drink waiter at a party;
- allowed Kenneth Markham to drive vehicles on the island and act as his chauffeur;
- breached Rule 71 by being absent from duty at the same time as his deputy.

The Committee of Inquiry concluded, in general, that there was merely a personality clash between the Superintendent and Ristau. This may have been so, but that is not an answer to the allegations made. Ristau, when giving evidence before the Commission, appeared to be trying to tell the truth, although undoubtedly he was biased against Mr Bradley and certain aspects of the Department's administration.

There was also a noticeable failure by Bradley or any other prison officer to appear before the Commission to refute the allegations. These people were invited to give evidence, but did not attend. Superintendent Bradley was represented by Counsel who, in response to an inquiry, stated that he did not intend to call Mr Bradley to give evidence.

To take the allegations one by one: On the claim that Bradley was inconsistent in his treatment of prisoners, Ristau said that a prisoner who acted as a medical orderly on the island, Steven Nittes, received preferential treatment by being given a refrigerator and a griller for his own use. These items are not allowed in a prisoner's possession. Grillers are allowed only in the cookhouse. Mr Ristau also indicated that Deputy Superintendent Cullen had disagreed with Bradley's action.

The Committee of Inquiry acknowledged that Nittes had been allowed to use these items. It also mentioned that Bradley had allocated to Nittes a separate dwelling, containing a spare bed which could be used for overnight observation of sick prisoners. It did not appear to object to these actions.

Commission considers that these actions could create an unfortunate
MEDIA COMMUNICATIONS The Committee of Inquiry did consider, however, that Bradley had shown poor judgment in sending a prison officer and prisoners to the mainland to strip abandoned cars to provide parts for vehicles on the island. Apparently, Bradley did consult some local authorities and they had no objection. According to the Committee, no rule was breached or law broken. This seems an overconfident conclusion.

On the allegation regarding the air rifle, Ristau said under cross-examination **ibat** the prisoner Kenneth Markham had been allowed to fire the rifle while Bradley looked on. Ristau said that somebody had shouted at Markham to stop firing the rifle, **but** Bradley had said: "Let him go . . . they're eating my pigeon food."

The Committee did not appear to object to this. It quoted Bradley's statement to the Committee: "I have, when on rostered leave, sat at a table on the back verandah and consumed a quantity of ale. On such an occasion, Markham has been working nearby in the garden. He offered to clean an air rifle for me. When completed, he was sighting the empty rifle at nearby trees and buildings, adjusting the sights. At no time would I allow the wildlife to be destroyed as I realize the island is a protected haven."

The Committee's findings indicate that other witnesses had seen Markham with an air rifle, but they were unable to support allegations that he was shooting birds.

Irrespective of whether Markham fired the rifle, it was, to say the least, irresponsible for Bradley to allow it to be in his possession.

Markham also featured in other allegations mainly directed at preferential treatment of prisoners. Markham acted as a drink waiter at a 21st birthday party on the island for Bradley's son. Bradley told the Committee that he had "availed himself of Markham's services as he had told me he had completed the department's drink waiter course". Markham had not, however, been allowed to drink any alcohol.

Ristau was not at the party. He alleged, however, that he had seen Markham going back to his quarters and that Markham acted as though he were under the influence of liquor.

The use of Markham in this way was irresponsible enough, but far more serious consequences flowed from the party. Ristau alleged that during the night, revellers had sailed a departmental boat up and down the river "yelling, screaming and yahooing". The Committee found no evidence of this and was satisfied that the departmental vessel had been used only to ferry guests to the island.

It did confirm that two prisoners had escaped during the night.

To say the least, it was imprudent of the Superintendent to conduct such a party. The use of the departmental boat was improper. Much stronger words might be used about the escape of the prisoners.

Ristau also alleged that Bradley had allowed Markham to drive a Holden panel van on the island and that he had used Markham as a chauffeur.

The Committee found this allegation to have substance and indicated that some officers had resented Mr Bradley giving Markham permission to drive vehicles, which they saw as another sign of preferential treatment.

It is also apparent from Ristau's evidence before the Royal Commission and the Committee's findings, that Mr Bradley, on at least one occasion, breached Rule 71 by being absent from duty at the same time as the Deputy Superintendent.

Ristau claimed that Bradley had been absent in this way on at least three occasions. This was not substantiated, but Bradley did admit to the Committee that he had been absent once when his deputy was off duty and that Ristau had been left in charge of 120 prisoners.

It was also evident that Bradley lied to the Committee when he said he was the only one on a departmental boat which was damaged when it was incorrectly moored at Brooklyn. In fact, it appears he was accompanied by Deputy Superintendent Cullen and First Class Prison Officer Bangs on a journey to the Brooklyn Hotel.

Although Ristau's evidence before the Royal Commission was never corroborated, Bradley and other officers had every opportunity to appear. For this reason, the Committee's report has been extensively quoted, although its inquiry appears to have been perfunctory.

The Committee, however, made a number of recommendations aimed mainly at tightening administrative and medical procedures on the island. The Department's response was typical. It ignored these recommendations. Bradley and Ristau were transferred to other jobs off the island.

The findings relating to Milson Island are of much less significance than many others but, the matter having been brought to the attention of the Commission, it has been dealt with.

Chapter 11

THE DEPARTM ENT AND THE COMMISSI ONER

CHAPTER 11

THE DEPARTMENT AND THE COMMISSIONER

"Q. . . . Do you agree that in your reports to the Minister and your own opinion and conclusions about witnesses, they are divided roughly into two categories: the allies and the adversaries?--Yes, I would imagine I would have moved to that natural position.

And would you agree that in relation to the adversaries you, consciously or unconsciously, were out to discredit any of them that made allegations? --No, I would not agree with that."

Witness: Mr McGeechan.

"It is clear that they are wicked, untrue allegations which seem to be clearly designed to create disorder, incite unrest and undermine authority within the prison service."

Report by Mr McGeechan to his Minister on one of "the adversaries" . . .

What Constitutes the Department?

To Mr McGeechan, what and who constituted the Department depended at any time on the circumstances. When it was criticized by an officer of the Public Service Association, Prison Officers' Vocational Branch, over the events in Bathurst in October, 1970, Mr McGeechan was quick to remind his subordinate that his criticism of "the Department" must be directed, in part, towards the officer himself:

"In future, when ever you refer to the Department you will refer to 'we' because you and I and everybody are all part of the Department Therefore, do not say 'the Department', say 'we'."

But when the question related to "the Department's" knowledge of the brutal regime that had existed for many years at Grafton, the argument was that officers and superintendents and departmental officers might have known, but because the Commissioner of Corrective Services did not know of these events no blame could be attached to "the Department".

Granted that the Department has no legal identity, it is nevertheless readily identifiable. It is into the Department that the Royal Commission has been commanded to inquire and it is the Department, not just Mr McGeechan and its present administrators, which was represented before it. During the Commission's proceedings, the prison officers and superintendents were separately represented from "the Department", and it seemed clear that Counsel appearing for the Department were appearing for administrators and administrative staff, both present and past.

Leadership: Necessary but Lacking

Mr McGeechan agreed in his cross-examination that in his position it was essential to "give leadership". However, he felt himself unable to assent to the proposition that it is impossible to exert a significant influence as a leader when those being led "don't trust you and don't believe you". Unfortunately, the Royal Commission

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has been forced to the conclusion that, at times, proper leadership was not forthcoming from Mr McGeechan himself nor from others in the higher echelons of the Department. All too frequently, the ordinary prison officer did not trust or believe in his leaders.

Lack of Custodial Experience Among Top Administrators

To some extent, this situation was due to the dearth of custodial experience among the leaders themselves, which made it hard for them to appreciate the stressful working conditions of the custodial officers. The Commission would not wish to suggest that the highest positions in the Department of Corrective Services should be reserved only for prison officers who have come up through the ranks. Later, in this Report, it is recommended that, in particular circumstances, there should be outside recruitment of officers to fill the rank of assistant superintendent. This position and those above it require administrative skills of a high order, not always to be found among the general body of custodial staff. But it is also essential that such skills must be accompanied by a thorough knowledge of prisons and prisoners gained at least in part from practical experience.

Most senior officers shown in Schedule A, an organizational chart attached to Mr McGeechan's initial statement, had little, if any, custodial experience. Mr McGeechan himself thought that most of the senior officers had come into the service from outside.

Some had gained experience as probation and parole officers, but one wonders whether a gentleman who has spent the greater portion of his life as a member of a religious community-in fact twenty-eight - years-with qualifications in "theology and biblical science" is the most suitable person to occupy one of the Department's most difficult appointments, the Directorship of Special Security Units.

Having regard to the difficulties existing at the time of his recruitment as a Probation and Parole Officer, Mr Sander's recruitment from outside is understandable. But it is inconceivable that after some nine months spent in that service at the Parramatta offices of the Probation and Parole Service "to supervise parolees and to counsel and prepare pre-release reports for recidivist prisoners in Parramatta Gaol" he would have gained sufficient knowledge and experience to design and implement "new or revised staff training and development programmes for custodial, probation and parole administrators and clerical officers". Although not claiming the "theological and biblical" skills of the officer mentioned above, Mr McGeechan, when appointed Deputy Comptroller General, and shortly after Comptroller General, at least had had some experience in prison work: he had spent upwards of two years as the Department's Supervisor of Industries.

It appears that the absence of a substantial body of custodial experience in the top levels of the Department contributed to the great gap that obviously existed between the Head Office of the Department and line staff who work in immediate contact with prisoners.

Failure to Ensure that Department Directives are Followed

If the Department issues directives, then it has a primary responsibility to see that they are followed. Throughout the evidence heard by the Royal Commission, there were many examples of instructions and orders given by Head Office which were never enforced.

One alarming example of a directive that was never implemented concerned preparations for riot control. The subject in the Manual of General Information, Custodial Division, and concludes with these words:

"Each institution must maintain a comprehensive and objectively written riot plan which is clearly understood by all administrative and security personnel."

Insistence on the adoption of a riot plan by all gaols is undoubtedly warranted. The American Commission disturbance at Attica stressed the need for a proper riot control plan, as have most recent inquiries into prison riots.

During its tour of gaols in Britain, the Royal Commission was impressed by the universal emphasis on riot institutions, a proper command post was permanently set up. At the outbreak of any serious trouble, the Governor immediately to the command post and take charge of the situation, assisted by closed circuit television monitors communications. Even with these electronic aids, a comprehensive, clearly set out and regularly rehearsed plan central importance.

At the time of the Commission's hearings, there was no riot plan in any New South Wales prison.

A series of questions about this was put to Mr McGeechan. At the outset, he realized the significance of the most charitable view of his answers, he obviously prevaricated. At first he claimed to be "against a riot control plan". In findings of Attica, he continued to support his own opposing view because of the difference between prisons in the States. Mr McGeechan was faced with a dilemma. To maintain his obviously untenable position would imply the Custodial Manual were useless. To capitulate would not only mean loss of face, but would be tantamount to departmental imperatives could be ignored. Mr McGeechan hedged:

"Individual superintendents would have followed my advice and given thought to what they would do in a very large number of situations."

Although he volunteered that he had "given consideration to this problem that we are dealing with in great detail, he revealed that he did not have the faintest idea whether any institution had done anything to achieve what one might expect in the necessities of adopting a comprehensive riot plan. His final admission, although dilatory, was at least frank:

"Q. If you were doing your job, you would have checked and ensured there was a proper riot control plan?--Yes, sir. Perhaps in this context, one can understand, but not excuse, Assistant Commissioner Day's answers about Cessnock charge. The Department's counsel questioned him about the value of a riot control plan at that centre. He answered "I feel it would serve no purpose at all because of the comparatively small number of officers on duty at an perimeter security."

When the Commission pressed the matter, he replied:

"It is difficult for me to concede a riot occurring in Cessnock in the present circumstances." and added that he felt he would have advanced knowledge of any disturbance. Mr Day was obviously entitled to his view and should not have been allowed to influence his response to the clear directions from Head Office. No exception was made for Cessnock or any other establishment.

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It is not suggested that the Head Office staff should have knowledge of every minute happening in the gaols. However, it is alarming that, in a matter as important this undoubtedly was, the Department had no knowledge of the fact or did not see that everyone of its institutions in New South Wales had treated the Department's official instructions in the Manual of General Information, Custodial Division, 1970, so much waste paper. But the promulgation of instructions and the laying down guidelines without checking to see if they were being followed was, and is, symptomatic of the workings of the Department.
The Department's Responsibility to the Public

In the Overview, prisons were described as belonging to the people. The public are entitled to know what is taking place within the precincts of the prisons and how they are being administered.

The questions of prisons and the treatment of prisoners is an emotive one and is not always presented to the public in a fair and realistic manner. This is not always the Department's fault and it is pointless to inquire into the public's morbid but deliberately limited interest in prisons and prisoners. It is for that reason the Department has a responsibility to enlighten the public as far as it is able.

When questioned about this, Mr McGeechan spoke strongly of the need to keep the public fully informed of his Department's activities. This statement, like so many others, is a good example of the Department's attitude towards the public.

Mr McGeechan before the Royal Commission was hardly served by the Department's policy of excluding potential visitors from the prisons. The list of prohibited visitors members of Parliament, members of the legal profession, prison administrators officers from sister States and reputable private citizens. In addition, there was, in effect, an almost absolute bar on the media.

In the ultimate, the final arbiter of the conditions under which people are to lie imprisoned is the public itself. This principle is well expressed in de Beaumont de Toqueville's commentary on the United States penitentiary system, still regarded a seminal work even though it was written in the mid-19th century:

"We have seen how the superintendents, however elevated their character and position may be, are subject to the control of a superior authority—the inspectors of the penitentiary. But above both, there is an authority stronger than all others, not written in the laws, but all powerful in a free country; that of public opinion."

It is inexcusable that throughout the years under examination by the Commission, the Department and its Head have adopted an almost obsessively secretive attitude toward the Department's activities.

The Royal Commission cannot accept that the more objectionable practices of the Department, revealed in the evidence, would have been tolerated by an informed public. In fact, the Commission is forced to accept the conclusion of one final submission that:

"The Department has shown an ability to use opinion leaders and the media to protect itself from criticism but not to alter public opinion of prisons and prisoners in a progressive way."

Legal Responsibilities Ignored

MEDIA COMMUNICATIONS

Section 48c of the Prisons Act provides that the Commissioner shall, "as soon as practicable after the 30th day of June in each year, cause a report giving information as to the operation of the Department of Corrective Services during the year. . . to be prepared and forwarded to the Minister for presentation to Parliament."

Mr McGeechan stated in evidence that throughout the time he had been Head of the Department since 1968-"there has been gross overcrowding in the prisons." Since the high pressure of numbers and the resultant strain and tensions among inmates and officers leads to a grave situation, Mr McGeechan felt that he would "undoubtedly have drawn attention to it in his Annual Report to Parliament".

The Annual Reports, for the years ending June, 1972, and June, 1974, were shown to Mr McGeechan and he was obliged to agree that in neither was there a specific reference to "gross overcrowding" in the prisons. Mr McGeechan tried to excuse this oversight:

"My understanding would have been that the Minister would have been aware of it because of discussion, and perhaps I did not stress it with sufficient vigour."

When his attention was drawn to the fact that his responsibility for reporting to Parliament and the community could hardly be discharged by informal discussions with the Minister, he volunteered for suggestion that he had been in "disciplinary difficulties" for referring in public to the serious state of overcrowding. Needless to say, these occasions were not particularized.

As a last resort, Mr McGeechan said that he had omitted this important matter from his Annual Report to Parliament because he thought that to have included it would have been neither "gainful" nor "fruitful". Apparently he considered that "the less said the better" about this and other problems facing the Department. Reference to overcrowding was finally made in the first report presented after Mr McGeechan's questioning before the Royal Commission.

Another illustration of the same phenomenon is Mr McGeechan's account of the morale of his officers. In his evidence, he described it as a low throughout his time as Commissioner. So low as to cause serious concern. However, in the reports of June, 1971, and June, 1972, morale was not mentioned. In the report of June, 1973, it was described as reasonable. The report for 1974 said that staff morale had "ebbed and flowed" in the previous year, but concluded that "during these troubled times, staff discipline, morale and esprit de corps reached its peak in response to the challenge of maintaining law and order and safeguarding the community at large." Moreover, for the year ended June, 1975, staff morale was reported as healthy.

Generally, it is fair to observe that from these reports alone it is well nigh impossible to get accurate information. If they were accepted at face value, the euphoric tone of the Department's yearly publications would lead the reader to conclude that in the N.S.W. prison system everything was for the best in the best of all possible worlds.

Elsewhere in this Report, attention is directed to the conclusion reached by the Royal Commission that there were occasions when Mr McGeechan did not fully inform his Minister about important developments within his Department. On the basis of the information conveyed to him, the Minister would not have been able to report accurately to Parliament nor would he have been able to exercise properly his direction of Mr McGeechan as provided by Section 7 of the Prisons Act.

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Failure to Enforce

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A glaring example of this was Mr McGeechan's failure to communicate fully to the then Minister of Justice, Mr Maddison, the findings of the Department's legal officer on the Bathurst 1970 allegations. In other words Mr Quinn: "a prima facie case exists against Prison Officers generally" . This important statement of opinion was never quoted in any of Mr McGeechan's reports to his Minister. Instead, Mr McGeechan used extracts such as the following to convey to Mr Maddison the impact of Mr Quinn's findings:

"It seems the prisoner is making a mistake as to the time when the assault upon him took place or mistaking officer/s concerned or is publishing a document which contains some fact and deliberate and extensive exaggeration."

Failure to Enforce Rules and Regulations

Equally serious to the Department's failure to report is the Department's failure to observe the requirements of the law by uniform enforcement of the Rules made pursuant to the Prisons Act. These Rules, formulated by the Commissioner and approved by the Minister, provide the code which governs the Department and its officers in exercising their authority over prison inmates. For this reason, the Royal Commission was surprised that Mr McGeechan should state, somewhat baldly, that he felt the lawfully made Regulations did not bind him. Possibly this general comment was meant to apply only to Regulation 10 which concerns the classification of prisoners but beyond mere legal quibblings it is extraordinary that such a statement should have been made by a senior public servant engaged as the head of a law enforcement authority in this State.

In most civilized societies, the right of an individual to liberty is generally regarded as a matter of fundamental importance. If a democratic society chooses, according to law, to deprive one of its members of liberty, then that deprivation too should be regulated by the law. The regulations may be regarded as outmoded, but if this is so they should be changed, not ignored.

A transgression of the law by those placed by society in charge of a prisoner can hardly fail to further the prisoner's disrespect for the rules of the society which has imprisoned him, as observed in the National Advisory Commission on Criminal Justice, Standards and Gaols-Corrections (p. 556):

"A major factor in the oppressiveness of correctional institutions and other correctional processes is the unchecked power Government exercises over individuals committed to its custody. Constitutional standards embodying the principle that Government efficiency is not of a higher order than individual freedom have been flaunted, intentionally or misguidedly. Correctional efforts are undermined if an offender has not been, or does not believe he has been, treated fairly and equitably. Hostility is generated against not only the correctional agency, but the 'system', including the society to which the offender inevitably returns."²

No Uniform Prison Rules

The same body also commented:

"A source of severe dissatisfaction with the correction system is the belief widely held among offenders that the system charged with instilling respect for law punishes arbitrarily and unfairly.

Not only do such practices contribute to problems in managing offenders but they also violate one of the most basic concepts of due process. Advance notice of what behaviour is expected must be given so that the prisoner being controlled may avoid sanctions for misbehaviour. Failure to be specific will result in legal challenge on grounds of vagueness.

Codes of offender conduct are notorious for their inclusiveness and ambiguity and as a source of dissatisfaction.¹

The evidence before the Royal Commission supports this view. Prisoners must have full knowledge of the rules that bind them, but in New South Wales, rules vary among correctional institutions and prisoners are not routinely made acquainted with local rules when they arrive at a new establishment. Without verbal briefing or access to written versions of the rules, the prisoner is in a poor position to understand his rights and obligations within the prison.

Of itself, this would have created an unhappy situation, but Mr McGeechan readily conceded that from 1970 onwards two separate sets of rules have been in existence. The first set is found in a document entitled "Manual for Staff Instruction and Guidance" (Exhibit 6). It is dated July, 1956. In 1970, the "Manual of General Information, Custodial Division" (Exhibit 4) was issued, containing a set of rules varying in many important respects from the first. Mr McGeechan expressed no surprise that some of the 1956 rules were still being enforced in some New South Wales prisons.

The Royal Commission, on the other hand, was surprised to learn that Mr McGeechan, who had been responsible for the introduction of the 1970 rules, had not taken any steps, nor did he know of any that had been taken, for the new rules to supersede the old. He admitted that the 1956 rules left a lot to be desired in this modern day and age, yet he had not ensured that the earlier set was officially withdrawn.

For some unexplained reason, the rules of 1970 did not receive the requisite approval of the Minister until April, 1976. Apparently such an occurrence is not uncommon in the sphere of corrections. The U.S. President's "Task Force Report, Corrections" states:

"Once established, rules have great success at survival. Rarely is there any systematic review that looks to the elimination of unnecessary restrictions."

This phenomenon is of more than academic interest. In the peculiar background of the prison community, placing the prisoner in such an impossible situation can be expected to have serious repercussions. Evidence has been given to the Commission that, in New South Wales, prisoners arriving in one institution from another could be punished because of their failure to appreciate that rules familiar to them in one establishment were different in another.

Inequities in the current situation are further illustrated by a case in 1974 involving an application to the Supreme Court by a prisoner named Kennedy. The prisoner was seeking a declaration prescribing his rights and the conditions under which he could confer with his legal representatives. At the request of counsel, the Department produced to the court the 1956 Manual (Exhibit 6), but claimed privilege and objected to anybody other than the court having access to it-another example of the Department's obsession with secrecy. The Judge, not unnaturally, ordered it to be produced

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counsel for the applicant could peruse it. It is interesting to note in passing court was not informed that there was another set of rules in the 1970 Manual 4). Apparently in the matter before the court at that time, the Department hindered itself to be bound by the earlier set of rules, although "updated rules" were enforced at some institutions.

The Commission did not anticipate the need to state in a report such as this if any person, prisoner or otherwise, is to be punished by the law of the land, law should be known to all. Confusion, injustice and resentment result from the existence of two conflicting sets of prison rules. All prisoners must know what they and must not do, and so must the officers in charge of them. Respect for the cannot be engendered in the law-breaker if, as a prisoner, he is left to the whim his guards, unprotected by any formal code of conduct.

The report of the Working Party on the Prisons Act, 1952, and the Regulations Prison Rules (under the Chairmanship of the Honourable Mr Justice McClemens, in 1974) termed the existing Prison Rules, made under section 49 of the Act, "outmoded" and recommended that they should be "repealed in toto".

the particular rules cited in that report, it seems that "the rules" referred to those of 1956.

The rules of 1970 received no mention, which implies that Mr Barrier then, as now, an Assistant Commissioner with the Department, and a of the working party, did not know of their existence. The adequacy of some rules and the Department's failure to act on the recommendations of the

McClemens Report are discussed later.

to Investigate the events at Bathurst of October, 1970

The disturbance at Bathurst in 1970 has been examined earlier in this Report, and reference has been made to the part played in the disturbance by Mr McGeechan, Mr Morrow, the members of the Special Operations Division and the prison officers.

From that examination, it is difficult to avoid the conclusion that Mr McGeechan failed to take steps which could have averted the savage outbreak of violence by the staff at Bathurst. He also failed to undertake a proper investigation of the incident.

He appeared to be interested only in the most superficial after-effects of the disturbance-the expense of repairs to government property. He said: "I don't think there was an investigation as such into the cause, but the effect attracted our attention". He claimed his impression at the time was that he had all the useful information.

When asked to describe the causes of both the inmate uprising and the impulse toward physical retribution among the custodial staff, Mr McGeechan relied on a simplistic theory of world-wide prison disturbances and an equally simplistic description of the customary responses to these disturbances by prison staff, as shown in these excerpts from the transcript:

"Q. Your immediate reaction on Monday night was to say that the insurrection appeared to follow a pattern identifiable on a world-wide basis as a challenge to authority in a large number of areas. Some sort of underworld domino theory, was it?--I am not quite sure. I think it was an expression of the times, times of prison unrest, times of challenge to the entrenched prison philosophies.

Did Mr Morrow tell you that during the course of that day, there had been an inclination on the part of some officers to make an immediate attack on the prisoners?--Yes. This is a typical reaction in that situation. "

From the Department's continued silence, the Bathurst custodial officers could conclude only that Mr McGeechan had not been dissatisfied with their handling of the situation in October.

Mr McGeechan underplayed the importance of the October, 1970, disturbance and its aftermath, because its cost in terms of physical damage to the gaol was not high and because there were no serious injuries to custodial staff. But the cost in other terms—the assaults on prisoners and the subsequent cover-up—has been heavy and has caused irreparable damage to the credibility of the Department in the eyes of the prison population and the public or those sections of the public that had reason to doubt the Department's vehement denials of its own misconduct.

Any prison administration worthy of the name would be concerned that such a serious incident should not recur, and with that in mind, would make a close analysis of the whole series of events which led up to it, attempting to identify danger signs as well as precipitating factors that might, in future, be controlled.

Subsequent Failure of Department to Comply with Requests to Furnish a Policy on the Use of Force

The Prison Officers' Vocational Sub-Branch at Malabar passed a motion relating to the use of force in December, 1970. It read:

"That the Department be asked with all urgency, to hand down a written policy as to its stand on the use of force by officers under the direction of senior officers of the Department. That the Department ensures that its policy is clearly understood by all officers. Further, no force will be used by any officer under direction of senior officers of the Department until the Department does hand down this written policy."

On 13th January, 1971, the General Secretary of the Public Service Association sent a letter to the Commissioner, requesting that he confer with prison officers on two matters, one of which was described:

"With the possibility of a recurrence of the serious prison disturbances of recent months, the Association wishes to discuss Departmental policy in relation to the role of officers during such disturbances."

As a result of these requests and following an interview with staff representatives, Mr McGeechan produced a three and a half page document entitled "Procedure for Riots" (Exhibit 786). On "the use of force and defensive equipment", it made only this general statement:

"When the decision has been made to use force or defensive equipment, the kind and amount will be dictated by the situation, but only for the purposes of control and protection."

The final submission of the Public Service Association, Prison Officers' Vocational Branch (Exhibit 758) to the Royal Commission, contained this criticism:

". . . the failure of the Department, notwithstanding all the publicity which occurred in 1971 in relation to the Bathurst Battering, to issue any direction to prison officers disassociating itself from and condemning the use of force as retaliatory measures for riots, meant that prison officers would inevitably regard the use of force in such circumstances as an unofficially approved policy of the Department."

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Attempts by the Department to Discredit its Critics: Mr Ristau

Mr J. Ristau was a prison officer at Long Bay during the Bathurst disturbance, but because of his position as Secretary of the Prison Officers' Vocational Branch of the Public Service Association, was in constant contact with the then Chairman, Mr Hanrahan, who was at Bathurst.

Early in July, 1971, Mr Ristau issued a statement to the press, the substance of which was repeated in a television interview. He expressed the opinion that a Royal Commission was necessary to inquiry not only into allegations about Bathurst, 1970, but into the Department as a whole.

Mr McGeechan recommended to the Public Service Board and to the Minister that Ristau be charged with misconduct under the Public Service Act. This recommendation was also passed on to the Minister, but the Public Service Board laid no charge.

In 1972, Ristau was dismissed after an allegation that he had left a cell door open, but after lengthy appeal proceedings was finally reinstated at a lower rank. Mr Ristau has never re-attained his former rank. A spokesman for Mr McGeechan informed Mr Ristau that he would "never be able to work in the mainstream of prisons again, and must remain in the backwater".

Mr Ristau's sacking and reinstatement with demotion may have been warranted by other events, but his call for a public inquiry was, according to Mr McGeechan's evidence, made at a time when he himself had already concluded that such an inquiry was necessary. In publicly calling for an open investigation, Mr Ristau had undoubtedly embarrassed the Department. Mr McGeechan interpreted his action as yet another onslaught on his Department, to be countered by tactics appropriate to the prevailing state of siege.

A recommendation from Mr McGeechan to the Superintendent of Milson Island, dated 1st December, 1975, directed that Mr Ristau "should not be restored to the position of First Class Prison Officer on any occasion until further notice".

Under Mr McGeechan's instructions, a report was proposed in early 1976 to examine Mr Ristau's suitability for continued employment in the Department. No charges and no transfer from the Department eventuated.
Psychologists on the Staff of Corrective Services

Four psychologists employed by the staff of the Department of Corrective Services wrote a joint letter to Mr McGeechan on 7th December, 1970, signifying their wish to be dissociated from the Department should it maintain a policy which would allow to go unchecked "the systematic and calculated brutality" which had been "perpetrated against prisoners by some officers of the Department of Corrective Services". They referred "particularly, though not only, to what can only be termed as atrocities, reported to have occurred in Bathurst gaol, on the morning after the authorities had gained full control of that institution".

None of the four psychologists was working for the Department of Corrective Services by the end of 1971. Mr L. Evers had at that time been a psychologist with the Department for over nine years. He stated in evidence that in the wake of the psychologists' letter, he received a visit from the Deputy Commissioner, who had come to discuss his promotional prospects. Dismissal or appointment to a "back ward to look after deteriorated schizophrenics" were two of the alternatives threatened.

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MEDIA CONTACTS

Nevertheless, on 5th February, 1971, when the Department had still not launched an inquiry into Bathurst, he wrote again to Mr McGeechan, emphasizing once more the seriousness and volume of the reports received about the assaults on prisoners. He added to this his apprehension that open hostility on the part of custodial staff towards himself and his colleagues resulted from the officers' certainty that punitive measures would be taken against the psychologists for their attempt to embarrass the Department.

Late in June, 1971, Mr Evers was interviewed on television. He had the consent of the Minister, who was himself interviewed later in the same programme. Immediately afterwards, the officers at Silverwater where Mr Evers was then working, held a meeting and voted to strike unless he was transferred elsewhere. Assistant Commissioner Day contacted Mr Evers by telephone that afternoon and ordered him back to the research section at Head Office. Mr McGeechan remarked that he was running out of goals to send him to.

On 4th July, 1971, an article appeared in The Sunday Australian which included a long statement by Mr Evers. On 5th July, he was called to an interview with the Commissioner and his legal officer.

At this interview, Mr McGeechan put pressure on Mr Evers to reveal the name of the prison officer referred to in his newspaper article. Despite Mr Evers' protests that he did not wish to betray the confidence of a fellow officer without that officer's permission, despite the fact that he had been summarily called to an interview before a legal officer without his own legal counsel, and despite the fact that the information sought by the Commissioner could not have been considered critical to the Bathurst investigations, Mr Evers was warned that failure to comply with the demand for information by late afternoon would endanger his position with the Department.

He wrote a letter to the Commissioner, declining to comply with his request, but promising that he would "... cease to be a vehicle of information about events of which I have no direct knowledge".

However, by the end of July, Mr Evers again crossed swords with the Department when he learnt that a prisoner who had been at Bathurst in 1970 had written to the Bishop of Bathurst, complaining about events there. That letter had fallen into the hands of the authorities. The prisoner was charged with passing out a clandestine letter, punished by confinement to cells and transferred.

Believing that it was still possible that an investigation into Bathurst might be launched, Mr Evers made what he hoped were discreet inquiries into the prisoner's whereabouts. When this came to the Department's attention, he was asked to see Mr Day who informed him that they were running out of room at Head Office in the Goodsell Building. Thus it was that Mr Evers was given a floor to himself in an old building formerly occupied by Corrective Services and relieved of any duties appropriate to his qualifications and experience.

Mr McGeechan admits to having been "critical" of the psychologists. He dismissed their representations as "hysteria and hearsay", a clear slight on the judgment of the people involved and an attempt to minimize the significance of the information they had conveyed to him. The treatment meted out to Mr Evers epitomizes the ruthless determination by the Department's Head Office to suppress criticism.

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Criticism from outside the Department

In addition to Mr McGeechan's apparent concern to deal with the Department's detractors by calling into question their professional standing (especially by recourse to the disciplinary clauses of the Public Service Act which prohibit unauthorized public statements), was his evident desire to discount as uninformed the criticism of people from outside the Department.

Although he now acknowledges that the performance of Superintendent Pallot left much to be desired, Mr McGeechan nevertheless told Mr Pallot, at the time, that his record was satisfactory. He had been moved to say this because he was:

" ... conscious that a great many people-uninformed people, I suspect had taken hasty decisions on Mr Pallot . . ."

After Bathurst, 1970, the Department was faced with many outside critics, whose perspective was deemed to be so different from that of the Department's own officers, that it merited dismissal as a "sectional view".

Such critics included representatives of the Council for Civil Liberties, Mr St John (now the Honourable Mr Justice St John) and Mr Lyman, who had visited Bathurst and conveyed a list of prisoner grievances to the Minister, and also Professor Encel, who had also visited the gaol, as a member of the Advisory Council.

It would have been difficult to cast doubt upon the bona fides of such men as a means of discounting their criticism of the Department. Likewise, their professional qualifications and the fact that they had been able to form judgments about the conditions at Bathurst from personal inspections of the gaol, left the Department two alternatives: to take their criticism serio-usly and make appropriate administrative changes, or to ignore it, as well-meaning, but naive commentary on procedures which only custodial staff could appreciate. The latter course has been assiduously followed by the Department in its handling of criticism from people without "custodial" experience-a category including even psychologists in its own employ.

Attempts to Discredit Prisoner Witnesses

Mr McGeechan's set pattern when reporting on a prisoner to his Minister, was to begin his report with a list of the prisoner's convictions and disciplinary offences within prison. That the prisoner is a criminal was thus the first premise of any inquiry into allegations that he had been assaulted by a prison officer.

Subsidiary premises in the case of the evidence presented by one prisoner, Mr Clark, involved statements about his history of treatment for emotional and mental disturbance-despite the fact that he had been discharged from a mental institution five years before his statutory declaration on the Bathurst incidents was made.

Furthermore, Mr McGeechan's "background information" on Mr Clark's statement included:

- (i) A note that the prisoner's conduct in prison was reported to be satisfactory, but his work had not been sufficient to warrant recommendation for remissions.
- (ii) An account of a visit by Mr Clark, after his release, to Mr McGeechan's offices.
- (iii) Mr Clark's desire to use a departmental phone to contact Mr Petersen, M.L.A., when Mr McGeechan did not see him. Mr Petersen happened to be a political opponent of the then Minister.

The Minister was advised that parts of the declaration were expressions of opinion, others hearsay and the following "to their logical conclusions" where it was seen that "no value would be obtained by further and con Mr McGeechan's attitude to the conflict between the allegations of prisoners and the "direct rebuttals" of t alleged to have committed assaults, is captured in his report to the Minister:

"On analysis, it comes to whether the word of law enforcement officers is to take precedence over the uncorroborated allegations of people with long criminal histories and demonstrated inability as responsible members of the community. Such a philosophy could obviously be convenient for the Department on occasion, and there is no doubt that in the above instance, to neutralize accusations of malpractice directed by inmates against the Department. Absence of an Adequate Inspectorate

The Royal Commission was informed by Mr Morrow, former Director of Establishments, that the Division which affected security and into matters of "locks, keys, staffing, arms, officer morale, administration on other matters". Mr Morrow held this post from July, 1968, until his retirement in August, 1976. His evidence was most of inspections left the impression that they were far from thorough and not of a type to reveal anything that the State a particular institution thought

necessarily" tv XCcp"riUji"U'-'<=1.
"I would have certain matters to discuss with the Superintendent, matters relating to staffing or something of that nature would take precedence and, after discussion of some particular problem . . . if it was only a day visit, I would spend on accompanying the Superintendent on his inspection and, normally, I would make my own arrangements as to officers and prisoners alike."

He also inspected the Superintendent's journal to see if any particular occurrences had not been brought to his notice. However, he readily conceded that what was not in the Superintendent's journal was a matter of conjecture and could not be checked. There does not appear to have been a regular and formal report made of Mr Morrow's visits to the Commissioner of Corrective Services nor to any of the Assistant Commissioners; but matters of importance were informally conveyed to the Commissioner. Apparently no comment on the Superintendents was not within his terms of reference.

Mr Morrow attempted to visit all of the major prisons at least once a month and outlying institutions once in every three months. His rather daunting list of duties included Chairmanship of the Classification Committee meeting every Thursday and Friday, so that the monthly visiting schedule was difficult to complete. In the year ending 30th June, 1975, he managed to visit Parramatta only eight times, Cessnock three times, Maitland, Goulburn and Cooma twice, Berrima once and Grafton not at all.

A document placed before the Commission by counsel for the Department suggested that during this period, the Director of Establishments was assisted almost on a day-to-day basis by reports from his five establishment officers. Counsel's attention was called to the desirability of producing some sort of evidence to support this allegation in the document made part of the transcript, but none was forthcoming.

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Whatever these these assistant establishments or, in the best traditions about Gra: cursory examination plan as stipulated by Division (Exhibit 4):

Although it is in the Commission in his confidence could be Department which public. Even the affairs to themselves to the Department's

The Commission to carry out his duties and the importance of the inspectorate. Loyalty to the accuracy and Mr Morrow. failed. to October, 1970, on the grounds that the holidays and since events, he "did not

The second had been aware of As Director of Establishments to the rumours. In every prison would be a relationship between

Relationship between members of the industrial problem that this situation were more riots :

Industrial trouble goals.

Mr McGeechan's vague generalities Officers' Vocation and counter charge

Whatever the assistance Mr Morrow as Director of Establishments did receive, assistant establishment officers failed to uncover any areas in need of attention the best tradition of the Department, generally accepted such things as the rumours about Grafton without investigating them properly. For example, the most serious examination would certainly have revealed that no gaol in the State had a riot as stipulated by Mr McGeechan in the Manual of General Information, Custodial Division (Exhibit 4).

Although it is not suggested that Mr Morrow attempted to mislead the Royal Commission in his evidence, his answers and demeanour did not suggest that great confidence could be placed in his ability as an inspector to reveal matters in a Department which was generally concerned to conceal certain happenings from the public. Even the divisions within the Department were concerned to keep their own affairs to themselves and, in some instances, failed to report or misreported matters to the Department's head.

The Commission concludes that not only did Mr Morrow have insufficient time to carry out his duties as the "Chief Inspector" of the Department, but his assignment of duties and the manner in which he was expected to carry them out, were indicative of the low importance attached by the Department to anything in the nature of an inspectorate.

Loyalty to the service and the custodial division in particular further prejudiced the accuracy and adequacy of Mr Morrow's reporting. In two important matters, Mr Morrow failed to ascertain the facts. One concerned the incidents at Bathurst in October, 1970, already mentioned. He excused his failure to make further inquiries on the grounds that talk about the matter only arose later. By then he was about to go on holidays and since the Commissioner himself seemed to be concerned about the Bathurst events, he "did not want to cross his purposes".

The second matter related to rumours of bashings at Grafton. Mr Morrow had been aware of these for many years before he assumed his "inspectorial role". As Director of Establishments, he should have established whether there was substance to the rumours. It was his opinion that Mr McGeechan, along with every officer in every prison would also have been familiar with the allegations.

Relationship Between Head Office and Staff

Relationships between Mr McGeechan and his Head Office staff and other members of the Department were lamentable. The history of the disturbances and industrial problems that occurred in Mr McGeechan's regime would seem to suggest that this situation was exacerbated by his style of leadership. During his time, there were more riots and more destruction of gaol property than in any other period. Industrial trouble proliferated, and inmates spoke of the increased tensions within the gaols.

Mr McGeechan acknowledged these troubles, but accounted for them with vague generalities. The final submissions made by the Department and the Prison Officers' Vocational Branch of the Public Service Association are full of charges and counter charges which reflect the lack of harmony between the two parties.

MEDIA COMMUNICATIONS

A solution to this problem must be found if industrial troubles, disturbances and riots are not to become the accepted norm. However, Mr McGeechan seems to have adopted a counter-productive attitude towards his staff, as illustrated by some of his remarks about officers at Bathurst. In a memo to his Minister, dated 18th March, 1974, he reported that these officers had "an inability to report objectively and accurately". He referred to senior custodial officers at the same institution as being unable or unwilling to report truthfully.

Whether or not these observations were accurate, Mr McGeechan took no steps to improve the situation as he saw it. At the very least, he should have confronted the staff concerned with his misgivings about their reports.

Again, on the 15th October, 1974, he wrote to his then Minister, the Honourable J. L. Waddy, M.L.A.: "Over the past ten years, the prison (Bathurst) has had an appalling history of industrial unrest and a high incidence of deliberate provocation of prisoners-that is according to available evidence." This information was from undisclosed sources and was passed to the Minister without the knowledge of prison officers, who were deprived of any chance to refute the unfavourable implications of such a statement. Mr McGeechan's only excuse was that this was merely generalized comment for the Minister and no disciplinary question was involved.

It may well be that the hierarchical structure erected by Mr McGeechan enabled him to refuse discussion of problems with his staff and also interrupted the free flow of information between various levels of the administration. For example, Mr Nash, then Chief Superintendent of the Malabar Complex, was deliberately not informed of Mr McGeechan's intentions regarding the possibility of introducing contact visiting in the new visiting block there.

Union Trouble with Lateral Transfers

The Prison Officers' Vocational Branch has objected over recent years to transfers of members from one gaol to another without promotion, or with promotion in preference to officers already based in that gaol.

Mr W. Morrow had served thirty-seven years with the N.S.W. Department of Corrective Services. In his evidence before the Royal Commission, he stated that the Department's problems with lateral transfers originated in 1968 and 1969. Before that, in his experience, prison officers accepted and commonly even requested transfers between prisons.

It may have been coincidental that Mr McGeechan's appointment in 1968 was in time for him to face the first signs of intransigence by custodial staff over lateral transfers.

Industrial action by prison staff throughout the State in August of 1970 resulted in the drawing up of a code to govern transfers which Mr McGeechan described in his statement to the Commission:

"This arrangement effectively presents an integrated service approach to promotion and makes lateral transfers most difficult."

In the same statement, Mr McGeechan describes the desirability of making staff changes at Bathurst after October, 1970, just by way of "ordinary management practice". In his words:

"If it was possible in that way to introduce a few officers of exceptional ability, there would be a chance to set the gaol administration on a different basis and to break those ties of the past which really hindered its development

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as an institution make any significant effect, only

This is an important competent administrator became head of the between management where the refusal of basic policy cannot be disputed, and, if this ..

In this problem responsibilities. The , Public Service Association certain circumstances should attempt to be unpardonable that is the Department's answer. It may have Mr Pallot cost this

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The organization inconsistently describe Commission. So far consistency in the attempt to create an organization's delegation of authority consultation; and then throw too much weight on administrative hierarchy each level. It has the Commission of five that the present organization the capabilities of it
Failure to Reflect it

The Department's initial statement ~ supervises by far than anyone else.

Mr Lukes, rather than Mr Day, the Department at least equal administration should also be responsible

The down-grade by the exclusion from very careful report of the Department

as an institution. Unhappily (sic) it was considered totally impossible to make any such changes as the industrial policy to which the Department is, in effect, obliged to conform, all but prohibits lateral transfers."

This is an important management problem which could surely be solved by a competent administration. The problem evidently did not exist before Mr McGeechan became head of the Department. Admittedly, the resolution of conflicting interests between management and unions has become a widespread problem in recent years, but where the refusal of staff unions to comply with management directives means that basic policy cannot be put into effect, the first step should be to try to conciliate the dispute, and, if this were unsuccessful, to proceed to arbitration.

In this problem of lateral transfers, Mr McGeechan seriously neglected his responsibilities. The code agreed to by the Prison Officers' Vocational Branch of the Public Service Association and the Public Service Board permits lateral transfers in certain circumstances. If such a transfer is in the Department's view necessary, then it should attempt to conciliate and/or arbitrate. On Mr McGeechan's evidence, it was unpardonable that Superintendent Pallot was left in charge of the Bathurst Gaol. The Department's answer was that such a move was impossible. This is not a proper answer. It may have been difficult, but it was not impossible. The failure to transfer Mr Pallot cost this State an estimated \$5 million.

The organizational structure of the Department of Corrective Services has been inconsistently described *at different places in* the Department's statements to the Royal Commission. So far as the Commission can judge from the evidence there is no logical consistency in the allotment of duties. It would appear that an attempt was made to create an organization in which Mr McGeechan would be the head; that no proper delegation of authority was to be permitted; that there was no real provision for consultation; and that all decisions were to be Mr McGeechan's. Not only did this throw too much work and responsibility upon Mr McGeechan, but it did not permit an administrative hierarchy with well-defined areas of responsibility for the staff at each level. It has been recommended elsewhere that, in future, there should be a Commission of five persons in lieu of a Commissioner. It is enough here to mention that the present organization of the Department is ineffective and does not properly use the capabilities of its senior officers.

Failure to Reflect Importance of Responsibility

The Department's structure as set out in Schedule A of Mr McGeechan's initial statement also fails to reflect the importance of Parole and Probation, which supervises by far the largest number of offenders within the Department's charge at anyone time.

Mr Lukes, the Director of Probation and Parole, is no higher in the hierarchy than Mr Day, the Director of Cessnock. The control of Probation and Parole deserves at least equal administrative weight with Special Security Units, and its Director should also be responsible to the Commissioner rather than his deputy.

The down-grading of Probation and Parole in the Department was exemplified by the exclusion from the Department's submission to the Commission of most of a very careful report submitted by the Probation and Parole Association at the request of the Department.

The poor organization of the Department reflected badly on its Head, Mr McGeechan. Poor organization goes hand in hand with poor management and the uncertainty of staff about their areas of responsibility. This, in turn, leads to less than optimum performance of senior administrators which can be expected to have adverse effects on the morale and performance of subordinate officers.

The Department is manifestly in need of re-organization, based on a sound correctional policy and knowledge of management principles.
Failure of the Department to Introduce Necessary Changes

The former Director of Establishments had this to say about improvement in New South Wales prisons, with special reference to conditions at Bathurst in 1970:

"It was true then, and in my opinion, still is true, of Goulburn and Maitland, that the changes that have occurred in the prison system since about 1969 had largely left Bathurst untouched. Indeed, I have thought to myself that if a Superintendent of seventy or eighty years ago came back to Bathurst, he might still find his pen in the same place. Almost nothing had changed."

That prison conditions on the whole have failed to keep pace with a changing inmate population and changing community standards, is a poor reflection on the entire Department, from the custodial staff, falsely proud of their resistance to change, to the senior administrators, who either saw no real need for improvement or gave up too easily the struggle to introduce reforms.

It is possible to cite many examples of the way in which the intolerable conditions imposed upon the inmates of some New South Wales prisons were completely ignored by the Department until the advent of the Royal Commission. These conditions could have been remedied at no great expense to the Department, with no serious threat to security. The recommendations of the Lewer Report and the McClemens Report, both tabled in 1974, were similarly ignored, or at least produced no physical changes in either the institutions or administration of the Department.

Some of the yards in the Parramatta Circle (an appalling part of Parramatta Gaol in which prisoners are kept for disciplinary purposes) contain no toilets or any place to sit. Commenting about the depressing conditions there, Mr McGeechan said that he personally, and most of his senior officers, did not support retention of the Circle, but there were problems in providing alternatives. Despite the fact that he had first observed the conditions there as early as 1966-67, Mr McGeechan told the Royal Commission that the Department was moving as quickly as it could to provide an alternative.

In fact, Mr McGeechan claimed to have supported many innovations which were as far from being introduced during the Royal Commission's first hearings as they were when he became Commissioner for Corrective Services in 1968.

The Department of Corrective Services, as represented in its submission, and particularly in the evidence of Mr McGeechan, seems to have failed in its duty to ensure that the conditions of imprisonment in this State are the best possible for promoting its own correctional goals (if it had any) even within the limits of its resources.

The Department's mandate does not include the notion of prison for punishment, but does include the ideal of rehabilitation which, long experience by penal authorities in this country and abroad has shown, cannot be accomplished by forcing the prisoner to endure privations and regimentation beyond the immediate and inevitable consequence of his loss of liberty.

The Standard Argument Against Improving Conditions

Arguments adduced by Mr McGeechan to excuse the Department's failure to introduce improvements which resources did allow are, typically, hard to follow but resort regularly to the same ideas. Below is an attempt to paraphrase some of the more common statements into a standard paradigm which characterizes Mr McGeechan's evidence. It is emphasized that the answers set out are a paraphrase of some of his tortuous responses. Reference to the questions and answers which support the paraphrase are to be found at the end of this Chapter.

Let me, at the outset, make it perfectly clear that what you suggest is highly desirable and in keeping with our correctional objectives but. . . 5

we have already looked at the possibility of introducing such an innovation (such as giving prisoners more time out of cells or communal dining facilities). In fact, our first moves to examine it were probably made several years ago when at least one committee was formed to look into the matter," Unfortunately, this committee has achieved less than I had hoped. In real terms, nothing at all has happened because. . . 7

the cost of the proposed innovation is 'astronomical'. 8

We haven't the financial resources for that sort of project." 9

Although, actually, we do have some money which. 10

we are unable to spend on that particular venture since the allocation of money is out of my hands, but. 11

even if I could make the finance available for that specific purpose, and it is not beyond the bounds of possibility, security would still be a problem. You mustn't ask me to define 'security'-its use in the prison context cannot readily be explained to outsiders, but. . . 13

if you insist, I will have to say that security relates to the mental attitudes of the prison officer. In other words, anything that upsets him is a danger to security. 14

That is obviously an environmental problem. 15

Of course, on the other hand, it must be an industrial problem. 16

If you aren't convinced by now that you are asking the impossible, I must admit that there are no 'reasonable reasons' for not affecting such a change. 17

Although not all of the elements of this standard paradigm are present in all of the "reasons" supplied by Mr McGeechan to account for the failure of his Department to improve amenities and conditions for prisoners in line with its own stated policy and public reports, many are nevertheless to be found in his accounts of the failure to introduce:

Changes in outdated prison rules. 18

Correspondence without censorship. 19

More time out of cells. 20

Communal dining. 21

Abolition of Punishment Cells. 22

However, finance, security and union resistance are not always used by the Department to account for its helplessness. Mr McGeechan explained the fact that the recommendations of the McClemens Report were never implemented by saying:

"In fact, we don't assist in the drafting of law."

Responsibilities of possibly greater importance than those of providing suitable accommodation and regimens for the prisoners in its care were also neglected by the Department. The assaults on prisoners which took place at Bathurst in 1970 and at Grafton over some thirty-three years were known to the Department administrators, but the Superintendent of Bathurst retained his position and the floggings at Grafton were allowed to continue. These matters are dealt with in more detail elsewhere.

Postscript

On 14th July, 1976, during his evidence before the Commission, Mr McGeechan was questioned concerning his instruction (contained in the Manual for Custodial Officers) that each institution was to maintain a comprehensive and objective riot control plan.

Despite that instruction, it was conceded that, at that time, there were no such riot plans in any institution throughout the State.

Notwithstanding that attention was called to that fact it appears that nothing has been done since to rectify the position.

After riots on Christmas Day, 1977, a departmental committee was directed to inquire into the disturbance. It reported that there was no riot plan at Long Bay gaol. The Premier subsequently announced that he had directed the Department to introduce riot plans in all gaols immediately.

References

¹ Gustave de Beaumont and Alexis de Toqueville, "On the Penitentiary System in the United States and its application in France", 1833.

² National Advisory Commission on Criminal Justice, Standards and Goals-

⁴ *Kennedy v. McGeechan* (unreported) *Coram: Sheppard I.*, 7th June, 1974.

⁵ Transcript, p. 171, Q. 1615; p. 172. Q. 1645; p. 167. Q. 1499.

Chapter 12 COMMISSION OR COMMISSIONER

CHAPTER 12

COMMISSION OR COMMISSIONER

The Commissioner is appointed by the Governor of New South Wales under the provisions of the Public Service Act, 1902. He is entrusted with the "care, control and management" of prisons in New South Wales. This task requires the supervision of prisoners, the implementation of programmes for them, the administration of the physical facilities used as prisons and ancillary facilities such as probation and parole, medical and psychiatric. It also requires the initiation of long-term policy decisions. This involves, inter alia, planning the construction of future prisons.

The Commissioner has the unenviable task-with the assistance of a work force not always fully co-operative-of containing and controlling large numbers of prisoners whose basic motives are anti-social. He receives little support from an apathetic community.

The position of Commissioner requires a combination of many personal qualities: a sense of responsibility, a sense of justice, a sense of duty, a sense of leadership, administrative efficiency, imagination and creativity. Furthermore, he must inspire and enjoy the confidence and respect of his officers as well as of those who view him as their ultimate tormentor.

The work-load is enormous. Mr McGeechan suggested that on an average day in the normal course of his administration he was called on to make about forty important decisions. In addition, he was personally required to make orders for the movement of all prisoners throughout the State, which he estimated as some 80 000 separate movements a year. The sheer number of movement orders which required the Commissioner's signature led to the undesirable practice of using a rubber stamp instead. This permitted anybody with access to the stamp-in one case an official of minor standing-to use it to authorize the movement of prisoners. This practice was the subject of some criticism in the Interim Report of the Royal Commission. The Commissioner's task, to some extent, has now been alleviated by a recent amendment to the Prisons Act (Section 480) which allows him to delegate this and other functions. In addition, the Commissioner is responsible for deciding difficult questions involving the administrative segregation of prisoners.

The evidence before the Royal Commission has revealed serious deficiencies in the administration of the Department. Mr McGeechan's opinion was that the job of Commissioner was "too big for one man". The Royal Commission would agree with this view. Although there is a Deputy Commissioner directly responsible to the Commissioner, none of the duties and responsibilities imposed by the Act on the Commissioner could, prior to the enactment of Section 480, be delegated to his deputy.

All this has raised the issue of whether the Department should be reorganized by the creation of a Commission to take over the functions now performed by the Commissioner of Corrective Services.

The disadvantages of the present system go beyond the manifest impossibility of one man fulfilling all the tasks assigned to the Commissioner. There is the danger of the personal attitudes of one man exercising too great an influence on the management and long-term policy of the Department. The history of Mr McGeechan in the office demonstrates the difficulties and danger of one individual supervising such a complex administration as the prison system of New South Wales. The structure is too vulnerable to the possibilities of an undesirable autocracy and of administrative incompetence at a senior level.

The Commission has already indicated that the administration and control of the Department of Corrective Services is too great a task for anyone man. The area of prisons is difficult and not popular. Those in prison administration must be peculiarly sensitive to and able to adapt readily to changing social attitudes. A Commission of people with a variety of backgrounds, skills and experience would fare much better than one man. The appointment of people of standing and influence in the community as part-time members would provide a measure of outside independence and community involvement which, at present, a Department Head lacks. It is unlikely that the events of Bathurst and Grafton would have continued to be suppressed if people of independence and high standing in the community equal in rank and status to Mr McGeechan had been involved in the administration of the Department. Further, a Commission would provide some degree of continuity of policy. Of even more importance, its decisions would be corporate decisions and not those of one man.

With only one exception, the views expressed to the Royal Commission favoured the creation of a Commission. The Department alone opposed the idea. Its answer to the deficiencies of the present system was the creation of more powers of delegation. It was critical of the proposal of a Prisons Commission on the basis that it would lead to increased costs. No attempt was made to support this bald statement. The Royal Commission does not consider that the increase in costs, if any, would be such as to outweigh the benefits from the creation of a Commission.

It is the Royal Commission's view that a Prisons Commission should be created. It should comprise three full-time and two part-time members. They should be appointed for a fixed term of five to seven years. In due course, these terms should be staggered to preserve continuity. Such a period of appointment would provide some degree of independence while retaining, for the Government, the opportunity to measure the performance of the Commissioners. Each of the full-time Commissioners would be responsible for specific areas of administration, for example, probation and parole, budgeting, staff training and management of physical resources.

The Chairman of the Commission would be responsible for co-ordination of the various branches and might assume the primary responsibility for long-term policy. It is not appropriate for the Royal Commission to suggest specific responsibilities for each member. These can be assigned after full consideration of the relationship between the various sections of the Department. However, it is obvious that the present system of Assistant Commissioners would, of necessity, be disbanded in favour of an administrative hierarchy under each of the three full-time Commissioners.

The fact that the Prisons Commission in the United Kingdom was finally in 1961 replaced by a Department within the Home Office in no way detracts from the recommendation to form a Prisons Commission in New South Wales. The circumstances are very different. In any case, the change in the United Kingdom has been strongly criticized. One critic has described it as "one of the most disastrous changes in recent years".!

It has been argued that if a Prisons Commission were to be established, its entire structure should be constituted as an independent statutory authority outside the provisions of the Public Service Act, 1902. This would make it free from Ministerial control and direction. The arguments supporting this suggestion emphasize the need for independence from the Public Service Board or political interference. It is further suggested that there would be an obvious advantage in having such a body to formulate and achieve long-range policy goals.

Those in favour of the independent statutory authority model of administration also suggest an advantage in autonomy over recruitment, grading and dismissal of staff.

In a publication referred to the Royal Commission by the Departments, an eminent authority on public administration points out that the case for an independent statutory authority is strongest in certain types of public administration, such as commercial or cultural activities or in an industry which is self-regulated, such as the egg industry. The author also says that this model of administration is appropriate where the authority is revenue-earning or owns income-producing assets (for example the Metropolitan Water Sewerage and Drainage Board). It may also be appropriate where its senior administrators are elected by interested groups within the community.

The Royal Commission believes that a Prisons Commission should not be independent of the Public Service. Undue interference in the Prisons Commission's operations by either the Public Service Board or the Government is unlikely; interference would be the subject of scrutiny by Parliament in the Annual Report on Prisons which must be tabled. It is essential that the principle of ministerial responsibility should operate and be affirmed, particularly where the basic issue is the deprivation of the individual's liberty. Accordingly, it is appropriate that the Prisons Commission remain under the direction and responsibility of a Minister of the Crown who could be called upon to answer for its actions in the legislature.

The Public Service Board, in its submission to the Royal Commission, said that since 1970 it has delegated to individual departments an increasingly wide range of its functions, including the recruitment, grading and dismissal of staff. The recent Interim Report by the Review of New South Wales Government Administration (Professor Wilenski's Report) suggests otherwise. Although the 1969 Amendments to the Public Service Act enabled the Board to delegate its powers on such matters as employment and transfer of staff, permanent appointment and resignation and retirement or termination, this power has not been used-according to the Wilenski Report.

The Wilenski Report also recommends that the appointment of staff should be primarily a decision of a Department itself rather than the Board. Having regard to what has been recommended by the Royal Commission elsewhere in this Report about the recruitment and training of custodial staff and officers of executive rank and their grading and assessment by examination, it will be obvious that it agrees entirely with this recommendation of the Wilenski Report.

Despite this recommendation, it is considered that the retention of the umbrella of the Public Service Act, 1902, in administering the Department is a distinct advantage, particularly insofar as it provides for a continuing relationship between the Department and the Public Service Board. There is no doubt that the Public Service Board has, for instance, been useful in resolving industrial disputes in the past.

Again, being part of the Public Service structure ensures that the Department has access to a wide range of specialized services and facilities. It ensures that prison officers enjoy the same basic advantages which accrue to other public servants, together with the opportunity to transfer into other areas of the Public Service. The Promotions Appeal Tribunal provides public servants with access to an independent tribunal on promotion.

Of some importance is the existence of a Public Service inspectorate, which is useful for the supervision of the administration of a regionalized department such as the Department of Corrective Services and which ensures an independent external check on the expenditure and, to a lesser extent, general administration of its prisons.

For these reasons it is recommended that the proposed Prisons Commission remain within the Public Service rather than it be established as an independent statutory authority.

The Chairman of the Prisons Commission should be deemed to be a permanent head under the provisions of the Public Service Act, 1902. On balance, there is no advantage in altering the structure of the Department (other than in the manner recommended above) or the appointment or conditions of service of its staff.

References

¹ J. E. Thomas: "Policy and Administration in Penal Establishments" in "Progress and Penal Reform", Ed. L. Blom-Cooper, London, 1974 at p. 60.

² R. N. Spann: "Public Administration in Australia", Government Printer, N.S.W. . 1973 at **pp. 195-6.**

Chapter

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CHAPTER 13

SUPERINTENDENTS

The importance of the Superintendent in running his gaol cannot be underestimated. On the evidence presented, Mr McGeechan's control of Superintendents has been inconsistent and confused. Rule 62 of the Prison Rules, in operation since 1970 but not assented to until 1976, states:

"The Superintendent is responsible to the Commissioner for the conducting and supervising of the entire service of the prison within the policies of the Department."

This rule emphasizes the central role which a Superintendent plays in the administration of his institution.

According to Mr McGeechan, the Superintendent was "king of the castle" within his own institution until about 1973. Since that date there has been an incursion by the Department into the Superintendent's autonomy. He described the responsibility for the running of the gaols since 1973 as a "joint" one between the Superintendents and the Department.

This has led to a situation which is both undesirable and inconsistent. It is undesirable in that the Department should not interfere in the daily routine administration of any prison. This administration should be entirely the responsibility of the Superintendent. It is inconsistent in that the Department has not uniformly exercised its powers in relation to all prisons.

Mr McGeechan and his senior officers visited the gaols infrequently and this in itself led to inconsistency in the allocation of responsibility to Superintendents and in the application of the departmental policy by which they were expected to be bound. For example, certain Superintendents were given more discretion than others in the application of prison rules because of their "personal capabilities". Others blindly followed tradition and directives covering all sorts of matters-some important and some trivial-laid down by a remote Head Office.

The Department has experienced difficulty because of the poor calibre of many Superintendents. Much of this can be attributed to the failure properly to select and train officers for these positions. For example, Superintendent Pallot received no formal training during his employment with the Department, but simply "had guidance from his superiors". He took three examinations for promotion but had been given no theoretical or practical training beforehand. The whole of his prison service was spent in Bathurst.

Superintendent Frame, who was Superintendent at Grafton from 22nd June, 1970, was another example of a person whose training and qualifications would not inspire confidence in any administrator who seriously considered delegation of authority to him. In the context of deficiencies of this type, delegation of authority assumed the proportions of a dangerous exercise. The events of Bathurst in 1974 bear witness to the accuracy of this observation.

The administrative building at Parramatta Gaol, seen from the inside front gate

An essential pre-requisite for effective delegation of responsibility by the Department to its Superintendents is that they should be appropriately selected and trained. Most were not. The means of improving this situation lies, firstly, in the proper selection of officers for "executive rank" and, secondly, in proper training. The remarks which follow are based on the assumption that improvements in the selection and training of Superintendents will properly fit more people to assume the responsibilities which the position should entail.

This lays down Department.

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Not all the Superintendents in the State's prisons lack the calibre required for the position. Even these Superintendents have, at time, been placed in an impossible situation through frequent interference by the Department, not in overall policy but in the day to day management of the gaol. As a result, they are puzzled as to their actual roles.

Failure of the Department to allocate clear policy guidelines to Superintendents has left them in a situation where many have been loath to either exercise their discretion or, more importantly, to perform the basic duties required of them.

For example, some Superintendents would not or could not decide whether a prisoner's letter affected adversely "the interest of security, disciplines or good order of the prison" to determine whether it should be censored. The letters had to be sent to the Department's legal officer for a decision. Another Superintendent, as a universal rule, refused to hear disciplinary charges against prisoner's despite the prisoner's consent. The "joint responsibility" spoken of by Mr McGeechan became no responsibility.

The lack of a set of prison regulations and rules, certain in operation and consistently applied, added to the confusion of the Superintendent, prison officer and prisoner alike. As one prisoner put it:

"A humane and tolerant attitude on the part of the Superintendent and some officers can make conditions much more bearable, as as happened recently at Parramatta Gaol. However, the antiquated, brutal, senseless, vindictive and repressive prison regulations are still on the books and may be enforced at any time .•."

Criminologists and prison administrators agree in most maximum security institutions a balance of equilibrium must be maintained between the prisoners and the custodial staff. This balance is delicate, and can easily be upset by the action or inaction of the Superintendent. If, either of his own volition or through, pressure from his staff or outside organizations, he reduces prisoner privileges and takes more stringent disciplinary measures or other unduly oppressive steps, he is likely to be confronted with, a prisoner disturbance or even a riot in his gaol. If he allows prisoners greater liberties or privileges too quickly or gives them a greater say in their own activities or fails to back up his staff, then staff morale suffers and industrial action may follow. Great skill and sensitivity are required in this position.

It would be impossible to formulate a comprehensive statement of each and every duty and function a Superintendent must perform. Such a statement is more prudently confined to one of general principle. One could not criticize Rule 62 as such a statement:

"The Superintendent is responsible to the Commissioner for the conducting and supervising of the entire service of the prison within the policies of the Department."

This lays down what should govern the relationship of the Superintendent and the Department. The Superintendent should be as previously-"king of the castle", but his writ should be exercised within the policy guidelines laid down by the Prisons Commission. It is implicit that the Prisons Commission should not normally interfere with the day to day running of the gaol, its routine or its local rules. Its concern is with general policy.

An able Superintendent would be more intimately aware of his prisoners, the temperament and morale of his staff and the physical features of his own gaol than the Prisons Commission or any member. On-the-spot decision-making should lie with the Superintendent of the gaol. It is only when he has failed or obviously is transgressing departmental policy that the Head Office should interfere.

When the Prisons Commission lays down new policy directives on general matters, it will speak in policy terms, leaving to the Superintendents' direction the means by which these policies are to be implemented in particular prisons.

An inevitable consequence of giving greater autonomy to individual Superintendents is less uniformity between the various procedures adopted at different gaols. This is a price worth paying; it would be cumbersome, difficult and impersonal if the Department were to lay down all rules and procedures from Head Office. As long as prisoners entering institutions are fully informed of local rules and procedures, no hardship should follow.

There should be a formal meeting of all Superintendents at least twice a year for the purpose of discussing mutual problems and the general policy of the Department. These meetings should be chaired by the Chairman of the Prisons Commission or one of its members. By these meetings a degree of uniformity in the application of Head Office policies can be obtained. In addition, the experience of the Superintendents should prove invaluable to the Prisons Commission in the formulation of general policy.

Some mention was made in the evidence of Superintendents' conferences being held "two or three times a year". They seem to have been most informal and their purpose unclear. They achieved nothing. It is essential that these meetings should immediately be placed on an official basis; they should be held at regular intervals and a proper agenda for discussion should be prepared and circulated and records of deliberations maintained. The opportunity thus provided should hopefully lead to an overall consistency in the application of departmental policy, together with a continuing and invaluable process of self-criticism. These meetings and the sharing of ideas could also assist Superintendents in changing from prison to prison.

Transfers should be encouraged for those Superintendents seeking promotion to higher office within the Department. Experience in all classes of prison institutions should be a necessary pre-requisite to elevation to the highest administrative postings.

The Superintendent is responsible for the security of his prison and the containment of inmates, but the ultimate responsibility should rest with the Prisons Commission. Undoubtedly, circumstances will occur when the Commission will be called on to give directions to a Superintendent. They should be directions and not invitations. There can be no place for Mr McGeechan's technique of trying to "persuade his Superintendents to a particular course of conduct rather than directing them".

Superintendents should report monthly to the Prisons Commission. These reports are essential to inform the Commission fully about the general situation in prisons. They should be informative and accurate. If Mr McGeechan is to be believed when he stated that he could rely on the reports of only three of his Superintendents, then that alarming situation should be corrected immediately.

Executive or Commissioned **Rank**

Many senior officers in the prison service have entrenched and negative ideas about the role of prison officers and their relationships with inmates. They are unlikely to change. They reflect a deliberate resistance towards any effort to change the system by more enlightened officers in the Department. This is particularly true in institutions in rural areas where the age and length of service of an officer now constitute the main determinants of his status.

A useful example of this is seen in part of the statement of one of the prison officers who was at Bathurst in October, 1970:

"I received my early training in the service from hard-core old-timers who demanded that you dealt with prisoners from a position of strength. They actually preached that the only good prisoner was a dead prisoner. The slightest consideration or leniency towards a prisoner was regarded as a weakness. Prisoners had either to conform or be broken. But the same applied to the junior prison officers as well. The seniors demanded that you complied with the rules to the letter and that contact and conversation with prisoners was strictly out ...

In the first couple of years of my service, the penal psychology that was subsequently taught by Mr Jack Nash, the Training Officer, was not in practice. I attended the training course at which the new approach to treating and dealing with prisoners was taught, but it was all to no avail because when you returned to Bathurst, the superiors over you would not accept the new methods. Indeed, this prompted me to say on one occasion to Jack Nash, that in giving the new training course, he should have started with the senior officers and not the junior men."

Similarly, Mr McGeechan, when expressing some surprisingly mild criticism of Mr Pallot as a Superintendent, said that notwithstanding Mr Pallot's shortcomings, he was "in no way remarkable; he was a product of the seniority system."

It is essential to raise the standard of officer at the senior level if the efficiency of the prison system in New South Wales is to improve. It would be impracticable and unfair to suggest that there should be wholesale replacement of the prison officers in such positions. But the situation must be corrected as soon as possible. The only practical way to achieve the desired result is by special training for selected serving officers, and by recruiting outside personnel who will enter the Department at a senior level.

This suggestion should be considered in the light of the following recommendation for a division between executive or commissioned rank and other ranks in the custodial service. It is not a novel concept. The Department has been considering the possibility of a change since 1973. However, nothing has yet been done. The Department explains its reluctance to introduce this change, which it sees as desirable, because of the possibility of placing at a disadvantage existing prison officers with inadequate aptitude for advancement.

One doubts the accuracy of this explanation. The Public Service Association unequivocally expressed itself as "favouring the remodelling of the prison service along the lines of the police service, with commissioned officers from the level of Principal Prison Officer upwards". Already there exists a separation of the staff in one aspect from the rank of Principal Prison Officer down, officers are members of the Public Service Association, Prison Officers' Vocational Branch. Those above the rank of Principal Prison Officer do not belong to that branch, but have a separate organization

Assistant Superintendents and higher-ranking officers should be classified as executive or commissioned rank. This rank should be open to all prison officers who have completed one year of permanent service with the Department and have the necessary qualifications by having passed a special staff course. This rank should also be open to outside applicants. It is imperative that outsiders should be encouraged to join the prison service. The recruitment of such staff would bring much needed managerial skills and fresh opinions and attitudes into the Department. An outsider will bring with him a fund of new ideas which could lead to the improvement of the system as a whole.

This recommendation is based on the system in the English prison service. It is not necessary here to indicate a specific number or proportion of positions which should be made available to outsiders wishing to join at executive rank. About fifty per cent might be appropriate. However, this may well diminish in due course as a result of the expected improvement in the overall standard of selection and training of prison officers. Preference must be given to present custodial staff and, all other circumstances being equal, any applicant for promotion from present prison officer ranks should be preferred to an outside applicant. The percentage of outsiders recruited for training in England fluctuates from year to year.

The staff course suggested should last for twelve months. The Wakefield Service College in England could be taken as a model. The courses for permanent officers and outsiders must differ for the first three months and then would coincide. For permanent officers, the first three months of the course would be designed to equip them to handle the main course. For outsiders, this initial period would give them some practical experience in prisons and prisons administration.

For a further twelve months after completing the course, the outsider would be posted to various gaols where he would act as a supernumerary to the governing staff. It would be the responsibility of the Superintendent to see that the entrant gained practical experience in all forms of custodial work. During this twelve month training period, he could be moved around various institutions. It is essential that this recommendation be introduced immediately to rejuvenate and improve the upper echelons of the New South Wales prison service. These proposals would assist Superintendents to assume the increased responsibilities recommended.

As in other professions, there is great value in the inter-change of ideas between colleagues. With this in mind, regular exchanges of Superintendents with their counterparts in other States is suggested.

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The public only gets the prison service it deserves. Unless prison officers are recognized as men and women fulfilling an essential task for the safety and wellbeing of the law-abiding public, no amount of leadership can give them that sense of pride and responsibility without which any really high standards cannot be built by a prison system.

PRISON OFFICERS

CHAPTER 14

This is a conclusion of Lord Mountbatten in his report on prisons, and the Royal Commission respectfully adopts it. Public safety depends on the efficiency of its prison officers. It is unfortunate that the New South Wales public is so unmindful of their importance. They are the very foundation of any prison system, which is as good or as bad as they are.

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The role of the prison officer is a difficult one. He is as much a captive of the system as the prisoner. Gresham Sykes, in "The Society of Captives", described the prison officer thus: "The prison officer is the 'pivotal figure' in the prison system. This expected role is a complicated compound of policeman and foreman, of cad, counsellor and boss all rolled into one. He has to supervise and control the inmate population in concrete and detailed terms and he has to see to the translation of the custodial regime from blueprint to reality."²

The prison officer is the person responsible for carrying out the policies of the Department at grass roots level. He is concerned with the supervision of prisoners and the maintenance of order within the prison. His role is analogous to, but more difficult than, the role of the policeman. His duties extend to supervising the implementation of any tasks or jobs assigned to a particular prisoner. This aspect is more obvious in the case of the prison industries officer. All officers are, at times, called on to counsel, train and otherwise assist prisoners, some of whom are recalcitrant, intransigent or even dangerous. The more senior his position, the further his responsibilities extend.

It is necessary for him to undertake such assignments as the assessment of a prisoner and his behaviour for the preparation of reports for his classification and, on occasions, parole. As his contact with the prisoners under his supervision is both continuous and direct, the prisoner views the whole prison system in the light of the role and behaviour of the prison officer. For this reason, the importance of the prison officer cannot be overstressed: "in corrections, the main ingredient for changing people is other people."³

In reviewing the role of the prison officer, one is always tempted to compare his job with those of other occupations in the community. The comparison with the police is but one example. Such comparisons are inevitably used to contrast the treatment or conditions of one job with the other.

Again, it is often suggested that the prison officer occupies a position similar to a member of the armed forces. Such a comparison is made to support the conclusion that the prison officer's job should be characterized by the same degree of discipline and rigidity. This process of reasoning tends to detract from the unique nature of the function of the prison officer. The more ambitious the objectives of the prison system and its administrators, the more important the role of the prison officer in attempting to achieve them.

One significant difference from most civilian occupations is the possible exposure to violent behaviour. The prison officer must be trained to recognize its symptoms and to be in a position to deal confidently with it. Yet the incidence of actual injuries sustained by prison officers on duty is, as a matter of statistics, considerably lower than that suffered by other sections of the New South Wales Public Service. For example, the incidence of injury is less than for employees of the Forestry Commission, the Water Resources Commission or the Health Commission.

Notwithstanding this factor, the possibility-albeit remote-of sustaining serious harm by the wanton and violent act of another is always present. Indeed, it is an apprehension which prison officers face continuously in maximum security institutions. However, confidence in oneself and one's fellow officers can be engendered by proper training, and potential danger can be further lessened by the use of more care in the classification of prisoners.

No assurance can ever be given to the prison officer that his person will always be inviolate, but such an assurance can be given in few jobs-if any. What can and should be done is to provide training and experience to enable prison officers to reach a standard of professionalism which, so far as is humanly possible, would reduce this risk.

The morale of prison officers in the State's gaols is low. There is disquiet and a lack of purpose among them. Lack of leadership by the Department and the unsympathetic attitude displayed toward prison officers has contributed to this situation. Numerous examples were given in evidence of this lack of leadership and the failure by the Department to give proper direction to officers.

The sad duplicity of the Department and its higher officers concerning Departmental policy on the use of force resulted in the confusion and disillusionment of prison officers. In the unruly circumstances that often prevail in a prison community, it is essential that the authorities place exact limits on the use of force by prison officers, and that the officers should carefully and continuously be instructed of these limits.

A Policy on the Use of Force

Whichever set of rules was thought to be in force in 1970, each set of rules provided by Rule 4 that:

"An officer shall not strike a prisoner, unless compelled to do so in selfdefence. In any case in which application of force to a prisoner is required, no more force than is necessary shall be used."

It will be recalled that in the disturbance at Bathurst in October, 1970, Superintendent Pallot said that he directed the prison officers to use as much force as was reasonably necessary to get the prisoners out of the cells. But his actions spoke louder than words and prison officers who saw his opening illegal assault on the unresisting prisoner could be pardoned for thinking that there were occasions when Departmental statements on the proper application of force could be disregarded.

Leaving aside the imprecise and even ambiguous wording of Rule 4, it is easy to understand that the officers at Bathurst Prison in 1970 might well have wondered what the Department expected of them under such circumstances. This no doubt gave rise to the request by the Prison Officers' Vocational Branch of the Public Service Association, in January, 1971, that the Commissioner confer with their representatives about providing a written Departmental directive on the use of force. A meeting with Mr McGeechan and some of his senior officers was held, but no clear statement of policy was forthcoming. This failure of the Department to condemn the use of force or violence as a punitive measure provided a sound basis for the inference that both were condoned by the Department.

For their own protection, as well as for the good of the Department, prison officers should not be left to infer what is Departmental policy on any matter, let alone one as important as this.

Rule 4 cries out for amendment. As presently worded (and despite protestations to the contrary by Counsel for the Department) that Rule clearly permits the use of force by officers only in self-defence. It is obvious, however, that force is necessary in other circumstances as well. A prisoner who refuses to carry out some orders may require the use of force to oblige him to carry out that order. But the use of batons or any other form of physical violence should never be permissible, except in selfdefence. Substances such as mace should be used only if there is a reasonable fear of injury to the officers concerned.

In one prison the Commission inspected in the United States, officers who wished to remove a recalcitrant prisoner from his cell wrapped him in a mattress and carried him out. In the opinion of the Commission, there can be no objection to the use of force in this manner. The contrast of such a procedure to that authorized by Superintendent Pallot and employed at Bathurst in October, 1970, is clear enough. The circumstances in which force may be used should be spelt out clearly in written instructions.

Prison Rules

The Commissioner, by virtue of section 49 of the Prisons Act, may, with the approval of the Minister, make rules not inconsistent with the Act for the management, control, good government, supervision and inspection of prisons.

In accordance with this provision, a set of rules (Exhibit 6), approved by the Minister, was introduced in July, 1956, to replace existing rules. In 1970, in a Departmental publication "Manual of General Information-Custodial Division", a new set of rules was set out purporting to have been made "in accordance with the provisions of section 49 of the Prisons Act, 1952". No action was taken by the Department to cancel or withdraw the 1956 rules. The result was that from 1970-certainly until April, 1976-there were two competing sets of rules, both said to have been made in accordance with section 49 of the Act and both purporting to bind officers and prisoners alike.

In fact, the set of rules introduced in 1970 did not receive Ministerial assent until April, 1976. Without embarking on a legal inquiry as to which set of rules was applicable, it suffices to point to the confusion that quite clearly could exist as a result of the co-existence of two sets of rules not always consistent the one with the other.

When the pertinent question was put to Mr McGeechan as to which set of rules he expected his officers to follow, the somewhat naive answer was:

"There are only two sets of rules, sir. One had legal form in the sense that they had been approved by the Minister; the other were simply administrative guidelines that were not approved until April, 1976."

Mr McGeechan added that he would have expected his officers to have carried out their duties in accordance with the rules "in an administrative sense ... ". He agreed that this resulted in a very confusing situation. To say the least, it is alarming that a Departmental head apparently saw nothing extraordinary in having two inconsistent sets of rules binding prison officers and prisoners, one set according to him binding in a legal sense and the other in an administrative sense.

He allowed this position to continue for some five or six years and the position is still confused. There can be no doubt that confusion had existed for a considerable time. One Superintendent said that he had a copy of the Manual of General Information (Exhibit 4) "for four or five years" before August, 1976, and regarded himself as being bound by these rules as he did not have a copy of the 1956 rules (Exhibit 6). On the other hand, Mr Pallot said that although he was aware of the 1970 set of rules, he preferred and applied the 1956 rules, which he described as being "spot on".

This confusion was further compounded by the fact that the enforcement of either set of rules varied from prison to prison. Mr Day, Superintendent of Cessnock Corrective Centre, gave evidence that: "Some of (the) rules would apply to Cessnock and some would not." For example, although the rules specifically provided that in institutions and hence would not be applied at his gaol. In fact, contact visiting was permitted in institutions such as Emu Plains and Cessnock as a consequence of "an understanding" between the Superintendents at those institutions and Mr McGeechan.

The Royal Commission does not suggest that contact visiting was not a desirable reform, but it was necessary before introducing this or any other reform to see that rules to the contrary should be altered.

Rule 9 of the 1970 prison rules, provides that:

"An officer shall not speak to a prisoner unnecessarily ... "

Mr Day conceded that this rule, as well as Rule 8 which prohibited an officer from "gossiping with a prisoner", ran contrary to what the Department was trying to achieve at Cessnock. It was his opinion it should not be enforced there. When the legal position was pointed out to Mr Day, he readily admitted that prisoners and officers could be in a difficult situation in discovering which rules or sets of rules bound them. When asked: "Who is to work out what applies and what does not?", he indicated that this could be worked out "only in the light of experience"-a most curious reply.

It is little wonder that the Prison Officers' Vocational Branch of the Public Service Association, complained in its final submission that "prison officers lack direction and guidance ... ". It is no less surprising that prisoners complained of inconsistencies by prison officers in the observance and enforcement of prison rules.

Community Attitudes

The community's attitudes to prison officers vary from absolute ignorance and indifference to contempt. This is quite unfair to prison officers. An attempt must be made to correct this situation immediately by an active public relations campaign. This campaign should try to instruct the public in the vital protection role played by prison officers and should aim to lift the status of the prison officer to the place it deserves.

Recruitment of Prison Officers

It is essential that, in selecting candidates to be prison officers, the greatest care should be taken. The wasted money and effort in training unsuitable applicants alone demands this. Even more important is the need to avoid the control of prisoners being in the hands of those who are mentally or physically unsuited for the task.

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The criteria used in the recruitment and selection of officers depends ultimately on the role that they may be called on to fulfil. This in turn depends on the objectives which the Department seeks to achieve in relation to prisoners. This aim is stated elsewhere to be a threefold one: Firstly, to contain securely the prisoners entrusted to its care; secondly, to see that these prisoners do not suffer avoidable harm, mentally or physically, while they are in prison; and, thirdly, that an attempt should be made to correct and rehabilitate them.

Overseas experience has demonstrated the care which should be taken in the initial selection of personnel to be trained as prison officers. Far too little time and trouble has been taken by the N.S.W. Department in the past in the selection of officers. Unfortunately, the situation has been exacerbated by the failure to institute any proper training programme for personnel once selected.

There has been excessive emphasis on physical attributes, such as good eyesight and height, while there has been no adequate psychiatric assessment. This is considered to be a major deficiency since the general conditions of work constitute a potential danger if any person employed is in the slightest way emotionally unbalanced. Although psychiatric testing will not necessarily guarantee protection against recruitment of unsuitable applicants, it is a sufficiently important aid to require its use by a selection committee.

The present minimum age for recruits (twenty-one years) should be lowered to nineteen. One of the reasons for this proposal is that many prisoners are nineteen or less. This will be increasingly so. Acceptance of a recruit should not be based simply on age, but on the level of maturity.

The physical standards required of recruits should be more flexible. There are many people in the community who might be well suited to careers as prison officers, yet are ineligible because of the present rigid physical requirements.

The single most essential characteristic in a potential prison officer is his capacity for "man management". This phrase is bandied about so much as to be now almost meaningless. Most penal literature speaks of its desirability but avoids defining it, and few say how it is to be taught to the recruit. It is not an unknown term and is frequently used in the armed services and such services as the police force. It involves the ability to foster a relationship between a prison officer and those immediately under his care which will enable him to control, direct and counsel the prisoner.

The time has long since passed for limiting the task of a prison officer to that of a "turnkey". In the future, he should be called on to do much more than merely unlock cell doors and gates. They should take their proper place with probation and parole officers, welfare officers, psychiatrists, psychologists and others in achieving the overall objectives of the Department.

The change of emphasis from physical attributes to the ability to deal with people-man management, which should be the major criterion of selection-will require a selection committee skilled enough to choose potential candidates. The selection committee should comprise a member of the Prisons Commission, a senior representative of the Public Service Board, a representative of the Prison Officers' Vocational Branch of the Public Service Association, and a psychiatrist. Such a committee would reflect the experience and expertise within the prison system and would have the ability to assess applicants mentally as well as physically to identify the type of person suitable for training as a prison officer.

Training of Prison Officers

"In the absence of the stability and self-assurance that come from good training and a sense of professionalism, this behaviour has become reciprocal, with the staff and inmates locked into what amounts to an endless and mutually destructive low level, verbal and psychological warfare . . ."4

This comment was made in criticizing existing training facilities for prison service personnel in Canada. The comment is equally appropriate to New South Wales. The U.S. President's Commission on Law Enforcement and Administration of Justice in its Task Force Report "Corrections" in 1973 stated baldly that at that time most prison officers in the United States were "under-educated, untrained and unversed in the skills of corrections". Unfortunately, this comment could also be applied to many officers now serving in the New South Wales Department of Corrective Services.

Recently, there seems to have been some disorganized attempts to try to correct the position in New South Wales by introducing a proper training scheme. Very little would appear to have been achieved. Mr Sanders, who as Chief Staff Development Officer was at one stage responsible for training within the Department, said that when he took over in 1973, the training was inadequate. When he gave evidence, some four years later, he said it was still inadequate.

Until recently, a trainee officer received fifteen days training, one-third in class activities or lectures and the remainder on the job as an addition to normal prison staff requirements. Only about five days were spent in lectures.

There is little training for prison officers once their appointment has been confirmed. Some management courses are said to be available. They are provided by the Sydney Technical College and other such institutions. These may be undertaken by prison officers in their own time. Management and administration courses run by the Public Service Board are attended by Senior Prison Officers and above. They can be undertaken on a voluntary basis if the Department cares to nominate a prison officer. In addition, there is a "Supervision Certificate" course conducted by the Department of Technical and Further Education at the Malabar complex. Again, this is undertaken on a voluntary basis.

Vague references were made to a course at the Mitchell College of Advanced Education. Some play was made in evidence of the advantage of such a course to the Department. Although there was talk of its existence as far back as 1974, no mention has been made of any prison officer attending. Like most of these courses, no real incentive exists for the prison officer to undertake the course. It is a voluntary choice on his part and the Department does not make any allowance for study time or time off work to participate.

No outside courses are designed exclusively for training officers, although mention should be made of the Department of Technical and Further Education course for an Associate Diploma in Justice Administration. This course is available for both prison officers and police officers, and some prison officers have graduated in this course.

In January, 1975, the Department appointed regional training officers at Cessnock, Goulburn, Malabar and Parramatta. Their qualifications are not impressive.

More recently, the Department submitted to the Public Service Board proposals to revise the initial training period by increasing it to a period of up to six months. There was to be an initial training period of six to twelve weeks, followed by a period of rostered duty under supervision. In most cases the training is to be completed in six to twelve weeks, although the regional training officer, at his discretion, can recall a trainee officer for further initial training, provided he does so within the first twelve weeks of training.

The Public Service Association has apparently accepted these proposals and as they have been approved by the Public Service Board they have now been introduced. A further proposal by the Department to introduce a course equivalent to the "Supervision Certificate" was rejected.

Even with the implementation of the training proposals in July, 1976, Mr Sanders refers to them as "only slightly better" than the courses superseded.

Any deficiency in the training of custodial officers can have disastrous results both for the system and inmates. Counsel for Mr Pallot sought to use his absence of training to exculpate him for his part in the Bathurst disturbances.

It is not appropriate to attempt here to set out exhaustively the specific subjects or particularize the learning prison officers require on recruitment or subsequently. Some of the planned schemes appear quite satisfactory; the trouble is that they still do not exist, or if they do they are not being used. Unfortunately, the present system of training in fact is deficient and no determined attempt has been made to improve it.

An initial period of at least three months training for prison officers should be mandatory. Two-thirds of that time should be spent in theoretical training. The period could be broken up this way: The first month should be spent at Malabar Officer Training Unit (for lectures and practical teaching such as simulated operations, field exercises, role playing and case studies). Towards the end of the month, the prospective officer should be informed of his future posting and then go there to perform, under supervision, routine duties for one month. This would not only permit him to become familiar with the prison where he will serve, but also provide an opportunity for him adequately to organize his personal affairs before taking up permanent duty.

In the third month, he should return to the Malabar Officer Training Unit where his theoretical training should continue. The content of the course is a matter for experts in the Department, but the Royal Commission was particularly impressed with the training course at the Prison Officer Training School at Wakefield, England, and it would be of great value to those designing the Course to obtain relevant documentary material from that School.

The new officer should be on probation for the first twelve months of his service. If he then proves satisfactory, he should be appointed permanently. During the probationary period, the Department should be able to dismiss the officer if he proves unsuitable. Any time spent as a temporary or probationary officer should be taken into account in computing the compulsory probation period under section 43 of the Public Service Act.

The basic training Course should be taken by all officers of the Department, whether they are to serve in the custodial, industrial, Probation and Parole or administrative division. This is the situation in the prisons under the United States Federal Bureau of Prisons. Its advantages in welding a homogenous force, where each member knows and appreciates the task of the other, is obvious.

The regional training concept recently introduced should be abandoned in favour of training all prison officers at Malabar Officer Training Unit. The unit can then be staffed by the most highly specialized personnel available.

A prison officer's training should *not* end after the initial training period. Further courses should be available to officers aiming for higher rank. They should not be compulsory, but the Prisons Commission should have a discretion to allow suitable officers who wish to attend a Course appropriate leave on full pay. The passing of Courses should be necessary for promotion beyond certain ranks.

In 1974, as a result of an inquiry conducted under the Public Service Act, a Stipendiary Magistrate, Mr Lewer, commented on the lack of training of prison officers. The Department has been particularly inept in attempting the reappraisal that Mr Lewer suggested. Perhaps its attitude can be best summed up by the reply by Mr McGeechan to one of his prison officers at a staff function at Bathurst in 1969. The officer said in evidence:

"On one occasion . . . myself and another officer suggested to the Commissioner, Mr McGeechan, that it might be a good idea to train prison officers in the area of problem recognition, solving techniques and perhaps some basic psychology. To this suggestion, the Commissioner replied: 'If you educate people, all you do is create individuals!'"

Conditions of Employment

In departmental advertising for recruits the prison officers' working conditions are described as "excellent". Drawing attention to this, a prison officer has said in a submission to the Commission:

"I do not believe our shabby locker room with lockers for only about 100 officers is 'excellent'. One toilet to be shared by male and female visitors and officers in the C.I.P. gate, and night duty boxes in the c.I.P. where officers have to stand for seven hours at a time. Yet they describe this as 'excellent'. As a Union, and through the Public Service Association we have brought up working conditions many times, but nothing has been done."

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A British White Paper, "Penal Practice in a Changing Society", made three points in relation to prison staff:

Their pay and material conditions of service, including their living and working conditions, must be improved so that the right type of people are attracted to the Service.

The prison service, as a whole, should work together as a team, inspired by a common purpose.

The staff, wherever they serve, must be provided with buildings, amenities, equipment and training which are necessary to enable them to carry out their difficult task efficiently, with a feeling of personal satisfaction in their work."

There can be no doubt about the accuracy of this statement. It would be futile to upgrade the selection and training requirements unless changes are made to make a prison officer's job less boring, dull and meaningless and more rewarding in terms of job satisfaction and long-term career advancement.

The repeated complaint of prison officers-not without justification-is that their work over the years has become more and more trivial-limited to carrying out musters, moving prisoners round a gaol and locking them in their cells. Frequently and in many cases unnecessarily-the tasks the custodial officers could and would willingly do are being done by others. This results in greater cost; sometimes the work is less well done; and it robs the prison officer of fulfilling a more important role.

Proper use of prison officers would challenge their resources in making them more responsible for prisoners under their control; responsible, so far as possible, for looking after their welfare-for example, contacting families-and attempting to handle and correct valid grievances.

They should also be responsible for reporting on the prisoners' conduct for the benefit of the administration of a particular gaol and for the granting of remissions, parole and so forth.

Another method by which the status of the work of the prison officer could be improved-and one which would, in the opinion of the Commission, have far-reaching benefits as well for the overall management of the gaols and for the welfare of the prisoners themselves-would be the introduction of the concept of Unit Management into each of the gaols, and particularly in the older and larger gaols.

This concept has been introduced with success in most of the Federal gaols in the United States as well as in England. The idea is to break down each of the larger gaols into small groups or units of about 100 prisoners or less-in New South Wales the unit would have to be much smaller. Each of the units has its own staff of officers who are responsible for the general management of the prisoners in such unit-subject only to the overall control of the Superintendent.

The theory-which appears to have worked well in practice in the United States-is that the staff attached to each unit are encouraged to make many of the decisions affecting the prisoners within the unit, and that real benefits flow (for the' administration, the officers and the prisoners) in having the level of decision-making closer to the prisoners themselves. One of the main benefits is that the officers are given more responsibility and at the same time become more _ accountable to the prisoners, having to face them directly in making such decisions; the prisoners do not have the feeling-presently wholly justified-that they are being dealt with (or, more often, not dealt with) by an anonymous person in Head Office.

Moreover, the closer relationship which develops between officers and prisoners places more emphasis on what should be the counselling aspects of the officers' work. Obviously, some further training of the officers would be necessary for this aspect to be wholly successful.

The results in the United States have been the smoother management of the institutions, less assaults and disturbances-particularly in some of the notoriously rougher institutions. Inmates have felt more secure (because the staff who make the decisions are more readily available) and they were often better placed in programmes (because the staff were able to recommend more accurately what was appropriate for prisoners from their proximity to them).

The Commission has recommended elsewhere in this Report that the larger cell blocks should be broken up into smaller units. The introduction of a Unit Management scheme should be co-ordinated with those physical alterations. The number of prisoners to comprise each unit will depend on the nature of the physical alterations to be made. The Commission believes that the officers would receive more worthwhile job satisfaction as a result of that introduction.

Oath of Affirmation

The McClemens Report pointed out that, as the members of the Department were a part of the law enforcement machinery, it would improve their status and their self-image if officers were invited to take an oath or make an affirmation. Perhaps this is a matter of minor significance but, as appointed out, it would help to indicate to the public and the prison officers that they (with the judiciary and police officers) are the guardians of, and sworn to uphold the law.

Prison Officers' Pay

The present working hours of prison officers fall into three shifts-midnight to 8 a.m., 8 a.m. to 4 p.m. and 4 p.m. to midnight. Additional watches start at irregular hours. However, overtime is worked to such an extent that it has become accepted as a necessary component in the officer's wage. The average amount of overtime any officer will expect to work in a year is twenty-six eight-hour shifts.

Such a use of overtime has produced some extraordinary anomalies. At Narrabri, with four officers and thirty-nine prisoners, overtime cost \$28,000 in the financial year ended June, 1976. On the other hand, at Broken Hill with three officers and twenty-two prisoners overtime cost only \$5,000. In many cases, overtime results in prison officers earning considerably more than Superintendents. According to Mr McGee chan, the main reason for overtime was the need to man posts and the usual situation of not enough staff.

The staff should be brought up to strength immediately. In addition, there should be a complete investigation and overhaul of overtime. This is not to suggest that wages of prison officers should be reduced. At present it is only by overtime that prison officers can earn a wage commensurate with the skills it is suggested they should possess. The normal salary for prison officers should be raised and overtime reduced.

Wearing of Uniforms

Various parties appearing before the Royal Commission have suggested that wearing of uniforms by prison officers introduces a militaristic image, remote from the inmates and creating some degree of tension. In many walks of life, people wear

MEDIA COMMUNITIES

The handling of such industrial disputes appears at times to be by some form of control. In a general sense, the immediate parties to the dispute are the Department and the prison officers. Yet the principal negotiating parties are the Public Service Board and the Public Service Association or, more properly, industrial officers employed by each. In these circumstances, it is easy to see how both the Department and the prison officers could feel removed from the action.

This state of affairs will be brought to an end only if the Department keeps prison officers fully aware of its policies as they affect the prison officer, and does all in its power to conciliate any differences and to avoid outright confrontation. This is DOT to suggest that the Department should avoid taking action where it is necessary in the public interest.

Too frequently during the hearing, the excuse was made by Mr McGeechan and his senior officers that they could not introduce necessary and desirable reforms because they were fearful of industrial troubles. The refusal to take action against Mr Pallot was excused because of the industrial difficulties that might arise if he were removed. When industrial disputes do arise for conciliation or arbitration, both the Department and the prison officers should be more directly involved in negotiations.

Lateral Transfers

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One of the main areas of contention between the Department and the prison officers was lateral transfers. The issue was whether, and to what extent, the Department should be permitted to transfer prison officers from one institution to another while retaining their rank and status. Generally, the attitude of the prison officers is hostile to such transfers and many eXllmpJp~ of this vvez-o giyen. Th", vuj" LIVII uy prison officers is that lateral transfers affect the opportunities for advancement of officers in the local institution.

As a result of industrial troubles arising from lateral transfers, a code was drawn up between the Public Service Board, the Department, and the Prison Officers' Vocational Branch. This provided that, in normal circumstances, promotion vacancies are to be filled within the institution in which they occur and this policy is not to be altered arbitrarily. However, lateral transfers at existing ratings may be made in special circumstances—either in the interests of the officers or the Department. It was indicated that lateral transfers should be used as sparingly as possible and the sub-branch should always be consulted.

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The prison officers argued a pre-condition of the right of the Department to make a lateral transfer should be the provision of alternative accommodation at a reasonable rental. In some circumstances, there may be insufficient time to permit this to be arranged, but the Department where possible should not make a transfer unless it is absolutely necessary and certainly not in total disregard of the interests of the prison officer concerned.

Undoubtedly, there will be occasions when it will be essential in the interests of the service to make lateral transfers. Within the guidelines laid down, the Department should not hesitate to make them if they are necessary. No prison service can exist otherwise. A rigid and inflexible opposition ignores the fact that transfers are permitted by the unions in other branches of the New South Wales Public Service, for instance, the Education Department. They are also accepted in the police force.

It may be purely coincidental, but before Mr McGeechan took office as Comptroller General of Prisons, lateral transfers were made frequently and with little difficulty.

The question has been raised whether male prison officers should be employed in prisons housing women, and vice versa. There can be no objection to the employment of women in male institutions or men in female institutions, provided the demands of privacy and the dignity of the inmates are met. There are advantages in consciously pursuing this policy. However, there must be a careful choice of job allocation of the prison officer concerned. There is nothing radical in this suggestion. Women are employed in male prisons in Victoria and male and female prison officers are completely interchangeable overseas.

Female officers could be of more value as hostages in a male institution. This factor should be borne in mind in the allocation of jobs to female prison officers, but it should not cause the Department to alter its declared policy that it will not bargain with prisoners who seize hostages whether male or female.

References

- ¹ Report of the Inquiry into Prison Escapes and Security-Admiral of the Fleet, Earl Mountbatten of Burma, 1966, p. 5.
- ² Gresham Sykes: "The Society of Captives", Princeton N.J., 1958.
- ³ The U.S. President's Commission on Law Enforcement and Administration of Justice-Task Force Report: "Corrections", 1967, at p. 93.
- ⁴ Report to Parliament by the Sub-Committee on The Penitentiary System in Canada, 1977, p. 34 at para. 241.
- ⁵ "Penal Practice in a Changing Society-Aspects of Future Development (England and Wales)", 1959, paras 101-103.

"At the moment there is a gap between the giving of an order and its carrying out, and however this gap is filled, there must be more thorough-going inspection to enable the high command structure to satisfy itself that the whole machine, the prison department and every station, the institution for which it is responsible is working smoothly and efficiently".

CHAPTER 15

INSPECTORATE

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Lord Mountbatten might quite easily have been writing about the New South Wales Department of Corrective Services .

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One of the most serious criticisms that can be levelled against the Department's administration has been the failure by Mr McGeechan and his Head Office staff to appreciate exactly what was happening within the system. No attempt ever seems to have been made by Mr McGeechan or the Head Office staff to see that their instructions and orders were adopted and followed within the various gaols. Despite its apparent investigations, the Department says that it failed to detect improper actions by custodial officers, and at times it was apparently oblivious to them.

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In his report, Lord Mountbatten stressed the importance of the type of institution he favoured:

" ... in my opinion there should be greater consideration of inspectorial duties, and I think that the importance of them has been under-estimated for some time. A proper inspection of an establishment is not simply an occasion for inspecting the books. It should be an occasion for a thorough examination of the establishment as a whole and an assessment of the tone and morale of the unit, prisoners as well as staff, and the extent to which the Governor and all of his staff are fully conversant and in harmony with the main policies and directions of the Secretary of State. But a close inspection of the books is also essential, and records must be meaningful and kept in such a way that inspection is feasible."

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Mr McGeechan's attention was directed to these quotations by counsel assisting the Commission. His replies were typical of many he gave when obvious deficiencies in his Department were revealed.

When asked about the need for an inspectorate of the type that Lord Mountbatten had envisaged, he replied that any change was unnecessary because "we have already an inspectorate built-in, in the sense that the Public Service Board inspects". His next reply was: "I would be most in favour if my service did have such an inspectorate" (of the type suggested by Lord Mountbatten). Next followed an exculpatory suggestion by Mr McGeechan that there might already be an inspectorate "in the sense of my senior officers going around and inspecting ... " Then he said that, although he would not foresee any problem in creating an inspectorate, it was a case of "being able to afford it". The final denouement of the cross-examination was the usual suggestion that the idea had been thought of but was still being discussed-"I am conscious that there was some discussion on this sort of a format, but it has never eventuated".

Later in his evidence, Mr McGeechan agreed that any inspection by the Public Service Board was directed only to "economy and efficiency, the question of staffing" .. He added that these inspectors reported to the Public Service Board and not to him. Inspections by Visiting Justices also were mentioned, but in the upshot he stated that "the essential key" to inspection directed at seeing how a particular prison was being run "would be our own Establishments Division".

Apart from the possibility of the Establishments Division being a suitable inspectorate, a moment's reflection reveals that none of the alternatives that Mr McGeechan volunteered could be said properly to fulfil such a role.

Mr Morrow later shed some light on the actual role of the Establishments Division, of which he was in charge. He described its role this way:

The Establishments Division looks into all matters which affect security. That is a very broad term.

When I use the term 'security' you must remember that *anything at all within* a prison, from a needle to a battleship, has some security rating. We look into matters of locks, keys, staffing, arms, officer morale, administration, on an inspectorial into all matters."

This was hardly Lord Mountbatten's idea of an inspectorate.

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The inadequacy of the Establishments Division was demonstrated by Mr Morrow's exposition of the way it worked. This has been described in the Chapter, "The Department and the Commissioner". The Division had a complement of some "five field officers", who to use his words: "bring certain things back to me". Mr Morrow was unable to visit the various instituticus with an] 1:egll'l.~i,t'.f. It Wlt'l. UWWUlll; that his inspections, such as they were, either were ignored by the Department, as were his reports about Bathurst in 1973, or revealed nothing wrong. He visited Grafton on quite a few occasions, and although he said that he had heard of brutality towards "intractable" prisoners he never investigated the rumours nor did he ever form any conclusions about them. So much for his powers of investigation and the zeal with which he followed up serious and grave allegations.

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During the eight years that Mr Morrow was in charge of the Division-years when tensions in some gaols were high, the morale of officers low, and prison disturbances of all kinds frequent-his inquiries revealed nothing amiss.

Other suggestions were made of procedures within the Department, which it was argued fulfilled the duties of an inspectorate. There was the suggestion of irregular visits by Assistant Commissioners or investigations of particular complaints by senior officers. Vague mention also was made of visits to the prisons by Judges of the Supreme Court and the District Court. Mr McGeechan himself agreed that these could hardly be regarded as constituting any form of an inspectorate.

The simple fact is there was no organization inside or outside the Department taken singly or together which performed the functions of an inspectorate.

The Department, since the end of the Commission's hearings, has set up what it has called "The Inspectorate Division". Its functions appear to include some of those previously within the Establishments Division and many of those discussed before the Commission. Those functions remain diffuse. They are described, in involved and ambiguous language, as being the traditional internal audit and management audit sections, a custodial inspectorate section, a new internal inquiry section, a productivity review section, and a liaison section concerned with communications between Head Office and prisoners.

These functions are split between Mr Day and Mr Sanders. Mr Day is Assistant Commissioner status, Mr Sanders has not. Mr Day is responsible to the Commissioner; Mr Sanders is responsible to the Assistant Commissioner (Administration) , and also directly responsible to the Commissioner himself. Not only is there this confusion in areas of responsibility, there is also no true continuity of function. Mr McGeechan directed that the Inspectorate should function as "a from time to time organization", and has described the arrangement as "essentially an ad hoc one".

The fundamental defect of the new Inspectorate Division is its limited experience and narrow outlook. It has no independence. It is no more than the old Establishments Division, with all its faults, with a new name and the addition of a number of confusing and competing duties. It will not resolve the problems exposed by the evidence. The Commission recommends replacing it with a new form of Inspectorate.

The Royal Commission agrees with Lord Mountbatten that an active and vigorous system of inspection is needed. This, in the main, will concern itself with the inspection of goals, but it should also conduct investigations to see that the policy laid down by Head Office is being implemented within the Department, and finally it should ensure adequate supervision of individual officers.

It is essential that the person in charge of any Inspectorate should come from outside the Department, and occupy the position for a limited time. He must have some training in investigations. For these reasons, it is recommended that an appropriate senior officer from the Police Department be seconded to the Department of Corrective Services for five years. This officer should be the head of the proposed Inspectorate. He should be given the temporary rank of Superintendent in the Department of Corrective Services, and his rights of seniority and promotion should be preserved within the Police Department. He should be assisted in his duties by five officers of similar seniority to those presently serving in the Establishments Division.

The ideal of seconding an officer with investigating skills from the Police Force is suggested by the present practice of seconding police officers to the Corporate Affairs Commission.

A similar system to that recommended here has been operating in the Ontario Department of Corrective Services for some years, and has proved successful.

#### **References**

- 1 "The Mountbatten Report", *op. cit.* at para. 241.

**Chapter 16 CORRECTIONS SERVICES  
ADVISORY COUNCIL**

**CHAPTER 16**

MEDIA COMMUNICATIONS

The Corrective Services Advisory Council was established by the Minister of Justice in September, 1971. Although described as a permanent body in the Department's Annual Report, 1971-72, it has not been given any statutory recognition or formal charter.

The report described its function as:

- "( 1) To review the policies, programmes and practices of the Department of Corrective Services so as to ensure that they are the most effective for the prevention of crime and treatment of offenders and to report and advise thereon from time to time to the Minister of Justice.
- (2) To inquire into and report to the Minister of Justice upon such correctional policies, programmes and practices or concepts as he shall, from time to time, refer to it.
- (3) to report annually to the Minister on its work findings and publish, from time to time, reports of its recommendations and inquiries."

The composition of the Council reflected a broad range of experience and disciplines by the appointment of people eminent in the fields of law, the arts, public administration, the church, sociology, psychiatry and psychology. Subsequent Annual Reports of the Department indicate that the Council submitted a number of reports to the Minister of Justice on both specific and general policy matters.

The Council itself was spawned in the atmosphere of accusations and recriminations concerning the events in Bathurst in October, 1970. This atmosphere was current in July, 1971, when there were repeated calls for an inquiry by a Royal Commission. These calls were rejected by the Government, which announced its decision on 20th July, 1971. The rejection of such an inquiry was in accordance with the proposal of the then Minister, the Honourable J. C. Maddison, M.L.A., but, at the same time he proposed the creation of a Council "comprised mainly of academics to advise him on reforms to the prison system". Mr Maddison himself noted at a press conference on 20th July, 1971, that the proposed Council would be asked to advise on corrective policies, principles and practices and that members would be free to enter any prison.

The functions of the Council were elaborated by the Minister in an announcement on 13th September, 1971, when he indicated that the functions would be to:

- ". Investigate and report on matters referred by the Minister;
- initiate studies into problems raised by members and report to the Minister;
- establish, in consultation with the Minister, priorities for projects studied by the Council;
- suggest how projects should be carried out and by whom;
- guide and direct the activities of personnel attached to these projects;
- report annually to the Minister on all works and findings;
- publish, with the Minister's approval, reports on its inquiries and recommendations."

The basic role of the Council was to be a source of advice from outside the Department on policy matters. It appears that it was not intended to act as an inspectorate or investigative body to inquire into specific matters or complaints.

The formation and operation of the Advisory Council has attracted a considerable amount of criticism. The Council for Civil Liberties described the formation of the Council as a sop to those who were clamouring for a Royal Commission to inquire into the events at Bathurst. It was critical of the operations of the Advisory Council, noting, for example, that only two of its members ever visited Grafton Gaol. It echoed the comments of one of the Advisory Council's former members, Professor S. Encel, that the advice and recommendations the Council made to the Minister in 1973 in relation to Bathurst Gaol were "ignored and treated with contempt". These recommendations related to the inadequacy of the physical facilities at Bathurst. They included provision of windows and heating in cells, improvements of the library, and the institution of certain educational facilities. Professor Encel gave evidence that in February, 1974, at the time of the riot, the recommendations had not been implemented. Although Mr McGeechan stated that they had, clearly they had not.

Professor Encel also gave evidence that the Advisory Council had not been consulted about the construction of Katingal and its members were not aware of its erection until November, 1973. Mr McGeechan replied that the Advisory Council was not in existence when the plans for Katingal were drawn up, but that Professor Shatwell, later to become one of its members, had seen the plans. When the members of the Advisory Council visited the Malabar complex in 1972, no reference was made to the proposed building.

There was evidence that the Advisory Council had been requested to advise on the Department's proposals for the "M.90" Prison to be built at Silverwater. At the time when this advice was sought, however, the Government Architect had already been briefed with the Department's instructions.

In 1972, the Advisory Council recommended abolition of censorship of prisoners' written communications, except for the retention of Prison Regulation 96 which allows censorship of material "contrary to the interests of the security, discipline or good order of the prison". The Council suggested the necessary amendments to the Regulations to give effect to its proposals. Although Mr McGeechan gave evidence that in principle he approved of the substance of the recommendations, they were never implemented because he thought that prison staff would object to the removal of the existing provisions.

The Advisory Council in 1972 also recommended the adoption of the principle that there should be one man to a cell in prisons throughout New South Wales. Despite the fact that Mr McGeechan, to use his words, "passed on" the recommendation to the Minister, and the fact that he said it was in accord with departmental policy, there was evidence that in the subsequent reconstruction of prison cells at Maitland, far from attempting to implement the suggestion or to explain that it was impracticable, four prisoners were placed in each newly-created "double cell".

The Advisory Council made certain recommendations about the construction of, and facilities at, Cessnock Corrective Centre. Mr McGeechan gave evidence that "almost universally" the recommendations were followed "so far as they could be applied". However, among others, the recommendations made by the Advisory Council on the appointment of three Deputy Directors responsible for administration, education and training and rehabilitation of prisoners at the Centre were "not accepted".

The Advisory Council also recommended provision of fresh fruit and an evening snack for prisoners, neither of which have been implemented.

These examples are given primarily to illustrate that, at least in its early years, the Advisory Council was most vigorously pursuing its function by reports and recommendations on various aspects of departmental policy. It also was making suggestions on minor improvements in prisoner amenities which could conceivably have led to a significant reduction in the tension prevalent in some maximum security prisons. Nevertheless, in many cases for no obvious reason, its vigour in this area was not matched by comparable enthusiasm of the Department in implementing its recommendations.

It is disturbing to note that many of the Council's recommendations would not have been made public in the absence of this Royal Commission. Even more disturbing is the fact that its members were not being fully informed about what was being done following its recommendations.

There can be no doubt that there was a breakdown in communication between the Advisory Council and the Minister, for which Mr McGeechan must accept the blame. The Advisory Council was doing the job for which it was instituted yet was unable to discover whether it was performing any useful function. Many of the recommendations of the Advisory Council were being considered by the Minister but its advice was balanced against contrary advice from the Department and, in particular, from Mr McGeechan. For instance, the recommendation on evening snacks was not adopted because there were no power-points in the cells in various prisons which might have kept the food warm during winter. This fact was never brought to the attention of the Advisory Council. Otherwise, alternatives could have been suggested.

Many specific recommendations made by the Advisory Council were not even acknowledged when a decision was made against their implementation. Although it was, of course, ultimately a matter for the Minister whether recommendations should or should not be implemented, one finds the lack of communication surprising for Mr McGeechan attended most Advisory Council meetings.

The Department provided secretarial and other necessary administrative assistance and met Council expenses. These administrative links were unsatisfactory both in relation to their efficiency and their appearance.

The Department of Corrective Services has responded to the criticism of its relationship with the Advisory Council by pointing to Council reports to the Minister in December, 1972, and December, 1974. The Department argues that these reports acknowledge the co-operation of the Department and Mr McGeechan in giving every assistance to the Advisory Council.

But this represents only one side of the picture for at least since 1974 it is clear that the Council has felt the need for some change in procedures and practices to fill what it saw was its proper role.

Part of a letter from the Chairman of the Council, Mr Justice Hope, to the then Minister for Services, the Honourable J. L. Waddy, M.L.A., dated 14th August, 1975, reads:

"In order to perform these (functions) effectively, or indeed in any useful way, the Council regards it as essential that it be kept fully informed about the Department's planning over the whole field of its building and programming in all its various activities and without prejudice to this general requirement, that it be kept informed as to action taken pursuant to the Council's recommendations, or, if it is decided not to take action upon these recommendations, the reasons for those decisions.

Over the past years, the Council has had to face the position of learning, often through the press, about what the Department is planning or what it has in fact done, and its unanimous view is that this situation is quite inconsistent with its ability to play the useful and constructive role which it thus was intended to play."

Specifically, the letter requested the Minister's advice on the extent recommendations had been implemented in 1972 (concerning the Cessnock Corrective Centre), in 1974 (concerning Katingal), in 1972 (on written communications of prisoners), and on reports by the Advisory Council on corrective health planning and recidivists. The letter went on:

"In addition to these questions, the Council has asked me to inquire what progress has been made in relation to the provision of an effective administrative back-up which I discussed with you. I may say that the view of the Council is that any such back-up would be more effective if it were completely outside the Department of Corrective Services itself, and were, for instance, in what I understand is the Department of Services, that is, in that part of your administration which is directly controlled by the Under-Secretary."



The Minister's curt reply of 4th September, 1975, read:

"You may advise the Council that all its reports and recommendations made in accordance with its terms and references have received, and will continue to receive, close and careful consideration.

The suggestion that secretarial assistance to the Council should be within the Department of Services rather than within the Corrective Services Administration is not regarded as practicable."

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It is clear that, at least in 1975, the Council was concerned with two basic issues:

The extent to which the reports and recommendations made by it in the past had been implemented or were to be implemented.

The establishment of an administrative facility which would give it some degree of independence.

The minutes of a meeting of the Advisory Council held on 18th February, 1976, indicate the concern of its members with the situation. As a result, the members raised with the then Chief Secretary, the Honourable W. P. Coleman, M.L.A., the following matter:

"Members of the Council indicated that they felt there was some lack of communication between the Minister and the Permanent Administration of the Department on the one hand and the Council on the other, in that members felt that they had little knowledge of the policy and planning of the Department and also were not informed about the extent, if any, to which a number of their recommendations had been considered and implemented. A number of instances of this were cited, including the comprehensive report submitted to the Minister on Prison Medical Services."

Apparently late last year the terms of reference of the Advisory Council were the subject of discussion between the Chairman of the Council and the present Minister for Services, the Honourable W. H. Haigh, M.L.A. The Commission regards as

particularly relevant the "amended terms of reference" submitted for the Minister's consideration by the Council on 17th August, 1977. In this document, the function of the Advisory Council is set out in these terms:

"1. To examine, from the point of view of a group of experts in fields related to Corrective Services, the function of Corrective Services in New South Wales.

To advise the Minister on matters of general policy.

To initiate studies on particular problems and make recommendations to the Minister.

614 (1) 42 To consider specific problems referred to it by the Minister, from time to time, in the shape of a paper submitted to it by the Minister, or otherwise, in accordance with the terms of VI. Conditions of Successful Operation

The Council considers that there are specific conditions necessary for it to operate successfully, to achieve its purpose.

- (a) There should be regular and close communications between the Council and the Minister.
- (b) There should be regular and close communication between the Council and the Commissioner, and his delegates, with access to all necessary information.
- (c) The Council should be made aware of major changes in policy programmes and construction before their implementation to make its contribution to planned development.
- (d) There should be some means of communication between the Council and the public. Only the Chairman should speak to the media on behalf of the Council.
- (e) The Council requires a secretariat on a full time basis, to administer its work and that of the consultative technical committees. It requires an allocation to cover its expenses."

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t. Thus it will be seen that the desire by the Council for immediate access to and close contact with the Minister was considered to be essential, as well as the facility of an independent administrative secretariat.

On the assumption that the "Amended Terms of Reference" are to be interpreted as suggesting the use of the Advisory Council for the examination of general policy matters relating to prisons, the Royal Commission agrees with the proposals. But if its charter were to be extended beyond these matters of general policy, the very breadth of the terms of reference could result in the Council being sidetracked into matters of detail rather than considerations of overall policy.

The Advisory Council, as at present constituted, is composed of a body of distinguished citizens who have many important outside commitments. They should not be called upon to consider such minutiae as the question of whether fruit should be supplied to gaols.

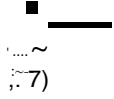
Its function should resemble that of its prototype, the United Kingdom Advisory Council for the Treatment of Offenders. This body from time to time is requested by the Home Secretary to examine important matters of general policy, such as the Regime for Dangerous Prisoners; the Organization of After Care, Non-Custodial and Semi-Custodial Penalties. It is felt that an Advisory Council so directed could best serve the community interests. It should not be expected to carry out investigations of individual complaints by prisoners.







## Chapter 17 CHAPLAINS



## CHAPLAINS

In his evidence before the Commission the Director of Special Security Units, Mr I. L. Sanders, indicated that there was a great deal of concern among some Chaplains about what their role was or should be. It was suggested by other witnesses that prison Chaplains are ineffectual and that the religious pattern in prison is the same as outside: A general apathy among Protestants, with slightly more interest expressed by Catholics. The Chaplains themselves complain that their role is being supplanted by other counselling and welfare services and that their ministrations are growing less as attendance at Chapel declines.

The Chaplain's role has changed. Previously it was more fully integrated into the prison world. In a submission, the Catholic Chaplains described how chaplaincy services are an integral part of the whole "prison character", that it is the responsibility of the Chaplains to provide an ethos for the prisoners. This is still true to a certain extent, but that responsibility has changed as more of their functions have been taken over by others and the Chaplains themselves have become identified with the prison administration.

Prison Chaplains used to be responsible for looking after the secular welfare of prisoners as well as the spiritual. They would contact families on request and convey messages in confidence. They would look into the welfare of the prisoner and conduct religious services in the prison Chapel. But the Chapel is now seldom used for religious celebration, and Chaplains are virtually in competition with other welfare bodies for the other tasks.

This change has arisen from both external and internal causes. Externally, there has been a general shift away from Church attendance in the community, and welfare agencies have proliferated. This is reflected inside the prison. A factor of the prison environment is the identification of Chaplains with the overall prison system and administration. This was remarked on by prisoners, administrators, officers and the Chaplains themselves. Both the former prisoner Green and the prisoner Dugan explained how Chaplains were not really trusted because they were believed to be part of the administration.

This suspicion by the prisoners is, in part, due to the fact that prison Chaplains sit on classification and other committees and accept the role of "liaison officers" between the prisoners and staff.

Mr McGeechan saw the role of the Chaplain mediator as one which should be encouraged. It is quite clear that the promotion of Chaplains to this role, and its acceptance by some Chaplains, has significantly contributed to their current dilemma. Where once they may have been trusted by prisoners who knew that their remarks would be treated in confidence and would not reach the administration, the prisoners cannot be sure now.

It was thirty-three years before any action was taken about the Grafton bashings. When bashings were reported to the Chaplains the administration learnt which prisoners made the complaints. These experiences, not unnaturally, engendered distrust of Chaplains among prisoners.

There are other explanations why Chaplains have come to be distrusted by prisoners and to be identified with the administration. One is that they sometimes spend too long in prison work. A person who works as a prison Chaplain must work within the organizational structure of the prison. If he spends a number of years as a Chaplain in the same prison, it is inevitable that he will become a part of that structure and be susceptible to the influence of prevailing administration attitudes. His independence and the trust of the prisoners is lost. Without that trust, there is little that he can do to assist with their problems, secular and spiritual, inside and outside the gaol.

The result is a situation such as Dugan described to the Commission:

"Very few prisoners are religious, your Honour, and Chaplains are made use of by the prisoners, you know, to communicate with this one or that one; but they are not fully trusted: they are still regarded as someone to be watched (like parole officers)."

The Chaplains do an enormous amount of good in prisons, and they have a great potential for assisting prisoners. But they cannot do so until their roles are clarified and their positions within prisons changed.

Anglican and Catholic conceptions on the chaplaincy, conflict as evidenced by their submissions to the Commission. This conflict is not deep, nor is it irreconcilable, but it is significant. The Anglican submission listed a broad range of welfare counselling tasks which should be dealt with by the Chaplain, whereas the Catholic submission refers to the same tasks *and* the task of leading spiritual worship. It would seem that the Anglicans generally have placed more emphasis on the welfare aspects of chaplaincy rather than conducting religious services.

The issue of whether the functions of the Chaplain should overlap with the work of professional welfare workers has been raised. This, in turn, involves consideration of who is best suited to do the work. There are several issues here involving questions of training, confidentiality and independence.

Individual Chaplains may receive specialist training in certain welfare areas as well as their general training for the ministry. But this training is at the discretion of the individual Chaplain. The effect is that as a result prison Chaplains do not necessarily receive any training specifically in the social welfare problems of prisoners. Such was the case with the Reverend R. F. Brand who had received no special training other than as part of the training course for the ministry.

Confidentiality is a difficult question. This ultimately rests with the individual Chaplain or social worker; both professions claim confidentiality. If the duties of the Chaplain are to be restricted to pastoral and welfare matters, as the Commission recommends, there should be no further problem about confidentiality. The problem has arisen in the past only because the Chaplain has—at least in the eyes of the prisoners—lost his independence of the Department.

The question of independence clearly differentiates the Chaplain from other social workers. At the same time, in theory, the measure of independence a Chaplain has within a prison is relatively large. The Chaplain is a person from outside who is given the freedom to enter the prison and talk to prisoners. Unfortunately, because of a tendency to integrate with the system, this independence has been threatened. But the potential is there.

Chaplains should have free and independent access to any prisoner either on the prisoner's or the Chaplain's request. The Chaplain should be responsible to no one, except his own Church. He should not be required to act as a liaison officer or a mediator, except at his own discretion and on his own responsibility. He should not sit on any departmental committee, such as Classification.

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More importantly, he should not be required-nor should he volunteer-to act on any committee involved with the administration of prisons. Acting in this capacity can only compromise him and cause prisoners to identify him with the Department.

Chaplains should be encouraged to communicate freely and confidentially with relatives and friends of prisoners.

They should not be appointed for extended periods. If Chaplains remain in the Prison Service too long, not only are they seen to be part of the administration, there is always the danger they will subconsciously become part of that administration.

They should continue to be paid as they are at present. The Department pays the Church and the Church in turn pays the Chaplain. This should be on an unconditional basis, ensuring the independence of the Chaplain.

On the spiritual side, they should be allowed to continue holding services if they wish. But there should also be the option of conducting small group or individual services.

The chapels in most prisons should be converted into multi-purpose halls, containing facilities for worship. Also any new chapels should be built as multi-purpose halls.

Chapter

18

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## CHAPTER 18

### CLASSIFICATION OF PRISONERS

Simply stated, classification is the attempt to divide prisoners into different classes to determine their placement in particular gaols, and to consider what programmes (if any) they should follow: a somewhat ambitious aim considering the myriad differences in individuals and the difficulty in assessing human character and future behaviour. Originally, the idea assumed importance in the prison system because of the widely held view that hardened criminals would contaminate younger prisoners, and those in prison for the first time.

Classification has been variously defined at different times. One definition is found in the McClellens Report:

"Classification is a diagnostic process for the purpose of assessing the corrective needs of prisoners and covering such areas as physical and mental health, vocational and educational training and other material matters."

Later in the same report, it was referred to as "categorization for security sake", changing the emphasis in the objectives of classification.

It appears that the classification system in New South Wales was inspired by two studies. The first was the Report of a Committee of Inquiry into the Prison System in New South Wales, submitted on 17th January, 1946. The second report was submitted on 13th October, 1947, to the then Attorney-General by Mr L. C. Nott, the Comptroller-General of Prisons.

The first report concluded that by virtue of the existence of the two broad categories of offenders in prisons-occasional and habitual offenders-the major aim of any penal system must be the prevention of occasional offenders from becoming habitual. Classification for separation was specifically directed towards this end.

The second report had, as its principal theme, the necessity to divide the prison community into homogeneous groups, and to allocate to youthful offenders (those aged twenty-three or under) an institution which might provide appropriate training facilities. On the other hand, mature first (or second) offenders were regarded as appropriately placed in conditions of confinement "more nearly approaching those of normal social living". Other categories, such as short sentence prisoners and mature adult recidivists, were to be dealt with in a different manner.

In 1950, a Classification Committee was formed to make recommendations to the Comptroller-General of Prisons on:

- the institution to which a prisoner should be sent;
- the work he should do; and
- the training-both educational and vocational-he should have.



A series of prisoner categories was set out in the Regulations under the Prisons Act (1952). These Regulations remain essentially the same today. Regulation 10 provides for the following categories:

- (a) Unconvicted.
- (b) Appellants.
- (c) Debtors.
- (d) Maintenance confinees. (e) Remediable.
- (f) Recidivist.
- (g) Intractable.
- (h) Homosexual.

As far as practicable, prisoners of any class are separated from other classes, provided that:

- "(i) The Commissioner may authorize the transfer of a prisoner from any of the classes (b) to (h) to any other of those classes.
- (ii) The Commissioner may, where so authorized by the Rules in respect of groups of prisoners, or by specific order in respect of individual prisoners, restrict or extend the period or degree of separation; and
- (iii) The Commissioner may direct a separation, within a class, of prisoners who have previously been imprisoned from those who have not, and of those whose age does not exceed twenty-one years from those of or above that age.

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The foregoing provisions of this Regulation (10) do not apply in any circumstances in which section 22 of the Act applies."

This Rule has been neither amended nor rescinded, but Mr McGeechan said that he had abandoned several of the categories of classification, particularly intractable and homosexual. He said that, under his system, any prisoner who would have been formerly classified as intractable is now dealt with under section 22 of the Prisons Act, either in Parramatta or Maitland gaols or sent to Katingal.

The Commission accepts that there may be good reason to abolish the use of the intractable classification, but section 22 is essentially designed as a short-term measure to segregate from the rest of the prison community a prisoner who is causing harm to others. Section 22 is not a form of classification, and it should not be used as a substitute. The section clearly provides that the Commissioner can only segregate a prisoner for two consecutive periods of three months. No prisoner can be segregated for longer periods without the sanction of the Minister.

Despite Mr McGeechan's mistaken opinion that the Regulations do not bind him, it would have been prudent for him to have had them amended to accord with the practice he had adopted.

The Classification Committee, in theory, classifies inmates serving sentences of twelve months or more where no non-parole period is fixed, and those for whom a non-parole period of twelve months or more is specified. Mr McGeechan said that inmates classified by the Committee averaged twenty to twenty-five a week and were

about 10 to 15 per cent of the prisoners sentenced. He expressed the view that the objectives of the Classification Committee were:

"initial placement according to assessed security requirements;

a treatment programme embracing the diagnosed needs of the individual to achieve the social re-education of the inmate."

Mr McGeechan said, that in an uncomplicated case, classification for a longterm period would take six weeks although he did mention instances where it had taken much longer. The remainder of the prison population was classification by a Reception Committee at each gaol, which classified about 75 to 80 per cent of the prison population.

Elsewhere, Mr McGeechan listed the aims of classification as follows:

"( 1) To group prisoners in broad categories to fit an assessed and, in many cases, arbitrarily calculated security rating. The classification broadly would be high security, reduced security and open programmes.

The grouping of prisoners in this way is deemed essential for the general peace of the community within the penal establishments; the safety of all officers, including professional, custodial, educational and administrative as well as visitors; and for the protection of the outside community.

(2) To provide, from within the choice available, a range of treatment programmes embracing the needs of inmates and establish the methods by which the programmes deemed best suited to achieve the social re-education for each inmate are allocated."

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He highlighted the difficulty with regard to women prisoners, in that there was then only one women's prison, and accordingly the range of facilities was restricted. He said that little could be done by way of classification for women, but an attempt was made to separate different types of prisoners into different buildings and different programmes. He mentioned that since women were being sent to Cessnock it was hoped that they would have a more variable programme, but did not specify what future role the Classification Committee intends to play in relation, to these prisoners.

Much thought and effort has been spent by criminologists and prison administrators in attempting to devise more effective means of classification of prisoners. They agree that there is an advantage in separating certain classes of prisoners from others: it is axiomatic that if one could effectively differentiate a small proportion of difficult prisoners-variously estimated at some 10 to 15 per cent-this would enable a greater liberalization in the containment of other prisoners. Notwithstanding the determined and quite useful efforts of sociologists, psychologists, psychiatrists and others in this area, the problem is unfortunately far from solution.

The difficulties involved are, and presumably always will be, the same as those mentioned in the Gladstone Report (1895):1

"The difficulty of laying down principles of treatment is greatly enhanced by the fact that while sentences may, roughly speaking, be the measure of particular offences, they are not the measure of the character of the offenders; and it is this fact which makes a system of prison classification, which shall be at once just, convenient and workable, so difficult to arrive at."



More and more, the efficacy of classification is being questioned. As Professor Norval Morris says,

"Experienced administrators and scholars of the prison system have concluded that the reception and diagnostic centres to which most felons are first sent for what is called 'classification' are largely a waste of resources. At most such centres, the prisoner spends the first four to six weeks of his incarceration being subjected to physical, psychological and sociological study and case work analysis.

He is then sent on to one of the very few prison placements that are in any event available to him; and the painstaking records prepared in the reception and diagnostic centre thereafter rest undisturbed in files, either in that same centre or in the institution to which he is assigned.

Further, any experienced prison administrator, posted at the front office of the reception and diagnostic centre can, within two days of the prisoner's arrival, predict with high accuracy to which institution he will be sent and which programmes will be available to him. Not only can the administrator do this with more than 90 per cent accuracy, but he will know which are the 10 per cent he is uncertain about. There is, therefore, a steady movement towards the abandonment of such centres for purposes of classification within State prison systems."<sup>2</sup>

An illustration of this view can be found in the evidence given by Mr Nash who, speaking from his experience over many years, estimated that, at the Malabar Complex, he would know 50 to 60 per cent of the prisoners being received. He added:

"... I was given an estimate by the Assistant Superintendent concerned who felt that he, or one of the other members of the Committee, would know quite well forty to fifty per cent-this is an estimate. He felt additionally that there was a further twenty per cent, approximately twenty per cent, that one or the other members of the Committee would know but perhaps not well."

The Commission visited reception and diagnostic centres during its Overseas investigations. Many were elaborate and costly, but their results did not match expectations.

From the statements and evidence given to the Commission, it is difficult to follow the procedures of classification adopted by the Department. Undoubtedly, they were not those which it was bound to follow under the Act. The actual practices spoken of indicated that no consistent and regular procedure was followed for the classification of prisoners. The files of at least 1 00 prisoners were made exhibits, and these files certainly bear out this comment. In Mr McGeechan's initial statement before the Commission, in which he set out the procedures adopted before the Classification Committee and spoke of the interviews and examinations held to prepare reports for submission to the Committee, he said:

"Before the inmate is brought before the Classification Committee, certain things take place, viz.:

he is interviewed by a probation and parole officer who prepares a social history report for the Committee (the pre-sentence probation officer's report is also available);

he is interviewed and subjected to a series of educational attainments tests by a psychologist who prepares a detailed report for the Committee;

he is interviewed by an educational officer who explains educational courses that are available and assists in selecting an appropriate training programme; the education officer prepares a detailed report for the Committee;

he is medically examined and, if necessary, treated by a psychiatrist; a medical report is available for the Committee.

The reports from these individually specialized officers are considered by the Committee and certain thoughts drawn for classification and retraining. The prisoner is interviewed by the Committee which takes note of anything the prisoner may have to say and forms an impression of

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Examination of the files revealed that the above system was not in fact followed.

Most of the reports of which Mr McGeechan spoke were not to be found in the prisoners' files. Although it cannot be categorically stated that none of the files before the Commission contained a record of each of these interviews and examinations, the vast majority, if not all, did not have such records.

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As a result of the confusion which resulted from the evidence and the files, the Secretary of the Royal Commission wrote to the Department on 10th September, 1977, seeking information about the classification categories then used. The amorphous nature of the procedure was revealed in the Department's reply of 17th November, 1977:

"The two basic classifications used by the Classification Committee are 'Remediable' and 'Recidivist'. In formal terms, classification as such does not proceed beyond this basic provision. In fact, however, the Department has a number of institutions which have varying characteristics more or less apt to meet the requirements of different classes of prisoners.

Consequently, the direction of a prisoner to a particular institution is often an act of de facto classification."

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The letter said that "although there was no formal classification, 'remediableeducatable', a young offender who presented no serious security problem, and who had some intelligence, would quite likely be sent to Berrima, whereas a 'remediable-elderly' man would, in all probability, go to Milson Island. In other words, the effective act of classification was the transfer to a particular institution."

The letter's final paragraph said:

"It must, however, be noted that such an allocation is not only related to classification. Personal preferences of prisoners, pressure of numbers, medical facilities, unavailability of suitable accommodation and other factors not related to classification have a bearing from time to time on the institution to which individuals are allocated."

It would appear that apart from the choice of a gaol, classification still merely decides whether a prisoner is 'remediable'-one who has not been imprisoned before -or 'recidivist'-one who has.

The prisoners' files were of a standard form but had little recorded in them.

The printed form in general use required the Committee to recommend security and discipline; employment, educations and other matters. Almost invariably, the Committee nominated the security and discipline as remediable or recidivist and named a particular institution. Similarly, employment was invariably recommended "as required". No other recommendations were usually made.

These laconic expressions of opinion by the Classification Committee are not helpful for later assessments by the Programme Review Committee. At the initial classification, an attempt should be made to make a full and detailed assessment of the prisoner and his needs as an individual.

Mr McGeechan stated that the first consideration in any classification was to make an assessment of the security rating of the prisoner. This statement was echoed by Mr Barrier.

Classification, to be effective, must be speedy. It was described by Mr McGeechan as a "fairly rapid process" and, although he said that in an uncomplicated case it might take six weeks, he did not demur to the suggestion that it may take as long as three months and possibly more than nine months. Such a length of time is not acceptable. Another disturbing factor is that in the past there seems to have been no continuity in the composition of the Classification Committee, and indeed one is tempted to think that the people serving on it were merely those readily available on the day it sat.

Decisions of the Classification Committee are, in effect, only recommendations to Head Office, but these should not be lightly disregarded. The criticisms by Mr L. H. Evers and the Reverend R. F. Brand, reveal a surprising situation. Both were members of the Classification Committee. Mr Evers said:

" ... and I remember that I was particularly incensed at that particular time because directives were sent from Head Office using the classification committee as a means of moving prisoners when the reasons for moving them was obviously disciplinary."

In other words, the Committee was being used merely as a puppet. Mr Brand agreed that, on occasions, Classification Committees on which he sat received a Head Office directive that a particular prisoner should be sent to a particular prison and that sometimes no reasons were given.

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A multiplicity of committees is involved at various times in the assessment of prisoners. In addition to the Classification Committee, there are Reception Committees, Programme Review Committees, a Segregation and Protective Custody Committee and a Life Sentence and Governor's Pleasure Review Committee. To an extent, these committees have a common task but there is duplication in their work.

Programme Review Committees-there is one at each major institution-are responsible for reviewing the programme of each prisoner. The Committee reviews each prisoner at six monthly intervals, and should recommend any change in his programme or placement.

In an attempt to understand the practical working of the system, many of the prisoners' files were examined. A review of files, chosen at random (some before 1975 when the new system of classification procedures is said to have been instituted) indicates that the procedures of the classification committee were far from ideal. The system was prone to break downs and delays, the committees never had full information, their decisions in the ultimate merely consisted of placements to particular gaols and, at times, were negated by instructions from Head Office.

One file concerned prisoner A at the Central Industrial Prison, Malabar. On 18th March, 1976, he was seen by the Programme Review Committee and his transfer to the Malabar Training Centre was strongly recommended. The following day, a

number of committee members signed a report recommending the transfer, which was endorsed by the Superintendent of the Central Industrial Prison. Later in the same month, a parole officer agreed with the recommended transfer, as did the Life Sentence Review Committee. He remained at the C.I.P.

A consultant psychiatrist to the Prison Medical Service, in reports of 30th May and 5th July, 1976, spoke of the deleterious effect on the prisoner remaining where he was and stressed that the continuing failure to implement the Programme Review Committee's recommendation was adding to the prisoner's "sense of frustration". Some months after these reports by the consultant psychiatrist, and five months after the transfer recommended by the Review Committee, the prisoner had not been moved.

Counsel assisting the Commission raised the subject with Mr McGeechan on 10th August, 1976. He said that he had spoken to the Executive Officer of the Life Sentence Review Committee, Mrs S. J. Melville, that morning and was told by her that in her view: "This man should remain where he is in his present employment position." Two days later, on 12th August, a lengthy report was made and signed by Mrs Melville in which she alleged that the prisoner was not particularly keen to return to the Malabar Training Centre Printing Shop.

She further stated in her report that she could not say why the prisoner had not been transferred in accordance with the recommendation of the Programme Review Committee "as the mechanisms of such matters were outside the ambit of her operations". At approximately the same time, 16 August, 1976, a parole officer was reporting: "I feel it would be very much in the prisoner's interest to transfer him to the M.T.C .... "

This unfortunate series of events reveals that an officer of the Department (Mrs Melville) was able to nullify the recommendation of the Programme Review Committee, notwithstanding all the approvals appended to the Committee report. The prisoner was eventually transferred to the M.T.C., in the early part of September, 1976.

In the next report by the Programme Review Committee, the following observation was made:

"There is no doubt that this inmate is an asset wherever he is employed. He is always a civil and obliging prisoner. He can be trusted and relied upon to work well, with minimum supervision."

If the matter had not been raised during the hearings of the Commission prisoner A would in all probability be languishing in the C.I.P.

Another example is provided by the files of prisoner B. The Classification Committee who considered the prisoner had before it a memorandum setting out his skill as a chef and recommended that he should be sent to Grafton to work in the cookhouse. When the prisoner arrived at Grafton, he was not placed in the cookhouse. A memorandum on the file from the Superintendent, stated there was no vacancy.

Prisoner C informed the Classification Committee that he wished to be placed at the Central Industrial Prison to continue a motor maintenance course. The Committee also had before it information that the prisoner's wife and child lived in Sydney. For reasons that are not stated, his request was refused but he was sent to Bathurst to continue the motor maintenance course. Perhaps there was some

good reason why Bathurst was chosen rather than the C.I.P. but it would have been helpful to any interested person reviewing the situation had the Classification Committee's recommendations and reasons for placement at Bathurst (as opposed to the C.I.P.) been stated.

Prisoner D was convicted of an offence on 20th February, 1974. He was not classified at the time of his reception at Parramatta. It appears that he was transferred to Goulburn on 4th September. The Classification Sub-Committee, at Goulburn, obviously concerned at the fact that he had never been classified, recommended his transfer to the Metropolitan Reception Prison, Malabar, for classification. On the same file, a note signed by Mr McGeechan and made in response to this recommendation, says:

"This prisoner was tested by the psychologist at Parramatta Gaol and transfer to Long Bay was not necessary. Remain at Goulburn."

The case of prisoner E reveals another oddity of the system. He was classified by the Classification Committee as remediable. Because his offence was serious, he was, as a matter of routine, placed in maximum security where he remained for eighteen months. Mr Fisher, Q.C., Counsel appearing for the Department informed the Commission that the practice of the Department is that, whatever the circumstances, any prisoner receiving a long-term sentence is placed in maximum security for eighteen months, irrespective of what the Classification Committee recommends.

Prisoner F, serving a twenty-year sentence for a violent crime, was transferred from a maximum security gaol to Berrima within twelve months of starting his sentence. Reference to this prisoner has been made in the Interim Report. It will be seen there that the reason for his transfer was his footballing ability. In this case, the prisoner entirely by-passed the system, never having been before a Classification Committee. His presence at Berrima came to light only when a senior officer in the Department was checking on that prison's population. Even then he did not discover that prisoner F had never been before a Classification Committee until the matter was raised in the Commission .

"The Annual Report of 1975-76 speaks of the overall system of classification being currently under review and the latest Annual Report, 1976-77, speaks of the procedures for classifying prisoners being "extensively reviewed and revised to meet the diagnosed needs of our modern penological system."

Mr Blomfield, the Department's Executive Officer (Establishments), informed the Commission that the old classification system had proved unsatisfactory and spoke of the recent changes. He said that the Classification Committee now comprised the Director of Establishments or himself, the Secretary, who is officer in charge of prisoner movements, two clergymen (Anglican and Roman Catholic), the Chief Psychologist or his Deputy and an officer from the Physical Resources Division. He stated that a new system was started about the middle of 1975 and that it had been operating as a total system for at least twelve months. One of the problems he referred to in the old system of classification was that, after a prisoner came before the Committee and had a programme set out for him, no check was ever made that he was in fact included in any sort of programme, let alone the one the Committee recommended. The new system involved the Review Committee seeing prisoners every six months, and Mr Blomfield confidently stated that the new files showed much more material on prisoners.



To test Mr Blomfield's claim, the files of some twenty-eight prisoners dealt with under the new regime were examined by way of sampling. It does appear that there has been some improvement in the actual workings of the Classification Committee but, if the records are to be accepted as being full records, there is still no uniformity in the documentary material going before the Classification Committee. For instance, the psychologist's report was missing in eight files; the description card containing the police record of convictions and suchlike was completely missing in six files; one had an incomplete description card; one card was totally illegible; and reports by the Education Officer were missing in twenty-four of the twenty-eight files.

Despite recent changes, this Commission still regards the classification of prisoners by the Department as unsatisfactory. Whatever the procedures, they can be effective only if they are carried out.

A permanent Classification Committee should be located at Malabar. It should have a permanent Chairman (who has no other significant duties), a Deputy Chairman and ancillary staff. It should be responsible to the Prisons Commission for the Classification and placement of prisoners. Its decisions should only be varied on the express orders of a Member of the Prisons Commission.

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All prisoners should be recorded in two categories: long-term prisoners (those serving life sentences or sentences of twelve months or over or with non-parole periods of over twelve months) and short-term prisoners. All long-term prisoners received elsewhere should be sent to the Malabar complex to be classified by the permanent Classification Committee. This classification should take place no later than two months after reception at Malabar, otherwise an explanation should be provided to the Prison Commission for the non-classification of a prisoner within that time. The Classification Committee should comprise:

The Chairman, or his Deputy.

A senior Custodial Officer.

A senior Industrial Officer.

Two of the following: Psychologist, Probation and Parole Officer, Welfare Officer or other person with sociological skills.

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The Committee should have all the material that the Department has already stipulated should be provided to Classification Committees. The Committee should make a finding on the security category of the prisoner and, as mentioned, as the assessment is of an individual the opinion of the Committee should be spelt out in some detail to be of more assistance later to others who may have to review that assessment. It should not, as in the past, merely be a notation of "remedial" or "recidivist".

The placement and classification of short-term prisoners should be the responsibility of the Superintendent or deputy Superintendent of the gaol where the prisoner is first received. If the prisoner is considered suitable by the Superintendent or his deputy, he should be retained in the gaol, unless it is considered by the Superintendent or the deputy that:

- (i) the prisoner is suspected of being psychiatric or psychotic;
- (ii) the prisoner is inappropriate for the security classification of the particular gaol;
- (iii) there is no accommodation in the prison of reception;
- (iv) there are special circumstances why he should be placed elsewhere (for example, lack of facilities for the prisoner with special trade or educational requirements).

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If the prisoner is not classified or retained in the gaol of reception, he should be sent to Malabar for assessment by the permanent Classification Committee. In some cases, it may be inappropriate to follow the above procedures, and in those circumstances the Superintendent should seek directions from the Chairman of the Classification Committee about the movement of a prisoner to a gaol other than the Malabar complex.

The Commission has taken the view that the primary but not the only concern of any classification, should be security. In the light of the security classification those responsible should give effect to all other relevant circumstances with a view to seeing that the programme and placement suits the prisoner's needs.

The Commission has examined the security classifications recommended by Lord Mountbatten in his report, and subsequently implemented in Britain. The categories recommended were:

- (a) Those whose escape would be highly dangerous to the public or the police or to the security of the State.
- (b) Those for whom the very highest conditions of security are not necessary, but for whom escape must be made very difficult.
- (c) Those who cannot be trusted in open conditions, but who do not have the ability or resources to make a determined escape attempt .
- (d) Those who can reasonably be trusted to serve their sentence in open conditions.

The circumstances in New South Wales are different to England. The Commission believes that for many reasons there are difficulties in the application of these categories and that they should be expressed in a wider form for N.S.W., to take into account matters such as the smaller numbers involved and the fewer facilities available. Accordingly, the following security classifications are recommended:

*Category A*-Prisoners whose escape would be highly dangerous to members of the public or to the security of the State.

*Category B*-Prisoners who cannot be trusted in conditions where there is no barrier to their escape.

*Category C*-Prisoners who can be trusted in open conditions.

The Chairman of the permanent Classification Committee should ensure that the entire classification system is working adequately, that the directions of his Committee are being carried out, and that prisoners are in fact enrolled in the programmes the Committee suggests. He should also report to the Prisons Commission any continuing inability to provide practical programmes for prisoners which his Committee recommends.

The Commission hopes that the Chairman and his Deputy will take the opportunity of frequently travelling around the institutions and observing local classification procedures of Reception Committees and Programme Review Committees. Decisions on placement and recommendations of a Superintendent or his deputy in regard to short-term prisoners and all decisions of Programme Review Committees should be forwarded to the permanent Classification Committee within seven days. If deemed necessary, the Committee should review and alter the decision, giving reasons for alterations to the Superintendent.

A Programme Review Committee should operate at all major gaols to review long-term prisoners on a six monthly basis. From the records, it would appear that Programme Review Committees have operated with more regular procedures than those of the Classification Committee itself. However, there is one criticism that could be levelled at their procedures in that they are presented with standard report forms, generally completed by custodial officers and industrial officers, which simply call for those compiling the report to choose from a number of alternatives (for example, conduct: fully co-operative, above-average, satisfactory, indifferent, or onco-operative) .

While this pro-forma approach has administrative attractions, it relieves the reporting officer of the responsibility of putting his assessment of the prisoner's behaviour in his own words. This current practice is undesirable and certainly less useful to those who later might wish to scrutinize the prisoner's progress.

The Department faces a real difficulty in the introduction of an effective classification system because of the nature of the prison buildings. The Commission has recommended that alterations should be made to these old buildings. These alterations should assist in a better placement of prisoners.

As mentioned earlier, there has never been any real classification of women prisoners. Until recently, they were sent to only one prison, first to Long Bay and then to Malabar; now there is Mulawa and Cessnock. There is no excuse for not attempting to classify women prisoners. Arrangements should be made for classification of women prisoners—a procedure the Commission regards as vital. Accommodation should be made available to coincide with the classification.

Remand and Unconvicted Prisoners

For obvious reasons, these prisoners cannot be classified in the same way as ordinary prisoners. They are frequently contained in the prison closest to where they are to stand trial. A special remand centre should be built; but, whether this recommendation is accepted immediately or later, a security classification of remand prisoners is necessary. As with short-term prisoners, it would be appropriate for a Superintendent to make this classification. It is anticipated that he would initially see any previous gaol record and the police record of convictions. If, after receipt of further information (such as prepared pre-sentence reports, reports from police officers or otherwise), the original classification proves incorrect then a change in the security classification of the remand prisoner should be made.

In making these recommendations, the Commission is conscious of the fact that the proposals put forward will not prove to be a panacea for all the existing deficiencies. Problems will inevitably arise which no system can cover. The previous system had many merits in theory. But they were never properly put into operation.

The proposed recommendations do, however, have the virtue of simplicity which all the previous theories and systems in operation did not. They do, therefore, have a better chance of working efficiently.

#### References

Report from the Departmental Committee on Prisons (1895); Chairman, the Right Honourable H. J. Gladstone, M.P.

Norval Morris, "The Future of Imprisonment", University of Chicago, 1974.



## Chapter 19 PRISON SECURITY

## PRISON SECURITY

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In his initial statement to the Commission, Mr McGeehan said:

"The function of the Department is to carry out the sentences imposed by the Court . . . the Department appreciates that its first duty is to protect the community by containing prisoners in its care. It must safeguard its officers and it must safeguard its prisoners."

...'

One could not possibly object to this as a statement of policy, but more importantly as a policy it must be implemented in a humanitarian way. The United Nations Minimum Standard Rules for the Treatment of Offenders embody the general consensus of world thought on the treatment of prisoners and the management of penal institutions. It has been recognized that circumstances may make it difficult to comply literally with every rule, but no one would suggest that a prison system is not bound, in the containment of prisoners, by the normal codes of proper conduct.

It was therefore surprising to read in Mr McGeehan's statement:

"The conventional, moral and legal restrictions are not acceptable in extreme areas of criminality; secondly, the ordinary and established codes of human conduct need not be expected to relate to the inmate population located in the programme involving maximum security containment."

..  
"

When the enormity of this statement was brought home to Mr McGeehan in cross-examination, he abandoned it. Indeed he eventually referred to it as "an albatross hanging round his neck". Abandoned or not, it was obvious that, despite his protestations, the concept expressed in the quotation was not alien to his thinking. It may well be that his knowledge of the routine floggings at Grafton Gaol inspired such thinking, but on no account would the Royal Commission agree that there is any area of human behaviour, including behaviour in prisons, in which the "ordinary and established codes of human conduct" do not apply.

The most difficult custodial problem is the containment of dangerous inmates. But it should not be forgotten that almost all prisoners are eventually released into the community. If the conditions in which such prisoners have been held have fostered the development of violent and anti-social behaviour, the Department's main responsibility of protecting the community will not have been fulfilled. An example of this is one prisoner's statement:

"I was released from Maitland 'tracs'. This was the end of my first sentence.

I had become vengeful, restless, aggressive and distrustful. I had served that sentence for larceny of motor vehicles and break and enter. I am now serving a sentence for armed robbery."

Dangerous prisoners are a very small proportion of the prison community.

The Department, which frequently refers to them as "high risk prisoners", said that they constitute but one per cent of the total prison population. This percentage of prisoners must be more securely contained than others. There are other prisoners within the Category A classification who will normally be sent to maximum security

prisons, but if the Department could effectively, properly and humanely handle the dangerous prisoners, the containment of the rest of the prison population is made that much easier. Despite the Department's claim to the contrary, it has not handled its dangerous prisoners effectively. It also has far too many prisoners in maximum security gaols who could be held in gaols of lesser security. This has resulted in prisoner disturbances, increased tension in gaols, and the unsatisfactory and expensive regime of Katingal.

Any containment of prisoners

depends on: (a) effective buildings  
and plant; and

(b) carefully selected and properly trained custodial and other departmental staff.

### **Buildings and Plant**

As has been frequently mentioned in this Report, most New South Wales gaols are old and in poor condition. Many are dilapidated. The only gaols which have been erected in recent years are Katingal and Cessnock. They also have their problems. There seems to have been confusion in the purposes for Katingal, and lack of facilities in the building itself poses difficulties. Cessnock has never been used for its original purpose, which was a maximum secured gaol.

All secured gaols in New South Wales, except Katingal, use the old fashioned prison wall as the main external barrier to escape. In general, none has introduced the modern electronic aids used in many overseas prisons:

The inadequacy of the buildings and plant has militated against the Department's stated objectives of protecting the community, *the* prison officers and *the* prisoners themselves.

The proper containment of dangerous *prisoners raises the much debated question iii concentration or dispersal*. Concentration means the separating of difficult and illagerous prisoners from all other prisoners, and their containment in a maximum ~~ured~~ prison. Dispersal means their placement in a number of secured prisons, dispersed among other inmates. The United Kingdom Advisory Council, in the Younger report, says:

"much of the history of penal administration is taken up with the constant dialectic between these two methods."<sup>1</sup>

There was a surprising confusion in the evidence of Mr McGeechan and the Director of Special Security Units, Mr Sanders, when they referred to the Mountbatten report and the Younger report; but whatever conclusions they drew from these reports, there is no doubt that Katingal was built according to the principle of concentration as recommended in the Mountbatten Report. This was acknowledged in the Department's final submission.

In late 1966, the then Secretary of State for the United Kingdom Home Office, the Right Honourable Roy Jenkins, M.P., asked Lord Mountbatten to report on certain aspects of the United Kingdom prison system. As a result of his inquiries, Lord Mountbatten recommended to the Home Office that the principle of concentration be followed. Following this conclusion, he advocated that a new maximum security prison, to be known as Vectis, should be built on the Isle of Wight, designed to house only dangerous prisoners. Before this prison was built, and as a consequence of public disquiet, the U.K. Advisory Council was requested by the Home Office to





reconsider the position. The Council, chaired by Sir Kenneth Younger, appointed a sub-committee, comprising Sir Leon Radzinowicz as Chairman, the Bishop of Exeter, Mr Leo Abse and Dr Peter Scott to consider the proposal. This sub-committee, after considering the proposal in detail, recommended that Vectis should not be built and that "dangerous and difficult" prisoners should be dispersed throughout the whole British prison system and not concentrated in one specially built prison. The Advisory Council unanimously agreed with the sub-committee's recommendations.

The term dangerous prisoners does not encompass all inmates who need to be separated from the general prison community because of their own actions or proclivities. It does not include the informer, the homosexual or the offender whose crime is so abhorrent as to incite the other inmates to enforce their own punishment upon him; nor does it include the escapee who is dangerous neither within the prison community nor to the general public. It also excludes the psychotic and psychiatric offender, whose proper placement is in a psychiatric prison institution. The prisoners referred to as dangerous are prisoners dangerous to the prison officers, to fellow prisoners or (should they escape) the public. The expression includes those few notorious criminals whose escape would cause such a public outcry as to damage the reputation of the whole prison system.

The description of dangerous prisoners does not coincide with classification, but concerns only their gaol conduct and behaviour. It could well be that the dangerous prisoner would normally be classified in Category A. But whether one is concerned with classification or, as is being discussed here, the containment of dangerous prisoners within the gaol system, one is involved with questions of dangerousness and its prediction. One of the arguments against concentration is this very difficulty of predicting dangerousness. The problem of dangerousness has recently been referred to in the working paper of the Floud Committee. In the introductory remarks to the paper, the Committee said:

"We agreed at the outset that we could not take the idea of dangerousness itself for granted. It is often defined so as to be unhelpful, imprecise, circular, misguided or irrelevant for practical penological purposes. Moreover, it raises anxiety and is therefore particularly open to abuse."

Most leading criminologists agree that there is no adequate method of classifying and predicting dangerousness. It is not appropriate in this Report to examine the numerous attempts by criminologists to discover such a method. Shakespeare's Caesar attributed Cassius's dangerousness to his "lean and hungry look". Lombroso saw some advantages in measuring skulls. Recently more esoteric attempts have been equally unsuccessful.

Those who favour concentration argue that if this small proportion of the prison population, estimated by the Department to be one per cent, could be diagnosed and housed in a custom-built prison, the regime in all other prisons could be liberalized. The suggestion is less attractive than it as first appears. First you have to discover who these dangerous prisoners are-and everyone agrees that many mistakes will be made. Even if it were proper to accept the inevitable proportion of mistakes, there must follow a regime which is excessively custodial and repressive; an atmosphere where these prisoners have little to do other than to abuse and, if possible, assault prison officers or fellow prisoners, or spend their time planning and attempting escapes. The mere labelling of a prisoner as "dangerous" in itself has unfortunate consequences.

Prison administrators and criminologists overseas have concluded that not only does such a regime result in repression of and tension among the inmates, but that the prison staff themselves are affected by the anxieties created by the handling of this concentrated group of dangerous inmates. These prisoners frequently regard themselves "at the end of the road", not wishing to co-operate with the system in any way and determined to cause as much trouble to the custodial staff as they can.

The Younger report also highlighted the excessive strain placed on custodial staff in a concentrated prison, as opposed to a dispersal prison. It emphasized that the term of any prison officer serving in such a prison should be greatly limited.

It also mentioned a witness with a "great deal of experience of organized crime", who gave an alarming picture of what could happen if 100 criminal minds were concentrated in one small prison where all their energies and ingenuity might be expended on plans for escape or on conflict with authority.

An outstanding example of the failure of the principle of concentration was the now defunct Alcatraz Prison in San Francisco Bay. There were other reasons for its abandonment, but it appears that after its inmates were dispersed throughout other prisons most of them were said to have "settled down". The Younger report refers also to this example.

Concentration appears to have been adopted at a special security prison built *in* recent years at Barlinnie, a suburb of Glasgow, Scotland. The cost of building this prison was great. The quality of its staff and its staff-prisoner ratio was so high that the maintenance costs far outstripped normal maintenance costs in prisons. At any time, the Barlinnie prison contained only a handful of inmates. Initially, great claims were made about the success of the regime adopted there. More recently, it has been strongly criticized.

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Generally, there was support in the United States for dispersal.

Historically, the system in England and in Australia has, in the main, been in favour of dispersal. Although not recognized by the Department perhaps the use of Grafton and certainly the erection of Katingal represented a change of policy in favour of concentration.

In 1972, following the Younger Report, the policy of dispersal was once again reviewed by the Home Secretary as a result of disturbances at the prisons at Albany and Gartree. The Home Secretary re-affirmed the view that "to concentrate all dangerous prisoners and persistent trouble-makers into a single maximum security prison would create far more problems than it could hope to solve; to concentrate in one establishment all prisoners who were either prisoners it found impossible to handle and who were impervious to treatment would create an explosive situation and both prisoners and staff would be likely to find the situation intolerable".

More recently, as a result of the riots at Hull Prison in August and September, 1976, the British Government has, once again confirmed its penal policy of dispersal.

Whether the Department should follow the principle of concentration or dispersal is not an easy decision. The Royal Commission is persuaded by the views of prison administrators, officers and criminologists overseas and accepts the reasoning so convincingly set out in the Younger Report.

It recommends that the policy of dispersal should be followed by the Department of Corrective Services in New South Wales. On the grounds of humanity, economics and the public safety, the dispersal system is to be preferred.

#### How Dispersal Works

There are different ways of applying the dispersal principle and it is not possible in a report such as this to attempt to cover every circumstance. The dispersal principle is opposed to selecting dangerous prisoners and concentrating them in a separate institution, such as Katingal. At one stage, the Department contended that this was the reason for building Katingal, but a number of the prisoners who have since been incarcerated there would not fall within the category of dangerous prisoners.

Dispersal involves the confinement of dangerous prisoners with other prisoners. They are not always confined in the same wing. At times, it may be necessary to contain them for a time in a special unit within the prison.

Each prison should have a special unit to hold prisoners who cannot temporarily or permanently be restrained or who seriously offend against prison discipline. The special units should be separate if possible from other wings, but nevertheless within the gaol perimeter. Wings other than the special unit should house a cross-section of the prisoners in the institution and there should not be an automatic progression from one wing to another as security or gaol conduct improves.

The special unit should have its own staff, but the period of service should be limited to no more than two years. The prisoners housed there should receive normal food and reading matter, letters and visits, but no privileges. So far as possible, the prisoners should work within the unit, but there may be some who, for the peace of the community, would be able to work only in their cells.

It is impossible for the Royal Commission to lay down rigid rules for the conduct of a dispersal gaol; these are obviously matters for the Superintendent concerned. For example, it might be possible for some inmates to be trusted to work in the main workshops of the gaol during the day and return to the special unit in the evenings.

The main purpose of these units is to forestall serious trouble within the gaol; but, in addition, the unit could be used for administrative segregation (section 22 of the Prisons Act).

All Superintendents and the Prisons Commission itself should, at appropriate intervals, review the placement of prisoners in the special unit. The aim should be, where possible, to get them out of it and back into the general prisoner community. There may be a few inmates who must be contained within the unit for long periods, but they should be regarded as the exception. No inmate should be permanently rejected.

The misuse or neglect of such a unit is so serious and so dangerous for the prison system as a whole, as well as the general community, that it is recommended that the special Prison Ombudsman, when appointed, should make regular visits to the special units in dispersal gaols.

The staff ratio should not be as high as that now at Katingal. But, with reliance on perimeter security, electronic aids and the emphasis on liberalizing the regime within the dispersal prison, the ratio should be no less than in such prisons in England one custodial officer to every three prisoners.

Escapes

Security in the prison system is directly related to the number of escapes which the public will tolerate. This is sometimes referred to by prison administrators as the acceptable "escape risk".

The issue is an emotive one and the media in this State have not always helped the community in forming a clear judgment. The word escape in itself creates anxieties. The subject is newsworthy and, more often than not, the escapee is labelled as dangerous whether he is or not. The ensuing manhunt attracts the public interest and excitement is stirred by the titillating accounts of the media.

Elsewhere in this Report, attention has been called to the impossibility of building escape proof gaols and reference was made to the astronomical costs involved in attempting to erect such buildings and to run them. If the Department's policy were to guarantee that no one would escape from gaol then, as well as these astronomical costs, a restrictive and repressive regime would be essential. This would mean an end to the benefits of relaxed security programmes which result in more humane treatment of offenders, improved staff conditions and possible opportunities for rehabilitation. It is important to balance these considerations in arriving at a clear statement of the problem. As Lord Mountbatten said:

"Although all escapes from secure conditions are serious, it does not follow that all secure conditions must be of the highest possible level of security.

Cost alone would rule this out."

Consideration also has to be given to the fact that an escape of itself brings the whole prison system into disrepute. An over-emphasis on security in an attempt to prevent escapes leads, however, to repressive regimes which inevitably create tensions which, in themselves, lead to disturbances and riots.

The public's attitude to escapes varies from country to country and also from time to time in any particular country. In Scandinavia, escapes are not regarded as serious. In many European countries-for example, in England-escape does not constitute a crime: "It is regarded as something to be expected of confined men and as punishable by some such method as isolation or reduced rations for two weeks."<sup>4</sup>

In New South Wales, the law is that any sentence for escaping is to be served cumulatively to the one being served when the escape took place. In recent years, N.S.W. courts have adopted a more serious attitude in sentencing escapees. The latest figures indicate that, on recapture, where escapees did not commit an offence while at large, the sentences for sixty per cent of escapees were less than one year while twelve per cent received sentences of two years or more. Where the escapee did commit an offence while at large, in addition to being sentenced for that offence, sixty-four per cent received sentences of two years and over and seven per cent received a sentence of less than one year. This sentencing pattern is much more severe than in other Australian States and much more than generally prevails elsewhere.

The additional sentence imposed upon the escapee for his escape is not the only disadvantage he suffers; there is a loss of remissions and, almost always upon recapture, he is sent to a maximum security gaol.

It is difficult to identify any general prototype of escapee. As with all individuals, differ completely. But, not surprisingly, it is the dangerous escapee who commits serious crime while at large whom the public usually remembers.

The Department's Research Division furnished data concerning prisoner escapes for three periods: July 1974-December, 1975; January-December, 1976 and January-April, 1977. Based on the 1976 statistics the following profile of an escapee was

" ... a property offender serving a sentence of 3-5 years with a non-parole period of 1-2 years. He is aged 18-25, has a juvenile record and has experienced less than two prior imprisonments. (If imprisoned once in the past, this was for a property offence). He is most likely to escape from a variable security establishment.

Whilst at large at least one quarter of the escapees . . . commit further offences: typically these are break, enter and steal or larceny of motor vehicle offences.

The 'typical escapee' from this study is recaptured within two weeks of the escape incident. If he did not commit an offence at large he is likely to receive a sentence of less than 12 months for his escapade, while he will probably receive a sentence of 2-5 years if he committed an offence at large."

Of the escapees in 1976, nearly twenty per cent were at large on the 31st December (for how long they had been so at large is not known). Almost half (forty per cent) had been recaptured within one month with six months being the maximum. At large 1.1 per cent committed offences against other persons.

It appears that there has been little change of significance in the types of escapee. The three periods researched indicate a slightly increasing number of escapes in more recent times. However, the last period researched from which this conclusion is drawn is too short a period to provide a basis for confident conclusions. In any event, in 1976 the number of escapees (185) constituted less than five per cent of the prison population. It is also of interest to note that the variable institution other than the maximum or open security institution is the type of institution from which an increasing number of escapes are made.

No attempt has been made to assess the adequacy of security precautions at the time of particular escapes. Some were certainly avoidable. But, from the material presented to the Commission, it concludes that the number of escapes, notwithstanding the very few that have resulted in violence and ensuing tragedy, is not unreasonable and that it is a risk that the community should accept. At much greater risk to itself, society is prepared to accept the motor vehicle with all its attendant advantages and tragedies.

Indeed, there would appear to be no alternative unless the public is prepared to assume the enormous financial burden implicit in adopting a regime which, of necessity, must be both repressive and tyrannical, a regime which would most certainly result in the discharge into society of prisoners more anti-social and more dangerous. Too often it is forgotten that practically every prisoner, at some time or other, returns to the community.



The treatment of escapes by the media does not help the problem, but it may well treat escapes less sensationally if the Department were prepared to discuss them and the problems they present more frankly and fully in public. It has not done this in the past.

#### **MOVt'Dlent of Prisoners**

The Department reported that during the week 24th to 30th June, 1977, there were 1 940 prisoner movements throughout its institutions. Mr McGeechan earlier had estimated 80000 to 85000 prisoner movements in any one year.

Some of the parties appearing before the Commission have suggested that this number is grossly excessive and, in many cases, unnecessary. Prisoners have complained about the frequency with which they are moved and the manner in which they have been moved.

The Commission is in no position, on the information before it, to judge whether all these movements are necessary. The number does seem high. It is suggested that, so far as practicable, the Department should try to keep prisoner movements to a minimum and move prisoners only when essential.

Prison officers have indicated to the Commission that when long-term prisoners settle in to an institution they do not like to be uprooted. In many cases they set themselves up in their cells with photographs, decorations and so on. The Commission feels that their wishes should be considered. Descriptions of movements indicated that most are carried out correctly, *having regard to security*. *But some prisoners* have described movements where *it would seem* that, through neglect rather than deliberate provocation, those in charge of the escort have not provided adequate opportunity for prisoners to use lavatories or to be given proper meals.

Complaints have been made of prisoners being "shanghaied"-moved without forewarning-and at times being moved as punishment. The Department has said and the Commission accepts that the movement of prisoners is necessary as a "management tool" and that, at times, security demands that the prisoners be not forewarned. It is especially valuable as a management tool if the system of dispersal is adopted. The Younger Report has pointed out that the movement of a high risk prisoner may frequently be necessary to forestall trouble in a gaol. It adds that such movements frequently result in the prisoner settling down better at the new gaol.

The Commission sees no reason to doubt these views. It would add only that where there are reasons why the prisoner cannot and should not be forewarned, close relatives of the prisoner should as a matter of routine be informed of his change of location as soon as possible.

The Superintendents of dispersal prisons should have the responsibility and power to move a dangerous prisoner to another dispersal prison with the consent of the Superintendent of that prison. The Superintendent should not have to seek the permission of Head Office for the transfer, but Head Office should be advised immediately the transfer takes place.

The importance of movement in this context is illustrated by the report of an inquiry by the Chief Inspector of the Prison Service into the cost and circumstances of the events at Hull Prison:

"The dispersal prison is the crucible of the prison system. It contains the most volatile elements of the prison population. Much the same as with a chemical reaction, the amalgam can 'go critical'. It requires constant monitoring, constant surveillance and, frequently, the removal to another prison of those elements which act as a catalyst to a possible riot situation."

### **Riot Control**

It should not be necessary, in view of the instructions in the Department's Manual of General Information, Custodial Division, 1970, to stress the importance of a riot control plan. The Manual devotes some twenty-three foolscap pages to emphasize the need for a plan. Nevertheless, there was no plan in any New South Wales prison and, therefore, it is not surprising to find that there was no relevant training of officers in any plan. Mr McGeechan did mention a circular he sent to Superintendents on "Policy-Rioting". But it would seem that as little attention was paid to this as was paid to directions in the Manual of Information.

There can be no doubt about the need for all gaols to have riot plans and personnel trained in such plans. It was instructive in touring gaols overseas to observe the emphasis placed on such plans and the elaborate arrangements made to meet all eventualities. In England, command posts are permanently set up at all times. If trouble arises, the Governor or Deputy Governor takes command of the situation, aided and assisted by an elaborate communication network and television cover.

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### **Special Operations Division**

In November, 1970, the Department created a Special Operations Division.

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The funds originally allocated by the Treasury were about \$40,000 a year. The officer-in-charge was a Deputy Superintendent and the Division consisted of ten officers under the direct control of the Commissioner of Corrective Services. In more recent years, the Assistant Commissioner (Administration) assumed responsibility for the Squad. The strength has since increased to thirty-two and it now includes a Superintendent and Deputy Superintendent. It was, with some justification, referred to during the hearing as "the Palace Guard". Mr McGeechan, who at times took personal control of the Division, described it as "part of the essential strategy of the Service".

The Division has a most extraordinary mixture of duties, some of which need skills and some not, but in this Chapter it is intended to refer only to its security role.

Mr McGeechan described the Division's security duties in times of prison disturbances. According to him, they were to act as a supplementary force. The Division's duties also included the inspection of riot equipment and the training of personnel in the handling of riots. There was no reference in the evidence to any incident where the Division carried out the latter duties but, whether it did or did not, it seems to have been singularly unsuccessful if one judges it by its operations at Bathurst.

The Division's usefulness is hampered by the fact that it is based primarily in Sydney, although there is a small detachment at Bathurst. Riots can occur at gaols all over the State, and finally erupt without much warning.



In its final submission, the Prison Officers' Vocational Branch of the Public Service Association was at some pains to criticize the Special Operations Division and its functions. It recommended that it should be disbanded as a mobile squad and re-formed within the walls of particular institutions. The submission stated:

"The Malabar Security Unit (M.S.U.) at Long Bay undertakes to provide internal security within the complex of Long Bay. These should be expanded . . . and their work areas should include escorts, etc. Smaller units along the same lines as M.S.U. should be created at larger institutions ... "

The Commission recommends disbanding the Special Operations Division and, in lieu thereof, the formation and training of special security units in appropriate gaols. Selected officers should be trained to undertake duties that require special skills, and their period of service in the special units should be for a limited duration.  
Perimeter Security

The system of dispersal means that in any maximum secured gaol used as a dispersal gaol there will be a number of dangerous prisoners. For this reason, it will be necessary to strengthen the perimeter security of those gaols. This was stressed in the Younger Report. Any such perimeter should, in future, consist of double wire fences. These are cheaper than traditional walls, more effective and aesthetically more pleasant. The fences should be equipped with the latest electronic devices and there should be observation towers at intervals.

Perimeter security can be assisted by the use of trained dogs for patrol between the two external fences. Their use is recommended. Other uses to which dogs might be put include the detection of drugs and other foreign objects. The Police Force and R.A.A.F. use dogs. When used in perimeter security they should be trained merely to give warning and to hold the prisoner attempting to escape.

In most American gaols, tower personnel are armed. In England, as with the police force, arming of such personnel has been opposed. The Younger Committee was almost equally divided on the question of arming prison officers on tower duty. Finally, because of the need in dispersal prisons for strong perimeter security, the majority of the Committee recommended that officers on tower duty be armed.

There are grave arguments against the arming of personnel in towers. It is expecting an extremely high degree of marksmanship for a custodial officer to prevent an escape by shooting. There is a natural antipathy to shoot and possibly kill a fellow human being who could be either a petty criminal or a dangerous murderer. There must also be a great degree of indecision whether to take the extreme measure to shoot. There are many other arguments against it.

Mr McGeechan acknowledged the difficulties and finally concluded that armed sentries were merely a psychological threat. This was also the view of the warden at Marion Prison, Illinois, a maximum security prison. The warden, a man of great custodial experience, was in favour of arming tower personnel but believed that personnel in the tower have little chance of stopping a man who is determined to escape. However, he, too, felt that the presence of armed personnel in the tower was of great psychological benefit. Most other overseas gaol administrators spoken to by the Royal Commission agreed.

Accordingly, but not without some hesitation, the Royal Commission recommends the scanning of custodial officers in the perimeter towers of maximum security gaols. The officers concerned should receive special training in marksmanship and be fully instructed in the circumstances in which they should shoot at a prisoner. When and if they do so, it should be mandatory that they make a special report to the Superintendent of the gaol.

#### Electronic Aids

The Department, in its final submission and perhaps somewhat belatedly, expressed the view that modern devices such as infra-red scanners, seismic processors, fence protection systems, closed circuit television, geophones and other technological devices had great advantages and should be introduced. The Prison Officers' Vocational Branch agreed.

Mr McGeechan was somewhat equivocal about the use of some of these aids. At one stage, he suggested that he was personally against the use of television as it reduced the quality of the supervision. From knowledge gained overseas, where the use of these aids is almost universal, the Commission believes the Department would be greatly assisted by television and electronic devices and that they would be well worth the initial cost. Stress has been laid on the need for secure perimeter fences. The security of these can best be achieved by the use of television cameras and other electronic aids such as geophones. These aids do not necessarily result in the replacement of all officers on the ground. Television is an aid to the custodial officer and not necessarily a substitute for him. Television, apart from providing visual scanning of the perimeter of the gaol, is also important in monitoring electronic gates. It is not considered appropriate to discuss further the particular aids that are available, but the Commission is of the firm view that the Department should introduce these aids in appropriate institutions as soon as possible.

#### Searches

It is understandably necessary, as part of a gaol routine, to search a prisoner's cell in the interests of security. Part of this search of course involves an inmate's personal and private belongings. There are routine searches and searches at irregular times. Prisoners refer to searches as "ramps".

Individual prisoners and officers have testified that there are many complaints by prisoners about searches. Officers denied doing anything outside the line of duty or unnecessarily interfering with the prisoner's convenience or private property.

The Commission considers that some complaints by prisoners were justified and that there did occur needless destruction of prisoner's private property, such as tearing up family photographs. In some gaols, notably Bathurst, searches were used as a means of punishing prisoners and settling scores. It would be foolish to expect that any recommendation of the Commission or orders by Head Office or Superintendents would entirely overcome the problem. But, in an area which is so delicate, where feelings can be aroused so readily and tension created out of all proportion to the minimal damage done, it is recommended that Superintendents should be specifically instructed that they are responsible to ensure that searches are conducted with a minimum of disturbance to the prisoner or his belongings.

MEDIA COMMUNICATIONS

Counsel appearing for the Superintendent and Deputy Superintendent of Grafton Gaol, submitted that, unless there was a facility such at Katingal, it was ..... ible to deal with difficult prisoners in any other way than subjecting them to regime of Grafton.

at the start of this Chapter, the Commission is firmly of the department is bound to act humanely and within the bounds

However, the questions that arise from counsel's submission of the necessity for Grafton regime are irrelevant. The Commission does not accept that any Depart-.t, concerned with the protection of the community, needed to introduce and continue the brutal floggings which marked the Grafton regime.

Counsel for the prison officers and counsel for the Department did not suggest that this was the only way to deal with the prisoners sent to Grafton. Indeed, counsel for the prison officers described-and in the Commission's view correctly described-these practices as being "morally indefensible". In the ultimate, no matter how effective the Department's buildings and plant, the most important single factor in ensuring the proper containment of prisoners and the safety of the community is the quality of the Superintendent and prison officers of a gaol. But there can be no question that they are bound by the dictates of proper human behaviour. Too often in the evidence was it apparent that many Superintendents and custodial officers lacked the training and skills to carry out their responsibilities.

#### References

<sup>1</sup> "The Regime for Long-Term Prisoners in Conditions of Maximum Security"-a report of the Advisory Council on the Penal System. Home Office, March, 1968, para. 32.

<sup>2</sup> "Floud Committee", Committee under Chairmanship of Mrs Jean Floud-"A Consultative Document-The Dangerous Offender", March, 1977, p. 1.

<sup>3</sup> "The Mountbatten Report", *op. cit.* Pt III, par. 221.

<sup>4</sup> Norman S. Hayner, "Correctional Systems and National Values", British Journal of Criminology, October, 1962.

<sup>5</sup> Report of an Inquiry by the Chief Inspector of the Prison Service into the cause and circumstances of the events at H.M. Prison, Hull, during the period 31st August to 3rd September, 1976. H.M.S.O. p. 61, par. 251.





## **PRISON INDUSTRY**

The prime objective of prison industry is to offer gainful employment to as many prisoners as possible. Substantial capital expenditure may be involved in establishing some industries, but the benefit of supplying work to prisoners should be weighed against this consideration.

The Department's claim that work has always formed part of the prison experience for offenders in New South Wales- is belied by the facts. Departmental figures show that less than half of the inmates are employed.

One of the Royal Commission's most depressing experiences during its visits to gaols in the State was to see some prisoners, in the words of one of them, "sweeping up phantom dirt". It was equally depressing to see large numbers sitting in the yard with nothing to do.

Prison industry, broadly speaking, serves the ends of prisoner management by providing work which keeps prisoners occupied. Confining a person without giving him the opportunity for some activity is demoralizing and probably induces in the prisoner a sense of despair.

Prison industry should provide valuable training in the work habit. In addition, the inmate's job affects his social status in his peer group and may well influence his own view of the value the prison administration places on him as a person.

Ideally, the industry and work opportunities available should give prisoners training, skills or confidence which are of use to them on release. A failure to achieve this creates further problems for prisoners and the community.

Where possible, all prison industry should provide an economic return to the Department. The Department uses its resources to their fullest extent when it encourages prison industries that produce some income. If successful, the income can be used for payments to prisoners and subsidizing other departmental activities which are non-productive financially, such as education or amenities.

What types of industry are appropriate? The first category covers the maintenance and servicing of the prison system. Each prison needs so-called housekeeping services, such as cleaning, servicing machinery and vehicles, and painting. The second category covers the labour or assistance invariably needed for major works and improvements-for example, the auditorium/recreation hall at Parramatta Gaol was built using prison labour.

Prison industry may also serve immediate clothing and living requirements; farming is done at Tumbarumba, Emu Plains and other camps; tailoring of clothes and uniforms at Parramatta and Goulburn; bread is baked at various gaols.



Finally, prison industry may produce goods for sale, or provide services to the community in another Government instrumentality. The Parramatta Linen Service, for example, was designed to provide laundering services for hospitals in the Svdnev metropolitan area.

Difficulties and Disadvantages

A number of difficulties and disadvantages arise in the context of prison industry. These difficulties distinguish it from outside industry as they inhibit the mere translation to the prison context of industrial conditions and opportunities.

Some prisoners are averse to work. Prison officers talk of their general unwillingness to work. Examples appear in the evidence of lack of co-operation of prisoners engaged in work at East Maitland, Cessnock and Parramatta gaols.

It is essential to offer feasible work incentives which may differ from those in ordinary commercial or industrial life.

The number of short-term prisoners in the constantly-changing prison population makes industrial planning difficult. For example, sixteen per cent of the population in 1974 comprised men and women whose sentence was under twelve months and eleven per cent under six months.

The single most important feature which distinguishes prison industry from outside industry is the secured environment. Mr McGeechan gave evidence that the facilities available for industry and employment of prisoners in the maximum security prisons, such as Goulburn, Malabar or Maitland, are extremely limited because at the time they were built no thought was given to the possibility of an industry. Prison workshops and industries were merely added to an overcrowded area.

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Thus, it would appear that the opportunity for further expanding prison industries in the maximum security institutions is limited (on the assumption that such facilities are to be inside the prison walls).

The Department feels some sensitivity to a possible public reaction if the risk of escapes is increased by a liberal use of "open" institutions. But again, the Department has merely accepted these constraints instead of making an attempt to overcome them.

Industrial programmes, particularly in maximum security institutions, are interrupted by such things as musters, visits, or medical examinations. The resulting intermittent nature of the work creates difficulties for the prisoner in adapting to a full work day after release.

The existing institutions, especially the maximum security type, inhibit the growth of industry, not least because the Department has been obsessed with security. The need for constant supervision adds to the expense in employing prisoners, but it does not represent a complete obstacle to such employment.

On its visits to institutions overseas, the Commission became aware of a great diversity of standards of prison industry, ranging from mere token efforts to industry that would rival outside industry. All institutions recognized the need to provide some form of work for inmates and have them usefully employed.



Coldingley Prison in England was an outstanding example. As far as possible, an attempt was made to mirror the conditions of industry outside: the men did a full day's work, took their lunch to the works, and applied for jobs within the gaol. Other prison activities, such as education, medical visits and psychologists' visits, took place after hours.

Another outstanding example was the prison at Marion, Illinois. This prison held 500 of the most desperate criminals in the federal system of the U.S.A. The main industries were metal working and printing. Surprisingly few custodial officers were engaged, although access to objects which might be potential weapons appeared easy. The industry in this prison was not only highly productive, but the organization remarkably efficient.

It has been suggested elsewhere in this Report that the public must realize that the cost of an escape-proof prison system-which would be astronomical-is to be weighed against a system far less costly and certainly more humane which would accept a low percentage of escapes. One of the motives behind the moves for such liberalization of the system is the desire for the wider use of prisoners in outside industrial projects. The need for this is particularly acute in the cases of the existing maximum security prisons which are inadequate in the industries they are physically capable of offering or supporting.

At the Commission hearings, it was frequently mentioned that prison industry or employment was boring and repetitive. One must accept that any industry which seeks to occupy as many people as possible with varying degrees of skill and intelligence may appear boring and repetitive to many prisoners, particularly those to whom the occupation offers no mental stimulus. However, the same applies in the outside community. Such criticism should not be allowed to influence the basic objective of providing employment opportunities for as many prisoners as possible.

The impact of prison industry on community industry must be examined both for its effect and in a competitive market and on labour conditions in the community. The system must choose industries which best suit the location of the prison. This, in turn, may cause economic dislocation, particularly in depressed rural communities where the prison industry may compete with other local enterprises.

Competition with outside interests is a major consideration, perhaps illustrated by the difficulty of introducing vehicle number plate production into New South Wales prisons. A similar scheme has been operating in Victorian gaols for some time. In N.S.W., number plates are made by private enterprise and any attempt to have prisoners do the work, even in an ancillary capacity, would present industrial problems.

In discussion with the Department, the Trades and Labour Council of New South Wales expressed concern at the prospect of prisoners continuing apprenticeships in prison and dislocating demand for labour in their field on release. Similarly, the proposed involvement of prisoners from Cessnock in community projects aroused the concern of the Municipal Employees' Union. At Cessnock, after consultations between the Department and the union, a compromise was reached which meant prisoners could be employed in non-recurring local government works.

Although the threat to outside industry by prison production involves less than one per cent of the labour market, the trade unions have a legitimate interest in the extent to which prison industry may affect the jobs of their members. But they are

Prison officers see some workshop tools as potential weapons in the hands of prisoners

equally concerned that award wages are paid to everyone, including prisoners. Mr McGeechan told the Commission that this concern led to discussions with the Trades and Labour Council. Despite the fact that they have been going on for the past six years, no concrete proposals have emerged. As on so many occasions, the Department when faced with problems seems to have been prepared to substitute talk for action.

The problem presented by the unions' stand is exemplified by the request of the Trades and Labour Council to the Government in July, 1976, to abolish some prison industries because they deprived unionists of jobs. The problem must be solved.

The lack of communication between the trade union movement and the Department over its industrial proposals has apparently exacerbated these difficulties. The Parramatta Linen Service met strong opposition from the trade union movement at least in part as a result of the failure of the Department to discuss its proposals. The Commission sees a need for some permanent consultative body to assume responsibility for planning and running prison industry after thorough research and assessment of its potential effect on both industry and labour in the community. More will be said on this later.

The difficulties outlined above are explained in the hope that the public will be alerted to the problems confronting anyone making policy decisions in prison industrial matters. They have also served to impress on the Commission the need for a highly skilled, specialized policy-making unit within the Department capable of fulfilling all the functions of a modern industrial enterprise from planning and costing through to labour relations.

#### **The Present System**

During 1976, the daily prison population in N.S.W. was 3,688, comprising 3,252 sentenced and 436 unsentenced prisoners. Yet only 1,788 prisoners were "employed", according to the Department's Annual Report for 1975-76. In 1974-75, according to the assessment of the Commissioner, approximately forty-five per cent of convicted prisoners were employed "in a gainful, useful sense". That estimate included those employed in building, maintenance, and afforestation camps.

According to the 1975-76 report of the Department, this proportion had increased to fifty-three per cent. Given the fact that forestry activities employ ninety-one per cent of the prison population at Cooma, ninety-one per cent at Kirkconnell, eighty per cent at Newnes and eighty-one per cent at Oberon, this points to a low rate of employment in some large maximum security institutions, such as Long Bay, where the proportion of prisoners employed for the same period totalled thirty-five per cent. This is hardly satisfactory. The sight of prisoners spending their time idly in prison yards is validly used as an argument by those who speak of the futility of imprisonment. Even more dramatic is the fact that, on the figure provided in the report, only seven cent of female prisoners are engaged in any form of industrial activity.

Mr McGeechan said of the prison industry:

"Prison industries are generally now capital-intensive, possess a high training potential, provide a considerable degree of motivational incentive both in direct reward and working environment terms, and are directly comparable to the outside commercial and industrial experience of inmates."

The evidence and inspections have demonstrated that these claims are, to say the least, misleading.

MEDIA COMMUNICATIONS

Prison industries must be as accountable as any other type of industry, whether Government or private. The public is entitled to know how its money is spent and to have an expert assessment of the wisdom or otherwise of such spending.

In an attempt to make some critical analysis of the Department's claims, it is proposed to examine two of the most recent projects which were described by Mr McGeehan as capital intensive. These are the Parramatta Linen Service (P.L.S.) and the quarter horse stud at Cessnock. The P.L.S. was built in the Parra matt a Prison grounds by the Department of Corrective Services and the N.S.W. Health Commission at a total cost of approximately \$13.7 million.

The Commission experienced difficulty in assessing the performance of prison industry generally because of the lack of any proper method of accounting. This particularly applied to the P.L.S. It was originally designed to provide a linen and laundry service to major State and psychiatric Government-subsidized hospitals and the Westmead Hospital under construction nearby. Operations started in October, 1974. The maximum potential output for the laundry service at full capacity was 160 tonnes a week. The break-even point was then calculated at 105 tonnes a week. During 1975-76, the current production of the service was sixty-two tonnes a week. This represents the peak output of the service.

The P.L.S. is unique within the prison industrial system. Nonetheless, a comparison with the Health Commission's Central Western Linen Service at Orange highlights its major defects. Admittedly, there is an important difference between the two linen services, because of the security requirement of one. But one can still draw valid conclusions from the comparison. The most glaring difference is that Orange cost one-third of Parramatta capital, yet produces about one-third more each week, using a little over one-half of the staff. Comparative figures are:

|                                    | Parramatta   | Central West |
|------------------------------------|--------------|--------------|
| Capital cost                       | \$8,037,442  | \$1,475,881  |
| Operating cost                     | \$1,963,579  | \$1,090,146  |
| Operating cost per tonne           | \$1,536,825  | \$1,559,382  |
| Operating cost per tonne (1975-76) | \$11,537,846 |              |
| Staff                              | 1440         | 62           |
| Operating cost per tonne           | \$4,125,409  |              |
| Buildings                          |              |              |
| Plant and equipment                |              |              |
| Stocks-linen, etc.                 |              |              |
| Total                              |              |              |
| Total production 1975-76           | 4070         | 85           |
| Peak Production (weekly)           |              |              |
| tonnes                             |              |              |

The actual cost of construction, establishment and capitalized linen requirements for the Parramatta service, met by the State Government, Was approximately \$13.7 million. Additionally, the factory is built on Crown Land-the Valuer-General's valuation as Industrial Class B in June, 1974, was \$750,000. The table and figures indicate that substantially more capital funds are employed in the Parramatta Linen Service than the Central West operation, and actual capital investment is higher than disclosed by the Department.

MEDIA COMMUNITY

The comparison of staff at both establishments is also surprising:

| Parramatta                  | Orange                                                    |
|-----------------------------|-----------------------------------------------------------|
| Central West                |                                                           |
| General Staff               |                                                           |
| Clerical .. Transport       |                                                           |
| Industrial Prison Overseers | Custodial Prison Overseers                                |
|                             | --US--                                                    |
|                             | (includes main-<br>tenance, despatch, i production, etc.) |
| 12                          | 7                                                         |
| 9                           | 5                                                         |
| 27                          |                                                           |
| 17                          |                                                           |
| 1                           |                                                           |
| 81                          | 127                                                       |
| 135                         |                                                           |

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Average No. of Prisoners Total

216

127

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More surprising is that the net operating surplus for the year 1975-76 at Orange was \$637,372. After provision for linen, plant and equipment replacement, and long-service leave, that figure was reduced to \$142,079 as net surplus for the year which was transferred to accumulated funds. While it is difficult to get comparable figures for the Parramatta Linen Service, it is worth noting that in 1976-77, receipts were \$1,531,594. Payments out including buying and replacing linen, came to \$2,373,287.

Figures quoted for payments represent certain cash outlays on prison industries as provided for in the Treasury's budgetary system. They do not represent all costs of operating prison industries. The figures relating to the Parramatta Linen Service exclude such costs as fire insurance, interest on borrowed capital, rates, superannuation and long service leave.

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The Commission concludes that because the Parramatta Linen Service, which cost approximately \$13.7 million and employs only about 130 inmates, runs at a loss, it is a hopeless failure from the point of view of prison industry. By way of contrast Coldingley Industrial Prison in the U.K. had a one million pounds turnover and a net profit of about one hundred pounds in 1976.

It is also clear that the output at the P.L.S. is considerably less than half its capacity. One of the contributing factors is the suggested opposition by the unions to its operation at greater capacity as employees in hospitals where laundries were being replaced by the Parramatta service were concerned about their jobs. Although the P.L.S. is not required to meet award wages, it incurs further costs associated with training, supervision and custodial requirements.

Additional expenses-a substantial sum-arises from the daily transporting of the male prisoners who substantially operate it, from Milson Island and Emu Plains.

Apparently, this position resulted from a confrontation between Mr McGeechan and the custodial officers at Parramatta. The officers said they were not prepared to allow prisoners from the gaol to work in the linen service unless two extra custodial officers were provided. Mr McGeechan refused their request.

The facility is adjacent to Parramatta Gaol and its design and subsequent construction were based on the expectation that the labour force would be drawn largely from the gaol itself. The P.L.S. building has security provisions, including two observation towers. It was never intended for use by prisoners from other institutions with minimum security classification.

The Commission feels it is unfortunate that the situation which has arisen deprives inmates at Parramatta of badly needed regular employment.

The Linen Service is better off than most other prison industries because, by arrangement with its customer (the Health Commission), it has been able to charge an element of "bonus" in the price of its service rather than simple recovery of basic (raw material) cost.

The Linen Service employs an average of 135 prisoners (on present output, that is less than half capacity). Some of them are on Work Release II. This means they live at home and are employed on the second shift from 3.30 p.m. to 11.30 p.m. Unlike inmates, they receive an award wage .

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It is obviously an example of a capital-intensive industry-towards which the Department leans. The Commission does not dispute that in some industries capital expenditure of a high order is necessary. This is particularly applicable in urban areas where capital expenditure may enable access to wide markets in the community. However, it can only be justified in the prison context where it employs a large number of prisoners who could not be employed at a cheaper price. On any view, the Linen Service does not, as it is presently administered, achieve this objective.

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The other prison industry subjected to analysis by the Commission was the quarter horse stud at Cessnock Corrective Centre. The stud initially employed three to four men, but it was stated that there has since been a few more employed. By comparison, it will involve an overall capital cost of some \$200,000. The Department has estimated that the stud will incur a loss of \$17,825 a year after ten years and \$25,325 a year up to ten years after establishment. In making this assessment expenses incurred in servicing loans are taken into account.

In an attempt to explain the expenditure of so much for so few, the project was said to be valuable as a large part of the prison population at Cessnock would be interested in it. This value cannot outweigh the obvious shortcomings of the stud as a prison industry. It is noteworthy that evidence was given of a general shortage of work at the Cessnock Corrective Centre when the prison population exceeded 274.

The vineyard, on the other hand, provides nine jobs, rising to twenty-two according to the season. Given the fact that the vineyard costs less and employs more prisoners, the only advantage of the stud could be the income produced. Apart from the projected loss estimates provided by the Department, there is no way of assessing its current profitability as there are no adequate livestock trading account for the stud.

The Commission cannot see the justification for the institution or retention of the quarter horse stud. Economic consideration alone condemn it. As a prison industry, it has no direct relevance to the prison community at Cessnock, or commercial advantage. It absorbs, and will continue to absorb, a significant proportion of the budget for the Cessnock Corrective Centre. (The present budget allocation schedule for the financial year 1977-78 calls for expenditure of \$181,605 on the agricultural complex.)

MEDIA COMMUNICATIONS

The experience of the quarter horse stud leads to another point of concern for the Commission. It was suggested that the initial feasibility study for the stud was based on the Government method of accounting, which considers only "direct operating" costs balanced against revenues obtained from the sale of stock. No account is taken of salaries, depreciation or servicing of loan funds in the balance. Such a method of projecting a trading profit of \$14,710 a year, three to four years after establishment, is a very odd economic test.

The exclusion of certain capital and operating costs from consideration precludes the financial statements provided by the department on individual industries being used as an accurate guide to income and expenditure, or profitability for return on capital employed in such industries. When questioned about departmental accounting, Mr McGeechan described it as being "a very odd economic test".

The Department submitted a report, "Summary of Industrial Activities", which was designed to present some economic analysis of prison industries. The Department provided information concerning "funds employed" in a particular industrial activity but it did not spell out the details of actual capital cost committed to the industry. This approach was said to have been taken because plant and equipment in many cases has been acquired over a considerable period and there may be a divergence between its initial cost and its present value, hardly a novel problem in conventional accounting. For the Cessnock quarter horse stud, total funds employed in 1976 were \$97,600, comprising:

Plant and equipment

Stock  
Livestock (farms only) Land value (farms only)  
\$ 8,800

200 8,600 80,000

\$97,600

For the same period, total operating costs amounted to \$19,696, comprising the following:

Materials used Prisoner payments Officer salaries

Other costs (tools, repairs, gas, electricity)

\$ 5,943 834 11,900 1,019

\$19,696

The Parramatta Linen Service and the quarter horse stud at Cessnock are the only prison industries that it was thought appropriate to examine in this Report. However, they are generally characteristic of the Department's prison industries. The Department failed to take into account, in both ventures, factors fundamental to a consideration of the use of a prison industry. No proper assessment was made of the

overall cost involved or the income which might be earned. Nor was account taken of the proportion of prisoners which might be employed or the future value of the training for those prisoners. Finally, no proper inquiries were made as to the market potential or community and industrial uses of the products produced.

Prison industries vary from full-scale industries to cottage style workshops. According to the Directory of Corrective Services 1977, current prison industries include tailoring and other needle trades, baking, linen services and dry cleaning, engineering trades, joinery and cabinet making, saddlery and other leather trades, signwriting and silk screen printing, printing, bookbinding and stationery work, prefabricated concrete and brickmaking, cattle raising and dairying, poultry and piggery farming, afforestation work and sawmilling and market gardening.

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**Other Industries**

The maximum security institutions are more restricted in the industries offered, since they are subject to the limitations referred to by Mr McGeechan .

According to the report provided by the Department, "Division of Physical Resources-Summary of Industrial Activities", labour intensive industries (those that employ a significant number of prisoners), are financially unremunerative because they need a significant number of supervising officers. It is said that their profits even on Government accounting methods are low, but it is difficult, if not impossible, to make any useful assessment because of the accounting methods adopted.

Specialized institutions such as the afforestation camps at Newnes or Oberon employ, comparatively speaking, a high proportion of prisoners in their forestry activities. They are also capable of earning substantial income for the Department. It was only since the Commission began that the New South Wales Forestry Commission made any acknowledgments in its accounts for the prison labour provided. This situation is unsatisfactory. It indicates the absence of any idea by the Department of accountability for particular industries .

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At present, industries cannot be assessed on an economic or commercial basis.

The financial statements may be of some internal use in the Department in providing uniform comparisons throughout the activities or in comparing items over successive accounting periods. The exclusion of certain capital and operating costs from consideration, however, precludes reliance on these statements as accurately reflecting the income and expenditure, profitability, or return on capital employed in such activities.

The present structure of industries within the prison system appears fragmented, unco-ordinated and lacking in precise criteria or objectives.

If the objectives referred to at the beginning of this Chapter are accepted, it follows that industries should generally be constructed or conceived as labour intensive as distinct from capital intensive. The prime objective should be the employment of as many prisoners as possible at as low a capital cost as possible. If farming is available as an industry in a particular institution, tomatoes and fruit crops would be a better choice of produce than, say, a piggery or beef cattle, both of which employ fewer prisoners.

In the case of women's prisons, the Commission noted with interest the availability in Canada of hairdressing and industrial sewing, neither of which cost much to introduce.



Industries should, where possible, help make the prison system self-sufficient for its food and maintenance requirements. In most gaols, a wealth of land is available for this purpose. The Commission has viewed the land within the boundaries of the complex of prisons at Malabar, and there appears to be more than adequate space for a market garden, for example. No adequate reason was given for the decision to close the market garden which was there previously. These suggestions point out alternatives and do not present a solution. The Commission is more concerned with directing attention to the problem.

The number of open institutions in rural areas ensures that choices are available. If there are insufficient prisoners of appropriate classifications to man the existing camps and farms, then it may be necessary to create a higher degree of control and supervision in special areas for some inmates.

A primary objective of the Department should be the provision of work for everyone in its control, using originality and inventiveness. On examining the evidence and relying on experience gained from inspection of gaols in Australia and overseas, there is no doubt the Department is failing to do everything in its power to achieve this objective.

In maximum security institutions overseas, even when a prisoner is confined to his own cell, simple assembly work is provided. At Katingal, prisoners do practically nothing.

The Department speaks of craft work being done by prisoners. This obviously can and should be extended, but it must be along organized lines. Reports also speak vaguely of some braille work, but any such work that was being done was minor and has now been phased out. In several English prisons, inmates work on the production of books for the blind. The cost of introducing this is negligible and the work, of course, is praiseworthy.

Perhaps the training of dogs for the blind could be considered, along the same lines as the Victorian scheme. Also in Victoria, prisons are using mat-making equipment sold by the Department of Corrective Services on the basis that no work could be found for this industry and that there were unpleasant connotations associated with it. Such is the demand for the Victorian mats that orders cannot be fulfilled.

#### Accounting Methods for Prison Industry

Whatever industry is introduced, it is vital that some accounting method capable of external interpretation and assessment should be used to gauge its effectiveness. In saying this, the Commission realizes the Department is compelled to employ accounting methods accepted in Government instrumentalities and that a prison industry, even though run at a loss, may be justifiable on the basis of its rehabilitative value.

However, the public should be aware of whether a loss has been sustained by a particular industry or whether resources are being employed in a satisfactory way.

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In assessing the extent of accountability required, a grouping of Department of Corrective Services activities into the following categories is suggested:

Internal building maintenance and improvement activities by prisoners.

Commercial type activities-that is the production of goods and services for use outside or within the institutions, in price competition with private industry.

Other industrial activities. These industries may be subject to an "incremental costs" assessment. These are financial position assessments based on those cash outlays arising from running prison industries which are additional to the custodial costs of running the penal institutions.

The grouping of prisoner and industrial activities into the three categories mentioned could probably be assigned to an inter-departmental committee comprising representatives of at least the Department of Corrective Services and the State Treasury.

An assessment of commercial activity should bring to account all costs, including interest on borrowed capital, but not sinking fund contributions because a private business would not treat capital repayments as a cost. It should also cover: rental for buildings and equipment provided; all labour costs including pay-roll tax, superannuation, long service leave loadings and a proportion at least of supervisory or custodial costs where they are equivalent to foremen or leading hands and suchlike; depreciation or asset replacement costs, workers' compensation; and other insurance costs and any other costs of goods, equipment, or services supplied or met by other authorities.

The total cost would then be matched against the value of output at competitive commercial prices as a measure of operating efficiency.

The ratio of capital to earning capacity and labour employed could be assessed and compared with other industries within and outside the prison complex.

Incremental Cost of the Activity

This method would aim, on the basis of recording additional cash outlays incurred, to provide a means of assessing relative costs of certain occupational and industrial activity alternatives to the passive or pure custodial approach to confining prisoners. If participation in prison industries is conceived as a rehabilitative process, such work needs to be seen and organised on a viable basis, not necessarily in terms of profit increase, but simply as making the best use of manufacturing and industrial enterprise resources measured against a yearly financial budget,

Such shameful misuse of public money exemplified by the Parramatta Linen Service and the quarter horse stud at Cessnock should not be repeated.

It follows that transfer of goods and produce or services either within the Department or to other Government departments or instrumentalities should be recorded and given a notional transfer price, preferably on a commercial basis. This is the system at Wormwood Scrubs, in London.

Where possible, the prison industry should be organised for profit by means of sales to the community. This proposal will undoubtedly generate the industrial problems referred to above. However, as stated earlier, the Commission considers that industrial problems may be avoided or at least minimized by maintaining a strong link with the trade union movement in all the stages of the industrial enterprise from planning through to the ultimate sale of the product.

There has been successful co-operation with the unions in England and there is no good reason why there should not be similar co-operation here.

**Liaison** with Manufacturers and Unions

To maintain this link and avoid a repetition of previous troubles, the Commission recommends the formation of a Standing Committee-comprising two employer representatives, two from the unions and two from the Department-to advise the Department on its industrial activities, at least for those industries selling to the outside community.

The Standing Committee would advise the Department on outside markets; discuss the percentage of any outside domestic market to which the prison industry should be entitled; and, in general, monitor the effect of any prison industry on outside industry or employment opportunities.

The Commission feels that such a body is essential to the survival of prison industries seeking to sell to outside markets. It stresses that the volume of goods for sale by the Department on the open market would, at anyone time, be very small and hopes that a workable agreement could be reached with the various interests.

Assuming that the Standing Committee will alleviate any tensions between the Department and the unions, the Commission also recommends the setting up of a selling agency within the Department. The agency would be responsible for finding sales opportunities and, in general, publicizing the availability of prison goods and products.

As the prison industry will, at least in part, service the Department and the outside community, the question of prisoners' pay must be discussed.

**Prisoners' Pay**

The nature of the industry offered should be an incentive to work in itself. In outside life, features of employment such as job satisfaction and the level of wages are the main incentives. In the prison community, however, incentive to work must, of necessity, be different: it must be related to improvements in the prisoner's opportunities within the prison system itself. In general terms, any incentive to a prisoner is, in the main, geared to his or her release. Accordingly, the level of pay awarded a prisoner may well be regarded as a secondary consideration, but it should be adequate to provide for his or her daily needs. The comment of the European Committee on Crime Problems in its "Work In Penal Institutions" is appropriate in this context:

"There is, for example, the question of motivation. Pay schemes, at whatever level they are made available, also have operational and management implications. Indeed, once they rise above pocket-money levels, these implications can be extremely complicated and even operationally significant as well as administratively expensive. For one thing the book-keeping becomes a more sophisticated operation. If pay reaches levels where it encroaches on the permitted amounts laid down in social security legislation, questions of regulation and adjustment can arise. Income tax may even be involved. All this is a considerable administrative burden which may not have compensating results in terms of either rehabilitative values or commercial returns."2

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During the final addresses, counsel who were submitting that full award wages should be paid to prisoners were asked whether such wages should be subject to deductions for income tax, board, compensation to victims of crime, maintenance payments, and so on. No satisfactory answer was ever given.

The evidence before the Commission showed that nominal wages are paid at most institutions. For example, a kitchen hand at Berrima Prison receives a flat wage of \$1.40 to \$2 a week. A person employed in a similar role at Kirkconnell receives a range of payments of \$1.60 to \$1.90 a week. In contrast, a person employed at the Parramatta Linen Service receives a range of payments (including bonuses) of between \$14.40 and \$129.40 a week (the latter sum being paid to prisoners on Work Release II).

In some instances, there appears to be no apparent basis for the discrepancy in payment for a particular job between one institution and another. The rates of pay (with the exception of the Parramatta Linen Service and Work Release II) are essentially nominal and would approximate \$2-\$3 a week.

In any other context, such wages would appear contemptuous. Considered from the point of view of the prisoner's immediate needs, however, they assume some significance. The day-to-day needs of the prisoner are met by "buy-ups"-goods and commodities which are bought by prisoners from the prison store. The wages are related to his ability to purchase at the "buy-ups". The wages paid have *not* kept pace with the rise in the prices of some ordinary commodities, such as sweets or canned goods, available from the buy-ups and this is a further source of discontent with the existing wage levels.

If they are to be geared to the daily needs of the prisoner, the wages paid should be indexed to the increased prices of the commodities. Beyond this, the Commission, from a practical point of view, cannot see any possibility of extending the existing wage levels.

The more important incentive for work within the prison system should remain with the system of industrial remissions. It is considered that the remission, if employed properly, is appropriate from the point of view of the prison administration, in that it conserves their resources, and from the prisoner's point of view, since it shortens the period of his internment. The remission system should, however, be altered in the manner suggested elsewhere in this Report to ensure that it retains the character of a true incentive.

Finally, the question has emerged: should prisoners be obliged to work as presently provided in the Prisons Act? The overseas experience generally indicates that they should be, although in the few institutions where work was optional the prisoner's alternative was to be locked up during the day in his cell. The Commission sees no reason to suggest that the present situation should be altered or that work in prison industry should *not* be compulsory. Prison industry is part of the prison system as a whole. It is the result of the sentence imposed. However, a prisoner should only be required to carry out work which is suitable to his physical capacity.

#### References

<sup>1</sup> Department of Corrective Services, Statistics Division, Research and Statistics Publication No. 15, p. 14.

<sup>2</sup> Report of European Committee on Crime Problems-"Work in Penal Institutions" Council of Europe, Strasbourg (1976), p. 39.

## Chapter 21

### PRISONER EDUCATION

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## PRISONER EDUCATION

The provisions of the Prisons Act and Regulations relating to prisoner education indicate the significance which the legislature has placed upon it. Regulations 106, 107 and 108 envisage that this education can be conducted not only by officers of the Department, but also by other persons nominated by the Commissioner of Corrective Services and employed to conduct classes.

These regulations speak of educational and, vocational training as being directed "to the improvement of the education of prisoners". Regulation 108 provides for vocational training of prisoners so far as practicable in the prisons, and for practical training to be supplemented by theoretical study by correspondence or otherwise. Somewhat pessimistically, but realistically, it limits vocational training to prisoners "who have the capacity to absorb it".

The basis for this emphasis on education is apparent. Not only is it hoped to keep prisoners occupied and prevent their mental and physical deterioration, but it has generally been thought that education in some form would have rehabilitative value. There is some suggestion (based on inadequate statistics) that crime other than white collar crime decreases in proportion to the amount of formal education.!

A former education officer with the Department of Corrective Services expressed his views on the value of education courses as follows:

"I do not feel that education is an effective vehicle for rehabilitation.

This is not to say that it does not have its place and importance in gaols. I believe that the most important factor in rehabilitation is the work habit. Unfortunately, this is rarely learned in gaols and usually by those that least need it. Many prisoners have never had it before their sentences to child welfare institutions or prisons and their lack of the work habit after release leaves them prime candidates for return to prison. However, I do believe that education courses are valuable, especially in maximum security gaols where lock-up hours are long. Learning in gaol is therapeutic and tends to retard institutionalization. The system of course remissions, I believe, is undesirable and counter-productive. Prisoners often do a course solely for the remission. So, as regards to the attitude of prisoners to education I found, as a generalization, lifers to be better and more conscientious. They were less obsessed with calculating their release date than were the rest."

He described, somewhat despondently, his tasks as an education officer. When asked what were the limitations to the courses which could be made available, he said:

"Money. Well, I mean the basic job of the education officer, the biggest part of their job is supervising prisoners through the various avenues of correspondence education, that is the Correspondence School or the College of External Studies from the Technical College. On rare occasions, university work and there are a few other odd ones like institutes interstate.

That is basic work; you have got to get them, year in and out, to do this course and facilitate them by getting materials to them, to try and give tutorial assistance. If you can, you arrange outside tutorial assistance. Then, apart from that, you organize other activities. At Bathurst, I had organized art and pottery classes and the debates and other activities."

It is not easy to ascertain from the material supplied by the Department any details of the education or vocational training it furnishes to prisoners. However, there can be little doubt that it leaves much to be desired.

One is unable to find the numbers doing the courses, their ages, and the numbers who completed courses during their terms of imprisonment. According to the 1975-76 Department of Corrective Services Annual Report, the total number of prisoners enrolled in education and training programmes amounted to twenty per cent of the prison population. Those undertaking tertiary studies comprised only .03 per cent, while those enrolled in internal tutorial classes (which include primary and secondary classes, migrant English, remedial reading and remedial mathematics) represented seven per cent. The remaining twelve per cent were enrolled in vocational training courses.

The type of prisoner with whom the Department's educational policy has to contend in itself presents difficulty. About seventy per cent of the prisoner population in 1974 had no qualifications before entering prison. Sixty-three per cent of these were under twenty-five, resulting in the prisoner population consisting, to a *large* extent, of young male offenders most of whom were educationally unqualified.

Overseas research has indicated that a large number of prisoners are incapable of acquiring significant educational qualifications. This would similarly apply to New South Wales prisoners. A much more inhibiting factor is the lack of interest displayed **by** prisoners themselves.

An activities officer from Parramatta Gaol spoke of this when he said:

"Remedial courses are open to each prisoner who is willing to undertake a course in English and mathematics. We have two male teachers. The present state of the gaol is about 350 inmates. Of these, I estimate between 60 and 100 would be in need of, and eligible for this remedial education.

Despite this, the number attending are surprisingly small. For the last month, we have averaged about three prisoners attending the day classes and approximately five prisoners attending the evening classes . . . prisoners themselves simply will not avail themselves of the opportunities."

In passing, it is interesting to note that this prison officer, who was responsible for education, was also concerned with "darts, entertainment, sport and concerts".

An education officer from Bathurst Gaol also spoke of prisoner disinterest and stated that, in his opinion, the only reason many prisoners attended educational classes was because of the automatic remissions they would receive.

The physical facilities were equally daunting and ranged from inadequate to non-existent. In many places, educational activities were confined to cells or had to take place wherever some covered space could be made available.

Two views of the Yards at Malabar, where prisoners spend a good deal of their



Some additional teachers and physical facilities were provided by the Department of Technical and Further Education. Apparently, help with educational and recreational equipment and tuition was also made available through correspondence schools. Other institutions, such as the State Library Service, Colleges of Advanced Education and Universities, also helped.

From the latest figures, it appears that about twenty per cent of prisoners are engaged in courses which have some educational value. The salaries paid to teachers cost about \$250,000.

There is about one teacher to every 109 inmates. Unfortunately, many teachers have other duties assigned to them, for example, classification procedures and other administrative work. Acceptable evidence from one prisoner was: "The education officer here is a Mr Spaans and the programmes officer, a Mr Cawley. They both have so many other duties to perform, that they are generally not able to devote much time to the education and advancement of prisoners at Parramatta". Many inmates, if not the majority, have little interest in bettering themselves. The main motivation for their attendance at courses is the remissions they can earn.

Rather than receiving encouragement from prison officers the reverse is frequently the case. They are often both actively and passively discouraged. There is no sympathy displayed by some prison staff to efforts by prisoners to better themselves and, at times, they are positively obstructionist. One prisoner was unable to sit for an examination because he was transferred to another goal on the same day. Another complained that he had such difficulty in obtaining basic materials, such as pens and papers, that he was unable to do his course.

This was explained in the Department's final submission, presumably by a departmental Education Officer, in this way:

"I can well imagine that no provision would be made to assist an illiterate prisoner at this time in Bathurst. Thinking among staff was generally unsympathetic towards education. It was the persistence of this attitude that made myself and Bill Higgins' job difficult and frustrating."

The Department's final submission accepted as correct yet another prisoner's statement:

"Attempts were made by T. W. Higgins and myself (R. H. Jewson) to engage remedial teachers. However, facilities were very primitive and co-operation from staff in enabling prisoners to attend was poor . . . but again, facilities were such as to discourage any teacher from persevering and some staff made it difficult for prisoners to attend.

Those doing correspondence courses were often ramped and material thrown out."

Conditions in the goals were not conducive to study. Either they were nonexistent, as at Bathurst, where lessons often had to be taken in the yard, or at Parramatta where, according to the Department's submission, "conditions were certainly poor and procedures were slow . . . the drop-out rate in correspondence studies was high". At Mulawa, there was a severe limitation on educational courses. Most of them were held in the evening, and were described as "difficult and partly responsible for the high drop-out rate". It is not surprising to find the comment from that institution:

"Dormitories are never satisfactory for study".

In addition to the lack of teachers, proper facilities and the obstructionist attitude of some prison officers, there were Superintendents who deliberately prevented any educational courses being held. As a result of the prisoner disturbance in 1970, the Bathurst Superintendent stopped educational courses for some two years.

There was a time at Grafton when no courses were available for any prisoners.

The extraordinary explanation for the decision by the Superintendent not to allow educational programmes to prisoners on ordinary discipline was that they would supply "intractables" with materials which might eventually pose a threat to safety and security. Even assuming that there could be such a threat, the Commission is not prepared to accept that proper measures could not have met this exigency.

The head of the School of Sociology at the University of New South Wales, Professor S. Encel, spoke of the problem in evidence. He was critical of many of the aspects of education at some of the gaols he visited. He mentioned that he had reported to Mr McGeechan on the kind of educational facilities that should be provided at Cessnock. Some of his recommendations were put into practice there.

A matter of prime importance, which illustrates the very nub of the problem, was raised by the question that Professor Encel directed to Mr McGeechan, why was there no one in the Department who was actually responsible for education. To this question, the only answer was to point to the officers allegedly responsible for various aspects of prison life which could be related in any way to "education". This unsatisfactory answer really amounted to an admission that there was no one in charge of education in the Department. The only person in charge of officers who were supposed to be responsible for education was the Commissioner himself.

This evidence of the lack of any organization of education within the Department has been deliberately referred to as the nub of the problem. The Commission's view is that most, if not all, of the troubles with educational programmes stem from lack of proper organization and the fact that no one was responsible for education. That no mention is made of education in the Department's organizational chart initially supplied to the Commission highlights the absence of a well-defined organizational structure. However, in an ancillary chart, it is shown as the responsibility of an Assistant Commissioner who was also responsible for programmes, industries, building services, psychological services, plant and motor vehicles, and Project Survival.

A senior departmental officer should be responsible for education and vocational training within the Department. He should organize programmes and supervise their implementation.

The reasons given by the Department for the inadequacy of the general educational programmes included the shortage of physical facilities for education programmes, acute shortage of manpower, shortage of finance, and, finally, the understandable restriction imposed by security requirements.

The first claim of a shortage of physical facilities is undoubtedly correct, but one can well imagine that by the use of inexpensive prefabricated structures something within the budget could be erected. In any case, some thought should have been given to ways of solving an important problem by simple means. The argument raised by the Department concerning the acute shortage of manpower merely reflects the Department's priorities. There is, and has been for some time, a surplus of unemployed teachers in the State.

In addition, the Department has never attempted to make use of prisoners with some teaching qualifications. The 1974 Departmental survey indicated that there were twenty-two prisoners with university degrees and seventeen with teachers' college diplomas. It could well be that some of these represent security risks and could not be employed as teachers, but some prisoners in open institutions have complained to the Commission that they have the necessary qualifications but are not used to assist the departmental education programme.

Undeniably, there are security restrictions in the implementation of both national and vocational training programmes, but the Department appears to be far prone to use these as excuses in cases where the security risk is minimal. Elsewhere in this Report, attention has been called to the overwhelming evidence that the vast majority of prisoners do not represent a security risk. There are examples of minimum prisoners who have been refused leave to attend external training institutions.

reasons for refusal by the Department have been both vague and inconsistent.

The subjects of study proclaimed by the Department to be available represents a most esoteric collection. Perhaps one might be pardoned for thinking some inappro: For example, a course in explosives. Accepting that all the courses were available and could in some measure assist inmates, the spread is far too wide. It is extremely doubtful whether some of the subjects could be properly coped with in milieu of all prisons, for example, pig farming.

It would be far more practicable if attention were given to courses which could of real advantage to inmates. Fewer courses, and those of more practical application, should be offered. These would probably permit and require more direct instruction. One of the needs of most prison inmates is for remedial courses in reading, writing, and arithmetic. Undoubtedly, an attempt has been made by the Department to introduce these, but with the lack of organization, coupled with unsympathetic officers and uninterested prisoners, not enough has been achieved.

The remedial classes now available for inmates are designed for primary school children. The mode of instruction and the documentary material provided are inappropriate for adults. For instance, the prize for the successful completion of remedial essay courses was animal stamps. People in remedial classes are openly called illiterate and made the butt of derision by prison officers and inmates. These problems are not insurmountable and should be overcome. Undoubtedly, they are a deterrent to inmates who otherwise might wish to learn to read and write.

The Committee on Vocational Training of Prisoners (October, 1968)-the Bain Report-spoke of the depressed "self image" as an important characteristic of most inmates. This image must be improved. It will involve a drastic alteration of the whole attitude towards education and vocational training in the prison system held by both the custodial staff and the senior officers of the Department.

The effectiveness of the courses must from time to time be evaluated. This can be measured by the numbers of drop-outs, the numbers seeking entry to courses, and those who successfully complete the course. With this experience, the courses offered can if necessary be changed, but every attempt should be made to make the courses interesting and relevant.

When speaking of education throughout this Chapter, references to training should be understood to include vocational as well as educational training.

The relevance of courses must be assessed in the light of their potential to give prisoners some practical knowledge or skills which they can use to get jobs on their release. However, within the Department, there are now too few courses which fall within this category.

The range of courses, quite naturally, should vary according to the inmate's sentence. Towards the end of the term, attention should be paid to fitting the inmate for the outside world. An intensive pre-release educational programme should be designed to equip him to deal with the situations he is likely to meet. It should supply

knowledge necessary to handle day-to-day affairs. This should include such things as how to apply for jobs, information about social services, medical benefits, unionism, legal aid, tenants' rights and so on.

Coincidental with the Commission's examination of these matters, the Department has seen fit to talk of introducing some such form of training. It now has written several induction booklets, but these are waiting to be printed. A topic list for a life management programme, as it is called, is set out in Appendix 9 to the final submission of the Department. This course is said to have been conducted for a number of years in some undesignated institutions. The Commission has not had any evidence of these limited courses, but notes that "the present emphasis is on a State wide programme".

A more effective organization, properly staffed, would itself create a greater interest in education among inmates, but the greatest incentives to most, if not all, prisoners would be the course remissions they could earn. A recommendation is made later that in future, there should be no "automatic remissions". They must be earned. It suffices to say here that this scheme would permit prisoners to earn greater remissions than the automatic ones now available for attending courses. They would be determined not by a mere attendance at the course, but would depend on the interest displayed by the prisoner, the work put into the course, and the results achieved.

A number of prisoners are non-English speaking migrants. The Department has made no real effort to teach them English. Special text books are not available. A dubious suggestion was made that they would have been produced or made available from outside libraries on request. As frequently happened after the matter was raised before the Commission an attempt has now been made to correct the situation. The Department's 1977-78 budget estimates include-for the first time-a commendable request to extend training and library services to migrants.

The Department should know of a special grant available from the Australian Government which enables prison authorities to employ specialists in teaching English as a second language. Unfortunately, so far, no application has been made by the Department for this grant.

In September, 1975, the Department discontinued employing teachers seconded from the Education Department. The Department's educational division is now staffed by full-time employees. The reason for these moves was said to be "to encourage change, development and modernization". What will happen is difficult to guess, but it is hoped that it does not result in education officers becoming even more burdened with other jobs as well as education.

The Commission believes that teachers employed by the Department should be members of the Department and not seconded from the Education Department. However, their activities should primarily be limited to teaching.

A drastic overhaul of the Department's educational organization is needed. A senior officer should immediately be assigned specifically to organize and oversee inmate education and vocational programmes. He should have direct access to a member of the Prisons Commission. Education should not be merely an adjunct to the prime function of containment: it should be an integral part of the whole system.

#### **References**

- 1 Sutherland & Cressey, "Criminology", 9th Ed., 1974, p. 237.



## CHAPTER 22

### REMISSIONS

Most of the prison systems in Australia, the United Kingdom, Canada and the United States have some form of remissions system, though they vary considerably. Generally, there are two types of remissions: those which the prisoner receives automatically, and those which are earned.

In New South Wales, remissions are granted in accordance with the Regulations under the Prisons Act. These provide for automatic remissions as follows: a prisoner classified as remediable, serving a sentence of three months or more, is entitled to a reduction of one-third of the total period to which he has been sentenced; a prisoner classified as a recidivist, serving a sentence of one month or more, is entitled to a reduction of one-quarter of the total period; and a prisoner declared an habitual criminal is entitled to a reduction of one-sixth.

Those remissions described as earned vary from prison to prison and may accrue to the prisoner merely because of his sentence in a particular institution (such as a camp) or where he is attending educational course or engaged in a particular prison industry. His entitlement to some of these remissions depends on a favourable report from the appropriate prison officer.

The object of the remissions system is said to provide an incentive to good behaviour by the inmates and a rehabilitative effect on prisoners working towards a goal.

Mr McGeechan told the Commission that in his view remissions were no longer serving their original purpose. He regarded the existing system of remissions as unsatisfactory .

The Commission considers that the system is worthwhile, but more emphasis should be placed on providing a proper incentive to the prisoner. This notwithstanding the occasional witness who spoke in a derogatory fashion of the moral indignity of what was described as the "dangling of a carrot" to elicit good behaviour. There is a preponderance of evidence from prisoners and prison officers that-as in outside life good conduct and efficient work is expected to be rewarded.

In October, 1973, as a result of a disturbance at Bathurst, the then Minister, Mr Maddison, arranged for the then president and secretary of the Council for Civil Liberties to interview the prisoners. They saw prisoner representatives and ultimately handed to the Minister the prisoners' list of grievances. Among them, was a request for "a review of the general policy on remissions". The request achieved nothing other than a reply from the Minister, drafted by Mr McGeechan, stating "that the matters ... are essentially ones of law". There are many criticisms of the remissions system. It is a system which deceives the average layman. When a Judge sentences a prisoner to a term of imprisonment, the lay person assumes that to be the period the prisoner will serve. Some may

have some vague knowledge of remissions which can be earned by good conduct. But the majority would be surprised that when a Judge pronounces a sentence of, for example, twelve years, in fact the sentence is effectively reduced by the Regulations, to either eight or nine years.

It would only be rarely that prisoners are under any misapprehension about the effect of the Judge's sentence. The term as reduced by the automatic remissions is regarded as the punishment for the offence committed and, illogical though it may be, when prisoners lose part of the automatic remission as a result of a disciplinary offence, they regard themselves as being punished twice.

Mr McGeechan, referring to this situation, said: "Immediately prior to my getting this administration, the remissions were a privilege. The decision had been taken to make them a right at about the time I acquired the administration and I wondered as to why that would have been altered in the way it was. The privilege concept to me suggested a far better reward or motivator for good behaviour than this 'but you will lose it if you do this!'"

The calculation of both automatic and earned remissions is difficult. Mr McGeechan says that the computation is "unnecessarily complex". It certainly does require a most complicated set of calculations and analysis. It takes up much time and effort on the part of the prison administration. The prison Superintendent must complete a monthly return for submission to Head Office.

The Department uses a Hewlett Packard 80 (HI80) electronic calculator. A description of the use of the calculator, the method of calculation and examples took up some eighty-two foolscap pages of the Department's report to the Commission explaining the system. Additionally, the calculations are frequently the subject of a dispute between prisoners and administration and, in some cases, the subject of litigation.

The present remissions system can be unfairly discriminative. It rewards the prisoner who is careful to "do his time easy", as opposed to the less intelligent or more volatile prisoner, unable to settle as easily into the rigours of prison life. The prisoner with some skills has a greater chance of obtaining industrial remissions than the unskilled prisoner; there is always the question of the availability of work, education or other means of earning remissions at the particular prison to which a prisoner is sent.

Some prisoners have criticized the fact that remissions do not reduce the non-parole period of a sentence. The criticism is that, given the likelihood of release at the end of the non-parole period, the system of remissions, which affects the head sentence only, provides no real incentive. One prisoner, Matthews, stated that the remissions system, which is supposed to induce inmates to behave themselves and be of good conduct, is not working because inmates realize that remissions do not affect their non-parole period. Another prisoner made the same complaint, saying that the inmate has no incentive to earn remissions because they do not come off his non-parole period. This is unlike the system in Victorian gaols.

Royal Visit remissions are a relic of the past and appear anachronistic. As a tradition, they may have some attraction, but there is no logical basis for them. Prisoners were awarded remissions as a result of the visits of Her Majesty The Queen to New South Wales in 1970, 1973 and 1977. The remissions were calculated at the rate of one day for each month of their total sentence, up to a total of 120 days on each occasion. Commonwealth prisoners did not receive these remissions on any occasion.

For different reasons, the Prisoners Legal Co-operative and the Council for Civil Liberties in their submissions to the Commission both propose the abolition of the present remissions system.

Whatever view might be taken of the motivation of prisoners in seeking remissions or of the remissions procedures adopted in various prison systems-they do provide-where appropriately used-an incentive.

The Working Party, presided over by Mr Justice McClemens in 1974, reported that:

"(The) representatives of the staff at Malabar ... strongly supported the view that remissions should actively depend on the way the man behaves in prison and that each prisoner should be able to earn up to fifteen points for behaviour and fifteen points for industry, each point to be the equivalent of half a day, so that the prisoner who earned fifteen points for each would, in that month, get 15 days remission and the man who, for example, only earned eight points, would only get 4 days' remission."

Prison Officer R. G. Kirkman, who was called by the Prison Officers' Vocational Branch, was asked about remissions:

"Q. Your view personally would be that remissions should not flow automatically?--Most certainly so. I will tell you of the system for industries in Victoria. A man only got his remissions if he got his report from the man he worked with, and it went to the next officer, right up to the Superintendent perhaps, and at the end of that his remissions were a bit higher than they were in New South Wales; but it was purely on merit-I see a lot of benefit in such a programme. I am aware of the programme in Victoria . . . I think it is a very good idea. The fact that an inmate virtually knows the date at that stage . . . does not give him any incentive to better himself in any way."

These views were also stated to be the views of his Branch.

The Commission considers that the system introduced into Victorian prisons in 1975 should be adopted in this State. It might be said to be based on the system that Alexander Maconachie introduced on Norfolk Island. The only remissions gained by a prisoner under the Victorian system are those he earns. They are calculated each month. Under the system the prisoners, including those unable to work, get remissions for good conduct, industry, diligences, response to treatment programmes, performance and application. Each month the prisoner knows the number of days' remissions he has gained during the month. If he has not received the remissions to which he considered himself entitled, he can find out why. Poor behaviour and response in anyone month does not jeopardize credits for succeeding months. Nor does he lose credits previously earned.

If prisoners are confined to hospital or cannot be employed for physical reasons, they accrue remissions at the same rate as before entering hospital or becoming ill. If prisoners are debarred from qualifying for remissions because of non-availability of jobs, physical incapacity or such-like, they are granted the average remission for their Wing and! or Section. The remissions which can be earned are up to fifteen days for each calendar month, with all official decisions being made by the Superintendent of the gaol. The remission earned reduces not only the head sentence, but also apply to the non-parole period.'



The introduction of this system will require all prison officers associated with the prisoners' activities to play a part in the monthly assessment. The official assessment should be made by a committee of officers who make recommendations to the Superintendent.

One of the objections of the McClemens Working Party to the introduction of this system into New South Wales was that: "It contains the dangers of favouritism and the possibility of inconsistency in individual approaches" The suggestion has also been made that there are difficulties in the actual computing of remissions in this way. While acknowledging the validity of these arguments, the Commission does not agree with them. The computation of remissions would be far simpler than at present. The prisoner would always have the right to take complaints to the Special Prison Ombudsman, and, in this way, some uniformity in the system as a whole would be achieved.

This is another area in which the ordinary custodial officer could be called on to play a role more in keeping with his proper position than merely locking up prisoners.

The fact that at present remissions only apply to the head sentence and not to the non-parole period, has been previously criticized. It is recommended that, as in Victoria, any remissions earned should be taken off both the head sentence and the non-parole period.

Remissions do not apply to those who have been sentenced to life imprisonment. Elsewhere in this Report the recommendation is made that a non-parole period should be set by the sentencing Court for these prisoners. Remissions will thus provide an incentive to life prisoners as well.

#### References

- 1 Social Welfare Act (Victoria) Regulations 97, 98, 99, 100 and 101.





**CHAPTER 23**

**PRISONERS' AMENITIES AND CONDITIONS**

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In its final submissions on conditions and amenities, the Department said:

"Within the constraints imposed by varying but basic custodial requirements, prison routine should be no more restrictive than necessity demands. As well as having due regard to the rights of prisoners, practice should always be consistent with the need to maintain reasonable equity with the generally improving quality of life in the free community."

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**Visits**

Mr McGeechan gave evidence that it was his understanding that during the past 200 years, and more particularly at the beginning of the 19th century, prison administrators "took the view they (the prisoners) were going to be there for long terms with the result that there was no real anxiety about the inmates in the sense that they were to be detached from society generally, and not much thought was given to visiting facilities and things of this nature".

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The forbidding aspect of 19th century prison architecture is not the only legacy from the past. Attitudes have been described by an English prison psychologist as "the biggest single problem facing the Prison Service, far outweighing 19th century buildings and shortage of resources". Such attitudes have survived among prison staff and public alike, making it difficult for both groups to achieve a sympathetic approach to the problems faced by the prison population .

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Unfortunately, if prisoners are regarded as "a breed apart, people for whom different standards of behaviour and treatment should apply",« it seems inevitable that many conditions which would not be tolerated outside a prison are considered "good enough for the types that come to these places",

In the last decade, one factor has become increasingly prominent in penal thinking and practice namely, that the total separation from family and close friends evokes in a prisoner, tension, resentment, and a sense of complete alienation from the community. These are all contrary to rehabilitative goals.<sup>s</sup> Such separation unjustly compels the family to share the punishment and has a destructive effect on its stability."

For some time, both overseas and in Australia, there has been increasing liberalization of the rules on visiting, and in most places now contact visits are allowed. This has been the direct consequence of the attempt to maintain contact between the inmate and those members of the community who may be considered most likely to promote his or her satisfactory adjustment to society on release.

The restrictive nature of the New South Wales Prison Rules and Regulations belies the liberal tone of the Department's statement that it favours the principle of visits, "believing it is in the best interests of both the prisoner and his relatives to maintain



as close an association as possible". For example, contact visits are the exception rather than the rule, resulting in the tragic statement of a prisoner first gaoled at the age of sixteen:

"So far as I am personally concerned, the hours you are locked up in your cell and the fact of being virtually cut off from the outside world are the worst features of prison life.

I am not speaking so much of the sexual aspect of being deprived, but of actual physical contact, such as a handshake or a kiss. I have been in prison six years and five months now and I have not physically touched any member of my family or any friend in the whole of that time."

Physical contact between the prisoner and a visitor is specifically prohibited by the Prison Rules. But in some institutions, this Rule has been abandoned by sympathetic Superintendents.

The Prison Rules and Regulations give an entitlement to visits which varies according to whether the prisoner is convicted or unconvicted. For convicted prisoners, the 1977 Directory of Corrective Services provides for one visit a month at secured institutions. However, a survey of the "local rules" at different maximum security institutions throughout the State shows that a limit of two visits a month is usual. At most medium and low security prisons, weekly visits are allowed.

Not only does the prisoner's entitlement to visits vary from institution to institution, but so does the length of the visit. In maximum security institutions, the visiting time varies from twenty minutes to one hour; in minimum to low security institutions, from three hours to all day. The Rules provide that the visits must also be held within specific times-from 9-11 a.m., and 1.30-3.25 p.m. on week days and Saturdays. Visits are not permitted on Sundays "unless for exceptional reasons".

It appears that the visiting entitlements of prisoners at Goulburn Gaol was the subject of an attempt at liberalization, in that visits on a seven-day-a-week basis were tried, but this attempt was abandoned apparently because of threatened industrial action by custodial staff.

All visits are supervised by a prison officer. Social visits must be conducted within the sight and hearing of a prison officer "as far as practicable". Legal visits are conducted within the sight, but not within the hearing, of a prison officer. There is also a provision in the Regulations covering "unsuitable visitors". It says: "Persons who have been imprisoned or who are of known bad character shall not be admitted as visitors unless it appears to the Commissioner or the Governor of a prison desirable to admit them",

Prisoners undergoing disciplinary punishment-cellular confinement-are not permitted visitors.

An unusual provision in the 1970 Rules (Rule 229) provides that: "Excepting where these Rules otherwise provide or where special permission has been given by the Commissioner or Superintendent, the subject of conversation shall be confined to matters personally concerning the prisoner and his relatives and friends; shall be clear in meaning and not contain improper, abusive or threatening expressions; shall not refer to other prisoners,

prison officers or matters connected with the prison, and shall not refer to petitions or matters respecting representations to be made in regard to the prisoner's case. Prisoners may, however, be permitted to explain their position and the circumstances of their conviction."

Applied literally, it would mean, for instance, that a prisoner would not be permitted to tell a visitor that he had scored a century in a prison cricket match or that he had had eggs for breakfast. Both statements would be in contravention of the Rule.

Rule 231 of the same Rules provides that:

"If at any time any communication shall be made which is at variance to the prison rules or is likely to lead to a breach of the prison rules or if any party to the visit act in an offensive or unseemly manner, the visit shall be terminated and the facts reported to the Superintendent."

The enforcement of this Rule could result in a prison officer capriciously punishing a prisoner. Examples of this appeared in the evidence.

The Regulations stipulate that, regardless of restrictions mentioned elsewhere in the Regulations and Rules, the Commissioner may determine alternative conditions for visits to prisoners in open institutions. Examination of the local practices indicates that contact visits out of the hearing, and in some cases, out of the sight of prison officers, take place at most low security establishments. Many of these visits take place on open lawn areas—much more pleasant conditions than the visiting boxes commonly used in closed prisons. The Rules can be waived for good cause by the Commissioner and, in some cases of emergency, by the Superintendent of the Prison.

A large disparity between visiting facilities for prisoners in maximum and minimum security environments results from departmental policy.

In effect, the Prison Rules are antiquated and not uniformly enforced. Even at some closed institutions, sanctions against contact visits are not strictly observed, and visits are not always monitored by officers. The status of the Rules is anomalous, and the Department has done nothing to revise the Rules on visiting, despite Mr McGeechan's belief that "they are redundant".

It is difficult to understand how Mr McGeechan countenanced the continuing, if incomplete, adherence by his subordinate officers to Rules that in his words lack "sophistication in our society", and could be used simply as a means of preventing information from going out of the prison to the general public.

Restrictions on visiting have been traditionally justified as being based on security considerations. However, some senior custodial staff expressed the view that the monitoring of conversations during visits was of dubious value. Commenting on the possibility of security problems caused by the absence of monitoring equipment in the new visiting facilities under construction for the Central Industrial Prison and the Metropolitan Reception Prison, former Chief Superintendent Nash said: "I am personally not concerned about it".

Similarly, security is frequently advanced as the most important reason for not extending contact visits to maximum security institutions. Mr Nash expressed the further view that it would be "fair to say that in anyone prison, the security standards tend to be governed by the security requirements of the worst prisoner there, a sort of lowest common denominator".

There is a great deal of resistance by custodial staff to the introduction of contact visits for maximum security prisoners on a selective basis, allegedly because it would discriminate against some prisoners. But the stated desire to avoid discriminating against a few may be a rationalization of punitive feelings towards the many. As Mr Barry, the Superintendent of Goulburn Gaol commented:

"I think this would create a problem straight away. How do I choose these prisoners that can have contact visits and how do I tell others they can't? I mean, they are in a maximum security environment and I think I have got to draw the line somewhere."

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Even between maximum security gaols there is no consistency in practices relating to visits. Parramatta has had the highest number of contact visits of any maximum security institution in New South Wales. At the Central Industrial Prison, Malabar, the prisoners are on one side of the corridor and the visitors on the other, and a prison officer walks up and down in between. At Katingal contact visits were initially "the rule rather than the exception". Although it was denied that this was because the visiting boxes did not work, as soon as the boxes were fixed contact visits ceased.

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•• ~, Undoubtedly, the introduction of contraband in the form of drugs or weapons is a major objection to contact visiting. There is disagreement between members of the Department on whether this problem could be adequately overcome by the screening of visitors (with metal detectors) and post-visit searching of prisoners. A Chief Prison Officer at Malabar expressed his view in the following terms:

"One of the bigger problems in gaols today is drugs, and drugs are easy to pass—you can even pass LSD by just kissing your wife on the lips; and when you have got a hard core of prisoners like there is in Malabar complex, to run any risk of that happening I think would be very unwise."

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In contrast, former Chief Superintendent Nash considered that contact visits would be feasible at Malabar if prisoners and visitors were screened, and visits were in a secured part of the building.

The construction of new visiting facilities was started at Malabar towards the end of 1973. The initial plans provided for visiting boxes of the old type on the ground floor, and the Commission was told that the Department had not decided exactly what use was to be made of the upper floor, a large open area.

At one stage in his evidence Mr McGeechan said that he was considering using the area as a contact visit area. Surprisingly, this was unknown to Mr Nash then the Chief Superintendent of the Complex. After further inquiries by the Commission, a letter was finally received from the Department's solicitors stating that the visiting facilities were still unfinished, and that the upper floor was not to be used for contact visiting but for the staff development library, for a work and record-storage space for the photo bureau and the two small areas for visiting departmental staff. The delay in the construction, the change in the plans and the failure to take the opportunity of introducing contact visiting needs no comment.

The Commission has concluded that a re-examination of the regulations governing visits to prisoners is urgently required. The current confusion of attitudes and practices which characterizes the conditions of prison visits—even among institutions of the same security rating—is certainly not the result of a carefully formulated and



Visiting facilities are a constant source of prisoner complaint. Above are facilities for public visiting and right legal visits at Malabar. Below is a new visiting facility, yet to be introduced

explicit policy. Such a policy is needed to justify extension or limitation of visiting facilities for separate classes of prisoner. The Department pays lip service to rehabilitative goals which imply the granting of close contact between a prisoner and his family as of right. But it has never translated these ideals into practice.

Comments from prisoners about visiting facilities, exclusively about closed institutions, are difficult to dismiss as the grumblings of chronic malcontents. They convey an authentic impression of suffering and make relatively few demands on the system which could not be conveniently met by the administration.

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A statement by a prisoner at Parramatta describes visiting conditions recently introduced there and typical of maximum security prisons throughout the State. He said: "Facilities are very bad. You can only converse through glass with wire at the bottom. You have to bend down to speak to your visitors through the wire and try to look at them at the same time. The glass is often dirty. Conversations are listened to by prison officers and this makes it very difficult to speak with visitors about personal matters."

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Even the now obsolete practice at Parramatta of conducting visits out in the open and across wire fences was felt to be preferable because: "At least you could stand up and see and speak properly to your visitor and there was a certain amount of privacy because the prison officer was out of earshot."

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The main complaints about maximum security visits are insufficient visiting time, inability to conduct private conversations, and the erection of a physical barrier between the parties. Prisoners feel that these conditions are humiliating, degrading and prevent any spontaneous communication between the prisoner and the visitor.

To many prisoners, these conditions seem designed to destroy their relationships with loved ones. Some complain that their children fail to recognize them. Others end relationships rather than witness their irrevocable deterioration .

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The prohibition of close contact is seen as an additional burden on a prisoner's spouse who may have no other confidante. In urging facilities for contact visiting, one group of prisoners wrote: "We accept that we're in here serving sentences and that we owe some sort of debt to the community. Most of us accept that prisons are probably necessary. But we cannot accept the almost complete separation from our families."

Most prisoners have no objection to submitting to strip searching for security reasons before and after contact visits and would not object to the presence of a warder if conversations could be held out of his hearing.

In most overseas prisons visited by the Commission, contact visits were permitted and security was not regarded as any bar to them.

Accordingly, contact visits for prisoners in all institutions, regardless of their security rating, should be permitted. It should operate on the principle that contact visits are granted as a right which should be forfeited only where there is reasonable evidence of a genuine security hazard.

Visiting hours and length of visits should be expanded, consistent with the smooth running of the institution. The Department should actively pursue means of expanding visiting hours to the maximum possible extent.



Supervision of visits by prison staff should be made as unobtrusive as possible and the monitoring of conversations between prisoners and visitors should stop. The surroundings for visits should be made as pleasant as possible.

No visitor should be excluded except where a prisoner declines to accept a visit or where there is reasonable evidence that the visitor poses a threat to security.

Security should be interpreted as the safety of prisoners, prison staff and visitors from physical harm. This will, on occasions, mean the screening of visitors and prisoners and the searching of prisoners.

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Indeed, all the Commission is suggesting is that the Department carry out its policy as set out in 1970 in the Manual of General Information (Exhibit 4) at page 19:

*"Visiting regulation*

The formulation and administration of visiting regulations should encourage as much visiting as personnel and facilities will permit. The setting in which visits take place should also be as informal and attractive as facilities will permit with due regard for necessary controls. Visits should be conducted and supervised in such manner that an atmosphere of friendliness and lack of tension is achieved."

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**Travel Vouchers**

Some families have to travel long distances and seek overnight accommodation if they wish to visit their relatives in prison. This situation arises because a large number of prisons are in isolated areas; a prisoner is not necessarily sent to the prison closest to his permanent home. The travel problem also arises because some prisoners come from interstate and there is as yet no reciprocal arrangement to have terms served in their home State .

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This situation causes hardship to prisoners' families. For example, the husband of a prisoner had to travel from Melbourne with his children to visit their mother at Cessnock. The cost of petrol was so high that he could not afford accommodation and they had to sleep in his car. Although the prisoner preferred her family to remain in Melbourne so that the children could be in the care of her mother, her husband was finally forced to move to Gosford because of the cost involved in visiting his wife.

Mr McGeechan claimed that the Department's response was sympathetic:

"If there is a question of cost, we try to assist with a rail warrant. If it is a question of compassion, we try to bring the prisoner back to the city, for at least some short time, wherever we can, or wherever I can. It is not always possible, but we try."

However, the recommendation of the 1974 McClemens Report that the Department be given statutory power to issue travel vouchers for prisoners' relatives and friends in order to visit prisoners has not yet been implemented. There is little indication that the Department has made a serious attempt to introduce a voucher system, with or without a change in the Prisons Act.

The use of travel vouchers could alleviate the financial burden for visitors.

to the requirements of security. legal visits should not be restricted  
The McClellens Report suggested new Regulations for these visits in  
order to that legal advisers would be given "reasonable facilities" for  
interviewing in connection with any legal proceedings to which they were  
party or any business. Both types of interview were to be within sight  
(unless otherwise by the Superintendent) but not in hearing of an officer."  
These recommendations acknowledged the need for much freer access to  
legal interviews than is now available to prisoners.

Current policy of the Department toward legal visits is expressed in its  
planning the new visiting facility at the Metropolitan Reception Prison  
and Central Industrial Long Bay. Legal representatives will, in future,  
have to interview clients  
a glass barrier, passing documents under a space beneath the partition.  
This surely a retrograde step. The old facilities were bad enough, but the  
authorities did least provide an extremely small room where a lawyer and  
his client could sit at a The new facility will have space for only three  
legal visits at the one time, is obvious that this will be insufficient. Last  
year there was an average of legal visits a day. The inadequacy of the  
legal facilities at Malabar was  
described by Mr Howard Purnell, Q.C., the Senior Public Defender.

The provision of a right to legal representation and assistance is  
meaningless its exercise is frustrated or inhibited by inadequate facilities.  
The problems involved in the granting of conjugal visits are difficult to  
resolve. are the difficulties of providing facilities, deciding what classes  
of prisoners, any, should not be granted such visits, coping with security  
requirements of visitors dealing with moral questions about what type of  
visitor-whether spouse, friend others-should be permitted. These  
problems must all be weighed against the advantages of introducing  
conjugal visits, which include a probable increase in among prisoners and  
lessening of the tensions which promote violence, a .probable decrease in  
homosexual behaviour among prisoners and the alleviation of  
endured by prisoners' families with the related likelihood of  
maintaining .threatened family relationships.

The introduction of private family visits would not meet with opposition  
from senior prison staff provided that security requirements were met.  
The Department its final submission to the Commission stated: "Tentative  
planning for the (M. 90) project envisaged that, subject to government  
policy, conjugal facilities would form part of the plan."

Mr I. Sanders, who was in charge of the planning of the M. 90 project at  
, said that no thought was given to conjugal visits in  
designing it. The Department it would seem is giving voice to reformative  
sentiments which are not to be found in the substance of its planning and  
activities.

Most prison administrators in Australia and overseas express the view that, to  
extent, weekend home visits would be a preferable alternative to  
conjugal or private visits. The Commission would accept this view, but it  
is obvious that the difficulty still remains with prisoners serving long  
sentences in maximum security institutions. Certainly at the start of their  
sentences, it is unlikely that they would be granted

weekend furlough. Because of these difficulties created by maximum security prisoners, there would be great advantages in building, within the outer walls of the maximum security prisons, some inexpensive accommodation units for family visits. Such accommodation and also caravans were seen at the maximum security San Quentin Gaol in California.

### **Communications**

A prisoner's communications with the outside world should be limited only by security dictates. Mr McGeechan in his evidence spoke of traditional attitudes in the Department that were opposed to disturbing "the cloistered atmosphere" of the prison. If that is intended to imply that a prison should be totally closed off from the outside world, then enough has already been said to indicate the Commission's total opposition to such an attitude.

An examination of controls over letters to and from prisoners and the availability of telephone, newspapers and books shows that many repressive regulations endure because they are passed off as security requirements—security seeming to have a mystical significance for some of the custodial staff. An objective look at the Rules reveals that many could be abolished to the advantage of prisoner morale and with no apparent detriment to security in the strict sense of that much-abused word.

### **Letters**

The Regulations limit the quantity and content of prisoners' correspondence as well as the content and length of letters he may receive." In addition, there is a general prohibition on correspondence with "persons who have been convicted or are of known bad character except in such instances as, in the opinion of the Governor of the prison, warrant the granting of such permission".<sup>1</sup>

The Rules in the Manual of General Information, Custodial Division (Exhibit 4) on correspondence acknowledge that it is "essential to the morale of all confined persons and may form the basis for both present and future good adjustment" and that many traditional limitations on prisoners' mail can be discarded or substantially revised "without loss of essential control and with important savings in time, expense and inconvenience". In any of the larger prisons, at least one officer each day is permanently employed on unnecessary censorship of prisoner mail.

Nevertheless, the manual goes on to describe procedures for scrutinizing mail "frequently enough to maintain security" and although it deems "censorship of mail" for any purpose "indefensible", it states clearly: "Prisoners should be informed of the reasons for which incoming and outgoing mail will be rejected and they should understand that they and their correspondents are responsible for the contents of their letters."

A similar inconsistency exists between the Department's stated policy in its submission to the Commission, and its practice as revealed in evidence. The Department asserts "that no restraint should be placed on the number of letters to be written and that censorship should be held as a reserve power to be used only where some misdemeanour is suspected".

However, some Superintendents advocate reading prisoners' mail as a means of obtaining generally useful information. Mr McGeechan expressed his view that one advantage in reading all prisoners' mail would be that it would permit an officer to prepare the prisoner for any bad news that the letter might contain. At Katingal, all incoming private letters are photocopied. Prisoners receive a duplicate, while the original is held on file. This happened even to Christmas cards in 1977. At Parramatta, a senior prison officer was instructed to withhold outgoing letters containing complaints about the gaol. Goulburn prisoners are not allowed to mention another prisoner's name or any complaints about the prison in their letters.

Other prisoners have complained of having their private lives discussed by officers who read their letters. One complained that a letter to his mother about his case was produced in court and used as evidence against him, while another prisoner's letters to his wife were retained in his file and he was not told.

The Commission concludes that the Department is clinging to the practice of reading and censoring prisoners' mail, despite Mr McGeechan's stated view that it is "objectionable that officers are expected, in the light of custom, to read letters". He apparently chose to ignore the fact that the practice is mandatory under the Regulations. One would have more confidence in his evidence if he had taken some action to have the relevant Regulations rescinded and the practice halted.

The Department still permits the widespread use of a censorship policy that is expensive in man hours, repressive and only necessary for the high security requirements of the very few. In any case, it must be regarded as extremely doubtful whether censorship is of any real assistance in handling this "very few".

The Commission believes that all prisoners should be entitled to send and receive as many letters as they wish-including a fixed number post-free.

This general rule should only be varied at the discretion of the Superintendent and then only on security grounds. To ensure adequate security, any article or letter being sent to or from a gaol may be inspected but not censored. This can be effectively done by a spot check. Correspondence between prisoners and their legal advisers and members of Parliament should, in all cases, be privileged and private. Such mail should not be opened.

#### **Telephones**

The Department submitted that in principle prisoners should have the right to make a limited number of telephone calls, but stated that "unlike written communications, telephone calls involve certain inherent problems relating to supervision".

It cited several instances of abuse in the past.

However, access to the telephone-with prisoners paying for calls-has not had the serious consequences predicted. An American prison administrator said after a reverse-charges only telephone was installed: "The critics thought they would have helicopters trying to get them out and a year later nothing had happened." Here again, it seems undesirable that because a very few might abuse it, the right should be denied at all times to all prisoners. The provision of telephones for prisoners will assist in maintaining family links.

Newspapers and Magazines

According to one Superintendent, Head Office allows any magazines to be bought from any newsagency or news shop. This policy is apparently not uniform for all institutions. The Superintendent at Goulburn allows access to "any publication generally available and acceptable to the general public". He himself judges what is acceptable and excludes "any newspaper featuring extreme political views, or with a sexual bias approaching pornography".

At Bathurst, Superintendent Pallot refused the request of the then Education Officer, Mr Higgins, to allow prisoners to have *The Australian*. His argument was: "Not long ago they didn't have any papers at all." Any papers allowed at Bathurst were censored.

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A prisoner described one situation by saying: "The only papers which were allowed at Bathurst were pages 1 and 3 of *The Sydney Morning Herald*, which were posted on notice boards each morning, and the three Sunday papers (which had to be purchased by prisoners themselves). Both *The Sydney Morning Herald* and the Sunday papers were censored."

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Some prison staff advocate censorship of newspapers for the sake of good order. Publications banned at various institutions have included *The Tribune*, *The Nation Review*, *The Democratic Labor Party publications*, *Playboy*, and *The Alternative Criminology Journal*, to cite but a few .

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Prisoners should be allowed to buy any printed material, including books, newspapers and magazines, legally available in the community.

Libraries

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Libraries provide education and recreation for prisoners .  
In its submission, the special committee on prison libraries from the Library Association of Australia, approached the question of providing library facilities with the principle that "every member of a democratic society has an inalienable right of access to the information he or she requires to develop as an individual and to play a full and effective role in society".

The Library Association committee echoes the sentiments of many prisoners when it says that library services to prisoners constitute an area that is sadly neglected. In particular, the committee pointed to the lack of qualified librarians and special libraries to suit prisoners' educational needs. The committee said there had been no attempt to establish or provide for the needs of particular prisoners-for example, those on special educational courses.

Professor S. Encel, a former member of the Advisory Council, described the situation at Mulawa: "There was supposed to be a prison library and so forth but, in fact, the accommodation for it was very inadequate and the book stock never increased substantially during all the visits I made to Mulawa; and I heard complaints from prisoners who had been there, that it was very difficult to get books, and there weren't enough to read, in any case. As far as Cessnock was concerned, the matter was taken seriously. But when I suggested that the same thing might be done at other gaols, there was no response."



The Advisory Council's recommendations on library facilities at Bathurst were submitted to Mr McGeechan in late 1972. Later, Mr McGeechan informed the Council that all its recommendations had been "effectively implemented". When Professor Encel returned to Australia in January, 1974, from abroad, he discovered that this was not so. The facilities at Bathurst then consisted of a "small and inadequate library (with) very restricted borrowing permitted to prisoners".

At Mulawa, the collection of books largely comprises novels of "low intellectual level" with "virtually no sophisticated novels and only a few non-fiction books".

Books from other libraries can only be obtained if they are text books for courses being undertaken by the prisoner requesting them. These books are mostly housed at the Mackie Library, Long Bay. In general, prisoners requesting reading material endure frustrating delays, despite the best efforts of librarians who themselves experience difficulties in obtaining books from that or other libraries.

Existing libraries in all prisons must be improved immediately. A professional librarian should be engaged to advise the Department on library facilities and procedures. Some prison officers should receive elementary training in librarianship.

#### **Food**

The 1977 Directory of Corrective Services for New South Wales says: "A policy of modernizing all institutional kitchens and catering functions has been vigorously pursued with a view to providing prisoners with a wholesome, varied and nutritional diet. To assist with these aims, a twenty-eight day cycle summer and winter menu has been introduced at all establishments."

As with so many reports from the same source, this statement is more an indication of what the Department should do, than what it actually does. This is evidenced in the contrast between the somewhat glowing picture painted above and the unconciliating reply made in response to criticism of the nutritional value and taste of the food at Mulawa, when the Department acknowledged "some inadequacies of a modest dimension" and announced that it "would like to improve it".

When questioned about the standard of food at Mulawa, Prison Officer Kennedy agreed, at different stages of her evidence, that the food was "sometimes of a reasonable standard . . . sometimes not of a reasonable standard . . . sometimes very much worse than that."

The Department of Corrective Services does not employ a dietician to ensure that prisoners are given "sufficient food to maintain health", as required by the Prisons Act. On the adequacy of food at Mulawa, Mr McGeechan told the Commission:

"My impression is that it is nutritional. The medical officers have never said it was not nutritional. I have the impression it is adequate in so far as there is waste, which indicates satisfaction at a given level."

This statement is either naive or disingenuous. In either case, it is less than should be expected from a responsible senior administrator.

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From the abundance of complaints about the quality of prison food by prisoners - albeit some prone to exaggerate-line staff and outside observers, it is apparent that:

- Food at Bathurst was, at best, unpalatable arid, at worst, not fit for human consumption.

At Mulawa, the food quality still leaves much to be desired and is a major source of grievance.

The standard of meals in other maximum security institutions improved after the start of the Commission-largely attributable to the introduction of electric heating devices for the transfer of food and a new menu-but standards have declined subsequently.

Cooking of the evening meal is generally completed shortly after midday.

Probably the inferior quality of the meals criticized by prisoners is due to the deterioration in the meantime. The food at many of the lower security establishments, such as Cessnock and Silverwater, is considered quite good. Fresh fruit is still a rarity in most prisons.

The standard of food has improved considerably since the days of the notorious "grey death" stews, but still falls short of that implied in the Department's literature.

Mr McGeechan's initial statement set out suggested weekly menus for both summer and winter. Most of the prisoners, when asked about the meals in these menus, were explicit that they had never received them. The Commission's inspections of pols revealed that the menus were not always adhered to.

Mr McGeechan agreed that "allowing the inmates to eat together is perhaps one part of civilization they are entitled to". In some gaols, prisoners do eat together but at others there is no communal dining, primarily because "there is no provision in the existing buildings for dining rooms" which is said to be an "architectural problem".

Originally, no thoughts were entertained by the Department in its evidence about the provision of communal dining areas. It was only after the questioning of Mr McGeechan on this matter, and after several senior prison officers had said that communal dining areas at the Metropolitan Remand Centre, Malabar, would not present a security problem, that attention was directed to the subject. Since then, the Commission understands that at the M.R.C. a combined dining/recreation room has been added to the end of each landing.

Unless security requires otherwise, the Department should introduce communal dining wherever possible.

#### **Othing**

Section 13 of the Prisons Act requires that "every convicted prisoner shall be clothed at the public expense with sufficient clothing to maintain health and decency".

The Department, as expressed in the Manual of General Information (Exhibit 4), says that prisoners' clothing should be:

- Appropriate to the climate and circumstances.
- Free from vermin and reasonably clean.
- Reasonably well-fitting and in an acceptable state of repair.

Evidence presented to the Commission demonstrates clearly that the Department : is not fulfilling these obligations.

Many of the gaols are in areas of N.S.W. which experience extreme cold during the winter. No prison is heated and most were built without glazed windows, a defect only now being rectified. The result is that prisoners have been exposed to severe weather conditions both by day, when forced to work or stand in unsheltered areas, and by night, when confined to very chilly quarters.

Staff and inmates complained that the clothing is inadequate for Cooma, Bathurst, Goulburn and the camps in high altitude areas. The distribution of adequate protective clothing, such as parkas for use outdoors, is a recent innovation in a few of these gaols.

Evidence showed that in some institutions clothes are not laundered often enough and that, at times, there is a widespread shortage of clothing. There seems to be a general need for prisoners to be issued with at least their own underwear and socks. Prisoners complained of the health risks associated with the use of communal underwear and finding that the standard issue was uncomfortable. At present they are not permitted to buy, keep or launder their own.

Uniforms

The Regulations state that convicted prisoners must wear the uniform clothing issued, unless otherwise authorized by the Superintendent.

Mr McGeechan supported "a general reduction of the wearing of uniforms" and acknowledged that in some institutions they were not necessary for security. At Berrima, Cessnock and Parramatta, there has been a relaxation of the local rules on weekends. Despite relaxation, the Regulations could still be enforced at the whim of any officer .

The Department needs to revise its policy substantially on the design, issue and upkeep of prisoner clothing. It is essential that prisoners should be issued with adequate clothing for the climate, and sufficient for their own reasonable needs and activities within the prison. Similarly, it is important that correctional authorities ensure that the clothing issued is adequately labelled and that it is either laundered and returned or replaced, or that facilities are provided for prisoners to do some of their own laundry.

No good purpose is served by forcing prisoners to wear clothing so far below the standard accepted in the community that it is degrading and humiliating.

The Cessnock Prison Officers' Vocational Sub-Branch, in a submission to the Commission, said:

"We consider sport, in almost all categories, as a great stimulant for both the mind and the body, also a great aid to rehabilitation".

Most would agree.

The importance of encouraging prisoners to pursue active leisure-time activities and of prisoners making the fullest use of the facilities available is acknowledged by the Department in the Departmental Directory, 1977.

Publicity material from the Department suggests an administration keen to promote these objectives and which provides and uses all possible facilities. The facts suggest otherwise.

The range of sporting activities available to inmates varies considerably. The worst range of facilities for sport and exercise is at Mulawa. Staff say that lack of interest among inmates has forced the abandonment of attempts to introduce organized sport. Inmates complain that the administration in fact discouraged sport. Certainly, there is no evidence that the administration took steps to promote sport or to extend the facilities in line with inmates' expressed preferences.

Although most prisoners are on large tracts of Crown land, many do not have their own playing fields. At Cessnock, where day leave for prisoners to attend sporting events is common, the custodial staff made this complaint:

"We have 300 acres of property at Cessnock, suitable to conversion for most sports, such as rugby and soccer fields . . . and so on. But, for almost four years, no positive step has been taken to complete a varied playing field that would cater for the institution's sportsmen so that more activities may be confined locally under a much better form of supervision and control".

There is no reason why prisoners cannot use their time to build ovals, tennis courts and the like. Especially is this so when there is a dearth of industry to occupy prisoners' time.

The Department has recently completed additional sporting facilities for prisoners held in the maximum security wings at Goulburn. The area within the main walls is divided into two sections: One has an artificial surface and courts for ball games, such as basketball and paddle tennis; the other is grassed and may be used for football and athletics.

When questioned about the lack of recreational facilities at Grafton, Cooma and Narrabri, Mr McGeechan said: " ... there may be a custodial explanation".

The Commission hopes that custodial problems do not prevent the Department from carrying out current plans for improvements which include a proposal to clear the area between the Central Industrial Prison and the Metropolitan Reception Prison for use as a grassed sporting area, or from exploring the possibility of expanding facilities at other institutions where facilities are inadequate.

In times of unrest, the Department, instead of stepping up its efforts to promote sporting activities, has demonstrated a tendency to cut off sport along with other amenities as a punishment. The result has invariably been a worsening of tension and hostility.

At Bathurst, before the disturbance in October, 1970, mid-week sporting activities had been stopped by the Superintendent. Again, after the sit-in at Bathurst in 1973, the withdrawal of mid-week sporting activities was used as a punishment.

At times, it may be necessary to limit or even abandon sporting activities, but this should be done only for security reasons, never for discipline.

**Recreation and Hobbies**

Some of the recreational facilities for prisoners include such diverse options as woodwork, sewing, debating and films. Most prisoners have access to television and radio. A survey of facilities available at institutions reveals that these activities vary.

Women at Mulawa are said to be provided with a small range of traditional feminine pursuits, such as cookery, embroidery and "social graces". However, it appeared that there was little interest by prisoners and little encouragement from staff.

An activity at Parramatta, from which both prisoners and several outside public organizations gained a great deal of satisfaction was a toyshop which made and repaired toys for orphaned and deprived children. This activity, worthwhile both for the prisoners' sake and from a public relations point of view, appears to have been closed down permanently after the 1974 prison disturbance.



Although some control should be exercised on the time spent on hobbies, encouragement should be given to prisoners to spend their leisure time in hobby craft. It is understood that arrangements have been made for the sale of some articles produced by prisoners, although a complaint has been made that the number of articles permitted to be sold is limited and country institutions are at a disadvantage in finding markets .

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The Department should, so far as possible, arrange for the sale of all prisoner hobby craft. The arrangements should not place country gaols at a disadvantage.

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Buy-Ups

"Buy-Ups" refer to the purchases of goods by prisoners at prison stores .

Traditionally, prisoners have access to certain commodities and articles to improve their existence .

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The prisoners regard buy-ups as of great importance for they rely on them for meagre supplies of such things as biscuits, coffee, Milo, toothpaste and batteries for their radios. The system provides an incentive to the prisoner to work and earn money.

There is now a base rate of \$1.50 a week for all unemployed sentenced prisoners and \$2.50 for employed prisoners. Those with skills can earn \$3.50 a week. The special skill rate is \$5.

One of the main complaints about buy-up facilities was inadequate wages in view of the increasing commodity costs: Others were the limited range of goods and the variation between prisons, high prices compared with outside, and the failure of the limit on weekly spending to keep pace with inflation.

There has been no detailed examination of these complaints but the Commission considers that there is some justification for them. The Department should review the situation.

A prisoner at Goulburn alleged at the hearings that Prison Officer K. W. Buck was related to the proprietor of a local store which supplied items for buy-ups. This situation had been discovered by the Prisoners' Needs and Grievance Committee at that institution. Subsequently, Counsel for the Prison Officers' Vocational Branch

admitted to the Commission that Buck was a registered partner of a local business Bradfordville Book Shop between May, 1975, and May, 1976. His wife and two children were also registered as partners during that period. Since May, 1976, Mrs Buck has been registered as the sole proprietor.

Subsequent inquiries have revealed that late in 1976, the Bradfordville Book Shop was one of two local shops which were successful tenderers for supply of goods to the Goulburn Gaol, and that they supplied goods to the gaol until the arrangement was ended after some three months.

To say the least of it, the actions of Prison Officer Buck were indiscreet. Such a situation should not be permitted to recur. The facts emerged from a report of the Deputy-Director, Department of Consumer Affairs.

The Department, in its final submission, appeared less than enthusiastic about introducing bulk buying for buy-up goods. By way of contrast, the Deputy-Director of Consumer Affairs volunteered this opinion:

" ... undoubtedly, establishments located in the more remote areas of the State could suffer considerable disadvantage in attempting to obtain prices comparable to those prevailing at, for example, Goulburn.

If, therefore, the Department considers the commitment to fulfil all individual prisoner's needs a matter which should continue, I would suggest that perhaps a more uniform tendering system could be implemented. I would here suggest that perhaps provisions, particularly non-perishables, stationery, hobby items, etc., could be acquired on an establishment-wide basis in similar fashion to the activities of the State's Government Stores Department in providing requirements for the various State Government Departments. It may be possible to organize distribution to individual establishments from a central point and to establish within each establishment a canteen-type system. The obvious benefits of bulk purchases could then be passed on to inmates and the concurrent involvement of inmates in the actual distribution of goods would relieve the Department of its present substantial commitments."

This comment from such an experienced authority confirms the Commission's view that the Department should immediately examine the question of bulk buying. If the examination suggests that it should be introduced, consideration should be given to an arrangement whereby the prisoners run their own canteen, any profits being used for prison amenities. This situation works very successfully in some overseas gaols.

#### **Personal Possessions**

The Regulations under the Prisons Act require the surrender of all private property on reception. A record of all surrendered property is kept. Property not sent away is retained and returned to the prisoner on release.

The two main objectives of this rule are security and the protection of prisoners' property.

Difficulties are created by permitting prisoners to retain valuable articles of property; for instance, distinctions are created among prisoners, the articles may be used for bartering and gambling and it can cause attempts at extortion. Of course, some articles could even be a security risk.

Notwithstanding this, it is felt that, subject to security, the advantages outweigh the disadvantages of permitting prisoners to retain most possessions. However, they should sign a document releasing prison authorities from any responsibility should they choose to retain their possessions.

To deter theft of these articles, cells should be provided with a second lock as well as the normal locking devices. A key to this second lock should be available to the prisoner occupying the cell and the custodial staff. This will allow the prisoner to lock his cell should he leave it. This last suggestion also gives to the prisoner a sense of identity and some privacy.

#### **Cell Decoration**

It is sometimes suggested that the decoration of cells is a security risk and it is viewed askance by certain custodial officers for that reason.

The confusion of security needs with the expectation that conditions in prison should be rigorous and austere can be detected in the thinking of many custodial staff. There follows an example given in the evidence by the Director of Special Security Units, Mr Sanders:

"Q. Do you see any problems in prisoners being able to stick pictures up on the wall?--Well, I think possibly it is better to have an arrangement other than where they have to stick them on, but as such, no ... it may not be absolutely neat, but after all, homes are not neat.

The prison officers have expressed an objection to having an unlimited number of pictures?--Oh, some prison officers, yes.

Is it your understanding that the objection is based upon some security problem?--Ultimately, I think they would say this because they think if you have undisciplined prisoners, you have a security problem and if you don't have discipline expressed in the room, I mean, this tends to lead to a breakdown in discipline ... you have very little chance, as I see it, of getting rid of this emphasis on conformity type discipline unless you have small institutions where individuals can be considered."

Many prisoners attempt to decorate their cells with such things as family photographs and posters. This helps to relieve the drab monotony of their lives. In some institutions, the Superintendent censors the pictures that a prisoner may wish to hang. Pictures considered by some Superintendents to have a "sexual bias approaching pornography" are excluded. The judgment is the Superintendent's, based on his own opinion of what is acceptable.

While recognizing that anything can be regarded as a security risk, none of the administrators of the overseas institutions visited regarded the risk so formidable as to prevent the practice. No restriction should be placed on the nature and quantity of cell decorations, unless clearly demanded for security reasons.

#### **Adequate Shelter**

Many prisoners in institutions throughout New South Wales are forced to remain for long hours in open prison yards which afford inadequate shelter and, in some cases, no seating. The remand prisoners at Goulburn, where winters are extreme, are



3 Wing, Central Industrial Prison, Malabar. Mural was work of prisoners

frequently held in an open yard all day because there is nowhere else for them to be placed. The following excerpt from the transcript deals with the attitude of and failure by prison authorities to provide shelter or proper alternative arrangements:

"Q .... do you think that something should be done about remand prisoners, instead of leaving them in the yards, in the cold?--Well, as I say, we equip them with raincoats. Most of them, I think, have gloves; and they have TV, and sporting activities in the yard, table tennis tables, card tables, things like that.

Have the remand prisoners complained to you that they are cold?--No, they have never mentioned it to me personally.

But have you asked them?--No."

The Parramatta Circle is similarly exposed.

The Commission's inspections confirmed prisoners' frequent complaints of extremes of temperature in most of the State's institutions. Generally, the complaints were of the cold. In Bathurst and Goulburn, reference to the open windows was made. In some cases, attempts have since been made to correct the situation.

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The Custodial Manual speaks of cells which should be "well ventilated, adequately lighted, appropriately heated and maintained in a sanitary condition at all times". The Department should see that the instruction is carried out.

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A simple but effective method of heating in some of the older English gaols is the running of a steam pipe from the ordinary gaol system, along the length of the building through the cells. Perhaps some thought might be given to such an installation in the gaols facing extreme winter conditions in New South Wales.

#### The Use of Names

Varying practices exist in different institutions. Officers differ in their approach. The Commission recommends that, in future, names should be used instead of numbers. This will involve sewing the prisoner's name on his clothes, instead of numbers as now happens.

#### Privacy

As well as losing their liberty, prisoners in New South Wales gaols forfeit their privacy to a large extent. Officers of the Department recognize the problem of such a deprivation but exhibit little inclination to attempt to remedy the situation. The "double lock" on doors suggested under the heading of Personal Possessions could assist. The Department could assist further by supplying doors to the lavatories. Security may well demand a design permitting the user's feet and upper body to be visible. But other ways could be adopted to alleviate the present unnecessary embarrassment for the prisoner.

#### Time Locked in Cell

The number of hours prisoners may spend out of their cells varies. In secured institutions, lock-up times range from 4.10 p.m. at Maitland to 11 p.m. at Katingal.

MEDIA COMMUNICATIONS

Mr. McGeehan found it "objectionable" for prisoners to be locked in their cells for up to fifteen hours a day. In some gaols prisoners have been locked up for more than seventeen hours a day. He said he had made attempts to extend the time out of cells, but no real extension ever resulted during his administration. His excuse was "possible industrial trouble".

Rosters should be reviewed to reduce prisoners' time in cells to a maximum of ten hours a day. If necessary, finance should be made available for more staff.

References

<sup>1</sup> Hugh Marriage: "A Manifesto for Prison Management" in the *Prison Service*

1973, 9, *Journal*,  
p. 3.

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<sup>4</sup> In particular, J. Howlett: "Marital Deprivations of Prisoners and their Wives", *Prison Service Journal*, 1973, 12, pp. 6-7.

<sup>5</sup> L. Radzinowicz and J. King: "The Growth of Crime", 1977, p. 277.

1972, 36, p. 48. <sup>6</sup> N. S. Hayner: "Attitudes Toward Conjugal Visits for Prisoners", *Federal Probation*,

<sup>7</sup> Prison Regulations, Part IX,  
section 71. <sup>8</sup> McClemens  
Report, p. 36.

<sup>9</sup> Regulations, Part IX: Sections 11, is  
and 88. <sup>10</sup> Regulations, Part IX,  
section 84.





## MEDICAL SERVICES

Medical services in New South Wales prisons are not operating satisfactorily. The health care of prisoners has been a secondary consideration. Some typical examples of the Department's failures in this area will be set out later in this Chapter.

The principal reason for the failure has been a lack of organization and poor administration. This is, in part, due to the failure of the Department to liaise and co-operate with the Health Commission. Another reason is the failure by the Department properly to use available funds. Both can be remedied.

In its Annual Report for 1975-76, the Department blandly asserted: "A comprehensive range of medical, psychiatric and dental care have continued to be provided." In the Annual Report for 1976-77, after stating that the Prison Medical Service was responsible for "meeting the health needs of adult individuals in custody in the State's various correctional institutions", an identical claim was made about the comprehensiveness of the care provided.

On the limited review of the situation which was possible to the Commission, the medical services cannot, in any sense, be described in such glowing terms.

Under the present system, the Health Commission provides the medical services for prisons under the aegis of the Department. Permanent Health Commission officers work within the prisons, and these full-time services are supplemented by the use of part-time general practitioners and medical specialists.

The U.N. Minimum Rules for treatment of prisoners in relation to medical services- provide that every institution should have at least one qualified medical officer with some knowledge of psychiatry; that prisoners requiring special treatment should be transferred to specialized institutions or hospitals outside the prison system; and that there should be a staff of suitably trained officers, a dentist and, in women's institutions, special accommodation for all pre-natal and post-natal care and treatment.

The Rules list the duties of a medical officer, broadly speaking, as including: examination of prisoners on reception and segregation of those with infectious or contagious conditions; responsibility for the physical and mental well-being of the prisoners; and responsibility for reporting to the "Director" of the establishment on the food and the conditions under which it is prepared, hygiene and cleanliness of the institution and prisoners and sanitation, heating, lighting and ventilation.

It is acknowledged that these Rules are not always applicable in the prevailing circumstances but they do indicate the accepted principles of modern penological thought.

The Prisons Act, 1952, provides for medical services in these terms:

Section 16 (1). Every prisoner shall be supplied at the public expense, with such medical attendance, treatment and medicine as in the opinion of the medical officer is necessary for the preservation of the health of the prisoner and of other prisoners and of prison officers, and may be so supplied with such medical attendance, treatment and medicine as in the opinion of the Commissioner will alleviate or remedy any congenital or chronic condition which may be a hindrance to rehabilitation.

(2) Where in the opinion of the medical officer, the life or health of a prisoner is likely to be endangered or seriously prejudiced by the failure of such prisoner to undergo medical treatment or the life or health of any other prisoner or prison officer is likely to be endangered or seriously prejudiced by such failure, the prisoner may be compelled to submit to such medical treatment as is ordered by the medical officer.

Section 16 (1) is a rather curious provision, contemplating that the Commissioner would determine whether medical attendance, treatment and medicine would alleviate or remedy any congenital or chronic condition. It is unlikely that the Commissioner, unaided, would ever be in a position to express this sort of opinion, but he might well reach a decision, guided by the opinion of a medical practitioner.

However, the provision in section 16 (2) is even more remarkable. The powers given to the medical officer are extraordinary. They would enable him to compel any prisoner, for example, to undergo even a lobotomy if he felt that the prisoner endangered another prisoner. This was not raised as an issue before the Commission, but clearly

If medical treatment is not available within the prison system, then it must be acquired from outside. The opinion or discretion of an administrative official is irrelevant. Both logic and justice dictate that an imprisoned person should be provided with proper medical treatment.

The cost of such a provision is no answer to its necessity. The Department attempted to answer it in that way. But it is wrong.

If imprisonment is to be retained, society must accept the responsibility for ensuring that prisoners do not incur any physical or mental deterioration which can be cured or treated during their confinement. To achieve this objective, a suitable prison medical service must be provided.

These principles have been referred to quite recently in the Court of Criminal Appeal of this State:

"Clearly enough they (i.e. prisoners) are not free to seek medical advice of their own choosing or at their own will. This imports upon the prison authorities the obligation of ensuring that adequate medical advice and treatment is made available. Proper care of the health of inmates in the prison system is a significant part of the responsibilities of the prison authorities."

#### **Observation Section-Malabar Complex**

One of the most disturbing aspects emerging from the Commission's inquiries into the medical services of the Department has been the condition and use of the Observation Section at the Malabar Complex. The Section was originally designed for the containment and treatment of prisoners who were psychiatrically disturbed.

The Observation Section at Malabar Complex – a cell, a shower cubicle and an  
exercise yard



All parties at the hearings of the Commission unanimously condemned the building and its facilities. In its final submission, the Department of Corrective Services stated:

"The Department itself is acutely aware of the antiquated and depressing conditions of the Observation Section at Long Bay and this submission would like to record its desire to have it closed."

Since this submission was made, the media has reported that the Department proposes to build stables for quarter horses at the Cessnock Corrective Centre at an estimated cost of \$250,000. It is incomprehensible that resources, of which the Department claims it is in dire need, should be diverted from the accommodation of people to that of animals involved in a wholly uneconomic and unnecessary industry.

The cellular conditions in the Observation Section are appalling. Some cells still have toilet tubs for use by occupants.

This practice is both unhygienic and dehumanizing. Some cells have no provision for beds and the occupant, whether sane or insane, is contained in a bare room. On the outside in the attached yard, there is scant cover for prisoners when it rains.

Apparently, various attempts and proposals have been made in the past to renovate the Section. Its continual use is an indictment on the prison system, its administration and the people of New South Wales. The situation should not have been allowed to continue and its replacement should be a first priority in any future building programme.

The Consultant Psychiatrist to the Prison Medical Service, Dr W. E. Lucas, describes the Section with a note of exasperation:

"One can only describe the Observation Section as Dickensian. Physically, it appears much the same as when I first saw it in 1968. However, it appears utterly durable. Cellular confinement of 16-17 hours per day is totally unacceptable for psychiatric patients. There are no psychiatrically trained staff and the inmates there are now predominantly psychiatrically disturbed. Whilst my knowledge is confined to since 1968 in the period since plans to provide alternatives have consistently foundered."

It was universal practice to house all people charged with capital crimes in the Observation Section at Long Bay before their trial, whether or not any psychiatric illness was indicated. This could perhaps have been justified if a genuine attempt at psychiatric assessment was to be made on a remand prisoner. This was not the case. The prisoner charged with this type of offence was placed there to remove him from the mainstream of the prison population, ostensibly for his own protection and that of other inmates.

Prisoners, if convicted of capital crimes, were sent back to the Observation Section. Again, this practice is difficult to justify unless it was to carry out a thorough examination and assessment of the prisoner to assist in his programming. But that has not been the history of the Observation Section: Rather it has been used as a half-way house to acclimatize such prisoners to prison life.

The Department is responsible for ensuring the safety of all inmates and staff. It is not a policy that everyone convicted of a capital crime, whether psychiatrically affected or not, should be placed in the Observation Section as a general rule appears to have been an over-reaction-particularly where, in many cases, no positive steps were taken to assess the prisoner adequately or at all.

It is clear from the evidence that, in the past, the Observation Section had been used to subdue or discipline recalcitrant prisoners. This is a more important criticism.

Dr Houston, the Superintendent of the Prison Medical Service, said prisoners were transferred to the Observation Section as punishment, at least during 1973-74, and that excessive force was used against them by custodial staff when they arrived.

The Observation Section has for a long time had the reputation of being a punishment unit. This use is completely inimical to the concept of an Observation Section or psychiatric assessment unit. It has no legislative warrant.

#### Wrongful Use of Psychiatric Referrals

On 18th March, 1976, at 2.20 a.m., a prisoner at the Central Industrial Prison refused to get out of bed to work in the bakery. The reason he gave was that he was sick. He refused medical attention and, at 3 a.m., ultimately complied with an order to go to work. That day he was examined by Dr Murphy, a medical officer.

He complained of exhaustion and lack of sleep due to the long hours working in the bakery. He was referred to Dr Murphy by the Superintendent of the Central Industrial Prison who had his own personal views about the prisoner. That view was later expressed in these words:

"From the time of his reception, this prisoner's behaviour has been completely irrational; he has consistently complained about the administration either verbally or in writing. His treatment was no different to that of other prisoners. In fact, from an educational point of view, more was offered to this prisoner than any other prisoner I have known. Despite this, he rejected the opportunities available to him. I have closely observed this prisoner over a period of four months and owing to his abnormal behavioural pattern I formed an opinion-based on thirty-seven years' practical experience of dealing with men during my service with the British Army, British Police and with this Department-that this prisoner was, in some way, mentally affected."

After examination, Dr Murphy referred the prisoner to Dr Lucas for psychiatric assessment, expressing an opinion that the main problem was the prisoner "did not like physical work". In the circumstances, it appears strange that he was referred to a psychiatrist at all. The prisoner's file has no record of the Superintendent's original referral of the prisoner to Dr Murphy.

Three days later, Dr Lucas interviewed the prisoner and, as a result, he was moved to complain to Mr McGeechan in these terms:

"SUBJECT:

*Case of Prisoner Brett Anthony Collins, and David Charles Hass.*

1. I spoke to Collins today about his most recent referral to me. After we had discussed the circumstances of the referral, Collins declined to co-operate with a psychiatric assessment. The reasons he gave for this are, in my opinion, perfectly reasonable and, in the circumstances, I may well have decided not to interview him, even if he had been co-operative.

2. I should point out that he was referred to me on a previous occasion and on 25th February, 1976, I wrote a letter to the Commissioner, explaining why I had refused to see him. I did not think the reasons for referral were sufficient and they would have involved deceiving Collins quite unjustifiably.

3. On the present occasion, the referral information was provided through a Medical Officer, apparently by Mr Jones, Superintendent of the Central Industrial Prison. No details were given about Collins' forthcoming appearance before the Visiting Justice, nor was any information given suggesting that he might be suffering from a psychiatric disorder.

4. This articulate and intelligent man manifests no signs of psychiatric illness and no information has been given to me supporting the suggestion that he might be suffering from such an illness.

5. I can see no justification for a further psychiatric referral and I believe that, for perfectly good reasons, Collins would not co-operate unless he requested the referral himself.

6. I do have the impression that Collins is causing some problems for the' Prison Administration and that psychiatric referral is being used for reasons. other than concern about his mental health and general wellbeing.

W. E. Lucas, Consultant Psychiatrist., Prison Medical Service, Long Bay."

Mr McGee chan, obviously concerned at the allegations, initiated a departmental inquiry chaired by Mr Weston, then the Deputy Commissioner. The Department was quick to respond to Dr Lucas's suggestions of impropriety. Various reports were requested from the custodial officers, including the Superintendent-one has been quoted above. The Assistant Commissioner, Mr Barrier, added his comment and advised Mr McGeechan that prison officers regarded the prisoner as "crazy".

Mr Barrier, assisting Mr Weston, said he was comforted by the fact that the prisoner had been judged "sane and intelligent" by Dr Lucas. But he expressed his sympathy with the position of the Superintendent of the Central Industrial Prison who quote from Mr Barrier's report to Mr McGeechan-"acted as a Senior Custodial Officer might be expected to react to continued harassment from a difficult prisoner".

However, he advised Mr McGeechan that the prisoner was, in the circumstances, being "deliberately provocative", and concluded by recommending his confinement "in a maximum security setting until an improved performance is reported".

At the same time, the Department's legal officer became involved and rang the Visiting Justice who had presided over a disciplinary procedure involving the prisoner in March, 1976. The Visiting Justice is reported as noting that, at different intervals, the prisoner's behaviour altered and that he had been discourteous and appeared very nervous and in an emotional state. The Visiting Justice is further reported as commenting:

"I wouldn't think it would be a matter for a G.P. He didn't seem in a normal state of mind. I had seen him on previous occasions, but this time he seemed more excitable than previously, more worked up, seemed to be getting close to the end of his tolerance level and I felt that he would lose control of himself and do something foolish."

It appears from the prisoner's file that the following exchange had taken place between the prisoner and the Superintendent in front of the Visiting Justice:

"Mr Jones commented that perhaps the prisoner required a medical and psychiatric examination.

The prisoner said:

"Why would I need a psychiatric examination? I'm not mad'."

The Visiting Justice said to the prisoner:

"Just remember who you are speaking to and pull yourself together."

If the Visiting Justice had the slightest doubts about the psychiatric state of the prisoner at this time, it is surprising that he did not suggest a medical examination.

At the conclusion of the departmental inquiry, Mr McGeechan took the view, on the evidence submitted, that there was no justification for Dr Lucas's "proposed impression". The evidence on which this conclusion was based is set out above. The prisoner was transferred to the Central Industrial Prison on the basis that his behaviour was "deliberately provocative, unacceptable and, in fact . . . prejudicial to the good order and discipline of the prison .

The Commission agrees with Dr Lucas' impression that "psychiatric referral (was) being used for reasons other than concern about (the prisoner's) mental health and general well-being".

This history illustrates a tendency to view non-conformity as irrational and depicts the vulnerability of a prisoner to abuse by the system. Indeed, Dr Lucas remarked on other cases, some years previously, where prisoners were frequently referred for psychiatric assessment at the Observation Section for reasons "other than their assessed requirement" for this type of attention. The dangers in a facility such as the Observation Section being used for punishment or intimidation of troublesome prisoners are obvious. One is reminded by Solzhenitsyn's "Cancer Ward" and of practices reputedly carried on in other countries which aroused the indignation of this community.

Dr Houston described the Observation Section as completely unsatisfactory for the treatment of psychiatric patients. It has remained in the same state since he joined the Service in 1970. Complaints can be traced back as far as 1966.

The present use of the Observation Section should be abandoned as soon as possible.

Locating an Observation Section at Long Bay appears to have significant advantages. The Commission was particularly impressed by the security hospital adjacent to the Yatala prison complex in Adelaide. There is no reason why a unit of similar construction could not operate successfully at Long Bay, given the availability of a competent staff.

#### **Medical Staff**

The regular Observation Section comprises prison officers with no psychiatric training. This places them in an unfortunate position as they are often confronted with deviant behaviour which they must suppress or regulate, while being unaware of and frequently unconcerned with its causes.

Observation cell in 4 Wing, Parramatta Gaol. The bed is on the floor

Custodial staff should receive, as part of their initial training, some knowledge in the early recognition of inmates' disturbed behaviour so that they could appreciate it and, if necessary, see that disturbed prisoners are transferred to more appropriate places than the normal prison environment. It would be unrealistic to expect all custodial staff to undertake training which would properly fit them to carry out appropriate tasks in an observation section. But some officers should be so trained.

There is a general shortage of staff throughout the prison medical service.

The periodic requests that the Superintendent of Prison Medical Service made for additional staff were made "in a spirit of compromise" because of the cost involved and other demands on the Department's budget. He said in evidence that there were no psychiatric services at Goulburn, Cooma, Maitland, Berrima, Grafton or any of the prison camps.

One detects a tone of despair in Dr Houston's agreement with the satirical comment that the one area where the medical service was coping was the provision of psychiatric reports for the Courts. The Department has shown little sympathy for the staff needs of the Medical Service. Cost is always mentioned as the inhibiting factor.

#### Screening for Drug Users

Counsel for the Department elicited from Dr Houston in cross-examination that there were no general screening procedures to identify drug users, whether on admission or during their imprisonment. The ease of administering a test which would constitute a screening procedure was acknowledged, as was the fact that it would cost almost nothing. There would be obvious advantages in early detection of drug users. This is indicative of little attention being paid to an area where an improvement could be introduced at minimal or no cost.

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#### The Use of Outside Specialists

The Prison Medical Service must rely on outside specialists but, unless they are properly organized, impossible situations result.

Evidence was given that in July, 1976, a prisoner was examined by a doctor in Maitland Gaol and his complaint was diagnosed as tonsillitis. He was then transferred to the Long Bay Hospital where he was examined by an ear, nose and throat specialist. The specialist indicated that an operation was necessary. But the operation had to be postponed as no anaesthetist was available on the days when the specialist regularly attended the hospital for operations.

The prisoner complained to the Ombudsman who was informed by way of explanation that the Department did not have a specialist and anaesthetist available at the same time: The anaesthetist was available on a Monday and the ear, nose and throat specialist on a Wednesday.

The result was that the prisoner remained without treatment for at least six months. He had not been treated or operated on when he gave evidence eight months later. Surely, some arrangements could have been made to overcome this Gilbertian situation.

Quite recently, the Court of Criminal Appeal of this State remarked on the failure to furnish proper medical treatment to a prisoner:

"Before parting with this application, there are two matters that call for some criticism by this Court. As has been mentioned, the appellant escaped from lawful custody on 6th August, 1976. He gave evidence in the District Court to the effect that his escape was the culmination of a series of complaints that he had made regarding pain and disability in his left shoulder. Subsequent inquiries disclosed that this complaint had dated back from some two months prior to the date of his escape. He had not received any significant or effective treatment from the prison medical authorities and it seems that one of the reasons advanced for this was that no orthopaedic advice was available at the institution to which he was sent during the currency of the period in which he was complaining of these disabilities. The last occasion upon which he sought treatment from the prison authorities was the 5th August, the day before he escaped. Aspirin was prescribed for him and this appears to have been the limit of the treatment then extended to him. He escaped the following day and a couple of days later, whilst he was at large, he was admitted to Manly Hospital where surgery was carried out to correct the condition of which he was complaining.t"

The state of affairs disclosed in this judgment is disgraceful.

#### Department's Responsibility

The Department has attempted to suggest that *it is* merely concerned with the custodial function and that the responsibility for medical services is the Health Commission's. The Royal Commission does not accept this view. It is the Department's responsibility to see that the prisoners under its care receive proper medical treatment. For the system to work, there must be proper liaison and co-operation between the Department and the Health Commission and it is the Department's responsibility to see that this takes place. A senior officer of the Department should have overall responsibility for medical and psychiatric services. One member of the proposed Prisons Commission should have specific responsibility in this area.

The present system of having a central medical service at Malabar should be continued. This unit should be able to handle most of the serious complaints of prisoners in the metropolitan area. The prisoners with more serious complaints should, as at present, be sent to the hospital neighbouring the Malabar complex.

In rural areas, the use of the Government Medical Officer should be continued, supplemented where necessary by the services of local doctors or specialists. General practitioners should be nominated for a period not exceeding five years so that they are replaced from time to time and do not become identified with the prison administration. In some circumstances, it will be appropriate to transfer some medical cases from country gaols to the central medical unit at Malabar.

#### **Individual Medical Treatment**

The submission that prisoners should have access to medical practitioners of their own choice does not seem appropriate. It would involve obvious security problems, create a duplication of existing services and discriminate between prisoners.





The question of food is discussed at length in other parts of the Report, but in Chapter it is appropriate to call attention to Rule 198 of the Prison Rules which that "when *required*, the Medical Officer shall inspect the food (cooked and of prisoners and shall report to the Superintendent as to the quality of the .". The provision itself is somewhat ambiguous, but the question of diet fundamental in the prison system.

The medical officer has the skills to assess the nutritional quality of the food should be responsible for reporting if he thinks it is not satisfactory. He should the duty, at regular intervals, to inspect and satisfy himself that the food is If he finds it is not, this should be reported to the Health Commission *10 the member of the Prisons Commission to whom he is directly responsible*. should not wait for a request from a Superintendent before he performs this duty.

Training of Selected Custodial Staff

It would be unrealistic to expect all custodial staff to undergo even a simple of medical training, but selected officers should have more training than at If some elementary training were undertaken, the custodial staff could be to the prison medical staff. In addition, there is the possibility of a measure of psycho-therapeutic assistant to prisoners. In making this the Commission is mindful of an opinion expressed by a psychiatrist, the of the Australian and New Zealand Society of Criminology, when he "Except in exceptional cases, treatment of offenders, including offenders in prison, does not require any exceptional or esoteric abilities. Indeed, there seems to be much to be said for using the Prison Officer, the Welfare Officer, the Chaplain and others, in psycho-therapeutic endeavours rather than the so-called 'expert psychotherapist' who is all too likely to miss the fundamental wood for his over concern for the individual trees. Again, the non-expert psychotherapist is much more likely to have affection for and wish to help the offender: the expert all too easily wishes to show that with his technique, he is able to change something in a predicted direction with little regard for feelings and even morbidity. Before we embark on expensive programmes with so-called expert staff in an endeavour to bring psychotherapy to the imprisoned offender, let us first offer some basic training to the staff we already have.'+

The Commission's examination of the medical services of the Department perforce, been limited. Nonetheless, the examples of medical mismanagement and failure to provide proper medical treatment for prisoners, gleaned from the ... ence and the records of many prisoners, lead irresistibly to the conclusion that medical services for prisoners in New South Wales are demonstrably inadequate. can be no justification for it.

The Department has not denied that the services are inadequate. The only it has made is by way of confession and avoidance to point to the extensive involved in what may be regarded as meeting minimum requirements. This be accepted. The situation must be remedied.

It is not suggested that the present system whereby the Health Commission provides the medical services for prisons be altered. There must be an overall assessment of the medical services by an outside medical expert who should advise on methods of improving the organization and costing of the present Prison Medical Service.

The medical care provided at Mulawa is discussed further in Chapter 27:  
Women Prisoners.

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#### References

- 1 First United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Geneva 22-1955, 3rd September.
- 2 R. v. *Tanzir Danhach*, C.C.A., 12th August, 1977, p. 2. 3 *Ibid*.
- 4 "The Australian and New Zealand Journal of Criminology", September, 1977, p. 310.



## PRISONER DISCIPLINE

Section 23 of the Prisons Act, 1952, lists a number of "offences by prisoners against prison discipline". Some correspond with offences outside the gaol community, such as assaults, maliciously damaging property, and behaving indecently. Many, however, are offences unknown to the general law. They include pretending illness, being idle or negligent in work, and mismanaging work. Some have been discussed elsewhere in this Report, such as section 23 (f), which creates the offence of "preferring a complaint against a prison officer knowing the same to be false". The Regulations and Rules also control prison discipline. Breaches of any of these are made punishable by section 23 (g), which also makes it an offence to disobey any lawful order of the Commissioner or a prison officer.

"Lawful Orders"

The "lawful orders" to which section 23 (g) refers are, in the Commission's opinion, orders given by prison officers to prisoners from time to time in the course of their duties-as the section puts it-to secure the enforcement or observance of the provisions of the Act. It was never intended that orders of general applications would be within the terms of that section.

Mr McGeechan, however, thought otherwise.

In August, 1977, thirteen of these orders were given by him and distributed to all prisoners in the form of a printed document which came to the Commission's attention when final addresses were being made at the hearing.

The orders by Mr McGeechan range from the merely vague, through those which were little more than a repetition of some offences specifically nominated in section 23 itself, to the highly improper.

Examples of the first group are "you shall be properly dressed at all times" and "you shall be courteous to other members of the prison community". These put prisoners at the risk of disciplinary action for their breach in vague, uncertain and imprecise circumstances which must vary from prison to prison and from officer to officer, and they are bad for that reason.

Examples of the second group are "you shall not use, in any manner, any unseemly words (which include) obscene, indecent, profane ... words"-compare "cursing or swearing profanely" in section 23 (n)-and "you shall not make any mark or tattoo upon your person"-compare "making ... any wound or sore upon himself" in section 23 (h). The different wording and emphasis can only lead to confusion.

Examples of the third group are "you shall not prepare or sign . . . any petition or similar document" and "you shall not . . . give to any person in any office or employment either within or outside the prison, any payment ... in consideration that the latter will do . . . some act or thing pertaining to his office or

employment". The first would by its terms deny prisoners the right to petition for the exercise of the Royal Prerogative of Mercy and the right to sue in relation to

injuries received in the prison in the only way legally possible-s-by way of petition under the Claims' Against the Government Act. . It may even prevent a prisoner from seeking support from other prisoners in making a complaint of a general nature to the Ombudsman. The second would prevent a prisoner from retaining a solicitor in relation to any legal business he may wish to transact.

The Department Was invited to comment on these criticisms but replied only that the orders had been drafted by one of its legal officers. No suggestion was made that the orders had been withdrawn and redrafted to avoid such criticisms. They should be, forthwith.

Offences dealt with by Superintendents

Section 23A provides that where a prisoner is charged with one of several specified offences under section 23, and he either admits his guilt or, consents in writing to the Superintendent of the prison determining the matter, then the Superintendent may do so. The penalty the Superintendent can impose is restricted to three days' cellular confinement, or a deprivation of rights or privileges for up to one month.

Clearly, the Superintendent's powers under this section are intended to be exercised only in relation to minor offences against prison discipline. It is somewhat difficult to follow the reason why the legislature has seen fit to allow the Superintendent to deal with some offences but not others. For example, he has been granted jurisdiction to deal with a prisoner who it is alleged has behaved "indecently" but he cannot deal with one who has preferred a frivolous complaint or pretends to be ill.

For minor infractions of disciplinary rules, it is desirable that a procedure such as this should continue so that the matter can be disposed of with a minimum of formality or delay. It is proposed, therefore, that the existing system whereby Superintendents can hear and determine such charges should be maintained, although it should be extended to include all offences against prison discipline. The Superintendent has always retained a discretion as to whether he should determine any matter which is within his jurisdiction or refer it to the Visiting Justice. If he considers the penalties he can impose are insufficient for the offence, there is nothing to prevent him from referring the matter to the Visiting Justice.

It is important that this power should be exercised by all Superintendents where the circumstances warrant it. The Superintendent of one large prison said in evidence that he never exercised his power to determine a matter if the prisoner pleaded not guilty, because he preferred it to be dealt with by an independent person. One can appreciate that someone in his position might prefer to remain aloof from such adjudications, but he is depriving prisoners of an important option.

Offences dealt with by the Visiting Justice

The Director of Establishments, Mr J. E. Nash, and the Superintendent of Goulburn Training Centre, Mr J. F. Barry, both with extensive experience, described the procedure adopted when a prison officer makes a complaint about a prisoner in this way:

First, the officer makes a written report to the Superintendent. In addition to setting out the facts of the alleged offence, he indicates whether the prisoner has been locked in his cell. The Superintendent then obtains statements from any other officers



named as witnesses, and later calls the prisoner to his office. He reads the statements to him and asks him whether he has anything to say. After hearing the prisoner's explanation, if any, the Superintendent decides whether to charge him, and determines the nature of the charge. If the charge falls within section 23A, and the prisoner either pleads guilty or gives his written consent, then the matter may be determined then and there by the Superintendent. In all other cases, section 24 of the Act provides that a complaint should be made before the Visiting Justice.

The Visiting Justice is invariably a Stipendiary Magistrate who sits in a Court of Petty Sessions near the prison. He normally holds the position of Visiting Justice for a period of some years, although the precise period might vary according to whether the prison is in the city or the country. He usually visits the gaol at least once a month, and more frequently if any particular breaches of prison discipline require urgent adjudication.

Section 24 provides that the Visiting Justice should either hear and determine complaints alone, or together with another justice nominated by him. The penalties which can be imposed by two justices sitting together are substantially greater than by a justice sitting alone. If the Visiting Justice considers that the case should be dealt with summarily before a Court of Petty Sessions, section 25 provides that he should order the prisoner to appear before such court. If he considers that the matter should be prosecuted upon indictment, he is empowered to deal with the charge by way of committal and, if the circumstances warrant, to commit the prisoner for trial to a superior court. It appears that the Visiting Justice rarely exercises either of these powers under section 25.

The hearings of the Visiting Justice are generally conducted in the Superintendent's office, the only suitable area in most gaols. At Grafton, they are held in the dentist's surgery. Before the proceedings begin, the Superintendent and the Visiting Justice discuss the day's business. The Commission was told that this did not involve any discussion about the merits of any case.

Before the hearing of each complaint, the Visiting Justice is handed a file containing the statements of the complainant officer and his witnesses. During the proceedings, the Superintendent acts as prosecutor, although the extent to which he participates in the hearing is not altogether clear. According to Mr Nash: "The Visiting Justice conducts the whole of the hearing. It is he who asks questions. If the Superintendent wished to ask a question, he would address it to the Visiting Justice. In most cases in my experience he does not do so ... " This practice, however, is not always supported by the records tendered before the Commission. Many of them show the Superintendent to have taken an active part in the proceedings, both in questioning prosecution witnesses and in cross-examining the prisoner and his witnesses.

The prisoner has no rights to legal representation. He is entitled to cross-examine the complainant's witnesses and, at the end of the prosecution case, he may give evidence and call his own witnesses. This presents no difficulty if he has been "at large" in the gaol pending the hearing. In such circumstances, he has normally had an opportunity to find out who might give evidence in his favour, and to tell the Superintendent he wants to call them as witnesses. The Superintendent would then arrange for them to be available. If, however, the prisoner has been confined to cells pending the hearing, he has no such opportunity.

This can present real hardship, as it did in one case which came to the Commission's notice. A prisoner was charged at Maitland Gaol on Boxing Day with "having pornographic material in his possession". The material was a poem, written in his handwriting, describing in graphic and sometimes humorous terms the horrors of Christmas dinner in gaol. Some of the verses contained crude expressions in questionable taste, but it was difficult to see it as pornographic "material".

The prisoner was kept in solitary confinement from the time he was charged until 10th January-fifteen days. On that date, the matter came before the Visiting Justice. The depositions show that he complained to the Justice that he had not had an opportunity to prepare his defence. He said that there were three witnesses he wished to call. He was never given an opportunity to call the witnesses, whatever the relevance of their evidence may have been. Instead, he was convicted and sentenced to ten days' cellular confinement, a heavy sentence indeed for the offence, and particularly heavy when added to the time already spent in solitary confinement.

Superintendent Barry said that this would not happen at Goulburn Training Centre. If the offence involved such a threat to others in the prison or was so serious that it was necessary to isolate the prisoner pending the Visiting Justice's hearing, he would arrange for the Visiting Justice to attend early for a special hearing. In all other cases, the prisoner would be "released to bail" within the gaol. It is important that this practice should be followed in all gaols.

In the case cited, there was no justification for confining the prisoner pending the hearing. It constituted an unofficial punishment quite unwarranted by the offence, and deprived him of an opportunity to prepare his defence. It would be preferable for the practice described by Mr Barry to be given the authority of law by the enactment of a Rule to that effect. Prisoners should not be at risk of such a severe penalty as confinement pending a hearing at the whim of a Superintendent.

Having heard the evidence of the complainant and the defendant and their witnesses, the Justice makes his adjudication. In theory at least, his task is made extremely difficult by Rule 190, which urges him to "see that discipline is strictly enforced", and to "support the officers in the exercise of their authority", yet to "take care that the prisoners are not subjected to any partial, harsh or tyrannical treatment".

This is yet another example of the contradictory and unworkable nature of many of the Rules. If the Visiting Justice were indeed to support the officer in the exercise of his duty, it is difficult to see how he can avoid being partial in his treatment of the prisoner. By the same token, in protecting the prisoner from partial, harsh or tyrannical treatment, he might often need to withdraw his support from the officer. Visiting Justices probably resolve this dilemma by ignoring the Rule. Certainly, this was the attitude adopted by Mr McClennan, S.M., the Visiting Justice at Long Bay for some years. However, it is quite unacceptable that Justices should be placed in such an invidious position. The Rule should be repealed as a matter of urgency.

The Visiting Justice is accompanied by a depositions clerk, whose duty it is to record the evidence in all defended cases as fully as if the proceedings were conducted in an outside court. Although some proceedings have been fully recorded, most depositions seen by the Commission were sadly lacking in detail. Some of them made no note of the names of witnesses, or the evidence, but merely recited the names of the prisoners, the nature of the offences, and the penalties imposed. This is quite inadequate.



It is possible that such laxness was caused by the deposition clerk's confident knowledge that the Visiting Justice was the final arbiter, and that no higher tribunal would be likely to examine the record. AS this is no longer the case, it is essential that a full record be taken of all proceedings conducted before the Visiting Justice.

The proceedings, because of their nature and location, are closed to the public, and this has attracted considerable criticism. It is important that all judicial proceedings should be subject to public scrutiny, and particularly where there is any suggestion that one party might be at more of a disadvantage than another. The position is severely aggravated by Rule 188, which provides that "the Visiting Justice shall permit no publicity to be given to cases adjudicated upon within the prison".

It is difficult to find any justification for this Rule. In at least one case, the Department has invoked it to justify its refusal to allow a solicitor for a prisoner to inspect the depositions of a hearing before the Visiting Justice involving his client. Such secrecy can only add strength to any criticism about the conduct of these proceedings. In many cases, the Rule will now be made ineffectual because the Visiting Justice's determination has recently been held to be subject to appeal to an open court.' The Rule should be rescinded as a matter of urgency.

A Visiting Justice sitting alone has power to impose a penalty of up to fourteen days' cellular confinement. Each day of confinement automatically carries the loss of four days' remissions. Alternatively, the Justice can order a forfeiture of remissions without cellular confinement. In either case, he can order forfeiture of payments due to the prisoner for work performed in gaol. Two Justices sitting together can order cellular confinement for up to twenty-eight days. Their powers in other respects are the same as those of a Justice sitting alone.

The provision that a Visiting Justice may nominate another Justice to sit with him is clearly an historical hangover from the days when Justices of the Peace, lacking legal training, sat as Visiting Justices. Now that all Visiting Justices are legally qualified Stipendiary Magistrates, there should be no need for this. The restriction on a single Visiting Justice's power has frequently been circumvented by a highly questionable device whereby a Visiting Justice, who wished to impose a severe penalty which required an additional Justice, arranged for his depositions clerk, himself a Justice of the Peace, to sign the determination. The Chief Stipendiary Magistrate, Mr M. Farquhar, conceded that the propriety of this device was open to question, although he considered that its legality was not. The Commission agrees with the Public Solicitor's criticism of this device-that it could not realistically be stated that two people were exercising independent judgment in such a situation. The view of the Visiting Justice would invariably prevail over that of the depositions clerk.

This anomaly should be removed. The Visiting Justice sitting alone should have power to order cellular confinement for a period of up to twenty-eight days, and there should be no provision for an additional Justice to sit with him.

Until recently, it was assumed that there was no appeal from any determination of a Visiting Justice. However, in July, 1977, the Court of Criminal Appeal unanimously decided that a penalty imposed by a Visiting Justice was a "punishment" within section 122 of the Justices Act, and that a prisoner thus "punished" was entitled to appeal to the District Court.f This has opened the Visiting Justice's hearing to public scrutiny, and forced the Department to drop the secrecy with which such proceedings had previously been so jealously cloaked. It is a major advance, and should not be nullified by any legislative intervention, such as the Public Service Association urged in its submission to the Commission.

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The Court of Criminal Appeal did not refer to any of the practical procedural difficulties encountered by a prisoner when trying to appeal from the determination of a Visiting Justice. It is important that the effect of this decision should not be impaired by the fact that a prisoner has no access to appropriate facilities to lodge his appeal, or that his punishment has already been completed before the appeal hearing.

It is recommended that the Justices Act should be amended to allow the effective lodgment of an appeal by handing an appropriate notice of appeal to the Superintendent of a prison. The Superintendent should provide information about the right of appeal, and supply all necessary forms to each prisoner who has suffered an adverse determination by a Visiting Justice. This is particularly important when the prisoner has been sentenced to cellular confinement and would lack facilities for lodging an appeal. The Superintendent's responsibility to do so should be regarded as a matter of practice, rather than being imposed by legislation.

Legislation should, however, be enacted enabling a prisoner to apply for leave to lodge his appeal out of time on the ground that he was denied the means of lodging it within the prescribed time. Further legislation should provide for the lodgment of an appeal to operate as an immediate stay of proceedings. Unless it is unsafe or otherwise unwise, the prisoner's position should be the same as that obtaining before the commission of the alleged offence. In any case, he should not be deprived of any rights or privileges pending the hearing of his appeal.

The Visiting Justice procedure is open to criticism on a number of grounds, some of which have already been mentioned. By far the most damning criticism is the accusation that the Visiting Justice is not seen by prisoners to be an independent adjudicator. To them, it is said, he is "the Department's man".

A number of factors combine to give this appearance: The proceedings are conducted in the Superintendent's office; the Visiting Justice and the Superintendent are seen by prisoners discussing and collaborating on the day's activities to the exclusion of the prisoner; and the existence of Rule 190. However, the greatest single factor giving rise to this impression can be the conduct of the Visiting Justice himself. Two examples illustrate this.

The first was the case of a prisoner who was charged on 4th December, 1973, with being in possession of contraband. According to the prisoner, the complainant officer gave him a severe beating on that day, resulting in a painful injury to his ribs. This was amply supported by the medical evidence: X-rays showed that he had sustained two fractured ribs. On 17th December, he was charged before a Visiting Justice with being in possession of contraband. He pleaded guilty and was sentenced to ten days' cellular confinement. At the same time, he told the Visiting Justice that he had been beaten by an officer. The Justice told him that it was outside his jurisdiction. He suggested that the prisoner make a statement and submit it to the Superintendent.

The prisoner accepted this advice, and on 1st January, 1974, he wrote a detailed statement complaining about his beating. Soon afterwards he was charged under section 23 (f) with making a false statement against a prison officer. This charge was heard by the same Visiting Justice on 7th January. The prisoner pleaded *not* guilty and told the Justice that he wished to adduce supporting evidence, including the medical records. According to the prisoner, the Justice said: "It's no use. I would take the officer's word anyway." He was then sentenced to three days' cellular confinement.



These conversations do not appear on the depositions, which are so sketchy as to be almost completely useless as a guide to what transpired at the hearings. The Commission is inclined to accept the prisoner's version, particularly as it is corroborated by the medical evidence. It reveals a sorry story: The Visiting Justice should be alert to protect prisoners from such treatment and should be at pains to ensure that justice is seen to be done.

The second case involved a prisoner who was charged with being in another prisoner's cell overnight without authority. When confronted with this allegation, he denied it and said that he had spent the night in his own cell. He was then also charged with making a false statement. At the hearing before the Visiting Justice, he pleaded not guilty and called a number of witnesses who tended to support his version of the events. Nevertheless, the Visiting Justice convicted him of *both* offences, and sentenced him to two days' cellular confinement in relation to each.

It seems utterly contrary to all justice and fairness that a person who denies committing an offence should lay himself open to a charge of making a false statement. The Visiting Justice should not have allowed himself to become a party to such an unfortunate exercise of power.

Many other illustrations could be given of Visiting Justices acting in a way which could only be described as partial to the administration. These cases have led organizations such as the Council for Civil Liberties to the view that the Visiting Justice's proceedings should be open to the public, and that legal representation should be available to prisoners.

The Commission has carefully considered these submissions, but considers that the availability of an appeal from the Visiting Justice's determination will be a sufficient safeguard to protect prisoners from harsh or partial treatment. It has been pointed out to the Commission that prison discipline frequently requires that offences be disposed of as expeditiously as possible. It would considerably disrupt the organization of the prisons if all charges were to be heard in open court, with legal representation available to one or both parties. In all the circumstances, the Commission is not prepared to recommend this change.

Nevertheless, the procedures adopted by the Visiting Justice should correspond as closely as possible to those adopted in Courts of Petty Sessions outside the gaols. In this regard, mention should be made of a practice which apparently exists at Mulawa (drawn to the attention of the Commission by the custodial staff at the institution), whereby the defendant prisoner is required to give evidence before the complainant officer does so. This is quite contrary to all rules regulating the conduct of criminal proceedings. It is to be hoped that the practice no longer exists. If it does, it should be ended forthwith.

No mention has been made of the Visiting Justice's additional role as overseer of the prison, taking complaints from prisoners and ensuring that abuses of the system do not occur. This rather unhappy coupling of roles has not worked well. Prisoners who have suffered adverse determinations at the hands of a Visiting Justice are unlikely to approach the same man with complaints about their treatment in prison. The appointment of a Special Prison Ombudsman, as recommended by the Commission, will take over any supervisory function of the Visiting Justice. It is recommended that, on the appointment of an Ombudsman, the Visiting Justice should no longer exercise such functions.

It is clear from the structure of the Act that any confinement to cells, whether ordered by the Superintendent of a prison or by the Visiting Justice, is not intended to be accompanied by any deprivation of rights or privileges. The Superintendent has power under section 23A to order that a prisoner be deprived of rights or privileges, **but** this is an alternative to his power to confine a prisoner to his cells. The Visiting Justice has no power to order a deprivation of rights or privileges: He may order cellular confinement or loss of remissions, and in either case, may order forfeiture of certain payments due to the prisoner. This, however, is the extent of his powers of punishment.

It was disturbing to learn that in some cases prisoners who are ordered to be confined to cells are not kept in their own cells. They are taken to punishment cells where they are very substantially deprived of rights and privileges. The cells are empty of furniture during the day, only the roughest of bedding is provided at night, and the only reading material available is the Bible.

It is understood that moves have been made to discontinue this type of punishment. If it still exists, it should stop. It is not only harsh and unfair to the prisoner, but is also contrary to the provisions of the Act, and therefore illegal.

In many overseas prisons visited by the Commission prisoners sentenced to cellular confinement were given regular medical examinations. The Commission considers this a desirable practice and it should be adopted in New South Wales.

At present a prisoner who is confined automatically loses four days' remissions for each day so confined. The Commission has recommended elsewhere that all remissions should be earned and, once earned, should not be forfeited. Consonant with this policy it is recommended that prisoners sentenced to cellular confinement should lose no remissions.

#### Segregation of Prisoners

Section 22 of the Act provides for the segregation of prisoners "when the Commissioner, or the Governor of a prison is of the opinion that the continued association of a prisoner with other prisoners constitutes a threat to the personal safety of any other prisoner or of a prison officer, or to the security of the prison, or to the preservation of good order and discipline within the prison".

It is important to note that segregation under section 22 is not intended to constitute any form of punishment. The section is contained in Part III of the Act which deals with the treatment of prisoners, not in Part IV which deals with prison discipline. It is designed to limit the circumstances, time and manner in which prisoners can be segregated. To this extent, it is clearly intended to operate as a protective rather than a punitive provision.

By the same token, segregation under section 22 was clearly never intended to be used as a retaliatory measure for the misdeeds of a prisoner. These are punishable under sections 23 to 26, after a finding by the prison Superintendent or the Visiting Justice. Nevertheless, there appears to have been a fundamental misconception in the Department about the nature of segregation under section 22. Mr Sanders, who has been in charge of the segregation programme since December, 1975, was clearly under the impression that section 22 could be invoked for punishment. In the Commission's view, this is an entirely wrong interpretation of section 22, which can only lead to a misuse of the powers conferred in that section.

Behind each of the doors (top) at Parramatta Gaol is an open punishment cell. It is part of the totally enclosed Circle. The lower picture shows a yard sometimes used as a “protection” area

This is not the only manner in which section 22 has been misused. It is quite clear from its terms that it was designed to be invoked only as a short-term measure; subsection (2) provides that a prisoner may not be segregated for more than two weeks without the Commissioner's direction. Subsection (4) requires a further direction from the Commissioner at the end of three months, and provides that the sanction of the Minister must be given if the segregation is to continue for more than six months. Nevertheless, segregation is frequently used by the Department as a very long-term measure; some prisoners have been segregated for years. Moreover, specific stages of administrative segregation have been developed at Parramatta and Maitland Gaols whereby prisoners can both be segregated and subjected to a deprivation of privileges. These highly organized procedures have not been evolved to meet an immediate crisis which demands the short-term segregation of prisoners: They have clearly been devised to meet the continuing problem posed by prisoners who do not "fit in" to the prison community.

Superintendents of all prisons in which prisoners are segregated are required to submit regular reports to the Segregation and Protective Custody Committee on the progress of segregated prisoners within their institutions. The Commission was told that each segregated prisoner's circumstances are thus kept constantly under review. This may be so, but it is clearly not an adequate safeguard when those in charge of administering the segregation procedures view segregation as a form of punishment which can, in certain circumstances, extend over a long period. It is the attitude of the Department which needs to be changed more than any procedural safeguard.

The part played by Katingal in the Department's segregation programme is discussed elsewhere in this Report. Whether or not prisoners are placed in Katingal under section 22 segregation, it has become clear that Katingal can be used to circumvent the provisions of section 22. This was illustrated by a decision on 3rd February, 1978, of Mr Justice Cantor in *Smith v. Commissioner of Corrective Services*.<sup>3</sup> Smith was an inmate of Katingal, where he was the only unconvicted prisoner in an institution of convicted prisoners. He was originally placed in a group of cells together with a number of other prisoners. This was clearly in breach of section 15 of the Act in that Smith was placed together with convicted prisoners. Following earlier proceedings brought by Smith this breach was rectified and he was placed in a separate section of that institution. Section 22 was not invoked to effect this separation, nor could it have been in the circumstances of his case. Yet Smith was totally isolated and deprived of contact with all other inmates. He challenged the circumstances of his isolation, arguing that the Commissioner had no right to keep him segregated except pursuant to section 22. The Commissioner argued that he had the right to place any prisoner into any institution, even if he knew that the effect would be to separate him from other prisoners, as he was the only unconvicted prisoner in that institution. This submission was upheld, and Smith thus remains in effective segregation, but without the safeguards imposed by section 22.

It is important that the Department not only follow the letter of section 22, but that it also adheres to the spirit of the legislation. Segregation should be used as a purely temporary measure, to be invoked only in situations of urgency. The systematic, long-term segregation of "problem" prisoners is an abuse of the spirit of the legislation and must be discontinued.

#### References

<sup>1</sup> *R. v. Fraser*, Court of Criminal Appeal, 15th July, 1977. <sup>2</sup> *Ibid.*

<sup>3</sup> *Smith v. Commissioner of Corrective Services*, Cantor J., 3rd February, 1978.







**CHAPTER 26**

**PRISONERS' RIGHTS AND GRIEVANCES**

Sir Leon Radzinowicz and Joan King, in a recent publication, wrote:

"Sources of prisoners' grievances are not far to seek. They are to be found in many aspects of their lives. There are elemental physical deprivations and squalor. There are gratuitous invasions of human dignity, prison regulations which are vague, arbitrary, unnecessarily restrictive or humiliating. There are unjustifiable impediments to free exercise of religion. There are excessively rigid restrictions on communication with the outside world by way of letters and visits. There has been victimization of particular prisoners or groups, sometimes outright brutality, by those in charge of them. There has been inadequate protection against violence or sexual attacks by other prisoners."!

Similar, but more succinct sentiments were expressed by prisoner Dugan at the Royal Commission:

"Criminals don't expect the key to the front gate. All they want, and all they have a right to expect, is that every decision that affects them can be shown to be fair and just."

While the emphasis on rehabilitation in gaols is not as pronounced as it formerly was, it is still important to ensure that the same degree of justice prevails within the prison walls as prisoners would expect outside.

When prisoners complain about various aspects of prison life, they are entitled to fair treatment and should not be dismissed out of hand by the Department as troublemakers and malcontents.

In its final submission, the Department said that many grievances "seem predominantly, though not entirely, to reflect the criticism of limited classes of prisoners concerning the older secured prisons" and that this "class of prisoner may be accurately described as chronically discontented".

As the Commissioner pointed out during the hearings in relation to an earlier and similar statement made by the Department:

". . . I do not think it worthy to comment on a possible inference . . . that because the number of prisoners under its care at Bathurst and Grafton that were illegally beaten by the Department's prison officers only represented a small percentage of the number of admissions to the New South Wales prison system during a year, such bashings and floggings should be overlooked by me."

All prisoners should have equal justice. It would be unjust, for example, to ignore prisoners serving long sentences on the grounds that they have more occasion to complain, compared with short term inmates who may complain less because they have less time, suffer fewer frustrations and want to keep out of what they might regard as trouble.

A recent report on the Canadian penitentiary system concluded:

"It is undeniable that many complaints in prison have no legal foundation. These are, however, no less the products of a bad prison system than complaints that are absolutely valid."

The report, resulting from a series of violent incidents in Canadian prisons, argued forcefully for the establishment of legitimate, effective grievance procedures. It added:

"As in so many other areas, the impetus here is for the inmate to suppress the normal reactions common to human beings and to substitute internally directed rage and frustration for assertiveness and openness. Sooner or later, of course, these inner pressures are acted out, quite often as criminal behaviour against some innocent person who has no control over correctional practices."<sup>2</sup>

The McKay Commission, which investigated the Attica prison riot, listed as one cause of the riot a series of prisoner grievances which had been disregarded by the prison authorities. They were not unusual prisoner grievances. They arose from such things as complaints about medical care, food and recreational facilities; complaints about inability to communicate with the outside world, and rules that were "poorly communicated, often petty, senseless, or repressive and ... selectively enforced",<sup>3</sup>

Some of the worst recent U.S. prison riots—Attica, 1971; Oklahoma State, 1973; and Walpole State, 1974—have been attributed to the absence of adequate grievance mechanisms.

The grievance procedures now followed by the Department have proven woefully inadequate due largely to the absence of supervision independent of the Department. Mr McGeechan acknowledged this.

In many N.S.W. gaols, prisoners are unaware either of their right to make complaints or how to bring them to the notice of the authorities.

The importance of proper complaint mechanisms was summed up by Sir Leon Radzinowicz and Joan King:

"... the lack of regularized channels for complaints about general conditions as distinct from individual grievances, can lead to anything from the roof-top summer holiday antics of a handful of prisoners in the Isle of Wight to the grim explosions of violence and counter-violence in the prisons of France and America."<sup>4</sup>

#### **Nature of Prisoners' Grievances**

Prisoners' complaints are many and varied. They range from the trivial and bizarre to most serious incursions on an individual's dignity and liberty. No matter what the complaint is, they assume greater proportions within a gaol than outside:

"Prisoners' complaints regularly concern issues of fundamental daily life, such as food, clothing and living quarters, all of which are subject to a degree of intense regimentation and regulation totally foreign to the daily lives of those in outside society. Considered individually, the complaints may seem inconsequential; within the context of the unnatural social climate of a prison, they assume great importance. Many of these grievances are ephemeral and, if they are to be resolved at all, must be responded to quickly."<sup>5</sup>

Prisoners must be allowed to voice their complaints according to a procedure which

### Overseas Grievance Mechanisms

Some examples of overseas grievance mechanisms are:

*France-In* 1945, there was instituted an office known as the "Juges de l'application des Peines". The procedure involved conferring on a Judge the responsibility for supervising a prisoner's sentence. It has been a complete failure as the Judges have become identified with the administration. It is obviously important to avoid too close a link between a review body and the system it scrutinizes.

*United Kingdom-The* principal complaints mechanism is the Board of Visitors. It comprises primarily members of the public and meets at prisons at least once a month to hear formal applications from prisoners and to adjudicate in disciplinary proceedings. Similar criticism as is levelled at the Visiting Justice in New South Wales is directed at the Board of Visitors. They also are regarded from the prisoners' viewpoint as identified with the prison system for they both hear complaints and award punishments.

*United States-In* some prisons, a formal procedure has been laid down involving submission of complaints to progressively higher levels of administration. The virtue is the keeping of a complete record which enables the treatment of the complaint to be reviewed. The disadvantage is that the system is complex, cumbersome and time-consuming.

### Grievance Mechanisms in New South Wales Prisons: Prisoner Committees

Some attempts at handling prisoners' grievances have been made through committees of prisoners set up in recent years by the Department. They were designated "Problems and Needs Committees".

Such a committee was formed in Maitland in 1973. Until recently, it met irregularly, but last year Mr McGeechan issued a directive that it should meet monthly. The chances of it having any real success can be judged by the evidence of a Principal Prison Officer, Mr Griffiths. He was in charge of the Maitland committee and saw it as a useful means of communication between the prisoners and administration. With a candour bordering on naivety, he told the Commission how the committee came to have the name "Problems and Needs Committee":

"Mr Hunt: Q. Do you see any problem in prisoners raising complaints at these meetings?--We do not like to use the word 'complaints'.

Q. Well, grievances?--We do not like to use the word 'grievances'. Commissioner: Q. What is your objection to the use of those words? Sometimes people do complain, you know.-- That is so.

Q. What is the objection to the use of those words?--I think 'grievance' was something that the staff at Maitland did not like the sound of ...

Q. Why? Because they felt prisoners should not have complaints or grievances, or did not have complaints or grievances would be a fairer way of putting it? --That could be what they thought. To me personally ...

Q. You do not care which word they use?--I thought the word was wrong somehow and I think the words 'problems and needs' cover it better; it sounds better.

Q. Why do you think it covers it better?--Perhaps, as you suggested, your Honour, the staff thought, 'Why should inmates have grievances? They are in gaol; they should be here--we didn't ask them to come to gaol!'"

When prisoner groups first met between 1973 and 1974, Mr McGeechan regarded the changes resulting from their requests as "a most important and very large step forward". He admitted that there had been resistance to such innovations by the custodial staff at some prisons on the basis of "resistance to change", and thought that "individual officers could be criticized".

He added that, notwithstanding opposition from prison officers, grievance committees had his full support. He was unable, however, to inform the Commission whether his own policy about the selection of committee members was implemented, nor does he seem to have checked whether the committees were working properly or at all. In fact, the function of prisoner committees seems to have been very haphazard.

An important difficulty with all prisoner committees is the selection of its members. An election by prisoners creates the problem of prison "heavies" ensuring that they or their nominees are selected. If members are nominated by the Department, the committee loses its effectiveness. Mr McGeechan told the Superintendents that the members should be democratically elected, although at most institutions they were apparently selected by prison officers. A solution might be for Superintendents to select panels of prisoners from particular units within the gaol, for example, wings and workshops. From the prisoners selected on the panel, members of the wing or workshop would elect their representative. While circumstances may alter from one gaol to another, a Superintendent should see that the procedure most appropriate for his gaol be introduced.

Complaints .ahonr .the .mmmittf~Q .iRRUW 11.:~:~ if~ of 1 r;gwar meetn-g time. Hie failure to allow prisoners on the committee to have access to other prisoners for the purpose of gathering and discussing complaints, and the fact that officers can censor the committee's requests before they reach the Superintendents. This results in some requests being completely discarded while others are so revised that the committees feel their original impact is lost.

The committees also expressed concern that instructions given to prison officers by Superintendents in response to committee requests would not be enforced. Evidence before the Commission indicated that such instructions were, at times, ignored.

The Department said of prisoner committees:

"It is interesting to note that at some centres, the prisoners have indicated that they are no longer interested in this particular form of communication. Presumably, there are other avenues available to them "

The Department draws the comforting conclusion:

" ... this largely indicates that the gulf between the officer culture and the prisoner culture has been effectively overcome."

The Commission disagrees. The more obvious and certainly the more acceptable reason is that the prisoners see no good point in continuing with a charade.

Evidence clearly showed that the Prison Officers' Vocational Branch of the Public Service Association does not want the committees. The Department has ignored the situation and has failed to ensure that its instruction on committees was implemented. In many instances, no attempt was made to provide an opportunity for proper meetings of prisoners, and the prisoners themselves were hampered in running the committees.

The Commission considers that prisoner committees have a real role to play in handling prisoner grievances and thus reducing tensions which otherwise build up in gaols through prisoners not having a voice which can be heard. But unless grievance mechanisms gain the credibility of both prison officers and inmates, they will not work and will be viewed with suspicion, if not hostility, by both.

Prisoner committees should be given official status and, so far as possible, should properly represent the prisoner community. Prisoners should register their complaints with committee members, either verbally or by placing them in a complaints box which should be locked but readily accessible to prisoners. Regular meetings should be held, at least once a month. A prison officer selected by the Superintendent should be chairman, but have no voting rights. The committee should draw up an agenda before meeting, and full minutes should be kept. The minutes should be sent to the Superintendent who, within three days, should inform the committee of his decisions. Any complaints he has not the power to handle should be sent to Head Office and the committee should be informed of this without delay. Complaints sent to Head Office should be answered within fourteen days. The Superintendent should then pass the answers on to the committee.

#### Complaints to Commissioner and Minister

Under Prison Regulation 109 prisoners are entitled to make complaints to the Head of the Department or the Minister. However, letters or complaints to the Head of the Department are not always encouraged. An example taken from the evidence followed a series of allegations of assaults on prisoners. A prisoner wrote to Mr McGeechan on 15th August, 1974, alleging that prisoners, including himself, had been flogged that year; and, as a result of an assault by a prison officer, his hand had been injured. The specific allegation was that prisoners were flogged at the gaols to which they were transferred after the Bathurst riot. The prisoner's complaint, couched in somewhat flamboyant phraseology bordering on hyperbole, was critical of Mr McGeechan. No investigation of the allegation was made. Instead, Mr McGeechan chose to charge the prisoner with writing an offensive letter.

The Commission agrees that the letter was technically offensive-it certainly was not in the language of the parlour-but it hardly called for the response which greeted it. However, of more importance was the fact which emerged in cross-examination about this incident, when Mr McGeechan finally admitted that it was possible that letters written to him might never be brought to his attention.

Under the same Regulation, prisoners may complain to the Minister during any visits he might make to their gaol. Such complaints were infrequent during the time under review by the Commission. Recently, the complaint book at one of the gaols at Long Bay was specially altered to include the first complaint to the Minister recorded from that gaol.

If important matters of a general nature concerning the administration of a particular gaol are brought to the attention of the Minister in this way, he might properly be expected to visit that gaol to make his own inquiries.

#### Complaints to Visiting Justices

Visiting Justices have a two-fold role. They visit prisons to "hear and determine all complaints awaiting adjudication". Regulations provide that the visits take place at least once a month. In addition, the Justice may also be called on to consider "any request, complaint or application" made to him by a prisoner.

In the Manual of General Information, Custodial Division, Rule 190 of the Prison Rules provides:

"While the Visiting Justice shall see that discipline is strictly enforced, and shall support the officers in the exercise of their authority, he shall take care that the prisoners are not subjected to any partial, harsh or tyrannical treatment."

The inappropriate nature of this Rule when the Visiting Justice is called to adjudicate upon a disciplinary offence has already been noted. It is equally inappropriate when he is asked to deal with prisoner complaints.

Unfortunately, prisoners have little confidence in the Visiting Justices. In the words of one inmate: "Prisoners tend to regard anybody connected with the Department or the Parole Office with suspicion."

*Section 23 (f), Prisons Act*

One prisoner wrote to the Commission:

"If a prisoner makes a complaint against, say, a prison warder, the prisoner is charged with making a false statement. In every case known to me of a prisoner foolish enough to complain to the magistrate and a charge of making a false statement being laid, the prisoner is always punished with cells and extra gaol. So, in practice, the prisoner is deterred from laying complaints."

That prisoner was referring to section 23 (f) of the Prisons Act which makes it an offence to prefer "a complaint against a prison officer knowing the same to be false". Obviously, such a use of this section of the Act militates against prisoners making complaints.

When a prisoner made a complaint or laid a charge against a prison officer to the Visiting Justice, a counter-charge was sometimes levelled against him under section 23 (f). While appreciating the need for some curb on baseless charges against custodial officers, the present practice and procedure should be discontinued.

From files seen by the Commission, Visiting Justices unfortunately appear to have overlooked the requirement that the statement be not only false but false to the knowledge of the prisoner. They also appear to have condoned the arbitrary and unfair practices described above.

The Prison Rules should provide stringent safeguards against arbitrary use of charges of making false complaints against prison officers. A prisoner should not be charged with making a false complaint against an officer without the written authority of the Superintendent. The charge should not be brought by the officer accused by the prisoner and should not be based on the prisoner's defence to a disciplinary charge.

Mr McGeechan told the Commission he was not aware that a large body of opinion suggested section 23 (f) was open to abuse, although he added: "Personally, I am uncomfortable with it, which is possibly the same thing." He also agreed that the procedure of a Visiting Justice determining both charges laid against a prison officer by a prisoner and charges laid against the prisoner arising out of the same incident, made for a "peculiar sort of trial".

The degree to which Superintendents are prepared to consider complaints seems to vary markedly. Some complaints are handled satisfactorily; others are not. During Superintendent Pallot's term at Bathurst, many complaints were treated with contempt.

Superintendents should always make themselves available to prisoners for the lodging of complaints. Not only should they be alerted to their responsibility to listen to the complaints, but they should also be made aware of the possible consequences attending a failure to do so.

There should be some checks on the proper exercise of the Superintendent's discretion.

A prisoner who seeks to ventilate a grievance of complaint, should put it in writing (presently known as a "request") addressed to the Superintendent. The Superintendent, if he refuses the request, should do so in writing within twenty-four hours stating his reasons. At the same time, he should send the request and his refusal to Head Office. Head Office should then either grant the request or, if it also chooses to refuse it, the refusal, with reasons, should again be put in writing and sent to the Superintendent. He should immediately act on the Head Office direction and should hand to the prisoner the decision and reasons. This procedure should be completed within seven days of the original request. If the prisoner is still dissatisfied with the decision and so notifies the Superintendent, the latter should, within a further seven days, send all documents relating to the request to the Special Prison Ombudsman .

#### **Judges**

The N.S.W. Prisons Act provides for prison inspections by Supreme Court and District Court Judges. This is a salutary provision but, because of the Judge's position as well as his lack of experience in prisons and knowledge of what to look for, he should not be used as a substitute for other methods of outside inspection and examination.

#### **The Ombudsman**

The N.S.W. Ombudsman has some powers to deal with prison grievances. But he has accepted limitations, following the Victorian Supreme Court decision by Lush, *J. in Booth v. Dillon* (1976) V.R. 291 that it was beyond the powers of the Ombudsman to investigate an allegation of assault by a prison officer because it was not an "administrative matter".

A more important limitation on the Ombudsman's effectiveness has been his practice of "investigating" prisoner complaints simply by writing to the Department and leaving the investigation of the complaint against the Department to the Department itself. It is not surprising that prisoners feel less than confident that their complaints are being examined impartially or at all. A prisoner, who obviously associated the Ombudsman with Government interests including those of the Department of Corrective Services, said: "It is no use having an Ombudsman if he is not going to carry out investigations." He described the Ombudsman's response to a complaint this way:

"He did not seem to wish to be involved, you know . . . he said that he had seen Mr McGeechan about it and Mr McGeechan denied it, and that is as far as it went. Mr McGeechan could deny anything. If that is only as far as it is going to go, it is no use complaining."



The Commission understands that recently some changes have taken place in this method of investigation, but they are *not* sufficient to remove the impression among prisoners that the Ombudsman's investigations are free of departmental involvement.

Under the N.S.W. Ombudsman Act, 1974, prisoners have the right to send unopened correspondence to the Ombudsman. This is a major concession since, in all other communications, complaints about conditions are forbidden and may be censored or provide grounds for disciplinary action.

From 2nd April, 1975, to 30th June, 1976, the Ombudsman received 249 complaints, some of which he decided were outside his jurisdiction and could not be investigated. Of the 175 investigated, twenty were found to be justified. The Ombudsman noted that some complaints referred to acts or procedures in accordance with the Prison Rules or Regulations which, in some cases, have been altered "as a result of the complaint being made and brought to the Department's attention".

It was stated that Mr McGeechan's policy was "to see every complaint passed to (him) by the Ombudsman" and to handle personally any serious complaints. In fact, he handled only four. The Ombudsman's report indicates that twenty were justified. This seems to add point to prisoner evidence that many of their complaints never reached Mr McGeechan.

Adverse parole decisions are specifically outside the Ombudsman's jurisdiction, but he stated that he had been able to obtain useful information from the Parole Board and, again in some cases, had been able to help a complainant. Lack of informa-

According to the Department, the Ombudsman's vigilance to protect all prisoners' rights is unwarranted. In a remarkably prejudiced statement, the Department said:

"In New South Wales, oversight of prisoners' rights is vigilantly exercised by the Ombudsman, to the extent, in fact, that a large proportion of the working time of many senior departmental officers is taken up in the investigation of prisoners' complaints referred by the Ombudsman for comment. Most of the complaints are trivial, many are untrue and some are clearly made with malice. There is no provision for any action against those responsible for untrue and/ or malicious statements, nor are they in any way held accountable for the very considerable costs they impose on the taxation resources of the community."

Leading administrators in other States, however, say that, while time may be taken up in investigating complaints, they have the effect of keeping departmental officers on their toes and helped to ensure compliance with prison rules and regulations.

The Department's attitude in this context is not compatible with its duty to oversee the prisoners' interests. Access to the Ombudsman, or to the Special Prison Ombudsman recommended by the Commission, provides and will provide a good opportunity to release tension in the gaols. The Department's attitude unwisely seeks to avoid the benefits of that opportunity.

One prisoner summed up his fellow prisoners' attitude to the Ombudsman:

"When the Ombudsman first started, they were full of high hopes and they wrote to him in droves and I wrote to him myself, but the Ombudsman's powers, as you know, are fairly limited and most of them wrote to him about the Parole Department and he cannot do that. But I think that the Ombudsman has not had much influence in gaols, or very little."

If our prisons are to be properly run and they are not to be necessarily rigorous or unfairly oppressive, a system must be introduced, firstly, to deal with the individual complaints of prisoners and to see that they are examined justly, and, secondly, to make the community aware of what is happening in its prisons. As Edmund Burke remarked: "Where mystery begins, justice ends."

It is not only necessary to handle complaints speedily and justly, but also with every appearance of justice. Indeed, it has been said that "the way in which a grievance is processed is more important to inmates than the substance of the responses".<sup>6</sup>

Some more serious complaints can be dealt with by the courts but the procedures of litigation are slow and expensive, and it is generally difficult for prisoners to have ready access to the courts. The Court of Criminal Appeal decided recently that there is an appeal to a Judge of the District Court from a decision of a Visiting Justice. In some cases, such an appeal will provide an effective opportunity for prisoners to ventilate their grievances in open court. However, many grievances will remain which cannot be dealt with in that way.

The Commission's view is that some independent person should be appointed to hear and, where possible, resolve prisoners' complaints and grievances. He should not be drawn from the Department or the Magistracy because of the suspicion prisoners usually have of such officers.

The Commission also strongly believes that the State Ombudsman should not have the responsibility of handling prisoners' complaints. This conclusion is not meant to imply criticism of the present Ombudsman or his office. It is based on the considerations already mentioned. The Ombudsman, even though assisted by a Deputy, has not the time to deal speedily and efficiently with all prisoner complaints and grievances.

A prisoner is much more likely to be satisfied by a personal investigation of his complaint. It is not sufficient that the investigator should simply write to the Department calling for a report and then send the prisoner a written account of the Department's reply and whatever action the Ombudsman proposes to take.

Personal contact between the investigator or a member of his staff and the prisoner is vital in any effective method of handling grievances.

It is recommended that a Special Prison Ombudsman be established by Statute. He should be selected by and be responsible directly to Parliament to which he should report at least once a year. The Office should have appropriate staff and be allotted its own budget. Suggested terms of reference are similar to those of the New Zealand Ombudsman. So far as prisons are concerned these are somewhat wider than those of his New South Wales counterpart. The enlarged jurisdiction is necessary to cover the special needs of prisons.

He should have full powers of investigation into the Department of Corrective Services in respect of decisions, acts or omissions which:

- (a) appear to have been contrary to law;
- (b) are unreasonable, unjust, oppressive, or improperly discriminatory or are in accordance with a rule of law or a provision of any enactment or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory; or
- (c) were based wholly or partly on a mistake of law or fact; or (d) were wrong.

Where the Ombudsman's findings reveal that any act or acts can be categorized as any or all of (a) to (d), he should make recommendations to the Department of Corrective Services and/ or the Public Service Board. The recommendations can be ignored only if those bodies have a special written dispensation from the Minister to do so. If the Department or the Public Service Board, with or without the dispensation of the Minister, fails to act on the Special Prison Ombudsman's recommendations, then the Ombudsman may request the Minister to make public both the recommendations and the reasons why they have not been implemented. The Minister should table this information in Parliament within fourteen days of the request or as soon thereafter

as the House is in session.

It should be possible for complaints to be made to the Ombudsman by any prisoner, prison officer, servant or agent of the Department or any private citizen. A number of the witnesses who gave evidence before this Commission could, should and probably would have made use of this avenue had it then been available.

Prisoners' complaints, as with their complaints to the present Ombudsman, must be sent unopened by any officer or other servant of the Department.  
Prisoners' Union

It has been suggested that prisoners should be entitled to form their own union and that this would provide yet another way of ventilating their grievances.

The *Commission* feels the development of unions rather than diminishing hostility between staff and inmates would probably increase it. *The hostility* is to a large extent because of the conflicting interests and aims of the two sides.

Traditionally, staff and inmates evaluate each other on the basis of prisoner-guard stereotypes, which reinforces the social distance and tensions between them. Such a counter-productive process can be broken down only by involving prisoners and staff in co-operative ventures which would provide a more realistic basis for mutual assessment.

The idea of prisoners joining together in an industrial union has been developed to an extraordinary extent in Sweden, but the circumstances there are far different to those in New South Wales. It is doubtful whether other unions, The Australian Council of Trade Unions, or the community in general would accept such a development.

#### Public Bodies

The Commission hopes that public-spirited people will, in future, develop a growing interest in prisons. Groups such as the Salvation Army and the St Vincent de Paul Society are already engaged in assisting in prisons. The Commission recognizes the advantages of this and would encourage full access to prisons. The interests of these bodies, however, should not be confined to prisoners. The public should be concerned with the welfare of prison officers. They are serving the public in the name of justice, but are too often accorded low status by inmates and the public alike. Visiting committees of public bodies should be encouraged. Visiting committees should comprise small groups of, say, six to ten people representing a wide range of community interests. They should be granted full access to prisons, but should avoid interfering in the day to day running of the prison.

This Chapter so far has dealt mainly with prisoner's grievances- in general complaints by prisoners against the administration. There is, however, another fundamental area that needs to be discussed-the rights of prisoners as citizens and individuals.

Until comparatively recently, prisoners in most countries, including Australia, were considered to have lost their rights by reason of the commission of their crime. It was traditional under English common law, for instance, for anyone convicted of a felony to forfeit his lands and to be deprived of all legal rights.

There are remnants of this attitude to this day in New South Wales.

Throughout the prison systems of the world, however, the position has been changing. Most Anglo-Saxon countries now accept the definition of principle expressed in the U.S. Federal case of *Coffin v. Reichard* in 1944: "A prisoner retains all the rights of an ordinary citizen except those expressly, or by necessary implication, taken from him by law."?

More recently, another U.S. Federal Court declared: "Only a compelling state interest centering about prison security or a clear and present danger of a breach of prison discipline, or some substantial interference with orderly institutional administration can justify curtailment of a prisoner's constitutional rights.?"

In Europe, too, there have been concrete moves to protect the basic rights of prisoners as individuals. The Committee of Ministers of the Council of Europe twenty years ago adopted a resolution laying down the principle that the mere fact of detention should not result in a prisoner, whether untried or convicted, being denied the rights he would enjoy if he were free." The resolution adds that the exercise of such rights may be limited by law or by prison rules "if it is incompatible with the purpose of imprisonment or the maintenance of the order and security of the prison". The principle does not apply in cases where full or partial forfeiture of such rights forms part of a convicted prisoner's sentence. The resolution regulates the exercise by prisoners of their electoral rights, their civil rights-particularly with regard to marriage and the administration of property-their right to social benefits, especially retirement pensions, and their right to bring legal proceedings and correspond with people or bodies responsible for defending their interests.

The Commission agrees with the statement of principle expressed in that resolution.

Prisoners are prevented by Statute from voting in both Federal and State elections if their sentences are for one year or more. Those who retain their right to vote nevertheless have experienced difficulties in exercising that right. Mr McGeechan described the reason for the Department's refusal to permit prisoners to vote at the last State election as "an industrial demarcation problem".

The (State) Parliamentary Electorates and Elections Act has recently been amended to permit prisoners to vote at State elections by means of a postal vote. Representations should be made to the Commonwealth to permit a similar postal vote in Federal elections.

Prisoners' "place of living" should be regarded as the electorate where they were enrolled before conviction.

A citizen's right to vote should depend only on his ability to make a rational choice. Loss of voting rights is an archaic leftover from the concepts of "attainder" and "civiliter mortuus" and has no place within a penal system whose reform policies aim to encourage the prisoner's identification with, rather than his alienation from, the community at large. All prisoners should be entitled to vote at State and Federal elections. Necessary facilities should be provided for them to exercise their franchise.

In New South Wales, a prisoner serving sentence for a felony suffers a more serious loss of legal rights than does a prisoner sentenced for a misdemeanour. Statutory distinction between felonies and misdemeanours was abolished in England in 1948, but it is preserved in N.S.W. law as part of English common law.

The N.S.W. Court of Appeal recently upheld the defence in common law that a convicted felon is not able to sustain a civil suit while under sentence.!? This is presently under appeal to the High Court. However, there seems no reason to suppose that a convicted felon could not institute criminal proceedings.

Those imprisoned for misdemeanours are legally entitled to initiate both civil and criminal proceedings, although access to legal advice, and hence to the courts, is controlled by the Prison Regulations and is at the discretion of the Superintendent.

The distinction between felony and misdemeanour is archaic and should be abolished. Prisoners should be given full access to lawyers and the courts.

Deprivation of rights does not necessarily cease when the prisoner has served his sentence. Despite a recently re-enacted (State) Jury Act, some former prisoners are still prevented from serving on juries. The Commission's view is that they should be permitted to do so, with the right to be excused if they feel embarrassment in serving.

Access to his record is also prejudicial to a former prisoner's chances of employment and disqualifies him absolutely from some occupations. For example, Police Regulations provide that no one who has been convicted of a felony can be appointed as a constable.

In fact, the prisoner's effective sentence continues for a long while after his release.

The question of how long a person's criminal record should be retained or used has been canvassed in Australia and overseas for many years.

A committee appointed by the Australian Crime Prevention Council to report on the U.K. Rehabilitation of Offenders Act 1974, supported the principle of expunging criminal records after an appropriate passage of time. The Mitchell Report! also supported this principle, while recognizing the need for criminal records in sentencing, crime research and consideration for conviction-related occupations.

Since most recidivists are convicted in the first two to five years after their release, a five-year period would seem to be an adequate guide to their rehabilitation.

A statutory period should be established which should be graduated from a minimum of two years to a maximum of seven years, based on the gravity of the last conviction and unexpired previous convictions. If that period, measured from the completion of the sentences, lapses without further conviction, then the record of the last conviction should be destroyed. There should be an exception made for police records and records kept for statistical and research purposes.

At all times, the release of criminal records should be controlled and their release to unauthorized persons forbidden.

The Government should lead the way in offering employment opportunities to former prisoners. Once a sentence has been served, a prisoner has supposedly discharged his debt to society and discrimination against him will seriously inhibit the progress of his reintegration into society. As one U.S. report on this subject says:

"... the very existence of governmental sanction ... may produce, encourage or buttress negative private actions."P

All statutory prohibitions against the employment of former prisoners should be repealed.

Access to the courts would appear to be one way of ensuring the preservation of the rights of prisoners, as indeed it is to ordinary citizens. Traditionally, however, interference by the courts in prison administration has been thought undesirable because of the special demands and restrictions necessary in prison life. Some American writers have called this the "hands off policy".

In 1949, Sir Owen Dixon stated:

". . . if prisoners could resort to legal remedies to enforce gaol regulations responsibility for the discipline and control of prisoners in gaol would be in some measure transferred to the courts administering justice . . . it would result in applications to the courts by prisoners for legal remedies addressed either to the Crown or to the gaolers in whose custody they remain. Such a construction of the regulation-making power was plainly never intended by the legislature and should be avoided."<sup>13</sup>

In 1972, Mr Maddison, then Minister of Justice in New South Wales, warned against applying usual legal standards to prison disciplinary proceedings. He wrote:

"The setting up of juridical processes mirroring those which prevail in the courts, or giving access or recourse to the courts as of right, would create a monster which would undoubtedly destroy any system of correction as presently structured.v-+

Comment has already been made on the unsatisfactory nature of the courts for the resolution of all prisoners' problems. However, there are occasions when courts provide the most effective venue for a prisoner to protect his rights. This may involve approaching the Courts for such remedies as Habeas Corpus or for declaratory relief. But prisoners must be able to initiate proper procedures speedily and in the length of time provided by the law.

This right should be embodied in the N.S.W. Prison Regulations. Provision also should be made for proper legal aid and to ensure proper access to legal advisers.

In the United States, because of the constitutional guarantees, the courts have been used much more frequently by prisoners than in this country or in England. This has not always worked to the advantage of prisoners.

Of recent years, the United Kingdom Government by ratifying the European Convention for the Protection of Human Rights and Fundamental Freedoms has, notwithstanding the absence of an English Bill of Rights, to some extent equated its position to that of the United States.

The case of Sydney Golder, a long-term prisoner in a British prison, petitioning the Council of Europe claiming a violation by the United Kingdom of the articles of the Convention, demonstrated the possibility of access to a tribunal independent of the English courts entitled to pass judgment on the workings of the English criminal justice system.

Australia is not a member of any Convention of this nature. However, it might well be influenced by the moral persuasion of the United Nations Standard Minimum Rules for the Treatment of Prisoners adopted by resolution of the first U.N. Congress on the Prevention of Crime and Treatment of Offenders on 30th August, 1955.

The Rules attempt to specify the minimal acceptable conditions of imprisonment. Nor was it envisaged that they would be universally applicable in all details or that prison administrators should not experiment with new practices in harmony with their basic principles. The Rules attempt to specify the minimal acceptable conditions of imprisonment.

Australia, with many other member States of the United Nations has not ratified the Rules, although obviously is under a moral obligation to see that they are applied.

The Rules have been under periodic review at meetings of the United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Before the fifth Congress, held in Canada in 1975, the N.S.W. Department of Corrective Services was responsible for reporting to the Congress as follows:

"The principles contained in the Standard Minimum Rules are carried out in their entirety. The administration ... is fully aware of these Rules and it has been the practice to adopt and employ the spirit of the Rules consistent with the requirements of security and safety of prisoners and prison officers."

In reply to the Commission's request for a report on whether it is bound by the Standard Minimum Rules, the Department said:

"The Rules are not the subject of a convention nor are they regarded as a declaration of the United Nations General Assembly."

It added that it took the view "that in philosophic terms, the Minimum Rules embody standards which are appropriate and which should be observed", even though some standards "outstrip the resources available to the Department and preclude their literal adoption ..."

It was a gross misrepresentation of the Department to report that it was carrying out the Rules "in their entirety". The Department's misrepresentation of information which it knew would be conveyed to a United Nations body deserves censure, but the Commission agrees with the latest statement of the Department "that the Minimum Rules embody standards which are appropriate and which should be observed."

#### References

- 1 Sir Leon Radzinowicz and Joan King: "The Growth of Crime", *op. cit.*; at pp. 283- 284, 1977.
- 2 Report to Parliament by the Sub-Committee on the Penitentiary System in Canada (Minister of Supply and Services, Canada) 1977, at p. 97.
- 3 The Official Report of the New York State Special Commission on Attica, New York, Praeger, 1972.
- 4 "The Growth of Crime", *op. cit.*, at p. 287.
- 5 J. M. Keating: "Grievance Mechanisms in Correctional Institutions", *et al*, U.S. Department of Justice, 1975, at pp. 14-15. 6  
*Ibid*, at p. 15.
- 7 *Coffin v. Reichard*, 325 U.S. 887 (1945).
- 8 *Fortune Society v. McGinny*, 319 F. Supp. 901.
- 9 "Council of Europe Activities in the Field of Crime Problems", European Committee on Crime Problems, Strasbourg, 1977, at p. 46.
- 10 *Dugan v. Mirror Newspapers Ltd*, Court of Appeal No. 178, 9th August, 1977. The prisoner had filed suit for defamation in a newspaper article. An appeal to the High Court has been heard, but judgment has not yet been delivered.
- 11 First Report on "Sentencing and Corrections", Criminal Law and Penal Methods Reform Committee of South Australia, July, 1973.
- 12 Report on "Corrections" by the National Advisory Commission on Criminal Justice Standards and Goals, 1973, at p. 47.
- 13 *Flynn v. The King* (1949) 79 C.L.R., at p. 8 per Dixon *I*.
- 14 Australian and New Zealand Journal of Criminology, March, 1972, vol. 5, No.1, p. 13.





## WOMEN PRISONERS

### CHAPTER 27

Many of the complaints and problems of women prisoners are similar to those of men. These are not dealt with specifically in this Chapter. However, some aspects of prison life are peculiar to women and this Chapter is more particularly concerned with those.

The number of women in New South Wales prisons proportionate to men is not great. The Department's 1975-76 Annual Report said that there were eighty-one women prisoners in custody. In his evidence, Mr McGeehan said that on 22nd April, 1976, 102 women were held by the Department. They were in these classifications:

8 8 12 66 4

4  
102

He said that, although the number of women coming into custody was not increasing, he expected an increase in the number of women prisoners held because of the longer sentences they were now receiving.

In September, 1969, women prisoners were moved from the Malabar complex to Mulawa Training and Detention Centre at Silverwater. This was the only New South Wales prison in which women prisoners were confined until a move was made to transfer some women to Cessnock in the middle of 1976. The optimum population for Mulawa is 90.

Women in prison create problems for the administration for a number of reasons. There are fewer of them and, generally, it is accepted that they do not react to prison in the same way as men. A greater proportion have psychiatric disorders and their medical needs are different from those of men. Generally, women prisoners are of medium to minimum security, but there are some who would properly be rated as maximum security. The resulting difficulties of administration are obvious. The provision of medical services to women is of more than ordinary importance.

The 1974-75 Annual Report, referring to Mulawa, stated:

"The hospital in the women's section is staffed by nursing sisters. A male nurse has been appointed to the senior nursing position. A consultant gynaecologist attends the women's section for one session a week."

A prisoner's thoughts on the walls of a cell at Mulawa women's prison

In the following year's report, the claim is repeated that comprehensive medical, psychiatric and dental care continued and that the consultant gynaecologist was attending the women regularly. The gravest doubts must be entertained about the accuracy of these statements. It is probable that a more accurate assessment can be made of the adequacy of the medical care provided to the inmates at Mulawa by the fact that in 1976 the custodial staff at Mulawa saw fit to initiate industrial action, complaining of the inadequacy of medical services available for the prisoners.

The main complaint of the custodial officers was that there was no nurse on duty and available to prisoners twenty-four hours a day and, in particular, from midnight to 8 a.m. The industrial dispute between the custodial officers and the Department was settled, but no improvement has since been made. The lack of nursing facilities still remains.

As in other prisons, the responsibility for medical services at Mulawa lies with the Health Commission. The nursing staff is recruited by the Public Service Board. The Superintendent of the Prison Medical Service, who has responsibility for all prison medical services, is an officer of the Health Commission.

With respect to Mulawa-although the argument was used for medical services in all prisons-the Department's counsel suggested that because the medical staff and medical care was provided by the Health Commission, the Department bore no responsibility. This submission cannot be accepted. No matter who provides the medical care, it is clearly the duty of the Department not only to see that care is provided, but also that it is proper care.

There is no direct supervision-or, at the least, only inadequate supervision-of the medical staff at Mulawa by the Superintendent of the Prison Medical Service, Dr Houston.

An example is provided by outside attempts to remedy the recent shortage of nurses at Mulawa. The Department saw fit, without referring the question to Dr Houston, to reject an offer of voluntary nursing help. There may have been reasons for this refusal by the Department, but one would think it would have been in a better position to make such a decision had it at least sought the opinion and advice of Dr Houston. The lady who had volunteered this help was never informed of the reason for her exclusion from the prison. It now appears that it was as a result of complaints by two inmates with psychiatric problems. They alleged that she had been gathering information from them to present to the Royal Commission.

It became obvious, as the Commission hearings progressed, that the medical services for women at Mulawa were inadequate and the reference to the contrary in the Department's Annual Reports could not be accepted. This inadequacy was highlighted in a number of respects: lack of routine ante-natal care and gynaecological services, lack of treatment for psychiatrically disturbed prisoners, lack of routine medical care and the extensive over-use of tranquillizers.

The lack of routine ante-natal and gynaecological services was frequently mentioned. The nurse in charge at Mulawa was a man and none of the nursing staff had midwifery certificates. For as long as six months in 1976, no ante-natal care was available for pregnant prisoners, and no alternative arrangements for such vital care

appear to have been made. Criticisms and complaints from the inmates caused Dr Houston to direct the male nurse not to perform internal examinations of women prisoners. Dr Houston found it necessary to instruct the senior charge nurse (the male nurse):

"It is expected that nursing staff treat patients-prisoners with dignity and respect. Tolerance and understanding should be shown. A flexible rather than a rigid authoritarian attitude should be adopted."

Apparently, complaints about the attitudes of the nursing staff towards women prisoners go as far back as 1966. In that year, a petition by a fairly large number of prisoners made a similar complaint. The position has not been helped by the history of bad relations between custodial and nursing staff.

Apart from the lack of proper ante-natal care and supervision during pregnancy, important supplementary nutritional needs were not supplied to pregnant prisoners.

The 1975-76 Annual Report mentions that a unit at Mulawa to accommodate expectant mothers and babies had been completed, but that there had been a decrease in demand for its use. The Department had decided to use the new area for sick prisoners. The report added that this would allow existing hospital accommodation to be used to treat prisoners who were seriously psychiatrically disturbed. This is surprising because of the lack of skilled medical services and a shortage of nurses still remained.

*One might ask why disturbed psychiatric patients were sent to Mulawa in the first place. Their presence would have a bad effect on other inmates and be disruptive to the institution. Incarceration without psychiatric assistance is unlikely to help such a prisoner's condition. Badly disturbed psychiatric inmates were confined in the "pound" cells in the most appalling conditions. They were given no nursing or psychiatric care, but were merely heavily sedated.*

This practice of over-sedating disturbed inmates was part of a general tendency to be over-free in the use of sedatives. Evidence showed that a high percentage of inmates at Mulawa were being treated with some sort of tranquillizing medication. The Medical Superintendent conceded that a shortage of staff, because of time taken up on other duties, led doctors to prescribe sedation unnecessarily, in lieu of providing counselling services which were more appropriate. The following questions and answers were taken from Dr Houston's evidence:

"Q. Do you think there was a tendency to-let's take Mulawa-prescribe unneeded drugs as a means of getting a problem out of the way by quietening a prisoner down?--Yes.

And that may be legitimate in some cases, I suggest, but is it overdone, in your view?--I feel that it is, yes.

Is that true of the prison system generally, or only Mulawa?--No. the prison system generally."

A Departmental census taken in 1974 showed that 14.6 per cent of women were in prison for social offences: drunkenness, drug offences, vagrancy and prostitution. The Government is considering the decriminalization of these offences. The prevailing view is that these people are not criminals in the accepted sense and should not be in prisons. No detoxification treatment was provided for drug offenders, nor was there any continuing treatment programme for those who were addicts.

The nursing staff at Mulawa was shown to be incompetent. One male nurse who was criticized is no longer at Mulawa but is still employed by the Department. There was difficulty in getting medical attention within a reasonable time. This depended on a decision by a member of the custodial staff, and long delays occurred before people with psychiatric histories, obviously ill, received treatment.

There were frequent failures to provide routine follow-up or operative treatment.

In one case, a girl who complained of lumps in the breast was not referred for further investigation. In another case, a patient with septicaemia was left untreated until, as a result of the custodial staff's insistence, she received hospital treatment. There was a failure by the medical staff to diagnose an ectopic pregnancy.

Although the Public Service Board, in fixing staff ceilings, intended to provide a twenty-four hour nursing coverage, there is no nurse on duty after midnight. Sometimes there is no nurse on duty after 8 p.m. The trouble is caused because prisoners are generally locked up about 5 p.m. and after that they cannot be seen by the nurse on duty unless the senior custodial officer on duty is "knocked up" to unlock the area where the prisoner is.

The general routine medical examination of women prisoners entering Mulawa leaves a lot to be desired. It is essential that a proper medical examination be made of women prisoners upon reception. If, as sometimes has happened at Mulawa, it is discovered on or before reception that the prisoner is psychiatrically disturbed, then she should not be taken into Mulawa or any other women's prison, but should be immediately transferred to a psychiatric centre. The Health Commission maintains that admissions for any such patient could be organized within twenty-four hours of their being notified, provided all necessary documents were completed. This formality has, at times, prevented transfers. The delay in completing the documents is due to the lax administration of the Department.

The accommodation at Mulawa largely consists of dormitories. Cellular accommodation is available to those in the secured section (Reiby House), to psychiatric patients and female prisoners undergoing "pound". Most prisoners are in the dormitories and the main complaint about this accommodation is the lack of privacy.

A departmental publication, "The Social Atmosphere of the Women's Prison", refers to the adverse psychiatric effects of imprisonment on women-tension, bitterness and aggressiveness. The lack of privacy contributes to this. It is not surprising that another complaint from the inmates is the inability to study or to be on their own. The only alternative to dormitory living is cellular accommodation. There are undoubted difficulties confronting the Department in attempting to comply with the statutory provision requiring individual cellular accommodation where practicable, when the existing facilities have originally been constructed for other purposes. However, attempts should be made now to do so.

The dormitory set-up also contributes to the difficulty of supervision, and this has led to actual and threatened industrial action. In his initial statement, Mr McGeechan described Mulawa as a "secured establishment". When asked why Mulawa was a secured prison, he replied: "... in the sense that it is a custodial model, with various overlays of other experts placed on it to try to get the best result". When the subject was next broached, he said "... it is a very nebulous term am at a loss to describe Mulawa. I think it is probably a variable programme rather than a security programme." He continued:

"It is described, however, as a secured institution-it is a secured institution, in the sense that it is fenced and controlled and the inmates there are treated as if they were in a secured institution."

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Obviously, all inmates at Mulawa are not of such a classification as to justify their imprisonment in a secured establishment, but the fact is that they are so imprisoned. No attempt has ever been made by the Department to correct this anomalous situation.

The Fairlee Women's Prison, Melbourne, is a very old institution, much older than Mulawa. It had the same problem of accommodating together inmates of varying categories of security. The problem has been met there by providing different forms of accommodation within the one institution. Recently, flats have been built in which small groups of inmates are allowed to live and cook their own meals. There is no obvious reason why this could not be tried at Mulawa.

Soon after the Commission started, some women were moved from Mulawa to Cessnock. One reason for this hurried move might have been to transfer women prisoners of a lesser security risk. Mr McGeechan said this was not so, although it was not quite clear what was the criterion in choosing women prisoners to be moved to the new establishment.

The cells used as the "pound" or punishment cells at Mulawa are as bad, if not worse, than those in many New South Wales prisons. Prison Officer Kennedy described them as "very primitive". The Commission saw these cells when inspecting Mulawa and agrees. The cells, as well as being used for punishment, accommodate seriously disturbed psychiatric patients. During the day, all bedding is removed from the cells; only a mat is left.

Two examples of the lack of ante-natal care were that of a woman who was in her eighth month of pregnancy and who had attended the ante-natal clinic only twice and a woman who was four months' pregnant before it was confirmed. Inseparable from the imprisonment of women is the problem created by the birth of children. The present rule is that they must surrender these babies when they are twelve months old.

No criticism is implied against departmental officers, but the rule has been rigidly enforced in the past. Some discretion should be allowed. The Commission was told of one case where, although the mother was to be released within a month or two of the expiry of the twelve months' period, her baby was taken from her precisely at the end of that time. Mothers should also be permitted to have longer visits from their infant children.

For many reasons, it is difficult to establish satisfactory educational and recreational classes in women's prisons. The few women involved alone prevent this. Despite this obvious reason, the Department, in evidence and in its publications, makes the usual claims to perfection for the procedures at Mulawa. Apart from the difficulty caused by numbers, there are other real difficulties in initiating a proper educational programme for women. About half the prisoners are serving sentences too short to allow them to benefit from educational classes. Women prisoners also have varying classifications and sometimes, as at present, those with the higher security classifications are the most intelligent and most anxious to attain educational qualifications at institutions outside the prison. An additional reason is that the nearby Parramatta Linen Service draws part of its work force from there.

It is understandable that women prisoners wish to take advantage of the money that can be earned at Parramatta Linen Service but it does make it more difficult for the rest to be given real education or vocational training at Mulawa. At Parramatta Linen Service they work six days a week, which leaves little time to attend classes even if they choose to.

There is no organized sport and little opportunity for Mulawa prisoners to have any physical exercise. One gains the impression that prisoners spend most of their spare time watching television. There has been some attempt to introduce sport, but this was limited to soft ball. The women prisoners have fewer facilities than men.

According to Mr Barrier, the Assistant Commissioner responsible for Mulawa, recreational activities vary periodically. Trampoline, carpet bowls and volley ball were introduced but did not get a great response. The reason may well have been the unenthusiastic approach of the prisoners themselves. Despite this, it is hard to understand why permission was refused for yoga lessons.

Many of the prisoners at Mulawa complained that the food was almost inedible. Their evidence was corroborated by prison officers who said the food was frequently cold and that it was not up to a reasonable standard. It also deteriorated because it was brought in already cooked from Rydalmere Hospital, some miles away. Young women prisoners with obviously different dietary requirements are getting the same food as psychiatric patients at Rydalmere Hospital.

While acknowledging some of these complaints and criticisms of the food, Mr Barrier at first suggested that the reason for not using the fully equipped and operating kitchen at the Silverwater complex adjacent to Mulawa, was the cost. Mr Barrier later agreed that a change in the cooking arrangements, so that the Mulawa inmates could use the kitchen at Cadman House, Silverwater complex, had been under consideration since August, 1976. The matter is still being discussed.

At Cessnock, there has been some mixing of men and women prisoners. They have debated together in the general activities building, and several women attend the same church services as the men. One woman attends a class in remedial mathematics with male prisoners one evening a week.

Mr Day, the Director of Cessnock, hopes ultimately to introduce mixed dining, but says that this must be delayed for some time as the staff needs to become accustomed to this idea. One wonders why some attempt has not been made at Mulawa to follow this enlightened approach, with some mixing of the sexes in social and sporting activities between the inmates of Mulawa and the adjacent Silverwater complex. If it can be done successfully at Cessnock, it is difficult to see why it could not be done at the Silverwater Complex.

Work Release I and II programmes were not available to women prisoners until, towards the end of the Commission's sittings, two women were placed on Work Release II. The courts are not able to use the Periodic Detention Act for women prisoners, as there is no facility to which they can be committed. When questioned about this, Mr McGeechan could only give a series of most unsatisfactory explanations -the one most likely to be correct appears to be that women just had to wait their turn behind programmes for men. There can be no excuse for the Department not immediately correcting this discriminatory attitude.

Reference has been made to the difficulty of finding the exact reasons behind, and the guidelines set by the Department for, the transfer of women from Mulawa to Cessnock. It could be hoped that the move, no matter what the reasons, would result in hastening individual accommodation for women prisoners. One claim made by the Department was that Cessnock represented an improved situation for women. However, work was limited and the educational courses available were no better than at Mulawa. Medical services were equally inadequate. The only readily apparent advantages were that women were permitted to wear their own underwear, some



limited form of jewellery and were able to have cosmetics sent in to them. Twenty-four women are employed at Cessnock-of these, three are in the officers' cafeteria, three to four on cleaning duties, four making bibs for geriatric patients at a nearby hospital, eight on cleaning duties and laundry, and three in the hospital. Twelve women have replaced men formerly employed in some of these jobs.

This still leaves many without jobs. The Department suggests that these unemployed women should take a stenography course. This suggestion appears to be impractical; it does not consider the educational qualifications and training of the women who go into prison.

Mr McGeechan and three of his senior officers-Mr Lindsay, Mr Sanders and Mr Blomfield-were all highly critical of the way Mulawa was being and had been run. There can be no cause to doubt the accuracy of Mr Lindsay's report that management in general at Mulawa had become a "schemozzle". It is regrettable that no one ever seems to have done anything about it.

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## MINORITY GROUPS

### Aborigines

At 1 Oth June, 1976, there were 3669 prisoners in New South Wales gaols. Of these, 254 were of aboriginal descent. These aboriginal prisoners were held in gaols of varying degrees of security-about 60 per cent were in secured establishments, about 18 per cent were in variable establishments, and about 20 per cent were in open establishments. Less than half of one per cent were in periodic detention, with .8 per cent in one of the Work Release programmes.

These proportions did not completely mirror the proportions of non-aborigines in custody in varying security. The most notable variation was that although some 20 per cent of prisoners of aboriginal descent were in open institutions, only 13 per cent of non-aborigines were in such security. For statistical purposes, the practice of the Department is to apply the phrase "of aboriginal descent" somewhat loosely.

Almost one quarter of aboriginal prisoners were serving sentences of less than twelve months and of these the great majority were serving sentences of less than six months.

The Department has aimed to integrate aboriginal prisoners with non-aboriginal inmates. However, it seems that the aborigines themselves prefer to be segregated, as observed by the Commission when it visited various New South Wales prisons.

There are no special programmes for aborigines, although at one stage it was suggested that a Training Centre should be established at Berrima for aboriginal prisoners "for precise and specific education, including aboriginal culture and law." For reasons which the Commission would not criticize, the decision was taken not to go ahead with the proposal.

Little oral evidence was given before the Commission by aboriginal prisoners, but a helpful and interesting submission was made by the New South Wales Aboriginal Legal Service. The main thrust of this submission was to emphasize the real difficulty aborigines in prison had of communicating, not only with the prison officers, but with representatives of services which could assist them during their imprisonment. The submission says that:

" ... there can be real communication only to another aborigine or through the mediation of another aborigine."

The difficulty of communication could be overcome by judicious use of the aboriginal Field Officers in the Legal Service. There can be no doubt that many aborigines committed to prison are able to assimilate with white prisoners, but there are also many who are bewildered by their experience and are gravely handicapped by their inability to communicate. The Commission has little doubt that better communication would solve many of the difficulties to which reference has been made. The inability to communicate effectively does not only relate to fellow inmates, but more importantly, Departmental Officers, Visiting Justices, medical officers, the officers of the Probation and Parole Service, social workers and legal representatives.

Mr McGeechan took tentative steps to try to correct the position by appointing two "visitors" to assist aborigines. He said that he would be prepared to "extend the concept". Once again, resistance from "custodial areas, Superintendents and deputy Superintendents" is spoken of.

The Commission believes that the rather hesitant use of the two "visitors" should be expanded. The obvious personnel for this role are those suggested in the submission of the Aboriginal Legal Service-namely their Field Officers. Provision should be made for Field Officers from the Legal Service to be given the right to visit particular prisons at all reasonable times for the express purpose of visiting aboriginal inmates. The visits should be conducted on the same basis as a legal visit.

This should assist aboriginal prisoners to gain full knowledge of the procedures and practices of the Department and of the institutions in which they are imprisoned. Where necessary, the aboriginal inmate's rights (for example, in disciplinary hearings, rights of appeal and after care) should be explained to him by one of his own race. Security should be the only limitation on the right of the nominated field officer to visit the establishment.

It is not practical for a Field Officer of the Service to attend every gaol for all receptions so that the rules of the institution can be explained clearly to the incoming aboriginal prisoner. In many cases, the explanation may not be necessary. If this is not so and there is no Field Officer of the Aboriginal Legal Service present or likely to be at the gaol for some time, the Reception Officer should be particularly alert to ensure that the prisoner understands the practices and procedures of the institution.

Undoubtedly, there are instances of discrimination against aborigines in institutions. Indeed, Mr McGeechan spoke of particular cases which occurred in the Garment Room at Goulburn, but it would seem that the situation is the same as in the community. Improvement in community attitudes will, in due course, be reflected in the practices in prisons.

#### Non-English Speaking Prisoners

The proportion of prisoners from non-English speaking countries in New South Wales gaols has been assessed at 10.5 per cent which would represent some 350 people, although the number of prisoners who have almost no knowledge of English is not great. A former Chief Superintendent of the Malabar Complex, Mr J. E. Nash, was unable to estimate the percentage but he stated that it was "very minute". Other material before the Commission would seem to suggest that, although not great, the number was larger than Mr Nash had suggested. In any case, there are some inmates whose familiarity with English is inadequate for effective communication with prison authorities.

These prisoners are at a marked disadvantage. The prison authorities in the past have dealt with the problem in a way that has not always been entirely satisfactory. Mr Nash spoke of two informal ways of overcoming the language barrier. At times he was fortunately able to obtain the services of officers who were able to speak "quite a number of languages". Alternatively, he used fellow prisoners of the same nationality. He added that it was most unusual not to be able to find among the staff at a place as big as Malabar an officer able to speak the language of the prisoner concerned.

It would be more satisfactory to formalize the procedures rather than to continue operating in the ad hoc manner described by Mr Nash. It is essential that all prisoners who do not speak or understand English should be informed of their rights and responsibilities as soon as they enter a gaol. They should be told of the day-to-day procedures and practices of the prison, their rights to legal representation and appeal, parole policies and procedures, the Visiting Justice system, entitlements to visits, educational and recreational facilities available and the role of the Ombudsman. These are a few of the matters with which, in fairness, all prisoners should be acquainted.

Each prisoner, on reception, should receive an instruction card or pamphlet providing information on the prison, the procedures adopted and other necessary information. These are now issued only in English. The Commission considers that the cards or pamphlets should be published in languages appropriate to the expected proportion of inmates who might not understand English. In addition, a Reception Officer who has any reason to suspect that a non-English speaking prisoner cannot understand the instructions should arrange for an interpreter to instruct and inform the prisoner on all relevant matters.

It appears that, at least at the Malabar Complex of prisons where a significant number of non-English speaking migrants are held, no effort has been made to provide foreign language library books. This situation should be remedied. Non-English speaking migrants also suffer because, as the Regulations stand, they are not permitted to speak in their own tongue to visitors. Letters must also be written in English.

Unless security reasons clearly dictate to the contrary, inmates should be allowed to speak or write in any language they choose. This provision will be of less significance in view of the recommendations that, in general, visits should not be overheard or monitored by prison officers and that letters should not be censored. Every effort should be made during a non-English speaking prisoner's incarceration to provide instruction in basic English.

Many complaints are made by prisoners of foreign nationality, who may be subject to deportation orders, about the granting or refusal of parole. Some prisoners are under the misapprehension that the Parole Board's consideration of their case is predetermined by the decision of the Commonwealth Department of Immigration and Ethnic Affairs to deport them immediately on release. They believe that because there are no reciprocal parole supervision facilities with their native countries, the Parole Board automatically refuses to grant them parole. Confirmation of this impression is derived from the Parole Board's figures in its 1975 report. In 1973, 1974 and 1975, parole had been refused or deferred in sixteen, twenty-three and twenty-six cases because of the expressed reason "deportation to certain countries".

There can be no doubt that deportation is a matter for the Commonwealth authorities. The question the Parole Board has to determine is whether the time has arrived when a prisoner can, subject to conditions, be permitted to serve the remainder of his sentence in the community. This obviously can be a different issue to the one the Commonwealth authorities consider in determining the question of deportation. The reasons that might impel a Parole Board to refuse or defer parole may not be the same as those which would lead the Department of Immigration to decide to deport a person.

In *R. v. Riche* (unreported), 21st October, 1977, the Court of Criminal Appeal concluded that the prospect of an offender's deportation was not a reason for a Judge refusing to fix a non-parole period under the Parole of Prisoners Act. By inference, it would seem that the imposition of a non-parole period in such cases should be given some effect. If this is correct, it is irrelevant for the Parole Board merely to consider whether, in the event of the prisoner's release, the Department of Immigration might or might not deport the prisoner. Whether the above analysis is correct or not, the present position certainly does lead to many misunderstandings among prisoners and clarification is essential.



**CHAPTER 29**

**GOVERNOR'S PLEASURE PRISONERS**

The problem of what should be done with people who have committed criminal offences while mentally ill is not an easy one. Although small, when considered in the context of the wide Terms of Reference of this Commission, it is nevertheless an extremely delicate and sometimes emotive area.

This is illustrated by the case of Sandra Willson, recently released after many years in custody. She has passionately argued that there is no justification for keeping in custody people who committed a crime while mentally ill once they have recovered. On the other hand, it is equally strongly put that the public needs to be reassured that people who have committed serious crimes while under a mental disability are not released into the community while any danger of a repetition of the offence remains.

The position, or disposition, of people who commit crimes in New South Wales while under a mental disability is largely regulated, by the Mental Health Act, 1958. In any criminal trial where the jury is persuaded on a balance of probabilities that the accused committed the offence while mentally ill, a special finding of "not guilty on the ground of mental illness" is required. In that event, the trial Judge must order the accused to be kept in strict custody until what is termed the "Governor's Pleasure" is known. No further inquiry is made about their mental condition before the order is made.

In some cases, this can cause considerable hardship. In particular, the jury is called on to determine the accused's mental state only at the time the crime was committed. No recognition is given to the possibility that the accused might have recovered his or her sanity in the meantime. The case of Cynthia Butterworth illustrates this: Mrs Butterworth had assaulted her son while suffering from a depressive mental illness. She received treatment for a relatively short period after the offence, as a result of which she made a complete recovery and was allowed out on bail pending her trial.

By the time her case came on for trial, Mrs Butterworth had been at large for ten months, during which time she had remarried and had re-established contact with her son. The jury acquitted her outright of the two major offences with which she was charged, and acquitted her on the ground of mental illness of the relatively minor charge of inflicting grievous bodily harm. Although the psychiatric evidence at her trial overwhelmingly indicated that she had made a full recovery, and that any repetition of her offence was most unlikely, the trial Judge had no discretion but to order that she should be placed in strict custody at the Governor's Pleasure.

Although the trial Judge is given a discretion about the place and manner in which the person found not guilty on the ground of mental illness is to be held in such strict custody, invariably the order is committal to a penal institution.

After reception at the prison, the Governor's Pleasure prisoner (or Governor's Pleasure detainee, as he or she has recently become known following a purely cosmetic status change) undergoes psychiatric assessment. Mr McGeechan asserted that this happened "almost immediately" after reception (suggesting the same or the next day)



but the evidence disclosed that this certainly was not the case. Mrs Butterworth, whose circumstances have already been described, waited twenty-six days for an assessment notwithstanding the firm recommendation of the trial Judge that she receive an immediate psychiatric assessment.

The Mental Health Act requires Governor's Pleasure prisoners to remain in a penal institution until either transferred to a mental hospital or released into the community. They cannot, however, be transferred from a penal institution to a mental hospital unless certified as mentally ill by two medical practitioners.

A "mentally ill person" is defined by the Act as:

"A person who owing to mental illness requires care, treatment or control for his Own good or in the public interest, and is for the time being incapable of managing himself or his affairs."

This definition is very much more restrictive than that applied by the jury in determining whether the accused was not guilty on the ground of mental illness. The test which the jury applies is merely whether at the time the criminal act was committed the accused was labouring under such a defect of reason caused by disease of the mind as not to know the nature and quality of the act and that what was done was wrong (the "MacNaghten Rules").

As a consequence, many of those acquitted by the jury on the ground of mental *illness* are never admitted to a mental hospital. Of fifty-one Governor's Pleasure prisoners detained on the 16th December, 1976, only twenty-nine were in mental hospitals. Of the fifty-seven Governor's Pleasure prisoners released during 1966-76, only twenty-six had been admitted to a mental hospital at some stage of their detention.

Many Governor's Pleasure prisoners who urgently need psychiatric treatment, but who do not qualify for admission to a mental hospital, are thus deprived of the treatment they could otherwise have obtained as voluntary patients in such hospitals. The psychiatric treatment available in the penal institutions, such as it is, does not measure up to what those prisoners need and deserve.

One witness was acquitted of the murder of her infant daughter on the ground of mental illness. At the time of the offence, she had been subject to severe delusions and hallucinations, but these receded a short time later, after she had received medication. She expressed the desire to become a voluntary patient in a mental hospital, and the prison psychiatrist considered that she would be more appropriately placed there. Nevertheless, because she was not actively psychotic, she could not be certified and therefore could not be transferred from the prison to a mental hospital. She has thus remained in prison.

In another case, a psychiatrist outside the Prison Medical Service recommended that a Governor's Pleasure prisoner be admitted to a mental hospital. This recommendation was supported by the Life Sentence and Governor's Pleasure Review Committee and by the prisoner's parole officer. However, the prison psychiatrist refused to certify the prisoner and he has since remained in prison.

When a Governor's Pleasure prisoner is admitted to a mental hospital, there is an uneasy division of responsibility for his or her detention between the Health Commission and the Department of Corrective Services.

Although the placement and treatment of Governor's Pleasure prisoners in these mental hospitals is determined by the Principal Adviser of Mental Health, regular visits and examinations are conducted by a psychiatrist from the Prison Medical Service. After six months, the prisoner must be brought before the Mental Health Tribunal for a determination as to whether he or she should remain in a mental hospital. It is also the duty of the Superintendent of the mental hospital to examine the prisoner at regular intervals to determine whether he or she is still mentally ill, within the meaning of the Act.

Once the prisoner is found to be no longer mentally ill, there is no further justification for retention in a mental hospital, and the prisoner is either released or, more frequently, returned to prison. At this stage, the Health Commission no longer plays any further part in the management of the prisoner who becomes the sole responsibility of the Department of Corrective Services.

The offence most commonly leading to an acquittal on the ground of mental illness is murder, which constituted 77 of the 121 cases recorded in the Department's statistics. A further 33 people committed less extreme forms of physical assault, two of them combined with robbery; four further cases involved sexual offences, and there were seven property offences. Thus it can be seen that the large majority of offences committed by Governor's Pleasure prisoners are very serious, leading to fears of the corresponding seriousness of the consequences if Governor's Pleasure prisoners are released without adequate precautions and safeguards.

There are no rules for the guidance of those who must determine whether a Governor's Pleasure prisoner should be released into the community. One can assume, however, that the concept of dangerousness is the dominant factor considered when making such a decision. The prisoner having been acquitted of the offence, there is no justification for considerations of a retributive or deterrent nature.

The concept of dangerousness is a difficult one. Even in its broadest sense, it has different meanings. Some think that it should include only the risk of serious bodily injury to other people or serious property damage; others think that the risk of injuring oneself should also be considered. When an attempt is made to apply this concept to individual cases, it becomes so nebulous as to be little more than a subjective assessment of the likelihood of the prisoner returning to the community without serious consequences either to himself or to others.

Some attempts have been made by psychologists in the United States to apply a clinical approach to the measurement and prediction of dangerousness. As with more subjective approaches, this method has led to an over-prediction of dangerousness; of forty-nine patients who were released against the advice of a team using this approach, thirty-two had not committed any serious crime within five years after their release (H. L. Kozol, R. J. Boucher and R. F. Garofalo: "The Diagnosis and Treatment of Dangerousness", in *Crime and Delinquency*, October, 1972, pages 371-392).

This conservative approach has a necessary consequence in the detention of many to prevent the actions of a few. The approach adopted can be fully appreciated: The cost of releasing a person prematurely, or without adequate safeguards, can be devastating. On the other hand, there is a heavy cost, both financially and individually, in institutionalizing people because of some exaggerated fear that their release may lead to further offences.

In these circumstances, it is most desirable that the procedures for reviewing each prisoner's case should be placed into the hands of people with expertise in psychiatry and psychology, and that firm guidelines should be laid down to assist in the assessment of each case.

This is not so under the present system.

The decision to release Governor's Pleasure prisoners is made by the Governor on the advice of the Executive Council. The Minister of Justice, who refers the matter to the Executive Council, is, in turn, advised by the Life Sentence and Governor's Pleasure Review Committee, a purely administrative body within the Department, which reviews each case at least once a year and sometimes once every six months. It usually requests the Minister eventually to refer the consideration of a prisoner's case to the Parole Board.

Although this Committee has available to it all psychiatric and psychological reports relating to the prisoner under review, it appears to the Commission to be quite inappropriate that an administrative committee such as this should play a large, and frequently decisive, part in determining the future of people who have been acquitted on the ground of mental illness. It is also an unfortunate coupling of roles for the one committee to be charged with the review of acquitted prisoners as well as those who have been sentenced to life imprisonment. No doubt the reason for this is that both groups are detained for an indefinite period, and both require the Governor's order for their release. Nevertheless, it is an unfortunate allocation of responsibilities which can hardly encourage confidence that the cases of Governor's Pleasure prisoners are being assessed only on psychiatric grounds, without recourse to principles of a punitive or deterrent nature.

The time spent in prison by Governor's Pleasure prisoners varies greatly. Among the fifty-seven prisoners released from custody during 1966-76, the time spent in prison ranged from one month to twelve years and four months. The average time spent in prison was three years and four months. Twenty-six of the fifty-seven prisoners served further time in mental hospitals. The total periods of detention, including time spent in prison and in mental hospitals, ranged from three months to twenty-three years and eleven months, and averaged six years and eight months.

The statistics reveal that many Governor's Pleasure prisoners remain in custody for a very long time. Much of this time is spent in prison. To many observers, it is quite inappropriate that a person who has been acquitted because of a mental disorder should be in prison at all. As the very wording of the verdict indicates, these are people who need treatment rather than punishment. Yet they are frequently deprived of the opportunity to enter mental hospitals, and are forced to remain in penal institutions with no enforceable rights whatsoever as to their own release. These conditions are unlikely to be conducive to a speedy or effective recovery.

The circumstances under which Governor's Pleasure prisoners are detained in themselves arouse some cause for concern. It is difficult for the public to appreciate the uncertain and frustrating future contemplated by a person who has been imprisoned for an indeterminate period. The obsession which, it has been suggested elsewhere, prisoners sentenced to imprisonment for a fixed period have with a release date is not

available to the Governor's Pleasure prisoner. The indeterminate nature of the sentence, coupled with an absence of rights on the part of the prisoner to do anything to procure his or her own release, is the source of much unhappiness. As one witness put it:

"I am a G.P., that means I have been sentenced to Governor's Pleasure. It should be called devil's pleasure. At my trial I was found not guilty on the grounds of mental illness. How I wish I had been found guilty instead. At least then I would know how long I had to stay in this hell. As it stands now, I could stay here for three months or fifty years. It's like being stuck in a time dimension with no date for possible release of anything. Nobody could understand what it feels like except another G.P. It's like living in limbo."

It is difficult to envisage any alternative to an indeterminate sentence for a person acquitted on the grounds of mental illness. In such a case, the only criterion for release should be whether the mental disorder has been cured or controlled so that the person can safely re-enter the community. This is not a matter which can be predicted or fixed in advance.

However, one way of ameliorating the difficulties encountered by Governor's Pleasure prisoners, and giving them a degree of hope, is to re-organize the procedures for obtaining release. They are now complex, and frequently involve extensive delays. Prisoners have no right to appear before the body which reviews their case, nor to appeal from its decisions. Under the circumstances, it is not surprising that there is a feeling of hopelessness and futility among these people.

The Commission's view is that Governor's Pleasure prisoners should be removed from the responsibility of the Department of Corrective Services and placed entirely in the hands of the Health Commission, and that existing procedures concerning the admission of prisoners to mental hospitals and their release should be revised.

For many years, both in the United Kingdom and in the United States, people acquitted of offences on the ground of mental illness have been treated as mental patients rather than being incarcerated as prisoners.

In the United Kingdom, placement in a mental hospital of people acquitted of an offence on the ground of mental illness is mandatory. These mental hospitals are administered by the Ministry of Health. Similar provisions are made in most jurisdictions within the United States.

In the United Kingdom, the Butler Committee on Mentally Abnormal Offenders (Home Office and Department of Health and Social Security) has recently recommended amendment of this mandatory requirement to give the trial Judge a discretion as to whether he will commit the prisoner to a mental hospital or will allow him supervised liberty. If accepted, this recommendation will permit flexibility in the treatment of a person acquitted of an offence on the ground of mental illness and will give recognition to the fact that the accused was acquitted of the offence with which he or she was charged. The Commission favours such a concept, as it gives more responsibility to the trial Judge in determining the fate of such a person.

The Commission recommends that: On an acquittal on the ground of mental illness, the trial Judge shall (unless sufficient evidence has been given at the hearing as to the person's present mental state) adjourn the case to obtain such psychiatric evidence. In most cases, the person should be remanded in custody in a mental hospital, but in exceptional cases the Judge should have a discretion to allow him

or her to remain at large. On hearing psychiatric evidence on the person's present mental state the Judge should have a discretion as to his or her disposition. This should include ordering committal to a mental institution, release on conditions and unconditional release.

There may be circumstances where a person accused of an offence does not raise the defence of mental illness or, having raised it, is unsuccessful in establishing it to the satisfaction of the jury. In the United Kingdom, the trial Judge has power to impose a hospital order relating to convicted offenders where psychiatric evidence shows that the offender is suffering from a mental illness, psychopathic disorder or subnormality which warrants his detention in a mental hospital for medical treatment. This has enabled the English Courts to deal appropriately with offenders suffering from a wide range of mental disorders where the MacNaughten Rules have no application. It has been particularly significant in its application to cases of homicide, where hospital orders have worked well in association with the defence of diminished responsibility, introduced by legislation in England in 1957 and in New South Wales in 1974. Such a defence reduces the conviction from one of murder to one of manslaughter where the accused was at the time of the act or omission causing death suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for the act or omission.

The Commission favours the adoption of a similar procedure in New South Wales which would permit the trial Judge to commit a convicted prisoner to a mental hospital where, on the evidence before him, he considers it appropriate. It will, of course, be necessary to amend the Mental Health Act to give effect to this proposal. The proposal appears peculiarly apt for the detailed assessment and examination of a prisoner about whose mental condition there is an obvious doubt.

This proposal should also rejuvenate the defence of diminished responsibility which, under present conditions, appears to have little overall significance. In *R. v. Veen* (August, 1975, unreported), O'Brien, *J.*, sentenced a person who had successfully invoked this defence to life imprisonment. The Judge indicated that there were grounds for considering Veen to be mentally disordered, but as he had been convicted there was no institution, other than prison, to which he could be sent.

The obvious frustration with which the Governor's Pleasure prisoner is now faced may be alleviated another way. On admission to a mental hospital in accordance with the procedure outlined it is recommended that such people should be treated in the same way as those compulsorily detained in a mental institution without having committed any criminal offence. They would thus become "temporary patients" and be subject to review by the Mental Health Tribunal after six months.

The only difference in the treatment which should be accorded to these two categories of patients would arise in the procedural requirements relating to release from the mental hospital. Once the processes set out in the Mental Health Act relating to the patient's release have resulted in a situation where had the patient not been a Governor's Pleasure prisoner he or she would have been released, the Superintendent of the hospital should file a certificate to that effect at the original Court of Commitment. The Court should then order release or, if either the Court itself or any person objects to release, it should hold a hearing to determine whether the prisoner should be released. At the hearing, the only issue should be whether the release of the prisoner would create a substantial risk of serious bodily injury or serious property damage to another person. Unless the Court is persuaded on the balance of probabilities that such a risk exists, it should order the release of the prisoner.

Such a recommendation would combine the advantages of a two-fold responsibility release of a Governor's Pleasure prisoner. In accordance with current practice on mentally ill patients, it would preserve the responsibility of the Mental Health Tribunal in deciding whether a prisoner is mentally ill; further, it would preserve the right of a Governor's Pleasure prisoner to be released from confinement where there is no prejudice to the community. The necessity for litigation would arise only where someone wishes to contest the proposed release. In that event, the Court appears to be the appropriate forum for resolving the issue. This proposal parallels similar provisions in a Bill which was recently introduced in the United States Senate, based on the present position in Washington, D.C.

In conclusion, it may be suggested that the Commission's recommendations in this area are outside the purview of its Terms of Reference. Nevertheless, as the Commission has had an opportunity to examine this subject, it would be an abdication of its responsibilities merely to recommend that the Health Commission take over the management of Governor's Pleasure prisoners and to leave the matter there.



**CHAPTER 30**

**PROBATION AND PAROLE**

Parole has been defined as "the discharge of prisoners from custody in advance of their expected date of release, provided they agree to abide by certain conditions, so that they may serve some portion of their sentences under supervision in the community, but subject to recall for misconduct". It amounts to a conditional release of a prisoner from serving the remainder of his sentence in prison. When released into the community he, or she, is supervised by a Probation and Parole Officer.

The term probation describes the process whereby a convicted offender is not committed by the Court to prison but is bound over to observe certain conditions or restrictions on his behaviour over a specified period. In default of complying with the conditions or restrictions, the offender is called up by the Court and may then be committed to prison.

The similarity between probation and parole is that both contemplate restrictions on the liberty of the offender in the community and a regime of supervision. Some 250 Probation and Parole Officers are employees of the Department of Corrective Services. They are controlled by a Director of Probation and Parole, a Deputy Director and four Regional Directors.

**The Service and the Parole Board**

The Probation and Parole Service supervises most of those under the care of the Department. The 1976-77 Annual Report said that at 30th June, 1977, a total of 9 864 people (probationers, parolees or licensees) were under supervision by the Probation and Parole Service; in contrast, about 3 200 were imprisoned inside New South Wales gaols.

A board, established by statute, known as the Parole Board, is empowered to release prisoners on parole, subject to any conditions it might see fit to impose.

Some scheme of probation and parole is found in most prison systems. However, the extent to which the "sentencing process" is moved from Courts to Parole Board varies from country to country. Perhaps the greatest inroads into the sentencing powers of the Courts are to be found in the United States, where in many systems the prisoner comes under the jurisdiction of a Parole Board as soon as he is admitted to prison and, theoretically at least, can be released by a Board at any time afterwards. The system in some of the American States became hampered by legalities as a result of, inter alia, the "Due Process" clause of the United States Constitution, and in California there has recently been a complete change of the parole system.

Probation and parole is an alternative to imprisonment and, in a measure, aims to assist in the re-adjustment of the individual offender to life in the community. The financial savings to the community of the probation and parole system are obvious,



for the state is relieved of the cost of custody and maintenance of a prisoner. The cost of Probation and Parole is basically limited to the salaries and administrative costs of that section of the Department. This is not to mention the human cost of incarceration.

The Probation and Parole Service handles far greater numbers than the Custodial Division. There is also a greater potential for corrections in this Service. Having regard to these factors, it would have been expected that the Service would be accorded a position of some importance in the Department's hierarchy. The situation is otherwise. The Director of Probation and Parole is not accorded Assistant Commissioner status and, according to the plan of the Administrative Structure of the Department, his access to the Commissioner is only through the Deputy Commissioner.

A large group of departmental officers who formed the Probation and Parole Officers' Association stated in a submission to the Commission that the Director of the Probation and Parole Service has rarely been allowed to influence in any way the policies formulated by the Department. The Association stated:

"It would be rare that he (the Director) attends Ministerial discussions and it was only in the dying stages of the Royal Commission that he has accompanied the Minister as an adviser."

It was also suggested that Mr McGeechan had not consulted the Management Group of the Probation and Parole Service since 1973 and that the Deputy Commissioner had consulted it only three times in four years. These are grave allegations, but whatever the position, it is obvious from the evidence and material before the Commission that this important Division of the Department of Corrective Services has not been accorded proper recognition and that there has been a failure to realize its importance.

It is apparent that considerable tension exists between the Probation and Parole Service and the remainder of the Department. It is equally evident that there is a lack of co-ordination or, at least, effective communication. An example of this is the lack of consultation between the Director of the Probation and Parole Service and the Department in the preparation of the final departmental submission to the Commission. A report which had been prepared by the Director of Probation and Parole, and which dealt comprehensively with all the relevant issues relating to probation and parole, was completed in August, 1977. It was then submitted to Mr McGeechan for inclusion in the departmental submission. At first, the only section of the report included in that submission was that part relating to organization. Had it not been for the disclosure of this omission by the Probation and Parole Officers' Association, the Commission would have been deprived of the benefit of the remainder of the report. Mr K. Lukes, the Director of Probation and Parole, attempted to explain the omission as due to a mishap, but nothing was heard from Mr McGeechan and an argument was founded by some of those appearing before the Commission that the omission was deliberate. It is unnecessary to determine this issue as the Commission was finally acquainted with the total report, which was most comprehensive and of great assistance. The mere fact that these allegations are made, however, is indicative of the strained relationship between the Probation and Parole Service and the Department.

#### **Parole Board Procedures**

The handing over of the sentencing process to an administrative body is fraught with danger, as the Chief Justice (Sir Laurence Street) recently stated:

". . . it introduces at a critical point a non-judicial decision governing the liberty of the subject. There are, of course, restrictions on the attainment of perfection in judicial proceedings. A court is constrained by the evidence

that is adduced and, to some extent, by the considerations advocated by each of the two contending parties. But, with all its defects, the judicial process is that which is best calculated to protect the rights of the individual. A public hearing in which all of the relevant ingredients are canvassed, analysed and evaluated in open court, in which the evidence is critically examined, a proceeding involving the presiding Judge stating the reasons for the sentence. and, above all, the unrestricted publicity of the sentencing process and the sentencing act all combine as a significant protection against the exercise of arbitrary power.

These considerations have always been regarded as sounding a cautionary note against removing from Judges the primary responsibility for sentencing and passing it over to a parole authority. There has been a recognition of the preferability of the judicial process, with all its publicity and, admittedly, with all its limitations, over the administrative process carried out behind the closed door and its attendant risk of arbitrary exercise of power over the liberty of the subject. In abstract theory it would indeed be desirable to be able to set up the perfect, all-wise, administrative body to determine sentences giving full rein to justice, to human rights and to community welfare. Unfortunately no such goal is attainable and an attempt which will inevitably fall short of that goal is fraught with the risk of introducing a system of arbitrary control over the liberty of the subject,"?

A great number of complaints were received from prisoners critical of the parole system. The Senior Public Defender of the State, Mr Howard Purnell, Q.C., stated from his vast experience that "naturally enough, one found in gaol that the most talked of thing was the date of release on parole".

Some prisoners regard the refusal of parole by the Parole Board as constituting an additional sentence. This is incorrect, but the misapprehension exists.

Another series of complaints concerned the failure of the Board, until quite recently, to give any reasons for its refusal of parole to a prisoner. When this was the position, the prisoner was not in a situation to know what conduct was responsible for the adverse decision or what requirements he must meet to satisfy the Board.

Quite recently, the Parole Board has been furnishing stereotyped written reasons for its decision for postponing or refusing parole. It appears that a letter is forwarded to the prisoner by the Board in a standard form, altered where appropriate. This procedure recognizes the problem, but does not satisfactorily solve it, for the prisoners have recognized the stereotyped nature of replies and their discontent has not abated.

Universally, prisoners and those who speak for them argue that the Parole Board should give full and explicit reasons for its decisions. It is appropriate here to quote with approval a passage from the Franks Report:

"We are convinced that if tribunal proceedings are to be fair to the citizen, reasons should be given to the fullest practicable extent. A decision is apt to be better if the reasons for it have to be set out in writing because the reasons are then more likely to have been properly thought out. Further, a reasoned decision is essential in order that, where there is a right of appeal, the applicant can assess whether he has good grounds of appeal and know the case he will have to meet if he decides to appeal."<sup>3</sup>

From inquiries made of the Parole Board, it appears that such is the number of cases considered (6960 in 1976) that-as a matter of simple mathematics-an average of less than five minutes is spent by the Board considering each case.

Each member of the Board would, of course, have spent a considerable amount of time before the meeting reading the papers relating to those cases. But that is not in any sense a consideration by the Board.

The figures are so alarming that the time has arrived when a fundamental change must be made in parole procedures.

It is necessary to emphasize that no criticism is directed at members of the Parole Board personally. The Commission acknowledges the enormous workload of the Board. But unfortunately this very factor inhibits, and at times prevents, the implementation of ideal procedures. Where the liberty of an individual is concerned, fairness to the person and the interests of the community necessitate the use of great care. It should not be possible to make accusations of "Star Chamber" procedures.

There are other unsatisfactory features of the procedures adopted by the Parole Board, one of them being the inadequate opportunity for prisoners to make a statement to it. The prisoners consider that the right to appear is essential and regard the Parole Board hearing as altogether too remote. These criticisms are valid but, having regard to the Board's present enormous workload, it is difficult to suggest a system which would overcome the criticisms. This is a major reason why the Commission recommends that a change should be made so that the number of cases for the Parole Board to consider is lessened. If this is achieved, more appropriate procedures can be introduced.

The Commission believes that it is necessary to change the conditions under which parole is granted by the Parole Board. This recommendation is the result of discussions with eminent criminologists in the United Kingdom. Courts should continue to fix a head sentence and non-parole period—in other words, a maximum and minimum sentence. All those prisoners with head sentences of less than four years should be released automatically at the end of their non-parole period, unless it is proved to the satisfaction of a Court exercising jurisdiction identical to that of the original sentencing Court that the release of the prisoner would constitute a danger to the public.

Those prisoners serving a sentence of four years and over would be considered as previously by the Parole Board, which would decide whether a prisoner was to be released on parole or not. If the Parole Board refused or deferred parole, then the prisoner may appeal to the Court which, at its discretion, may confirm or overrule the decision.

This raises the question of the criteria on which parole should or should not be granted, for it is such a test with which the Parole Board is and the Court will be concerned.

As mentioned previously, the Parole Board now gives some reasons for refusal or deferment of parole, but it has never laid down clearly the principles on which it acts. The reasons for the Board's decisions have never been given in any detail. The result is that one is left to surmise the principles which it follows in arriving at its decision.

In England, there has been an attempt to help local review committees, which consider a proportion of inmates for parole, by stating criteria for selection for parole. All eligible for parole are considered first by their prison committee. In some cases, parole is granted on its recommendation, but mostly recommendations are referred to the Parole Board for further consideration. Although these criteria are of some help, there is no statement of principle.

In all cases, the granting or refusal of parole must be an ad hoc judgment. But underlying that is the fundamental principle that, wherever possible, it is preferable to have a prisoner in the community than in gaol. Accepting that principle, the test becomes a negative one and the question to be asked by the Parole Board or Court should be: "Are there any reasons why this prisoner should not be able to adapt to a normal community life?"

The Commission considers that it is infinitely preferable, in making a decision on the liberty of an individual, to err on the side of granting parole rather than refusing it. Bearing in mind that the decision of the Parole Board affects the liberty of an individual, the Commission thinks that any decision by the Board, no matter how distinguished its members, should be open to public scrutiny. The suggestions made to achieve this will not generate an unmanageable amount of litigation as the number of potential parolees coming before the Board at anyone time will be greatly reduced. This will permit a better investigation of individual cases and enable it to see and hear from the prisoner concerned. The necessity for giving reasons for the decision, which could be examined by a Court, will overcome prisoners' complaints about ignorance of the reasons for their continued imprisonment.

The Commission considers it desirable that all written material considered by the Parole Board should be made available to the prisoner, except any documents which, at the discretion of the Chairman of the Board, may be withheld for security reasons. In this case, the general purport of the documents should be made known by the Board if they form part of the reasons for its decision.

### **The Role of Officers**

The duties performed by Probation and Parole Officers comprise three main categories:

Supervision of probationers, parolees and others subject to conditional liberty.

Counselling and preparation of prisoners for release.

The preparation of probation and parole reports for Courts and the Parole Board.

There have been differences of opinion between the Probation and Parole Service and the Department and others on the degree of priority for each of these functions. The differences have arisen because the Probation and Parole Service does not have the resources or the manpower effectively to meet all of the demands presently made on it. Reports for the Courts include not only pre-sentence reports, but reports on breaches of recognizance by probationers, Magistrates who request these reports frequently need them urgently.

Parole Officers do much of the work normally done by welfare officers in other prison systems mainly because too few welfare officers have been appointed in the gaols. This includes help at the time of a prisoner's reception into gaol, general counselling and helping to find post-release employment, accommodation and so on. They do not assist life sentence or Governor's Pleasure prisoners.

### Pre-sentence Reports

A quite disproportionate amount of time and effort on the part of the Probation and Parole Service goes into the preparation of pre-sentence reports, and this service for the Courts is escalating at a significant rate. For example, the number of presentence reports required in 1975-76 (4074) represents an increase of 69.4 per cent over the number in 1972-73 (2405). Undoubtedly, a pre-sentence report is of great assistance to a sentencing Judge but, when viewed against the background of the Probation and Parole Service's inability to cope with their other important demands, it is suggested that this service be limited in the future, however regrettable this is.

Generally, the Courts have available police "antecedent" reports, which are helpful. In addition, a Court can ask for a pre-sentence report where it finds it absolutely essential, but sheer necessity dictates that these demands be kept to a minimum. It might well be possible to recruit personnel who do not have the necessary skills to act as Probation and Parole officers, but who could gather together the information essential for a pre-sentence report.

### Caseload of Officers

The evidence before the Commission points to the conclusion that the caseload for Probation and Parole Officers is far too high. At 30th June, 1977, the average number of prisoners in gaol for whom an individual parole officer was responsible was in excess of 70, while the average number each officer supervised outside the institutions was 62. In some areas, the situation was even worse. The average caseload for the parole officer at Milson Island and the Mount Penang Training School for boys was 130. The officers attached to the Mount Druitt district parole office *have a caseload of 302*. The Criminal Law and Penal Methods Reform Committee (1973) of South Australia suggested that 45 should be an "optimum caseload" for a parole officer. Overseas, the optimum maximum supervision caseload in the community is variously regarded as ranging from 35 to 50.

It is not appropriate to nominate a maximum figure, as circumstances and necessity vary so much, but the present caseloads are far too high and tend to prejudice the overall performance of the Service.

### Revocation of Parole

The Parole of Prisoners Act, 1966, provides for an automatic revocation of parole if a prisoner has been convicted of an offence committed while on parole and sentenced to a term of not less than three months. If the offence results in a sentence of less than three months, then the Parole Board has a discretion whether to revoke the parole.

The most recent figures indicate that about thirty-one per cent of parole orders are revoked, for various reasons. Revocation of parole should be seen in exactly the same light as the granting of parole; essentially the issue is the liberty of the individual. The same considerations which impel a close, reasoned consideration of the prisoner's behaviour and prospects on the question of granting him parole should apply to the revocation of parole.

When parole is revoked, and the parolee is returned to prison, he must presently serve his full sentence. Credit is given only for time served in prison before parole was granted. This can be unnecessarily punitive as the parolee may have had an impeccable record during a long period while on parole.

It is recommended that any time spent by a prisoner on parole before revocation should be deducted from the period of his sentence remaining to be served, and that the Parole Board should be given a discretion in all cases as to whether to revoke parole.

#### Release Dates

The Parole of Prisoners Act, 1966, provides that the non-parole period specified by a Judge when imposing sentence is deemed to begin at the time the sentence is imposed. When a Judge imposes a head sentence, he may and generally does take into account the period the prisoner has already been in custody and frequently expresses this fact. The difference between the starting date of the parole period and the head sentence has caused confusion in the minds of some prisoners. Prisoners, in general, are prone to think of the effective date of release as being the end of the non-parole period-and not the end of the head sentence. Some prisoners are under the erroneous impression that the Judge, in fixing the non-parole period, has not taken into account the time they have spent in custody before being sentenced. To remove all chance of misapprehension, the Commission recommends that the Act be amended to enable a trial Judge to backdate the non-parole period so as to coincide with the commencement of the head sentence.

#### Reciprocity Between States

When a prisoner is being considered for parole, his prospects are prejudiced if there is a possibility of his being extradited to another State to stand trial for a further offence. Under these circumstances, conditional release is said to serve no purpose.

There is, of course, no guarantee that an application for extradition will be made. The possibility of extradition may lead to unfortunate results since a prisoner serving a sentence in one State knows that however well he may behave, he will eventually have to face another charge for an offence in another State.

The Commission has been advised that the Standing Committee of the Commonwealth and State Attorneys-General has approved, in principle, legislation providing, inter alia, for:

- reciprocal supervision of parolees and probationers by States in the Commonwealth on behalf of other States;
- the transfer and enforcement of probation and parole orders between each State and other States; and
- the transfer of prisoners, for trial and rehabilitation, between each State and other States.

The Commission recommends immediate implementation of this legislation.

#### Work Release I

It has been suggested that the Parole Board should assume responsibility for placing prisoners on Work Release I (prisoners released daily for outside employment) as it is in effect a form of a "day parole". Placing a prisoner on Work Release I would, therefore, be an intermediate step towards granting full parole. It is argued that this would enable the Parole Board to assess the prisoner in the light of his limited opportunities in the community as a prelude to consideration of full parole. Undoubtedly there would be advantages in this proposal, but the number of vacancies for Work

Release I is limited. It is a useful "management tool" for use by the custodial staff and, on balance, it is deemed inappropriate to transfer the responsibility for granting Work Release I to the Parole Board. Section 6, Parole of Prisoners' Act

During the hearing, the attention of Mr McGee chan was drawn to a practice which had evolved of the Director of the Corrective Centre at Cessnock abrogating to himself the responsibilities of the Parole Board under section 6 of the Act. The Commission was later assured that a direction to stop this practice had been given. It was unfortunate that this ever occurred.

Interchange with Custodial Officers

Parole Officers and custodial officers should expand their experience and expertise by an interchange of duties. Although not easy to implement, interchanges would be invaluable to the officers. The resulting increased experience should be taken into account in considering promotion for the officers. The interchanges should be voluntary and receive every encouragement from the Department.

Life Sentences

At present those sentenced to life imprisonment are not entitled to parole. Most of them are released, however, after varying periods and they remain on licence for the rest of their lives. Mr McGeechan said that the average time spent in gaol was twelve years.

The procedures for their release are the same as those for Governor's Pleasure prisoners. Their cases are considered regularly by the Life Sentence and Governor's Pleasure Review Committee which reports to the Minister. If the Committee considers that a prisoner should be released, it asks the Minister to refer the matter to the Parole Board. The Parole Board in turn makes its recommendations to the Minister, who refers the matter to the Executive Council. Any release must be signed by the Governor-in-Council.

A number of submissions received by the Commission were critical of the present situation. It was argued with some force that the Life Sentence and Governor's Pleasure Review Committee was not an appropriate body to determine the future of these prisoners, and that its role duplicated the Parole Board's

By far the greatest criticism, however, was levelled at the indeterminate nature of the life sentence. It was said that this robbed prisoners of incentives, was personally destructive and imposed an intolerable burden on life prisoners who had no fixed *goal* to aim for. This, it was said, led to increased tension within the gaols.

It was also pointed out that the life sentence is applied indiscriminately for different sorts of murder. Whereas some offences are brutal, callous and sadistic and deserve the greatest public approbrium, others are committed in extenuating circumstances which considerably reduce the moral blame attributable to the wrongdoer and the danger of a repetition of the offence. In some cases juries, when convicting an offender of murder, request that he should be dealt with leniently. Judges have no power to do so, but are obliged to sentence an offender of this type to life imprisonment.

Legislation is recommended to enable Judges to set non-parole periods when imposing life sentences. This will give them an opportunity to reflect the gravity of the particular offence. It will also give life prisoners some degree of hope. They will, at least, have a set date when they know their cases will be considered.

The Life Sentence and Governor's Pleasure Review Committee should be disbanded, and all decisions relating to life prisoners should be left to the Parole Board.

#### A Separate **Department**?

The officers comprising the Probation and Parole Service Association submitted that the Probation and Parole Service should be established as a separate Department in the form of a statutory authority directly responsible to the Attorney-General. The Department and the Public Service both made submissions to the contrary.

The Commission's view is that the Probation and Parole Service should remain a part of the Department. Apart from the probable increase in costs, it is thought of great advantage for the Service to play a significant role in the overall policy of corrections.

The tension in the past between the Service and the rest of the Department has been mentioned earlier. Every attempt must be made to see that both arms work as the one Department. It is essential that the Probation and Parole Service should be adequately funded. The allotment of responsibility for probation and parole to one of the permanent members of the Prisons Commission should do much to overcome these difficulties.

In this area, as well as in others, the records kept of individual prisoners were deplorable. In most cases, relevant reports- were missing and few files were complete. The efficient conduct of the prisons system generally revolves around accurate reporting and the compilation and recording of data relevant to each prisoner. It is impossible for the Parole Board to fulfil its task unless it has before it complete and proper records of each of the people it has to consider.

#### References

<sup>1</sup> S. Mackey: "Parole-Background, Machinery and Statistics", in NACRO Report, "Parole-The Case for Change", p. 8.

<sup>2</sup> *R. v. Page, C.C.A.*, 14th October, 1977.

<sup>3</sup> Report of the Committee on Administrative Tribunals and Enquiries (H.M.S.O. • London), 1957, Franks Report, para. 98.

<sup>4</sup> NACRO Report, "Parole-The Case for Change", pp. 32-40.





CHAPTER 31

**PRE-RELEASE AND AFTER CARE**

An English journalist who spent six months in London's Pentonville Gaol voluntarily later wrote in a book:

"A long-termer standing outside the prison gates at the end of his sentence can be one of the loneliest and most bewildered men in the world,"!

Not only is he lonely and bewildered, he is in imminent danger of committing another crime within six months. The greatest cause of recidivism is the release of prisoners without support, accommodation or enough money into the same environment which prompted them to turn to crime in the first place.

Because of the clear link between the lack of pre-release and after care **and**: recidivism, some form of positive assistance to overcome this problem is obviously vital, not only for the prisoner, but for the community.

On release, prisoners may be confronted with a very difficult transitional period from institutional life to free life. This is particularly so for those who have been in gaol for a long term. A former inmate of an American prison said:

"I had walked from the most rigid of routines into this strangely empty freedom."

The chasm between captivity and freedom is difficult to cross. Frequently, it is preceded by what prisoners about to be released have come to recognize as gate fever. One prisoner in a letter to his wife stated the symptoms thus:

"I have grown so nervy from confinement and dwelling on the future that I feel a sort of vertigo, an impulse to destroy the happiness in prospect. Will you please quite calmly ignore anything I do these next weeks in obedience of this impulse . . . I shall say I won't see you when I first come out; I shall pretend to have lost all affection for you. All this madness—the effect of jealousy and impatience combined. The pain of wanting a thing very much at last grows so great that one has to try not to want it any longer ... "

The writer: Bertrand Russell, at the end of a twelve months' sentence for his pacifist views in World War I.

The need for proper pre-release and after care facilities is emphasized by the fact that release from total institutionalization often brings fears for some people, as well as hopes: Fears of being homeless with little money and the possibility of no job; fears of adjusting to old relationships and uncertainty about family issues.

In a final submission on behalf of certain prisoners, it was said that:

"It is nothing short of senseless to keep a man in gaol for a number of years, then push him perfunctorily out the gate with no job, no home, no friends or relatives and \$30 in his pocket. Yet this is what happens."

No one could disagree with this view.

Mr McGeechan echoed it by saying that, in terms of re-settlement in the community, one of the most difficult problems was the prisoner's lack of knowledge, support, job opportunity and friendship. It was not difficult to understand how a newly released man, in these circumstances, could fall back on his criminal ways and associates. He advocated the provision of adequate accommodation, advice, guidance and funds to avoid this situation.

It is important that pre-release and after care should be provided, supplying social support during the difficult period of re-adjustment. The Department should make every effort to de-institutionalize prisoners.

The Department alluded to this situation in its 1974-75 Annual Report. It asserted that the provision of employment, assistance with family and personal problems and the gradual phasing back into society by way of day and weekend leave had all assisted in helping inmates prepare for a return to society.

#### **Pre-release**

In their book, "The Honest Politician's Guide to Crime Control", Professors Norval Morris and Gordon Hawkins stated that "toward the end of a sentence, it seems rational and safe to let selected prisoners re-establish their working lives by going on furlough, assisted and supervised by a social worker or after care officer to find a job, and then to let them go daily to that job from prison".

The same idea appears in "The Report on Corrections of the President's Commission on Law Enforcement and Administration of Justice", which states that 'pre-release guidance centres in the United States serve a useful purpose in preparing a prisoner for the outside world. Federal prisoners are transferred to these centres several months before their expected parole date. Here, after a day or two of orientation and counselling, they go out to look for jobs. When they have a job, they are gradually given more recreational leave and visits to their families. There are also several group sessions a week where they are given instructions on outside economic and living conditions. The purpose is to "phase prisoners into community life, under supervision, with assistance as needed".

In Canada, one of the steps taken in helping a prisoner over this difficult period of adjustment has been the establishment of community correction centres much the same as pre-release hostels. Prisoners due for release are provided with accommodation. They go out to work during the day and return to the centre at night. The 1977 Report to Parliament by the Sub-Committee on the Penitentiary System in -Canada, after referring to these centres, stressed the need for further pre-release programmes of this nature.

In England and Wales, a prisoner is allowed a number of weekend leaves to visit his home. To help long sentence prisoners through the difficult transition period from prison to freedom, some are allowed to work outside the prison for a private employer for about six months before they are released. The prisoner may live in a separate part of the prison or in a hostel which is usually outside the perimeter of the prison. In this way, he is able to resume "some of the obligations of a free man", supporting his family, paying for board and saving toward his discharge.

Although there are no pre-release hostels as such in New South Wales, the work release programmes are similar. Work release facilities exist at the Silverwater prison complex. During 1976-77, the capacity of four houses at the complex-

Silverwater, Irwin, Barrier and Blaxland, which accommodate work release and pre-release prisoners and some inmates employed at the Parramatta Linen Service - since 1976 increased, but they still cater for only 236 inmates.

There are two types of work release programmes. Work Release I is a scheme under which selected adult prisoners are allowed temporary leave from their institution to work in the community. Work Release II, which has been established only since March, 1976, permits the prisoner to live outside and work at the Parramatta Linen Service, where he earns normal wages.

The 1976-77 Annual Report stated that eighty-eight prisoners were on Work Release I, and twenty-six on Work Release II. There were no work release facilities operating from any other prison.

The Commission's view is that work release should be extended to enable more prisoners to participate in the programme. It seems extraordinary that places available at Silverwater are presently taken by prisoners working at the Parramatta Linen Service (who usually, if not invariably, are not eligible for work release). Most prisoners should be given the benefit of this programme for some period before their discharge.

Day leave, just prior to release, helps prisoners cope with the transition they are about to make. In Victoria, prison Governors have the right to allow prisoners to look for work and adjust to community life. In New Zealand, a working scheme exists to help in the resumption of normal family relationships towards the end of sentence.

Home leave is an important aspect of pre-release training in England and Wales. Most prisoners, depending on their length of sentence, are considered either for one or two periods of home leave in the last nine months of their sentence. Whether or not a prisoner is to be under supervision after release, a probation officer helps to find accommodation. In addition, the Department of Employment helps prisoners to find jobs. Representatives of that Department regularly visit prisons to interview prisoners and try to place them in jobs. Prisoners also are allowed to leave the prison temporarily to see prospective employers.

In Denmark, prisoners have a statutory right to obtain leave to visit relatives, or find work or lodgings. In Canada, the practice of gradual release is acknowledged as providing offenders with an opportunity to test their self-reliance.

The principle of pre-release leave was supported by Mr McGeechan, insofar as it would enable a prisoner about to be discharged to arrange possible employment and housing before he is actually released. Mr Nash expressed the view that when prisoners were getting towards the end of a long sentence, say five years, consideration should be given to enabling them to leave gaol for a period before their release to ensure they get accommodation and have interviews for jobs. He suggested that this should happen some two to three months before the completion of their sentence, and said that, to some extent, this already takes place.

In New South Wales, however, regular day or weekend release is confined to the Silverwater Work Release Centre, the Malabar Training Centre, the Berrima Training Centre and the Cessnock Corrective Centre. Such leave is granted at other institutions in special circumstances such as compassionate visits to sick relatives and attending funerals. Maximum security prisoners represent a problem.

**Pre-release Instruction**

MEDIA COMMUNICATIONS

Pre-release courses have been conducted in England and Wales since 1959.

They deal particularly with the domestic, social and industrial problems likely to face a prisoner on release.

The evidence before the Commission appears to suggest that, excluding perhaps the Silverwater Work Release Centre, most prisoners are given little, if any, guidance and advice on what they will encounter on release, and on methods for overcoming problems they will face. Mr McGeechan, while acknowledging the usefulness of prerelease courses, said that "resources" prevented him from extending them as he would have wished. Surely, it would not take great resources to hold simple lectures for prisoners which would help them to plan for their release.

It would be expected that, before release, prisoners would at least be given the opportunity and encouragement to seek employment. It would be simple for the Department to arrange for an officer from the Commonwealth Employment Service to visit from time to time all the prisons and interview prisoners due for release. The only arrangement of this nature within the Department at present is at the Cessnock Corrective Centre. An officer from the Commonwealth Employment Service calls every week, and any inmate willing to be interviewed for future employment makes application, through his parole officer, to see the officer. Apart from this Centre, there is no departmental plan for the attendance of Commonwealth Employment Service officers at gaols. The most that the Department has said in defence of this situation was that prisoners would be permitted some months before their release to start making inquiries about jobs through the Commonwealth Employment Service. It was also explained that some organizations, such as Sydney Rotary Club, assisted in finding employment for prisoners. Those without prospects were told to contact the Department of Social Security as soon as possible, or were referred to voluntary church groups such as the Salvation Army or St Vincent de Paul.

Mr McGeechan pointed out that prisoners in a maximum security institution were less able to prepare themselves for the outside. He and some of his officers spoke of the desirability of prisoners moving from maximum security to lesser security and ideally graduating to open institutions, or work release programmes. But few do. Goulburn Gaol has an incentive programme to move prisoners from maximum to minimum security and out to prison farms. This ideal situation cannot always be implemented. Security dictates otherwise for some prisoners.

Section 29 of the Prisons Act allows for temporary absence from any prison. This is permitted only at the discretion of the Minister or, with his approval, the Commissioner of Corrective Services. It is rarely, if ever, used for maximum security prisoners.

Pre-release leave covering day, weekend and home leave should be introduced so that all prisoners can arrange such matters as accommodation, employment and family affairs.

**Gate Money**

Unless a prisoner has a reasonable amount of cash in hand when he leaves prison, efforts towards rehabilitation to prepare him for his freedom would seem futile. Even allowing for the \$34 which the Department of Social Security provides to all prisoners on their release, the money which can be accumulated in prison to be used on release is simply not enough-"a pittance", according to one witness. Another prisoner remarked that his gate money was enough to take a taxi into town and get drunk.

On release, the prisoner's money, valuable and personal property and his Superintendent are returned. In addition, he is issued with a warrant for a rail "W/E" ticket or free pass to the place of his conviction or, if he has good reason, to any other railway station to which the railway fare is not greater than that to the place of conviction. If the prisoner wants to travel elsewhere, he must make application to the Commissioner, setting out his reasons and producing evidence to support his application.

If most prisoners are permitted the benefits of work release programmes, then the problem of gate money—a real problem—will to an extent be solved.

#### Conclusions

No one doubts the need to prepare the inmate for release. Different schemes are applied in different prison systems: the introduction of work release programmes by the Department is one. Apart from the fact that it caters for too few, the scheme is to be commended. Indeed, the work release programme achieves the same purpose as the pre-release hostels in England, and the English experience speaks of their success. It is thought preferable to suggest the extension of work release schemes rather than spending large sums of money on pre-release hostels, which are more expensive and are not conducive to resettling a prisoner into the community.

There are no difficulties involved in the immediate introduction of some pre-release training for prisoners about to be discharged, and the attendance at regular intervals of officers from the Commonwealth Employment Service at all gaols. Both these schemes should be implemented.

#### After-care

At the Second United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1960 the following resolution was adopted:

"The purpose of after-care is to bring about the reintegration of the offender into the life of the free community and to give him moral and material aid. Provision should be made in the first instance for his practical needs such as clothing, lodging, travel, maintenance and documents. Special attention should be given to his emotional needs and to assistance in the obtaining of employment."

After-care applies to programmes intended to help bridge the gap between life in prison and life in the community. They are seen as a supplement to the pre-release programmes discussed earlier. They help the prisoner adjust to the community after living in a restricted setting under a special set of rules. On release, he must change his outlook and activities to meet a different environment.

After-care aims to help the prisoner gain self-confidence. The prisoner may have learned dependence in the institution and may find it difficult to make many decisions formerly made for him. He may miss the security of the institution and fear competition in the community.

Greater understanding and support of these programmes by the community is one of the main advantages of using volunteers to provide after-care assistance.

Too often, promising projects such as half-way houses have failed because the community was not prepared even to tolerate them. They have been described as "thieves' kitchens under official auspices". The Department should make greater efforts to win public support and understanding.

The Department must try, therefore, to educate the general public into acceptance of departmental and voluntary schemes, not only for prison reform, but also for efforts to foster favourable community attitudes to newly-released prisoners.

#### Existing Facilities

A number of discharged prisoner aid services-all voluntary-lend assistance in New South Wales. They include the Civil Rehabilitation Committees of N.S.W., the Prisoners' Aid Association of N.S.W., the Robin Hood Committee, the Salvation Army and the St Vincent de Paul Society.

The rehabilitation committees total twenty: eight in metropolitan Sydney, eleven in country towns and one in the A.C.T. They help in the resettlement of ex-prisoners, giving both personal guidance and material assistance. Members, who comprise representatives of the Churches, welfare groups and other bodies, also try to find suitable employment for prisoners. They provide tools of trade, clothing and financial support until the first pay is received.

The committees' objectives cover co-operation with probation and parole officers. They are financed by an annual State Government grant, supplemented by funds from private organizations associated with their work.

The Prisoners' Aid Association was founded in 1874, as a voluntary group giving assistance to inmates, discharged men and women and their dependants. One of their main aims is to educate the public about the community obligations for prisoners' rehabilitation. The Association, which is represented on the Civil Rehabilitation Committees, enlists the aid of employers and unions in finding jobs.

Its welfare officers visit the Malabar Complex three times a week, and other prisoners such as Parramatta and Mulawa weekly. During 1976-77, a total of 5638 inmates were seen and assisted in metropolitan prisons. Just over 4 000 were interviewed at the Sydney office. Jobs were found for 397 men and women.

The Probation and Parole Service referred 237 cases.

The Salvation Army, too, is in the vanguard of providing after-care services and facilities and is represented on the Civil Rehabilitation Committees. The St Vincent de Paul Society has the same ideals, some members working through the Committees, others independently.

Similar organizations exist elsewhere with the same objects. Britain has the National Association for the Care and Resettlement of Offenders, and Victoria has a similar association. The former stimulates and co-ordinates voluntary efforts in the field of delinquency and after-care and fosters liaison with the voluntary and statutory services. The Victorian association helps care for and resettle offenders and their families, working closely with the Social Welfare Department. Like other voluntary organizations, it sees community involvement as an essential part of its efforts in helping ex-offenders.

The British experience is that the after-care and supervision of discharged prisoners reaches its most crucial stage during the weeks immediately after release. The authorities realize that only the fullest preparation both in prisons and in the home will make for a smooth transition.

The U.K. Advisory Council on the Treatment of Offenders emphasizes that the preparation in prison should extend to cover the prisoner's own attitude to after-care and, before release, he should be helped to understand the pressures of after-care and his part in it. According to the Council's report on After-Care, compulsory after-care for certain prisoners is a necessary complement to prison training. Every effort should be made to make the idea more acceptable to prisoners.

Anyone over twenty-one sentenced to ordinary imprisonment with the exception of life imprisonment is entitled to voluntary after-care in Britain. On release, they are not obliged to accept any form of after-care or comply with any conditions. For those who do accept it, arrangements are made by the Central After-Care Association and normally implemented by Probation Officers.

Thirty-six local prisoners' aid societies and discharged prisoners' aid societies run voluntary after-care services for men and women completing shorter terms, and young prisoners under twenty-one discharged after serving less than three months.

After researching the existing system in the United Kingdom, the U.K. Advisory Council expressed the view that major changes are necessary. It has recommended the creation of a system for all offenders, which will be the joint responsibility of the prison staffs and an expanded and reorganized probation and after-care service.

The Council further recommended that religious bodies and voluntary organizations should be encouraged to take part in the rehabilitation of discharged offenders: and that social workers should be placed in all prisons.

It is evident to the Commission that assisting the discharged offender during his re-entry into society is as important and necessary as the immediate pre-release period to his or her future.

Although the Commission would not agree that after-care programmes should be made compulsory for any prisoner, it sees a pressing need for facilities to achieve the gradual release of the prisoner into the community. Present efforts should be co-ordinated and put on a formal basis. Overall treatment should be intense about six weeks before release, with a gradual reduction during the after-care period which should cover at least a further six months.

#### **Half-way Houses**

After-care hostels, more commonly known as half-way houses, have a role in the rehabilitation of prisoners in providing for some prisoners social support during the difficult period of adjustment into society, especially for those without family ties.

Essentially, they are designed to effect the re-integration of the offender into the life of a free community and to give him moral and material aid.



Half-way houses particularly aim to accommodate socially inadequate ex-prisoners, and provide the sort of experience to make them both adequate and self-reliant. They also aim to restore, in an environment of self-determination, the individuality, resourcefulness and self-respect eroded or destroyed by life in an institution.

In addition to its primary function of providing emergency accommodation and employment assistance, a half-way house, in a sense, is concerned with the whole personality of the individual. It is important that professional social workers and others provide an efficient counselling service during the former prisoners' transition period.

The Department, since 1965, has been marginally involved in two half-way house schemes with voluntary organizations-Rainbow Lodge and Arotoro House.

Rainbow Lodge can accommodate thirteen people. The enterprise is operated by a group working under the auspices of the Judge Rainbow Memorial Appeal Fund. The Department gives some token assistance.

The house belongs to the Department of Main Roads, and has six bedrooms, for which residents pay \$20 or \$25 weekly, depending on whether they are employed. A subsidy of 75c a day is paid by the Department of Social Security for each inmate.

The Probation and Parole Service maintains close contact with the Lodge, which is entirely controlled and operated by the Fund. The group is trying to establish a women's hostel and has approached the Federal Government for a subsidy. The Federal Government does support the Lodge with a rental and meal subsidy, under the Homeless Persons Assistance Act, 1974. The manager (Mr George Jepson) is a devoted and able worker. There is an arrangement by which his salary is paid by the Public Service Board, but he has no relief staff and hence cannot take even weekend leave. An attempt is being made to rectify this impossible situation.

Situated at Glebe-it was previously at Bass Hill and Dulwich Hill-the Lodge has catered for 182 men.

The executive committee of the Appeal Fund has pinpointed a number of continuing serious problems associated with running the Lodge. Apart from a brief reference in the Department's Annual Report of 1974-75 to the financial difficulties experienced during that year, they have never been mentioned in the Department's other Annual Reports. Difficulties include staff shortages, finance and lack of job motivation for residents. In general, the Department has been less than enthusiastic in any help it has supplied.

Arotoro House, near Liverpool, is conducted under the auspices of the Baptist Church. The Department makes an annual grant of \$2,500 towards its maintenance. The Baptist Church provides all other funding. It accommodates up to twelve inmates.

Another institution, Glebe House, does not receive any State Government assistance. It is funded in three ways: The Department of Social Security provides funds through the Homeless Persons Assistance Act; the Prisoners' Action Group provides cash as and when it can; and it raises funds privately.

The house was originally acquired in November, 1975. It is administered by the Prisoners' Action Group. There are seventy-two financial members, and ninety-one honorary members.

Glebe House accommodates up to twelve people. By 3rd March, 1977, some 196 people had lived at the house, sixteen more than once. The average stay is thirty-nine days. About ten per cent of the residents who have passed through the house have unfortunately returned to prison. The Department has no control over the house.

The Group attempts to make residents feel at home. There are no restrictions on things such as alcohol, female or male friends and tidiness is not insisted upon. There are no compulsory charges and no rent is paid. Food, gas and electricity are paid for by a company formed by the Prisoners' Action Group. The house keeps no detailed records of residents, except those required by the Department of Social Security. A wide range of people, including lawyers, doctors and social workers, provides free service and help.

The organization is planning to move to new premises and although the Prisoners' Action Group says that this expansion will create many problems, including staffing, financing and a loss of the intimate atmosphere of Glebe House the group predicts that all the so-called problems will be overcome. However, because of lack of funds, it will not be able to provide an employment service for all ex-prisoners.

From the numbers already given, it appears that the three houses now operating in New South Wales cater between them for only about thirty-seven people. Not that this situation is unique for "hostels are available only for a tiny minority of offenders".

Sir Leon Radzinowicz sounded a note of warning about the advantages of half-way houses. He stated that in its nature, any hostel, if it is to be more like a home than a penal institution, must be fairly small and have good quality staff. In his view, they cost a great deal of money to set up and run.

Many prisoners see half-way houses as an extension of prisons—merely replacing one institution by another. The long-term stagnating effects, it is said, are likely to be the same as those of imprisonment; the regime may not be as harsh, but different stresses and strains apply. The prisoners also object to any association with the Department once they have been released from its care.

One can well understand these objections. But, notwithstanding them, the Commission sees advantages in a limited number of prisoners taking the opportunity, after release, of living in half-way houses, whether like Rainbow Lodge, with connections with the Department, or Glebe House which avoids any such connection. Both types of institution should be encouraged and community involvement sought.

On the material before the Commission, it is apparent that the lot of half-way houses could be improved by Government policy and support, mainly financial, and that these half-way houses should be placed in a position to make a significant attempt to provide financial and material support for newly-released prisoners. The evidence, however, suggested that adequate Government funding has not been forthcoming and the schemes are stifled through lack of money.

Mr McGeechan referred to the running of half-way houses as being a "social welfare function" and not the Department's responsibility. This view may be held also by others. It is in the Commission's view an area of departmental responsibility and should be accepted as such.

It is easy to suggest that the Department should participate more actively in the area of after-care. However, in the ultimate, it is the community's own responsibility. Apart from a few well-intentioned citizens, the community generally for a long time has done nothing to assist discharged prisoners. The Department must try to change this attitude.

References

- 1 Tom Clayton: "Men in Prison", 1970, at p. 27.
- 2 Malcolm Braly: "False Starts: A Memoir of San Quentin and Other Prisons", 1976, at p. 202.
- 3 Great Britain, Home Office Advisory Council on the Treatment of Offenders, Organization of After-Care. Report of the Advisory Council on the Treatment of Offenders, London, H.M.S.O., 1963, at p. 5.
- 4 Report on Corrections by the U.S. National Advisory Commission on Criminal Justice Standards and Goals, 1973, Washington, D.C.
- 5 "Men in Prison", *op. cit.* at p. 27.
- 6 Home Office Sub-Committee of the Advisory Council on the Treatment of Offenders. After-Care and Supervision of Discharged Prisoners. Report of the Sub-Committee A.C.T.O. London, H.M.S.O., 1958, at pp. 28-30.
- 7 A.C.T.O. Report "The Organization of After-Care", *op. cit.* at pp. 61-62.
- 8 "The Growth of Crime", *op. cit.*, at p. 303.





## **PRISON RECORDS**

Keeping adequate and accurate records about prisoners is an important element of any prison system. The records should be readily and speedily available. The compiling of records concerning the prisoner begins from the moment he enters the prison system and continues during the whole of the time he is within the system and, to an extent, after he leaves it. Records affect almost every decision made about a prisoner during his confinement. They begin with details of the prisoner's criminal record, supplied by the Police Department.

On reception into the prison system, records are made of personal particulars and these are later expanded. The decision on the prisoner's classification and his ultimate placement should be reached on the basis of various reports and information furnished to the Classification Committee.

During his confinement, reports trace the programmes, occupations and activities undertaken by the prisoner. They also record his prison behaviour. To determine his entitlement to remissions, it is necessary to obtain details of the prisoner's progress at a particular industry or in a particular educational course. Reports on conduct or disciplinary action may determine eligibility for a particular occupation inside or outside the prison, such as Work Release programmes. Records are kept of a prisoner's physical and mental health and treatment.

Any individual committee or tribunal within the prison administration making decisions about a prisoner needs these records. The Parole Board, in recommending parole, relies extensively on prison records. Obviously, the smooth functioning of the system depends ultimately on the efficiency with which these records are kept.

Two features of the Department's administration make this difficult. The first is the number of officers and committees within the Department who are called on to make decisions affecting prisoners. The second is that prisons are scattered throughout New South Wales, remote from Head Office and from each other. Often these officers or committees need access to the same type of information at the same time.

The Commission's own inquiry was dependent to a large extent on the Department's records. The state of those records did not make this task an easy one and exemplifies the absolute dependence which any outside scrutiny of the Department's activities or its treatment of prisoners has on adequate records. It is the only means by which decisions made concerning individual prisoners may be ascertained and their justification assessed. The importance of records in the prison system cannot be over-emphasized.

Some 118 prisoners gave evidence. In most cases, the Head Office file, gaol file and medical file of each prisoner were made exhibits. It sometimes became necessary to call for departmental records and reports. It was rare that the prisoners' files were complete and many lacked most essential information. The Department's records were, at times, incomplete and quite important documents were said to be difficult to trace.

One illustration emerges from the call by the Commission on 4th May, 1977, for the production of "all reports held by the Department referring to the alleged mistreatment of a prisoner named Gregory McCarthy". The call arose out of allegations made at the hearings that the departmental inquiry into allegations had been mishandled.

On 17th October, 1977, after the Commission had completed its hearings, Mr Harris, the officer-in-charge of the records, reported:

"I wish to report that file 77/93 'Departmental Inquiry-Allegations by Prisoner G. F. McCarthy of Assault' was recently found when Mr G. Beecroft, Senior Clerk, Secretariat (at the time), and myself were searching for another file in the compactus area. The missing file was found in an incorrect bundle of files, i.e. it was not correctly placed in the normal numerical sequence. The file in question had been missing for approximately four (4) months.

It is relevant to mention that an earlier intensive search which would have included a detailed check of the particular bundle in which the file was ultimately discovered, failed to produce the file at that time."

According to the Department, there are three major files relating to each prisoner: The file retained at the institution, a Head Office file and a medical file. There are also Parole Board files, Classification files, Probation and Parole Service case history files, Administrative Segregation and Protective Custody files, Psychological Unit files, Programme files and general files.

As mentioned, a large number of the files examined by the Commission did not appear to contain all relevant material. For example, some classification files neither contained the reports on which the Classification Committee based its recommendations nor the recommendations of the Committee on a prisoner's initial placement.

Medical files were also deficient. It was stated during the hearings by a medical officer from the Malabar Complex that medical files were not always available when prisoners reported sick. In these circumstances, the consultation was written up and, if possible, placed on the medical file later, which created the possibility that it was filed ultimately in the wrong record. The medical examination form was often not completed, nor was the name and qualification of the person-doctor or medical orderly carrying out the examination signed on the examination sheet. The system of giving a routine course of tetanus toxoid injection fell down because of the lack of proper records.

More recently, after the conclusion of its hearings, the Commission requested the Department to furnish programme files relating to five prisoners at Katingal selected at random by the Commission. The Department had previously stated that programme files were kept concerning each prisoner to record all recommendations made on the prisoner's activities by a Programme Review Committee at the institution to which he had been sent. For two prisoners, such a file did not exist. The programme files for two other prisoners both started in June, 1976, although they had been imprisoned since 1968 and 1970. Similarly, the file on another prisoner started in June, 1976, although he had been imprisoned at least since 1968.

The contents of some of the files revealed other deficiencies. For example, the programme file of a fifth prisoner did not contain the expected reports of the recommendations of the Programme Review Committee; it was almost exclusively devoted to other matters such as his previous history and psychological reports.

The Psychological Unit files of these five prisoners were no different. The files on two of them contained Classification Committee reports and recommendations. One Psychological Unit report was found in one of those files, but it was undated and the author could not be established.

Frequently, the files examined by the Commission were overburdened with multiple copies of reports, documents and letters. Sometimes there were at least five or six copies of the same document on the file.

There have been some attempts at improving the system in the past. In May, 1971, a Public Service Board Inspector, Mr Maidment (now Secretary of the Department) and Mr Nash (Systems Officer in Training) submitted to Mr McGeehan a document entitled "Exploratory Study into the Department of Corrective Services". It suggested, among other things:

"That the establishing of a computer-based prisoner record system could materially assist the administration in policy determination, as well as the staff in carrying out any normal duties."

It noted the inadequacies of the system then employed by the Department as being primarily:

- (i) the absence of a centralized recording system with corresponding uncoordinated and duplicated effort in the various sections of the Department which use records; and
- (ii) the fact that, while the administration of the Department had been reorganized in the period since 1902 to cater for various areas of the Department's activities such as projects, education and prison industries, the basic recording system had remained unchanged.

The report detailed areas of the Department's activities which it considered could be adapted to computerized records. These included records relating to the calculation of dates of release (after taking into account remissions), research and development, classification and the recording of prisoners attending education courses, the Parole Service (by enabling ready access to all relevant records on the Parole Board's decisions), Work Release programmes (by providing a list of prisoners whose sentences were appropriate for consideration for Work Release) and prison industries (by providing cost estimates and profitability studies).

The report recommended a feasibility study into the introduction of computerized records within the Department.

In 1972, the Management Systems Review Division of the N.S.W. Public Service Board conducted a general review of the criminal records and classification sections of the Department. It recommended substantial changes in the administrative structure of the two sections.

At the same time, a study was undertaken under the direction of the Automatic Data Processing (A.D.P.) Service Bureau in the Treasury into the possibility of computerized prison records.

The general review being carried on was conducted on the basis that the A.D.P. computerized system would not be introduced and it assessed proposals for a streamlined manual system. It appears that this proposal for computerization was ultimately abandoned because of the high cost involved.



The general review noted that the criminal records section used a loose and unco-ordinated system of filing correspondence about prisoners and no central record of correspondence was kept. The recommendations made by the Systems Review Division were considered by a departmental steering committee and most were accepted. In May, 1973, two years after the original report, Mr Maidment, with Mr Roberts (a systems officer), reported on progress made in implementing the recommendations. He also reported the conclusions of a pilot study undertaken on the use of a computer.

At the time of their report, the following files were said to be kept by the Department:

- (1) A Head Office file containing a "description card", "index card", and parole liaison section, education section, classification section, Work Release and what were described in the Department's report as prisoner files.
- (2) The Establishments file (gaol file) containing a warrant, description card, entrance and description book, classification records, medical records, psychiatric records and photograph records.
- (3) Probation and Parole Service-individual prisoner records and "personal files".
- (4) "Chief Overseer's Office"-a discharge book, warrant copy, description sheet copy.

The report concluded:

"The team is firmly of the opinion that from the experience gained with the use of the Treasury's computer, a viable criminal record system using a small computer is practicable and is both technically and economically feasible. Further, that the use of the computer will remove much of the duplication of the existing manual record system. It is considered that the system can provide appropriate and adequate information about prisons within the various divisions and establishments of the Department in a timely and relevant manner with content designed to suit the different users."

Despite its strong terms, the recommendation was not adopted; a manual system is still used.

The Department suggested that, despite the Management Systems Review Division recommendation, a Public Service Board Inspector had conceded that "it was impracticable to combine the various filing systems into one central file. The main reason was that a file might be required at any time by a number of people and a Programme Review Committee.

The Department's objection to the Management System Review's suggestion of a central filing system is an understandable one, but undoubtedly the system has great advantages and the speedy supply of basic information, readily available at all of the State's larger institutions, would be of inestimable benefit to the Department.

There are about 24000 prisoner receptions a year, about 123000 prisoner movements (transfers to other prisons, court attendances, medical treatment and so on) and around 1 300 new parole registrations. The Department's present system of recording prisoner movements is a manual one, relying on the mail. Because of the distance of some prisons from Sydney, delays often occur. Even the basic question of where one prisoner is located cannot be answered with certainty until confirmation is received by telephone from the prison last shown in the records.

Clearly, a computerized system would have benefits. In previous years the cost involved was the prime reason for rejecting the introduction of a computer. Since then there have been remarkable advances in computer technology.

For this reason the Commission sought the benefit of consultation with an expert from the Management Consultancy Division of the Public Service Board. The Commission's discussions were conducted on the basis that any computer would be used for "record systems only". It was emphasized that major prisons need rapid access to such records and that it was not in any way to be considered a step towards automation of "decision procedure". It was also on a basis of the coding of a limited, but considered by the Commission to be a sufficient, amount of information. The computer scheme suggested would permit television-type terminals (Visual Display Units) in each major gaol connected to the central computer system by telephone circuits. After these discussions, it is the Commission's view that the situation warrants further investigation and that a feasibility study should be undertaken.

Computers have been used in European and American penal systems for some time. Italy has used such a system since 1967 and Connecticut in the United States of America since 1968.

On the question of privacy and confidentiality, there is no reason to believe that a computerized system would be any more accessible than a manual system. It could also have built into it an automatic "expungment" of records in accordance with the suggestion already made in Chapter 26: Prisoner's Rights and Grievances.

If after the feasibility study it is decided to introduce a computer system into the Department, there still would remain a deal of manual recording. The present recording system of the Department is so bad that, even with the help of a computer to record part of the data, it still would not be adequate. Accordingly, in any case, a systems analyst should examine the record systems of the Department, with a view to suggesting a completely new system of records.

The adoption of a new system will not itself solve the problem. The history of the Department and its record system proves that. Steps must be taken to see that any system introduced is adhered to.



**CHAPTER 33**

**PUBLIC RELATIONS**

The appointment of this Commission resulted as much from public disquiet with the prison system in general as with any single or series of events. Apart from a few dedicated groups, the public generally has little knowledge of prisons, even less of prison policies. The apathy of the community has been frequently mentioned in this Report. The Department has done little to remedy this. In fact, the secrecy with which it has surrounded its activities can fairly be described as obsessive.

Mr McGeechan acknowledged that the media generally gave more prominence to the Department's failures rather than its successes. This defensive attitude no doubt contributed as much as anything else to the media's approach.

The Department has no public relations officer. Direct communication with the media is ordinarily handled by the Commissioner of Corrective Services who, when appropriate, makes statements or press releases.

The major activities in the public relations area have been:

Encouragement of senior officers to speak at meetings of community service organizations and to take part in appropriate seminars, for example those conducted by the Institute of Criminology.

Dissemination of publications of the Department's Research Division to educational and research bodies and other Government departments.

Even this limited activity ceased because of a Ministerial direction in 1975. This embargo was substantially modified, however, on the transfer of responsibility for prisons to Mr W. P. Coleman, then Chief Secretary.

Mr McGeechan was asked about the possibility of appointing an experienced custodial officer as a public relations officer in an attempt to bring about a better community understanding of the prison officer's custodial functions and the onerous nature and importance of the work involved. He said that this idea had been considered, but he did not anticipate any success.

The Commission agrees. It also recognizes that the promotion of public relations and the provision of information by a prisons department is a formidable task.

It calls for the appointment of a most experienced journalist or professional public relations officer, with support staff, if any real progress is to be made in changing public attitudes. The Minister, through his press secretary, should of course continue to issue statements on major matters of policy and on many of the day to day matters on which his comment is sought by the media.

On the other hand, many day to day matters can easily be handled by an experienced public relations officer. Collaboration to avoid duplication in this area should not be difficult.

The example of the N.S.W. Police Department in channelling all information through one bureau might well be followed.

What is more necessary, however, is a long term programme aimed more directly at the community. It should not be the role of a public relations officer in any area of the public service to attempt to defend the indefensible nor to hide the facts of any situation from the public. His role should be to inform, explain and involve the community, using all the skills and devices at his command.

Nowhere is this attitude more necessary than in such a sensitive area as the prison system.

It is also important that the senior public relations officer should be involved in departmental policy discussions so that not only will he have an understanding of them, but also be able to make a contribution on matters directly affecting the community.

To expect to find a suitable public relations officer inside the service itself is unrealistic. An experienced journalist, for instance, would know how and where to obtain the knowledge necessary.

Most of the overseas prison systems investigated by the Commission saw the necessity for specialist public relations officers. The value of public relations to the prestige and morale of the Custodial Service itself was commented on by Lord Mountbatten:

"Having seen something of the work of the Prison Service, I realize how misguided is the uninformed public attitude to the work of a prison officer.

Prisoners who escape often have the subconscious and sometimes the openly acknowledged support of the public and some sections of the Press and other publicity media. A wide knowledge of the activities of the most dangerous escapers-whose crimes while on the run are sometimes even more reckless and callous than those they committed before conviction-would reduce the feeling that an escaped prisoner is a hero defeating the reactionary forces of Establishment. The analogy with the genuinely heroic escape of a prisoner of war is completely false. The safe custody and, so far as possible, the rehabilitation of criminals is not an occupation to be looked down upon. On the contrary, it is one which is entitled to the approval and the active support of the public as a whole. Much can be done by presentation of the true facts, and I recommend that an increased effort be made by all the legitimate means of public relations to gain the Prison Service the support and respect to which it is entitled. Without this we cannot expect the high quality Prison Service which is vital to the safety of the public."

Reference

<sup>1</sup> Report of the Inquiry into Prison Escapes and Security by Admiral of the Fleet, Earl Mountbatten of Burma. *H.M.S.D.* London, December, 1966, at paragraph 221.





## RESEARCH

The Research and Statistics Division of the Department of Corrective Services was established in July, 1970. It has conducted research on the evaluation of departmental programmes, collected statistics and information for management and produced internal reports. It has also published a number of reports for the general public.

The purpose of the research unit was said by Mr McGeechan to be the measurement of the Department's performances. A submission by the Research an':

Statistics Division stated that the major function of research in the administration of corrections was to measure the extent to which objectives were fulfilled.

The broad function of research in this setting, according to the Division, could be formulated as:

- "(a) To provide a description of various activities and programmes and make explicit the implicit policies.
- (b) To evaluate these programmes in the light of departmental objectives."

To follow the unit's own prescription, it is perhaps easier to understand its functions by referring to its specific activities. Its submission categorized these activities into four broad areas:

- (a) Descriptive statistical data, including such matters as prison population and probation and parole statistics.
- (b) General descriptive data, including prison censuses, sentences, and the preparation of the correctional directory.
- (c) The evaluation of special programmes such as periodic detention, Work Release and Project Survival.
- (d) Management analysis-for instance, the examination of prison population trends to suggest reasons for fluctuation in the prison population, studies of overtime and a survey of posts and staffing.

The Division's submission said that "the Commissioner determines the nature and scope of the activities of the Division and is advised by the Senior Research Officer who is head of the Division". It is noted that Mr McGeechan had accepted advice from research officers on "the directions departmental research should follow".

The particular value of the Research Division should be seen in the context of a continuing debate on the role of social sciences in the formulation of government policy. Frequently, the social sciences are seen as contributing to public policies by the development of theories and causal explanations which will indicate the precise actions required to reach stated objectives. This has never been really possible, although it has been attempted in the application of economics to government economic policy with mixed success. It is probably more appropriate to see economics and other social sciences as providing a series of rational methodologies to provide precise information to assist the policy-maker in forming policies, rather than providing clear





The Research Division has examined a number of the Department's programmes, for example, Periodic Detention, Work Release, Project Survival.

There is, however, a lack of breadth in the evaluation process, partly because the Division is so completely integrated within the Department. It is almost impossible for the Division, in these circumstances, to have the necessary detachment in evaluating departmental programmes. This is a problem faced by all organizations in evaluating their own programmes, but it is essential that a much more detached evaluative process be undertaken for confidence to be expressed in the programmes under review.

The Research Division submission notes that the evaluation research has "not necessarily coincided with research needs as perceived by administrators of these programmes or services". It recommends that research be centrally administered and that personnel from sections affected by the research be seconded to work as part of the research team. While the latter suggestion has considerable merit, an improvement in the reception of research by departmental staff is unlikely to be achieved by central control. Rather the capacity is needed to enable the assistance of co-operative research *in* the Department in many more areas than at present.

Two stages of evaluation of a particular programme are needed. Before the programme is started, an evaluation of its feasibility should be undertaken, perhaps involving a small pilot test of the programme. This work is properly done in the organization initiating and managing the programme. When it is launched, it is more appropriate to undertake evaluation outside the organization. Once bureaucratic arrangements are made there are often powerful forces against dismantling them. It is desirable, therefore, that evaluation at that stage should be detached from the management of the programme.

Another disadvantage of the close association of the Research Division with the administration of the Department is that it has not fulfilled the kind of critical long-term planning which is essential in any organization. The Council for Civil Liberties has suggested that all functions of the Research and Statistics Division be "taken away from the Department of Corrective Services and given to the Bureau of Crime Statistics and Research". This would appear to ignore the basic requirement of any executive to get intelligence on the operation of this organization, to collect immediate information for the development of programmes, to report on a regular basis on the functioning of the Department and to make studies of manpower and other management matters. These functions are better performed by a unit inside the department under the direction of the chief executive officer. On the other hand, the Council for Civil Liberties comments have some merit if interpreted as indicating that the Department has failed to undertake the kind of broad study of policy options which seem desirable.

There are a number of areas which ought to be the subject of intensive research. These are brought out in various parts of this Report; for example, the operation of the Parole Service and the Parole Board, the operation of the Probation Service, the method of allocating remissions and their goals, the process of classification and the way to organize it so that it achieves the objectives of the Department, the organization of education, recreation and health within the prison, the range of options available in relation to "dispersal" and a follow-up of prisoners after release both in terms of their adjustment to society and their recidivism. All these matters are broad policies which go beyond the day to day and rather pragmatic approach which has been taken so far.

There are several possible approaches to the problem of separating these broad issues from management research. One possibility would be for the management research to be undertaken by a separate unit in the Department under the control *of the* administrative staff, *leaving the Research Division* to pursue a more independent *line, setting its own priorities, perhaps with the aid of an advisory committee, and reporting directly to the Minister.*

On the other hand, the Bureau of Crime Statistics and Research was established to research all aspects of the criminal justice system. It has extensive experience in project evaluation. The Commissioner of Corrective Services is a member of its advisory committee. There is great merit in undertaking research on prisons simultaneously with other aspects of the criminal justice system.

It is therefore recommended that the Research Division maintain its present position within the Department to provide its intelligence and management research services. On the other hand, there is an urgent need for the development of research on more general policy issues and for the evaluation of programmes in Corrective Services. As the Bureau of Crime Statistics and Research already has these tasks included in its functions and objectives and has the expertise in the area, it should be asked to undertake the necessary research.

#### References

- 1 A. B. Cherns: Social Science and Government, Tavistock, 1972.
- 2 Y. Dror: Public Policy Making Re-examined, Chandler, 1968.





## CHAPTER 35 ALTERNATIVES TO AND VARIATIONS OF IMPRISONMENT

Despite disagreement about the form that alternatives to or variations of imprisonment should take, there is general agreement on the fundamental point that prison should be used as a last resort. The suggestion that prisons should be abolished, though attractive, is opposed by almost all criminologists, academics and penal administrators. Prisons, they say, are here to stay. The Webbs, in their work "English Prisons Under Local Government", said:

"We suspect that it passes the wit of man to contrive a prison which shall be gravely injurious to the minds of the vast majority of prisoners, if not also to their bodies. So far as can be seen at present, the most practical and hopeful of 'prison reforms' is to keep people out of prison altogether."

The demand for alternatives is based on economic, as well as humanitarian grounds. Costs mentioned elsewhere in this Report indicate that the public cannot afford the extravagance of large numbers in prison.

The problem in devising alternatives is to gain public and political acceptance of measures which will operate as a deterrent and be recognized as such and which will not be regarded by the unthinking as too soft. The public's views are always to be considered. Conventional standards define the extent to which rein is given to the objective of deterrence. Flogging is not acceptable today; deprivation of liberty is.

In some countries, there is an unrealistic expectation as to the effect of prisons in deterring and reforming. Most people who are sent to prison are unemployed, untrained, uneducated or emotionally disturbed. It is now generally accepted that imprisonment does not necessarily deter and there is little to give confidence in rehabilitation of prisoners. Rehabilitation has, sadly, proved to be largely a false hope. The recidivism rate in New South Wales is high, as it is throughout the world.

Alternatives and variations may be more economical and may have less harmful influences.

The search for alternatives is universal. So far there has been no breathtaking breakthrough. And it should also be said that alternatives are not always the most effective answer.

Those who presently benefit most from alternatives to imprisonment are those who need that benefit least—the offender who is unlikely to return to crime, such as the drunken driver.

Another reason is that in most cases—for example, suspended sentences—the court sentences the offender to a longer period than it would have done had the sentence not been suspended.

## The Effects of Imprisonment

Prisoner Dugan, in a submission to the Royal Commission, gives a graphic account of institutionalization, referred to in prison parlance as being "boob happy":

"Institutionalization is a degenerative process that takes place in the mental process in prisoners after a lengthy period in prison. It is literally a destruction of the ability to think in a normal manner. Its effect is directly attributable to prolonged incarceration in an environment that suppresses and dulls most of the physical and mental processes that are necessary to a human being if he is to retain his normality.

Prolonged prison terms insidiously slow the mental processes of the mind. As times goes by, the mind becomes more and more affected. In some cases, the mind is completely destroyed and the man may go insane. The majority are affected to a lesser degree and, in many cases, become semi-vegetables."

Dugan goes on to describe this process as a deterioration in prisoners' mental ability to manage basic things and an inability to find words and formulate speech or grasp the implications of remarks addressed to them. Dugan reasons that this is the result of being locked up eighteen hours a day for years with little to do. However, that is only part of the explanation for institutionalization.

Former Chief Superintendent Nash of the Malabar Complex of Prisons agreed that prisoners who have been in prison for a long time, become to some extent institutionalized and in general the longer the prison term the more institutionalized they become.

According to Erving Goffman's book "Asylums",<sup>2</sup> if an inmate's stay in an institution such as a prison is long, "disculturation" may occur which renders him temporarily incapable of managing certain features of outside life if and when he returns to it. Personal defacement comes from being stripped of personal identity for example, the use of numbers instead of names, the need to beg, importune or humbly ask for the slightest request, the withdrawal of all minute personal possessions and the wearing of prison clothes.

These indignities can be heightened by verbal abuse by other prisoners or officers. All the discreditable facts about one's life or mental or physical health, ordinarily concealed from others, are public in prison. The continual searching of a prisoner and his sleeping quarters penetrates the reserve of the individual and violates the territory of his or her self, and the reading and censoring of personal mail all become part of elementary disruptive influences to his personal integrity.

Goffman, in his concluding description of the process of mortification in total institutions, raises these issues: firstly, institutions such as prisons disrupt or defile precisely those actions that in civil society have the role of attesting to the person and those in his presence that he has some command over his world; secondly, that he is a person without "adult" self determination, autonomy or freedom of action.

Mortification of the self is very likely to involve acute psychological stress for the individual and engender a pervading atmosphere of anxiety and hostility, says Goffman. The long-term consequence of total institutionalization is that the person becomes unable to cope with ordinary existence and develops a need to return to the institution.

This brief summary of Goffman's description of the process of institutionalization gives strong academic support to Dugan's submission. It shows that penal systems face the dilemma of trying to protect society in a system which perpetuates the process they are trying to prevent-increasing the crime rate.

There has been no examination of the possibility that the objectives of imprisonment-protection, deterrence and punishment-might be effectively achieved by ~ less costly and less harmful means. What is obviously required is less use of maximum security prisons and a realistic attempt to diminish the process of institutionalization.

Imprisonment can affect the family or dependants of the prisoner in economic and social terms, since contact with and ability to support them have been curtailed.

The economics of imprisonment have been referred to in other sections of this Report. The average cost of maintaining a prisoner in a New South Wales institution is now approximately \$30 a day, which gives some indication of the overall cost involved. By way of comparison, the Department says that the cost of maintaining a prisoner on periodic detention is approximately \$8 a day.

Complete abolition of prisons has, of course, been advanced for many years, partly based on the Marxist theory that society, rather than criminals, should be blamed for crime.

An early analysis of the theory behind abolition is to be found in W. L. Bonger's "An Introduction to Criminology", 1936. His determinist philosophy is evident in his conclusion:

"He who, nevertheless, still adheres to the doctrine of free will, cannot be admitted to the criminologist fraternity. An indeterminist criminologist is a living contradiction in adjecto."

A more accurate interpretation might be found in

Lacassagne's statement: "... les sociétés ont les criminels qu'elles méritent."

(Societies have the criminals they deserve.)

As already said, most people are against abolishing prisons. In all countries, Marxist or otherwise, imprisonment is used as a punishment for offences against society. There is, however, an increasing awareness of the harmful nature of imprisonment and that it should be used as a last resort.

The Commission's views on the abolition of imprisonment are not called for by its Terms of Reference. They speak of the inquiry being conducted "in the light of contemporary penal practice and knowledge of crime and its causes". The issues raised by this term would merely call for a finding by the Commission that contemporary penal practice indicates the continuing use of imprisonment.

There is much loose talk about decriminalization. Certainly, the abolition of crimes now on the statute book—for instance, the offence of homosexuality between consenting males—would reduce the number of people who might be sent to prison. If, however, decriminalization is taken to apply to plans to send alcoholic and drug addicts to institutions, but not prisons, then although again the prison population might decrease, the alcoholic and the drug addict are still to a degree deprived of their liberty. If anything, the cost to the State is increased.

Several schemes are offered as alternatives to and variations of imprisonment.



The primary variation is the granting of probation and parole. The advantages of this as a variation are obvious and are discussed elsewhere in this Report.

Another variation of imprisonment is the work release programme. Many advantages are to be gained from the work release programme, not the least thing 'the saving in money to the Department. In the Work Release I programme, where the prisoner lives in and goes out to work, he is paid a normal wage and a deduction is made for his keep in prison. By earning wages, the prisoner is able to accrue a reasonable sum to assist him when he is released. In Work Release II, the Department is relieved of paying any maintenance for the prisoner because he lives at home. Again, he earns normal wages and is able to support his family.

This is not an end to the advantages of these programmes. There is the in-estimable advantage of the prisoner living in a more relaxed situation and, by his introduction to the outside community, becoming re-established in it.

It is a pity this programme has not been extended to a greater number of 'prisoners. The Department should not permit the recent well-publicized failure of one prisoner on a work release programme to limit its future use.

The Periodic Detention of *Prisons Act, 1970*, came into effect on 1st February, 1971. It is restricted to men of eighteen years of age and over *who have not previously* served a continuous term of imprisonment of more than one month. The length of periodic detention is limited to not less than three months and not more than twelve months. An offender sentenced by the court to periodic detention must report each Friday evening not later than 7 p.m. and remain at the centre until 4.30 p.m. on the following Sunday, for the duration of his sentence. During his sentence, he is allocated jobs and work in groups in the community-such work as maintaining the grounds of 'hospitals, police stations, parks, scout halls, graveyards and churches.

The first periodic detention centre in New South Wales opened on 19th March, 1971, at the Malabar Complex of Prisons. Periodic detainees do not come into contact with full-time prisoners. A second centre was opened at Parramatta in July, 1973. There are now six periodic detention centres; the more recent ones are at Bathurst, Silverwater, Emu Plains and Tomago. Accommodation is provided for up to 120 detainees.

Originally, the jurisdiction to impose periodic detention was limited to the Supreme Court and the District Court in Sydney. The scheme has now been extended to many Courts of Petty Sessions in the metropolitan area, as well as Courts in the Bathurst-Orange district, Katoomba, Camden, Richmond, Newcastle, and the Hunter River Valley and lower North Coast areas.

At 31st March, 1976, a total of 639 men had been received into the programme, an average of about 100 a year. This figure is comparatively small when compared with the number of people whom courts would consider appropriate to be sentenced to periodic detention if further accommodation were available.

The advantages of this scheme as a variation to imprisonment are obvious. There is a significant economic benefit because the only contribution made by the Department to the programme is accommodation for the weekend and limited supervision. The periodic detainee is not exposed to the danger of contamination mentioned at the opening of this Chapter. The effect on a prisoner's personal life is minimal. He can keep his job and maintain his family and social ties.

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Additions over the years have resulted in a conglomeration of buildings at  
Parramatta Gaol

**WORK IN PROGRESS**

The one disadvantage is that buildings used to accommodate detainees remain closed during the working week.

Periodic detention programmes should be extended as soon as practicable.

For periodic detention, facilities now available should be used during the working week in addition to weekends. This might permit some offenders to be sentenced to periodic detention during the week, or use of the premises for a new form of work release, enabling the inmate to live in the institution during the week, work outside and have his weekends outside the institution. These suggestions might need special legislation.

A further variation is the suspended or deferred sentence—the court postpones imprisonment subject to certain conditions. The advantages and disadvantages of this variation have already been referred to.

The number of people imprisoned for the non-payment of fines has been steadily reduced. As at 30th June, 1977, the proportion was between three per cent and four per cent of the prison population. These people represent an extraordinarily high proportion of admissions; 34.7 per cent in 1974-75, the last year for which figures are available.

Fines have great advantages as an alternative to imprisonment. An obvious defect in their use for this purpose, however, is that the failure to pay them automatically results in imprisonment. This is particularly so because a sentencing court does not, in practice, consider an alternative—for example, periodic detention. Although the fine is imposed as punishment, imprisonment may seem a harsh sanction for its non-payment, particularly if the offender lacks the resources to pay it.

It is suggested that a garnishee or other execution order should be available to the Crown to enforce a fine. If the fine is still not paid, the offender should be brought before the sentencing court, which can then consider the most appropriate sentence, having regard to the alternatives available.

The alterations and variations discussed above are not novel nor are they unique to New South Wales. Similar schemes in sentencing and imprisonment are used in many Western countries.

One form of sentencing which is not used in New South Wales, but which the Commission feels would be of value if introduced, is that of community service orders. These orders are made in the United Kingdom and Tasmania. An offender can be ordered to perform unpaid work of a community services nature. Under the recently introduced Tasmanian system, a court can order an offender to perform unpaid work of this nature every Saturday for up to twenty-five Saturdays. In the United Kingdom, the court depends on the probation officer to inform it not only about the offender's suitability for such an order, but also of the jobs that are available. Typical examples are tidying graveyards and gardening for hospitals and homes for the aged.

After two years testing in six selected areas in the United Kingdom, researchers have reported in favour of the scheme.

Despite some disadvantages (mainly arising from present economic conditions) it is recommended that the scheme should be introduced into New South Wales.

In September, 1973, the Department introduced the Project Survival scheme.

Mr McGeehan said its aim was "to extend to innovational areas directed at developing the moral qualities of those people who have demonstrated delinquency". The programme, he said, was expected to develop qualities of self control, confidence and judgment. The course bears some resemblance to Outward Bound courses, but it was stressed by Mr McGeehan that it included fire fighting, flood relief, cliff and bush rescue, plus a continuing programme of conservation and restoration devised by the National Parks and Wildlife Service.

The Department hopefully pronounced, in a research bulletin, "Project Survival":

"If the candidate is young and in good health, he will be selected for Project Survival as a pre-Work Release experience; otherwise he will be sent to an alternative pre-Work Release centre. All candidates who complete pre-Work Release successfully are placed into Work Release as vacancies occur, but priority is given to successful Project Survival trainees."

Unfortunately, so far as appraisal has been possible, the scheme has had no marked effect in changing the recidivist rate of those selected. While apparently appreciating its present drawbacks, Mr McGeehan said: "I think it is a valuable programme and what we have not established is how best to use it." Evaluation of the scheme is difficult. The research so far on small numbers is inconclusive and the methodology used in assessing the scheme seems to be highly subjective. The cost of the scheme has, over the years, increased considerably and, although it has theoretical appeal, the scheme assists few prisoners. From its inception until December, 1976, a total of 127 prisoners participated in the scheme-an average of forty-two prisoners a year.

The Council for Civil Liberties in its final submission said that, apart from Project Survival being an enjoyable diversion for agile prisoners as an alternative to remaining in boring, tedious and antiquated prisons, it failed to see how it could have any positive rehabilitative value.

Apart from the equipment, expenditure on materials in the financial year ended 30th June, 1975, was \$2,442. In the following financial year, the cost was \$12,053. The budget allocation for Project Survival for 1977-78 is \$18,000. Salaries of the five officers involved would be about \$60,000 a year. All this makes the running cost for forty-six participants about \$1,700 a head for a course of six weeks.

This expenditure for such a few prisoners is unwarranted. The scheme should be abandoned.

It is no part of the Terms of this Commission to comment on the sentencing policies of the courts and in the remarks which have been made are not to be taken as referring to these policies.

#### References

<sup>1</sup> Sidney and Beatrice Webb: "English Prisons under Local Government", Longmans Green & Co., London and New York, 1922, p. 248.

<sup>2</sup> Erving Goffman: "Asylums", Pelican, 1968, p. 23.

<sup>3</sup> W. A. Bonger: "An Introduction to Criminology", Trans. from the Dutch by Emil Van Loo, Methment & Co. Ltd, London, 1936, p. 21.

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Chapter 36 THE DEPARTMENT AND FUTURE PLANNING

MEDIA COMMUNICATIONS

**WORK IN PROGRESS**

## CHAPTER 36

### THE DEPARTMENT AND FUTURE PLANNING

The Commission has already proposed a statement of policy of aims \_ objectives which it believes to be the one most acceptable and most generally accepted in modern penology: Chapter 3.

Suffice it to repeat that imprisonment is to punish the criminal for transgressing society's laws. While the offender is imprisoned, he or she must be treated humanely. The punishment is loss of liberty, but he or she should lose no further rights than result from that loss of liberty. It was there stressed, and is repeated here, that the aim should be to see that the prisoner suffers no harm physically or mentally while in prison and, if at all possible, that he or she emerges rehabilitated. It is essential within those limits that as few as possible should be imprisoned and for as short a time as possible.

#### **Costs of Imprisonment**

This can be illustrated by an example of the costs involved in housing high risk prisoners, taken from figures in Mr McGeechan's initial statement. He spoke of a total cost of \$7-\$8 million to build an institution to house 100 high risk prisoners and an annual cost of \$4 million if the prisoners were to be confined to their cells for ten hours a day.

If the Department's proposals for the next ten years were to be implemented; and six prisons of 100 prisoners each were to be built around the metropolitan area, then the cost of these buildings would be \$42-\$48 million. In addition, there would be an annual running cost for those six prisons alone of \$24 million. The annual cost of running the Department is now about \$30 million. Expenditure of some \$48 million and an increase in running costs of the Department to about \$45 million would be needed.

Perhaps it is relevant to point out that the Department in its submissions has in evidence, stressed the need to replace all the admittedly very old gaols in New South Wales and this was part of the plan proposed.

There seems little point in taking these figures further, but if one were to consider the views of certain vocal but ill-informed members of the public who demand a guarantee that there will be no escapes, then one should consider a building programme for 4 000 prisoners costing something like \$320 million and an annual budget of \$160 million. Expenditure of such proportions could not be anticipated to be forthcoming from any Government, nor be approved by the people of New South Wales, and even then a "no escape" guarantee could not be given with any confidence.

The humanitarian side of the picture is a different one. It concerns the undoubted fact that the longer a person spends in gaol, the more chance there is of his or her being contaminated by more hardened criminals; and with a sentence of a year or more the inmate is proportionately more institutionalized. Or even more important is the fact which would not be disputed by any modern criminologist—that an inmate treated as dangerous becomes dangerous.!



The present situation can be summed up:

- (1) All New South Wales prisons, other than Cessnock and Katingal. .. very old and little has been done of recent times to update them.
- (2) Bathurst Gaol at the time of the fire in February, 1974, housed -- 300 inmates. Although much damage was done, the buildings are • usable. An estimated cost to provide an "accommodation unit" in the .buildings would be, according to Mr McGeechan, thirty per ceDl :r".  
than building new "accommodation units", "
- (3) The prisons at the moment are overcrowded. Mr and the Commission's inspections confirmed it. (4) Too many prisoners are in secured gaols.
- (5) On 8th February, 1977, the Government decided would be "redeveloped to house 300 inmates".

Gaol population figures supplied by Mr McGeechan demonstrate that there JIR more places available than prisoners held. It is only when it is realized that far ~ many prisoners are held, wrongly, in maximum security gaols that the reality of .. overcrowding is seen.

It is far from an over-statement to say that the Department's planning - been constantly beset by the inability of different Governments to come to concm= decisions in support of proposed plans. A brief resume will illustrate this. In All:"IS:. 1972, a firm decision was made by the Government to build a new "maximum se~ unit" at Emu Plains. In December, 1974, the Government decided that this proposa was not to proceed. In February, 1975, the Department recommended to the GO11;:Ooment that the plans for Emu Plains should be abandoned, that Commonwealth l..a:D£ at Holsworthy should be acquired and the "maximum security gaol" previously propesee for Emu Plains should be built there or failing that at Silverwater.

In July, 1976, the Department recommended that a prison (subsequently labe.ec "M. 90") be built at Silverwater and that efforts be made to acquire the Parramzra Psychiatric Centre site "which would allow us (the Department) to spread some 6)1 prisoners from our existing installations" into this particular area. This last proposio:a: was rejected by the Treasury in a letter to the then Minister for Services. ::1E Honourable R. J. Mulock, M.L.A., dated 20th July, 1976. The letter stated that :n: HM. 90" project at Silverwater and the proposed erection of six maximum securm centres in the metropolitan area could not proceed because of lack of funds. It w)1S indicated, however, that there might be some money forthcoming for these projec: in the following financial year, 1977-78.

On 13th September, 1976, the Director of Special Security Units, Mr l. Sanden. was still talking of a Department "corporate plan". According to him, this pw envisaged five, not six, maximum security gaols being built. These were to be buli: within 100 to 120 miles of Sydney.

There appears to have been some confusion in the Department's planniag because Mr McGeechan stated in evidence that the plan was to build within the Sydne"! metropolitan area. The "corporate plan" for the building of five or six maximum security gaols (whichever number was correct) was to extend over the next ten year. After about six years, a further security prison was to be erected at Bathurst. Then is a further discrepancy between Mr McGeechan's evidence and his statement, whice omitted any reference to such a security prison at Bathurst.



Although the Department was consulted by and was advising the Government in 1977 on the redevelopment of the Bathurst Gaol, for reasons best known to itself it omitted to mention the matter to this Commission. The Commission had already demonstrated its interest in the Department's planning. It was only when certain press reports were brought to its notice that the Commission realized that once more the Department's planning had changed. Since then, a Departmental Task Force report on the redevelopment of Bathurst Gaol has been sought and obtained from the Department. The Department's attitude in this could perhaps be described as unusual, although not entirely unexpected having regard to its obsession for secrecy.

The present proposals for the redevelopment of Bathurst involve a four-stage programme. In the first stage, the existing complex was to be developed with two of the old wings, A and D, being developed as education blocks and two other wings, B and C, being used for accommodation; other buildings would house staff amenities, recreation centre, workshops, museum and visiting area. The object of this development was to house 200 "variable security" prisoners in this complex by 1979.

The second stage was to comprise buildings to house central services. This was to be completed in 1980 and the buildings were to be situated at the rear of the old gaol buildings.

The third stage was to be the renovation of X wing.

The final stage, which was to be completed by mid-1982, was to be a "special security unit" to house 112 inmates. At the same stage and apparently to be completed at the same time, mid-1982, staff housing was to be erected.

The projected overall cost amounts to \$10 million, made up as follows: \$ million 1.7 2.5 0.2 3.5  
Stage 1 Stage 2 Stage 3

Part of Stage 4, namely the "Special Security Unit"

And \$2.1 million was to be spent on the staff housing.

### **Future Prison Population**

It is essential that consideration should be given to determine, as far as is possible, how large the future prison population will be and the type of prisoners comprising it. This task is formidable at any time and at any place. It is made no easier by the evidence and reports before the Commission.

Given the difficulty of accurately predicting a figure, it should still be remembered that any predicted figure is only one factor in the overall planning strategy. The limitations and reservations associated with the use of crime forecasting methods must always be recognized.

According to a Council of Europe report:

"As in all social planning, the process of forecasting must not be allowed to determine the fundamental basis of planning. Social defence policies are ultimately based on the deliberate setting of targets; the use of criminality forecasts must always be subordinated to the efforts to reach these targets."<sup>3</sup>

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In its final submission to the Commission, the Department predicted that the prison population by 1986 will be 4422. It has arrived at this figure by striking an overall "at risk rate per thousand" of the population of New South Wales. This is taken from the Australian Bureau of Statistics estimated age, distribution of population at 30th June, 1977, and relates to people aged eighteen years and over. The average - calculated for the years 1966-76 and resulted in an "at risk" figure of 1.202 for each thousand. Applying that figure to the New South Wales estimated population of 3 678 653 for the year 1986, the Department calculated that the prison population in 1986 would be 4422.

Many criticisms could be levelled at this method of calculation. Not least is the lack of success in the Department's estimate for the year 1977. Its method of calculation resulted in a figure of 4017, whereas the actual figure, taken from the Department's last annual report, was 3 687, some 330 less.

If one merely looks at the calculations for the "at risk" figures for the 1966-76, they show that although there were some variations during those years there was an overall decline in the figure from 1.215 in 1966 to 1.089 in 1976, suggesting a declining prison population. Also, if instead of taking the last ten years one averages the "at risk" figures for the last four years, including the year 1977, the average per thousand is 1.005.

If one projects that average for the estimated 1986 population figures, the projected prison population is only 3 697 as opposed to the Department's figure of 4442. The United Kingdom, in attempting to forecast its prison population, although using an "at risk" figure, employs a much more detailed methodology.

The mere acceptance of an "at risk" figure, as the Department does in its calculations ignores the fact that the Australian population is getting, and is predicted to be getting, older; in addition, the figure chosen is from eighteen years to death. Most agree that with increasing age there is a decreasing criminality rate. It is not without interest to note that the latest figures - as for January, 1977 - show a further drop of 111 in the prison population since May, 1976.<sup>4</sup>

The Commission had the benefit of estimates made by the Assistant Director of Research at the Australian Institute of Criminology, Dr Biles. His opinion differs from that expressed by the Department.

This area is and always must be a grey area, but the Commission, notwithstanding some hesitancy, thinks that although there may be some slight increase in the New South Wales prison population over the next ten years it will not be of the order suggested by the Department.

The Department's Research and Statistics Division Publication, "N.S.W. Prison Population 1973", defined the "at risk" population as "males aged eighteen years and under thirty years". Since about two-thirds of all prisoners in custody are males aged eighteen to thirty years, this group was considered to be the most "at risk".

The same publication points out that no consistent trend in the prison population can be seen in the decades from 1930 to 1970, other than a surprising increase in the last two years. However, it hastens to add that the first and most obvious reason for the changes is the increase in the total population of New South Wales. A more interesting comparison is set out on page 1 of the publication where the prison population per 100 000 in the stated years is shown as:

|      |      |      |      |      |      |      |      |  |
|------|------|------|------|------|------|------|------|--|
| 1900 | 1910 | 1920 | 1930 | 1940 | 1950 | 1960 | 1970 |  |
| 139  | 81   | 57   | 78   | 52   | 62   | 76   | 84   |  |

It is obvious from these figures that a consideration of population increase will not, of itself, solve the problem. In the annual reports, various Comptrollers-General have indicated, not without some reason, that other explanations include "social, economic, legislative and judicial changes".

In the light of the above and because of the persuasive report of Dr Biles, the Commission feels justified in its statement that for the next ten years there is likely to be no significant rise in the prison population in this State. Future planning of the Department should be based on this assumption. In this situation, where experience all over the world has shown that the prison population can both increase and decrease in any country without warning, it is essential that the position should be kept constantly under review.

Type of Future Inmate

It is also necessary to try to estimate not only the numbers of prospective inmates in the New South Wales gaols during the plan period, but the types of inmates, the proportions of offenders indicated by length of sentences and the types of offences. The graphs prepared by the Department for the last five years suggest that by far the largest percentage of the prison population during those years comprises prisoners with sentences of one year and under. Of the total prison population, fifty-two per cent were serving sentences of less than three months and twenty-three per cent sentences of over three months but under one year.

In all probability, this trend will continue. Despite a possible increase in the sentencing of particular classes of offenders due to current public and judicial attitudes, the proportion of offenders receiving sentences of under one year will not significantly decrease.

When the last five years would indicate that by far the greater number are classified as "fraud, property, driving, traffic, drug and other offences". Those in the more violently antisocial sphere categorized as "homicide, assaults, sexual offences, robbery and extortion" amount only to about ten to twelve per cent.

For these reasons, the Commission cannot fully accept the following statement in the Department's final submission under the heading "Observed Trends in the Composition of the Prison Population 1970-75":

"However, assuming that trends observed in the past will continue into the future, it may be expected that more persons will be sentenced to a term of imprisonment for violent fraud and property offences.

More offenders received into custody will be under the age of twenty-five years. The number of sentenced women prisoners received into custody will continue to fluctuate."

The last two paragraphs may well prove to be correct, but if it is intended to convey by the first paragraph that the number of violent criminals in gaol will increase, then the Commission cannot accept that prediction as other than guess work. It may well be that if the overall prison population is decreased, the proportion of violent prisoners in gaols will be greater than as at present.

It is estimated that for the period of ten years, the factors (omitting the cost factor) which will control planning are:

a small increase in numbers could take place, in the order of 200-300 additional prisoners;

by far the greater proportion of the prison population will be those serving sentences of under one year;

the type of prisoner will be much the same as at present; there may be some slight increase in women prisoners.

At all times there must clearly be borne in mind the injunction of the European Committee on Crime Problems of the Council of Europe, 1974, that criminality forecasting projects should be "used as auxiliary tools in the process of setting short and medium term planning targets".

### **Principles of Planning**

In the light of these forecasts, which are used as an aid and not meant absolutes to determine the planning, the Commission turns to examine the principles that should be applied in drawing up a plan for the future.

- (a) As a guiding principle, the recommendations of the Younger Report; rather than the Mountbatten Report should be accepted. A principle of dispersal of dangerous prisoners should be followed rather than the principle of concentration. This has been discussed elsewhere in the Report.
- (b) Any planning should be flexible because of the difficulty of predicting with any certainty. Accordingly, the plan should be constantly under review and, when necessary, updated. It should be flexible also in that the planning should envisage alternative uses for any new gaol that is built. The new women's prison at Holloway, London, has been designed in such a way that, with minimum alterations, it could be used as a hospital if no longer needed as a prison. In the updating of old gaols, similar considerations should apply.
- (c) The plan should be for ten years.
- (d) Any new gaols should be preferably near large centres of population, that is in the Sydney, Newcastle and Wollongong areas. There are many reasons for this—the proximity of necessary ancillary services, psychiatric, sociological, medical, educational and industrial; easy access for visiting; and for the re-integration into society of inmates when discharged. However, there will be always the need for smaller prisons to serve larger country centres and the Courts in those areas.
- (e) Mega-prisons, such as the enormous prison complex to hold 5,000 prisoners at Fleury-Morogis near Paris, should not be built. The criticisms of this prison are so universal as to render this statement almost unnecessary. Any new prison or any of the older prisons to be redesigned should cater for 200 to 300 inmates. Any small number is economically wasteful, any larger number does not permit proper knowledge and handling of inmates. These prisons should be divided into smaller units in accordance with the "unit management" ideas now finding favour in the United Kingdom and the United States of America and described elsewhere in this Report.
- (f) Proper staff amenities should be built at prisons. Present staff amenities in N.S.W. prisons leave much to be desired and are poor in comparison with most overseas prisons. Some thought should be given to the need to provide accommodation for officers transferred from other gaols.
- (g) Proper visiting and interviewing areas, and areas for sport, education and industry should be constructed.
- (h) Full use should be made of modern electronic aids. These should be of assistance to, but not necessarily a substitute for, the man on the ground. They are of special importance because of the reliance on perimeter security in the dispersal prison.
- (i) It must be acknowledged that resources are limited but they should be spread in an attempt to assist as many prisoners as possible.

Old Wooden huts used as prisoners' quarters at Glen innes Afforestation Camp

Before turning to the proposed plan, it should be noted that for some years there has been a failure to use properly the resources that were available. One instance, which has recently been corrected, was the failure to use No. 13 Wing at Malabar. There is also the failure to use an idle labour force to build recreation facilities, gardees and so on in the prisons. Perhaps a more significant illustration, however, is the ineffective system of classification which is discussed elsewhere in this Report. 'Ib& classification system-and the delays resulting from it-has caused over-crowding in particular places (more especially at the Malabar Complex) which could have been avoided. It has also led to the containment of some prisoners on inappropriate security.

An equally important observation is that at times situations have developed where full use has not been made of existing plant. This has arisen from lack of adequate staff, either in numbers or in training or failure to employ them properly as the result of unresolved industrial troubles.

The Commission hopes that these hindrances will be, at least to an extent, overcome in the future. It must also be remembered that staff are more important than buildings and at times inadequacies of buildings can be overcome by the employment of more staff.

#### Plan

The plan recommended by the Commission is a co-ordinated one and involves the building of any new gaol at the same time as old gaols are being developed and improved.

Because of the possible limitations on available funds and the numbers (1 inmates affected, priority should be given to the improvement of the older gaols in the State. The Commission saw many examples of satisfactorily redeveloped gaols in England and the United States. As redevelopment takes place, construction of a new institution should be started and completed within five years.

The first new gaol to be built can be used to house prisoners from old gaols whilst the latter are redeveloped. If the prognostication of the Commission proves to be correct (that there will be an increase in the gaol population of 200 to 300 in the next ten years) then this gaol could, in due course, be used to handle the increase. Any subsequent gaols built would be used to replace the older gaols. They need not necessarily be located in the same situation as the old gaols. The older gaols, when replaced, could be used for other purposes or razed.

The use of the present Observation wing at Malabar should cease immediately. This is of the highest priority. Its conditions were described by Dr Lucas as "Dickensian". No one who spoke of it at the hearings differed from this view; some were even more extreme in their criticism. This area is a disgrace to the people of New South Wales and should not be permitted in any civilized society. In planning a replacement, attention could be directed to the security hospital adjoining the Yatala Prison in South Australia; it could provide a useful model.

The Commission, for the reasons outlined, has not had the benefit of any evidence from or submissions by the Department on its Task Force's proposal for the redevelopment of Bathurst Gaol. On the material before it, Stage Four of that plan (the building of a "special security unit" behind the present gaol) recalls some of the more objectionable features of Katingal and some of the worst features of concentration. If it is the Government's intention to adopt the whole redevelopment plan of the Department, as opposed to limiting the plan to redeveloping the old Bathurst Gaol, then the public should be given every opportunity of knowing the Department's intentions and of inspecting the plans. A full public discussion should be invited.

However, the Commission is not in favour of implementing the Task Force's proposal and recommends a redevelopment only of the old Bathurst Gaol. The evidence suggests that much of the old gaol can be used. The Department's plan for the area confirms this. In such a renovation, attention should be paid to the standard of cells, which should be enlarged and improved, and the provision of proper education, workshop and recreation areas. The wings should be designed to permit the application of the principles of "unit management". The population should be limited to 200 inmates. This number may mean some service buildings and recreation areas being built outside the present wall.

It should be prepared to hold prisoners within the recommended classifications, Category A and Category B.

An immediate re-assessment should be made of the Parramatta PSYchiatric Centre buildings adjoining the Parramatta Gaol. Some ten acres of these grounds are understood to have been transferred to the Department. The Government should consider transferring the remainder of the area to the Department. When the area was previously being considered by Mr McGeechan, he estimated that if the whole of the property on one side of the river was available then the Department could house some 700 prisoners. This, Mr McGeechan said, would have "automatically solved the Department's problems of Work Release I, periodic detention, the manning of the linen service and what other programmes we have been able to implement in a reduced security area".

If necessary, some of the present buildings in the Centre could be used for inmates with a higher security rating. In any case, the movement of this number of people, or any portion of them, could certainly relieve some of the more pressing problems the Department now faces. The Royal Commission is not in a position to say exactly how this area could or should be used, but if it were available it would permit the movement of a sufficient number of prisoners from some of the older gaols to enable updating work to start immediately.

The Commission's views on Katingal have been expressed earlier in this Report. As a place of confinement, it is an unnecessary and unfortunate extravagance. It offends against the principle of dispersal which has been recommended, and the Department should abandon it. It is difficult to decide what can be done with this building and it has been suggested elsewhere that a committee should be formed to examine the situation.

It was vaguely suggested by Mr McGeechan that Katingal might be used, at some distant date, to contain terrorist groups. Without having firm views, the Commission believes that a construction as expensive as this could not be justified on these grounds alone. If, unfortunately, such activity became of concern to the community in the future, it would not be too difficult to take appropriate action when the emergency arose.

One of the worst areas at the Malabar Complex is the one which houses unconvicted and appellant prisoners, the Central Industrial Prison. It is ludicrous when it is recalled that under-the law these 'people are presumed to be innocent. Many of them are ultimately acquitted. That they should be held under present conditions is indefensible.

A remand centre should be built as soon as possible for sentenced and unconvicted prisoners. This centre will have to cater for all classifications of security. Decisions about such classifications should be made at the new centre and the courts must be held there according to those classifications.

This centre should be in the metropolitan area. Consideration could be given to building it in the city itself. In the United States and in Europe, high rise buildings were constructed as remand centres in cities. Attempts were made to site them near the Courts. If the cost involved would render such a scheme impractical, the extensive area at the Malabar complex could be considered.

The use of X wings to house lower security prisoners at both Goulburn and Bathurst has demonstrated their advantages and it is recommended that in all maximum security gaols these wings should be erected. The Commission does not see any advantage in such a development at Maitland because of its proximity to Cessnock.

In regard to Parramatta, some of the buildings in the Parramatta Psychiatric Centre could be used in the same way as an X wing.

In the case of Long Bay, it is recommended that a building similar to an X wing should be built to house at least fifty prisoners in the grounds outside the interior wall but within the exterior wall. There would be the additional advantage that with these prisoners the farm previously at Malabar but since abandoned could be re-opened.

Quite correctly, the Department has pointed to its difficulty in starting reconstruction work at an old gaol until it has another place to accommodate inmates. In these circumstances, it is essential that, as a first priority of this overall plan, the redevelopment of Bathurst Gaol should start immediately and that some use be made of the Parramatta Psychiatric Centre buildings. This will enable the initial break to be made by moving prisoners into Bathurst and thus vacating another gaol. There is no reason why the use of the Parramatta Psychiatric Centre buildings could not commence at the same time with the buildings there being used either temporarily or permanently. This would help to relieve the present overcrowding in all the gaols.

In the immediate future, it is essential to begin the planning and building of a new gaol of the category described by the Department as "maximum security" which would house the prisoners referred to in the suggested classification of category A and B. This institution should be able to house no less than 200 and no more than 300 prisoners.

These institutions could be used if necessary to accommodate any increase in the prison population. Alternatively, the new gaol could be used to replace an old gaol. Apart from this, it is the Commission's view that the Government should not contemplate building any further gaols other than as a replacement for the old gaols. In the future, it is hoped that all the old gaols of New South Wales will be abandoned and prisoners held in new establishments. This will take many years. But it should be the ultimate aim of all future Governments.

Any establishment made redundant by new buildings should if possible be used for some public purpose. Otherwise it should be destroyed.

Undoubtedly, any plan will need to be the subject of constant review.



*It must be remembered that most of the State's gaols are more than 100 years old. To expect that the Department and its officers can use them to run a modern penal system effectively is unreal. To commit people to serve sentences in them is not only barbaric but inviting trouble. Those who talk of gaols as places of comfort and of the luxurious quarters in which prisoners are housed should find time to visit them. They would shock and abhor any fair-minded citizen.*

The Commission recognizes that Government resources are not unlimited and that a specific order of priorities will have to be accepted by the Government. However, the point has to be made that, while the plan which has been proposed is one for ten years only, the prospect of the necessary re-building must be seen as extending well beyond that period. It would only be courting trouble if but one new gaol were to be constructed and nothing further done.

#### References

1 "Task Force Report: Corrections", The President's Commission on Law Enforcement and Administration of Justice U.S. Government Printing Office, Washington, 1967, p. 50.

2 Letter from Mr McGeechan to Under-Secretary Halliday, 23rd December, 1977.

3 "Methods of Forecasting Trends in Criminality", European Committee on Crime Problems, Council of Europe, Strasbourg, 1974, p. 33.

4 David Biles: Australian Prison Trends, No.1, July, 1976-Canberra, Australian Institute of Criminology.

5 Department's Annual Report for year ended 30th June, 1977, p. 12.

A COMMUNITY  
SERVICE PROJECT BY

**BREAKOUT**

MEDIA COMMUNITY

**WORK IN PROGRESS**

**B Wing at Goulburn Gaol, about 1900. There is little change today**

(By courtesy of the Archives Office of New South Wales)



**CHAPTER 37**

**POSTSCRIPT**

The Royal Commission limited its inquiries to a consideration of the New South Wales prison system during recent years. It has concerned itself more particularly with the years during which Walter Richard McGeechan occupied the position of Commissioner of Corrective Services.

There can be no doubt that during that time some attempt was made to introduce long overdue reforms and innovations into the prison system and to liberalize an outmoded and outdated Department. What started out with the best of intentions ended merely in euphemisms and official euphoria. There still remained an inefficiency; Department administering antiquated and disgraceful gaols; untrained and sometimes ignorant prison officers, resentful, intransigent and incapable of performing their tasks; and a high proportion of restive and rebellious prisoners. Disturbances and industrial strife abounded as never before.

What went wrong?

The single most important reason was the failure of Mr McGeechan as Commissioner of Corrective Services and his senior staff properly to organize and administer the Department. Replete with plans and theories, they cared little about their prison officers whom they neither consulted nor understood. They cared less about the prisoners. The worst of their schemes ended up fiascos. The best remained on paper, never to be introduced; it was the making of plans that appeared to matter most; not carrying them out.

It is vital to the community's self-respect as well as its safety to correct the present position. The community should be informed of the problem, for it must be solved. This will not be accomplished by the public mouthing catch-cries engendered by ignorance and fear. It will need an approach enlightened by knowledge and ordinary humanity. To lock people up and forget them is not the answer.

Since the Commission adjourned for this report to be written, the Premier announced that Mr McGeechan has been replaced as the Commissioner of Corrective Services. This was the first recommendation that the Royal Commission had already determined to make.

Notwithstanding the very large part of the blame Mr McGeechan must take for the state into which the prison system has degenerated over the last few years, many of the senior officers of the Department cannot avoid their share of responsibility. Mr McGeechan's replacement will not of itself be a solution to the problem.

The disease is deep-seated. The Department as a whole is inefficient, disorganized and badly administered. It has become demoralized. It must be revitalized. The appointment of a Prisons Commission of five should ensure that this process is started, but efforts will have to be made to ensure that every level of the Department is impressed with a new vitality. This involves proper organization and administration. The replacement of Mr McGeechan can only be regarded as the beginning of that process.



**RECOMMENDATIONS**

Administration  
Aims and Objectives of the Department Superintendents  
Prison Officers  
Inspectorate  
Corrective Services Advisory Council Chaplains ..  
Classification of Prisoners  
Prison Security  
Prison Industry  
Prisoner Education  
Remissions  
Prisoners' Amenities and Conditions Medical Services ..  
Prisoner Discipline  
Prisoners' Rights and Grievances Women Prisoners  
Minority Groups  
Governor's Pleasure Prisoners Probation and Parole Pre-  
release and After Care Prison Records  
Public Relations ..  
Research  
Alternatives to and Variations of Imprisonment The Department and Future Planning ..  
General

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ADMINISTRATION (Overview and Chapter 12)

- 1 \* 1. The Royal Commission's first recommendation was to be that Mr Walter Richard McGeechan be relieved of his office as Commissioner of Corrective Services, Prior to the presentation of this Report, however, the Premier, the Honourable Neville Wran, Q.C., M.L.A., announced that Mr McGeechan had been replaced as Commissioner.
- 2 2. The administration of the Department of Corrective Services should be the responsibility of a statutory Prisons Commission, comprising a Chairman and two fulltime and two part-time Commissioners.

- 3 3. The members of the Prisons Commission should be appointed for fixed terms of five to seven years.
- 4 4. The Prisons Commission should be a Department of State within the Public Service and under the direction and responsibility of a Minister of the Crown.
- 5 5. The Public Service Board should delegate to the Prisons Commission the appointment of all employees of the Prisons Commission.
- AIMS AND OBJECTIVES OF THE DEPARTMENT (Chapter 3)
- 6 1. It is essential that the Department formulate a clear statement of its aims and objectives.
- 7 2. The policy recommended is spelt out in this Report. It accepts the aims of imprisonment as punishment, retribution, deterrence and the protection of society, but emphasizes that the loss of liberty is the extent of the punishment. Whilst in prison a prisoner should be treated justly and humanely and an attempt should be made at rehabilitation. Imprisonment should be a last resort and those imprisoned should be kept in the lowest appropriate security.
- SUPERINTENDENTS (Chapter 13)
- 8 1. The Superintendents should have primary responsibility for the order, good management and administration of their own gaols. The Prisons Commission should concern itself with policy decisions only.
- 9 2. There should be a formal meeting of all Superintendents at least twice a year. These *meetings should be chaired by the Chairman of the Prisons Commission* or one of its members.
- 10 3. Transfers of Superintendents between institutions should be encouraged and the additional experience so gained should be a consideration in promotion to senior administrative positions within the Commission.
- 11 4. Superintendents should report monthly to the Prisons Commission to inform it fully about the general situation in their prisons.
- 12 5. Regular exchanges of Superintendents with their counterparts in other States should take place.  
*Executive or Commissioned Rank*
- 13 6. There should be a division between executive or commissioned rank and other ranks in the custodial service. Assistant Superintendents and above should be classified as executive or commissioned rank.
- 14 7. A special staff course should be established for the training of officers for executive rank. Applicants for the course should be accepted from outside as well as within the Department. Preference should be given to serving custodial staff.  
PRISON OFFICERS (Chapter 14)  
*Recruitment and Selection*
- 15 1. Criteria for selection of prison officers should be altered. A selection committee should be constituted comprising a member of the Prisons Commission, a Superintendent, a nominee or representative of the Prison Officers' Vocational Branch (of Chief Prison Officer rank or higher), a senior representative of the Public Service Board and a psychiatrist.

- 16** 2. The training of officers must be improved.
- 17** 3. The regional training units recently introduced should be disbanded.
- 18** 4. A basic training course should be undertaken by all officers of the Prisons Commission, whether they are to serve in the Custodial, Industrial, Probation and Parole or Administrative Divisions.
- 19** 5. New officers should be on probation for the first twelve months, during which time they may be dismissed if unsuitable.
- 20** 6. Further courses should be available to officers aiming for higher rank. The passing of such courses should be necessary for promotion beyond a certain rank.
- 21** 7. Selection for promotion should be based on experience, seniority, general conduct and the attainment of additional qualifications.
- Duties and Status*
- 22** 8. Every effort should be made to improve the status of prison officers. Their pay and material conditions of service must be improved.
- 23** 9. Prison officers should be given more responsibility for decisions relating to prisoners under their control.
- 24** 10. The "Unit Management" concept should be introduced into each of the gaols.
- 25** 11. The Prison Regulations and Rules relating to the duties of officers should be revised. In particular, Rule 4, which deals with the use of force by officers, should be re-written to state clearly and explicitly the circumstances in which force may be used.
- 26** 12. The 1956 Rules should be withdrawn.
- 27** 13. The Rules relating to the standards of conduct and the behaviour expected of prisoners should be drawn so that they are applicable either generally to all institutions or specifically to institutions within various categories of security only.
- 28** 14. Prison officers should take an oath or affirmation upon appointment as permanent officers of the Prisons Commission.
- Conditions and Amenities*
- 29** 15. The staff should be brought up to full strength immediately.
- 30** 16. The current basic salary for prison officers should be raised. Officers should not be dependent on overtime for earning a wage commensurate with their skills.
- 31** 17. There should be a complete investigation of overtime paid to prison officers.
- 32** 18. Amenities for prison officers should be of the same standard as those expected by the outside work force.
- 33**
- Industrial Relations*
19. The Prisons Commission should, as a matter of routine, hold frequent consultations with the Public Service Association, Prison Officers' Vocational Branch, and the Branch should be consulted on any changes proposed by the Prisons Commission which could affect conditions of employment.
20. Differences in relation to such matters should be settled by voluntary conciliation and, if unsuccessful, by arbitration.
- 34**



21. Both the Prisons Commission and the prison officers should be directly involved in negotiations between the Public Service Board and the Public Service Association. Where necessary and practicable, prison officers from the Sub-branch concerned should also be directly involved.

22. Lateral transfers should be made without hesitation where it is essential in the interests of the Service to make them.

*Male and Female Custodial Staff*

23. There should be no objection to the employment of women in male institutions or men in female institutions.

INSPECTORATE (Chapter 15)

1. The Inspectorate Division set up by the Department after the conclusion of the Commission's hearings should be disbanded.

A new Inspectorate should be set up.

A senior officer should be seconded from the New South Wales Police Force to head the Inspectorate. He should be assisted in his duties by five officers of similar seniority to those presently serving in the Establishments Division.

4. The new Inspectorate's duties should include inspection of gaols, investigation to see that the policy laid down by the Prisons Commission is being implemented throughout the Service, and examination of misconduct allegations and of the performance of individual officers.

CORRECTIVE SERVICES ADVISORY COUNCIL (Chapter 16)

1. The role of the Advisory Council should be to examine general policy matters relating to prisons, and not matters of detail.

Statutory recognition should be accorded to the Advisory Council.

Members or staff of the Prisons Commission should not be members of the Advisory Council.

4. The Advisory Council should consider topics allotted to it by the Minister for inquiry and report.

5. The Advisory Council should report directly to the Minister. All its reports should be made public.

6. Members of the Advisory Council should have access to prisoners, officers and departmental files.

CHAPLAINS (Chapter 17)

The role of chaplains within prisons should be clarified.

Chaplains should not be members of departmental committees or assume departmental duties.

Chaplains should have free access to all prisoners.

Prison chapels should be made suitable for use as multi-purpose halls.

Chaplains should not serve in prisons for extended periods.

CLASSIFICATION OF PRISONERS (Chapter 18)

- 53** 1. All prisoners should be divided into two categories: long-term prisoners (those serving life sentences or with sentences or non-parole periods of over twelve months) and short-term prisoners.
- 54** 2. A permanent Classification Committee should be established consisting of a permanent Chairman, a Deputy Chairman and ancillary staff. It should be responsible to the Prisons Commission for the classification and placement of all prisoners. Its decision should be varied only on the written order of a member of the Prisons Commission. It should be located at the Malabar Complex.
- 55** 3. The existing Regulations regarding classification should be replaced by regulations embodying the security classifications recommended in this Report.  
*Long-term Prisoners*
- 56** 4. All long-term prisoners should be classified at the Malabar Complex by the permanent Classification Committee. Classification should be completed within two months.  
*Short-term Prisoners*
- 57** 5. Except in the circumstances specified in the Report, short-term prisoners should be classified by the Superintendent or Deputy Superintendent of the gaol where the prisoner is first received.  
*Primary Object of Classification*
- 58** 6. The primary concern of any classification should be security. A detailed personal assessment of each prisoner should also be made.  
*Security Classification*
- 59** 7. The following should be the security classifications:  
*Category A*-Prisoners whose escape would be highly dangerous to members of the public or to the security of the State.  
*Category B*-Prisoners who cannot be trusted in conditions where there is no barrier to their escape.  
*Category C*-Prisoners who can be trusted in open conditions.
- 60 61** 8. A Programme Review Committee in all gaols should review long-term prisoners on a six monthly basis.  
9. The Chairman of the permanent Classification Committee should ensure that the entire classification system throughout the State is working adequately.  
10. All classification and placement decisions of Superintendents and Programme Review Committees should be forwarded to the permanent Classification Committee for review.
- 62**  
*Women Prisoners*
- 63** 11. Women prisoners must be classified in the same way as are men. The permanent Classification Committee should sit at Mulawa for this purpose.

12. Remand and unconvicted prisoners should be classified by the Superintendent of the gaol of reception.  
*Section 22*

13. Section 22 *is* not a form of classification, and should not be used as a substitute for classification.  
PRISON SECURITY (Chapter 19)

1. The dispersal system should be adopted as opposed to the system of concentration; dangerous prisoners should be contained in specified dispersal prisons.

2. A special unit should be maintained at each dispersal prison to hold dangerous prisoners who cannot temporarily or permanently be restrained.

3. The special unit should have its own staff, but the period of service in that unit should be limited to no more than two years.

4. All Superintendents and the Prisons Commission itself should at appropriate intervals review the placement of prisoners in the special unit.

5. The Special Prison Ombudsman (recommended in this Report) should make regular visits to the special units in dispersal gaols.

*Escapes*

14. ... The 'escape rate' is acceptable. The Prisons Commission should not introduce repressive regimes in an attempt to reduce that rate. It should discuss escapes and the problems they present frankly and fully in public,

*Movements*

7. So far as practicable, the Prisons Commission should keep prisoner movements to a minimum.

8. When prisoners are not forewarned of a movement, their close relatives should be informed of it as soon as possible.

*Riot Control*

9. All gaols should have riot plans and personnel trained in such plans.

*Special Operations Division*

10. The Special Operations Division should be disbanded and, in lieu thereof, special security squads should be formed in appropriate gaols.

*Perimeter Security*

11. The perimeter security of maximum security gaols should be strengthened. The latest electronic devices and trained dogs should be used to assist such security.

*Electronic Aids*

12. Aids such as infra-red scanners, seismic processors, fence protection systems, closed circuit television, geophones and other technological devices should be introduced in appropriate institutions as soon as possible.

**78** 13. Searches of prisoners should be conducted with the minimum of disturbance

to the prisoner and his belongings.  
PRISON INDUSTRY (Chapter 20)

**79** 1. The prime objective of a prison industry should be to offer gainful employment to as many prisoners at as low a capital cost as possible.

**80** 2. Prison industry must be examined both for its effect in a competitive market and on labour conditions in the community.

**81** 3. The Prisons Commission should consult with employers' representatives *a.n...*: trade unions about the existing prison industries, or those to be introduced, and the marketing of any products.

**82** 4. A permanent body should be established to assume responsibility for planning and running prison industry and marketing its products. In particular it should investigate the operation of the Parramatta Linen Service.

**83** 5. The Cessnock Quarter-Horse Stud should be abandoned.

**84** 6. Where possible, all prison industry should provide an economic return to the Prisons Commission.

**85** 7. Accounting methods used in prison industry should be capable of external interpretation and assessment.

**86** 8. Prisoners should not be paid award rates of pay but their wages should be indexed to match the increased price of commodities available at "buy-ups".

**87** 9. Industries should, where possible, help make the prison system self-sufficient: for its food and maintenance requirements.  
PRISONER EDUCATION (Chapter 21)

*Organization*

**88** 1. A senior officer with direct access to one of the members of the Prisons Commission should be placed in charge of all educational and vocational programmes.

**89 90**

*Availability*

2. Education and vocational programmes should be made available to all prisoners according to their needs.

3. Greater emphasis should be placed on remedial teaching.

*Education Officers*

**91** 4. Education officers should not undertake other duties.

**92** 5. Teachers employed by the Prisons Commission should be employees of the Prisons Commission and not seconded from the Education Department.

*Employment of Prisoners*

**93** 6. Where possible, the Prisons Commission should employ suitably qualified prisoners in its education programmes.

7. Adequate physical facilities should be made available and other facilities upgraded for educational and vocational purposes.

*Non-English Speaking Prisoners*

8. The special needs of non-English speaking prisoners must be recognized and catered for in respect to educational opportunities and the availability of library books.

REMISSIONS (Chapter 22)

1. All remissions should be earned. The remission system operating in Victoria should be adopted in lieu of that presently operating in New South Wales.

2. Remissions should apply to both head sentences and non-parole periods.

PRISONERS' AMENITIES AND CONDITIONS

(Chapter 23) *Visits*

The Regulations relating to visits to prisoners should be re-examined.

Contact visits should be permitted for prisoners in all institutions.

Visiting hours and the length of visits should be expanded.

Monitoring of conversations between prisoners and visitors should cease.

The surroundings in which visits are conducted and the facilities provided for visitors should be made as pleasant as possible.

6. No visitor should be excluded or visit cancelled except where there is reasonable evidence that the visitor poses a threat to security or a prisoner declines to accept the visit.

*Travel Vouchers*

7. Where the cost of travel to visit prisoners would cause hardship, the Prisons Commission should issue travel vouchers.

*Legal Visits*

8. Legal visits should not be restricted in any way. Prisoners should be given unlimited access to bona fide legal representatives in conditions that permit private conversation and joint access to documents.

*Conjugal Visits*

9. Where appropriate, prisoners should be permitted week-end home visits in preference to conjugal visits in prison surroundings.

*Civil Rehabilitation Groups*

10. The Prisons Commission should encourage visits from officials and representatives of civil rehabilitation groups as a desirable means of maintaining contact between the prisoner and the outside community.

- 108** 11. The reading or censorship of prisoners' mail should be made an **office** under the Prison Regulations.
- 109** 12. Prison authorities should retain the right to inspect incoming mail **for** contraband.
- 110** 13. All prisoners should be entitled to send and to receive as many letters as they wish.
- 111** 14. Correspondence between prisoners and their legal advisers and Members of Parliament should, in all cases, be privileged and private.
- 112** *Telephones*  
15. The Prisons Commission should provide pay telephones in all institutions for the use of prisoners.
- 113** 16. Telephone calls should be monitored only on security grounds.  
*Newspapers and Printed Material*
- 114** 17. Prisoners should be allowed to buy any printed material-including books, newspapers and magazines-legally available in the community.  
*Libraries*
- 115** 18. Existing libraries in all prisons must be improved.
- 116** 19. A professional librarian should be engaged to advise the Prisons Commission on library facilities and procedures.
- 117** 20. There should be no limit to the number of books an inmate may borrow during any given period.  
*Food*
- 118** 21. A dietitian should be appointed to ensure that the dietary standards of prison food are adequate.
- 119** 22. The Prisons Commission should replace outmoded equipment and practices which contribute to the poor standard of food.
- 120** 23. The Prisons Commission should provide the protein substitutes necessary for all bona fide vegetarians to maintain a balanced diet.  
*Communal Dining*
- 121** 24. The Prisons Commission should immediately introduce communal dining facilities in all prisons, unless security problems dictate otherwise.  
*Clothing*
- 122** 25. Proper and adequate clothing should be provided for prisoners. Laundry facilities should be improved.  
*Sport*
- 123** 26. The Prisons Commission should improve sporting facilities. Wherever possible, prison labour should be utilized for this purpose.
- 124** 27. Sport should never be stopped as a disciplinary measure.

28. The Prisons Commission should endeavour to arrange for the sale of all prisoner craftwork. No limit should be placed on the number of articles which a prisoner may sell, nor on the amount that he might earn from such sales.

*"Buy-ups"*

29. The Prisons Commission should review the wages structure to ensure that prisoners have enough "buy-up" money to keep pace with inflation.

30. The present "buy-up" system should be replaced by prisoner-run canteens. Any profits from these canteens should be spent on prisoner amenities.

31. The Prisons Commission should obtain supplies for the prison canteens by bulk purchasing.

*Personal Possessions*

32. Subject to the requirements of security, prisoners should be permitted to retain their personal possessions.

33. Cells should be provided with a second lock as well as the normal locking devices. Keys to this second lock should be available to the prisoner occupying the cell and the custodial staff.

*Cell Decoration*

34. Subject to the requirements of security, no restriction should be placed on the nature and quantity of cell decorations.

*Adequate Shelter*

35. Prisoners should be afforded adequate shelter and seating in the yards.

*Names*

36. Prisoners' names should be used instead of numbers.

*Time Out of Cells*

37. Prisoners should not be locked in their cells overnight for longer than ten hours.

**MEDICAL SERVICES (Chapter 24)**

1. Adequate medical advice and treatment should be made available to all prisoners.

2. The Health Commission should continue to provide the staff of the Prison Medical Service.

3. It is the Prisons Commission's responsibility to see that the prisoners under its care receive proper treatment.





6. Rule 188, which permits no publicity to be given to cases adjudicated within the prison, should be rescinded.
  7. The Prisons Act should be amended so that the Visiting Justice can order up to twenty-eight days' cellular confinement without the necessity for a second Justice to sit with him.
  8. The recent decision of the Court of Criminal Appeal that an appeal lies to the District Court from decisions of Visiting Justices avoids the necessity for this Commission to recommend legislation to provide for such an appeal. The submission by the Public Service Association, Prison Officers' Vocational Branch, that the Government should nullify that decision by legislation should be rejected.
  9. The Justices Act should be amended to permit prisoners to lodge appeals by handing the appropriate Notice of Appeal to the Superintendent of a prison. The lodging of such an appeal should operate as an immediate stay of proceedings.
  10. A prisoner should be able to apply for leave to lodge his appeal out of time on the ground that he was denied the means of lodging it within the prescribed time.
  11. Upon the appointment of the Special Prison Ombudsman, Visiting Justices should cease to exercise any functions as overseers or inspectors of gaols.
  12. Prisoners who are punished by cellular confinement should be kept in their own cells. The practice of depriving prisoners of additional rights and privileges during cellular confinement is contrary to law and should be discontinued.
  13. Prisoners sentenced to cellular confinement should receive regular medical examinations.
  14. Prisoners sentenced to cellular confinement should not forfeit remissions as a result of such sentence.
  15. Segregation under section 22 of the Act should be used only as a temporary measure. The systematic long-term segregation of prisoners should be discontinued.
  16. The orders made by Mr McGeechan in August, 1977, purporting to have been "lawful orders" under section 23 (q) of the Prisons Act, should be withdrawn.
- PRISONERS' RIGHTS AND GRIEVANCES (Chapter 26)**  
*Prisoners' Grievances*
1. Prisoner committees should be established at all institutions.  
Regular meetings should be held at least once a month and procedures for grievance committees should be as laid down in this Report.
  2. In cases where a prisoner has an urgent grievance, the emergency procedures set out in this Report should be instituted and followed.  
*Special Prison Ombudsman*
  3. A Special Prison Ombudsman should be appointed. He should be responsible directly to Parliament to which he should report at least once a year.
  4. The Special Prison Ombudsman should have full powers of investigation into the Department in respect of the decisions, acts or omissions as set out in this Report.
  5. Any recommendation of the Special Prison Ombudsman made to the Prisons Commission and/ or the Public Service Board should be ignored by those bodies only if they have a special dispensation in writing from the appropriate Minister.

7. Any prisoner, prison officer, employee of the Prisons Commission or any private citizen should be entitled to lodge a complaint with the Special Prison Ombudsman.

**174** 8. Prisoners should be entitled to write to the Special Prison Ombudsman without inspection of their mail.

*Committees of Public Visitors*

**175** 9. Visiting committees of public bodies should be encouraged and should be given full access to prisons.

*Prisoners' Rights*

**176** 10. Prisoners should lose only their liberty and such rights as expressly or by necessary implication result from that loss of liberty.

*Right to Vote*

**177** 11. Statutory prohibitions on prisoners' voting rights should be repealed.

**178** 12. Prisoners should remain enrolled in the electorate of their last "place of living" before imprisonment (the alternative of a "prison electorate" is clearly undesirable) .

*Right to Sue*

**179.** 13. The present prohibition against the rights of a prisoner convicted of a felony to sue should be abolished.

14. Prisoners should have full access to legal advisers and to the Courts. They must be able to initiate proper procedures speedily and in the length of time provided by the law. Provision should also be made for 'proper legal aid.

*Rights of Ex-Prisoners*

**181** 15. Ex-prisoners should be permitted to serve on juries, with the right to be excused if they feel embarrassment in so serving.

**182** 16. A scheme should be established for gradual "expungment" of a prisoner's, past convictions from his criminal record.

**183** 17. The release of criminal records should be controlled and their disclosure to unauthorized persons forbidden.

18. All statutory prohibitions against the employment of ex-prisoners should be repealed.

**184**

*General*

**185** 19. A prisoner should not be charged under section 23 (f) of the Prisons Act

with making a false complaint against an officer knowing the same to be false without the written authority of the Superintendent. The charge should not be brought by the officer accused by the prisoner and should not be based on the prisoner's defence to a disciplinary charge.

**186** 20. So far as practicable, the United Nations Standard Minimum Rules for the Treatment of Prisoners should be observed by the Prisons Commission.

WOMEN PRISONERS (Chapter 27)

**187** 1. Medical services at Mulawa require immediate improvement to remedy the deficiencies noted in this Report.

- 188 2. Psychiatrically disturbed prisoners should not be admitted to Mulawa.
- 189 3. Ante-natal and gynaecological treatment should be available to all women prisoners.
- 190 4. The current practice of over-sedating women prisoners should cease.
- 191 5. Women prisoners should be separated in accordance with their designated classification.
- 192 6. Individual cellular accommodation should be provided for the inmates of Mulawa in lieu of the dormitories.
- 193 7. The present practice that mothers must surrender their infant children when the children reach their first birthday should be relaxed.
- 194 8. Mothers should be permitted to have longer visits from their infant children.
- 195 9. The food at Mulawa should be cooked in the nearby kitchen at Cadman House in the Silverwater Complex.
- 196 10. There should be some mixing of the sexes in educational, social and recreational activities between the inmates of Mulawa and the adjacent Silverwater Complex.
- 197 11. Education and work opportunities for women prisoners at both Mulawa and Cessnock should be improved.
- 198 12. The Periodic Detention Act should be amended to permit women to be sentenced to periodic detention in the same way as men.
- 199 13. Work Release I and Work Release II should be available for women prisoners.
- MINORITY GROUPS**  
(Chapter 28)  
*Aborigines*
- 200 1. Field officers appointed by the Aboriginal Legal Service should be given the right to visit prisons at all reasonable times for the purpose of visiting Aboriginal inmates. Such visits should be conducted on the same basis as legal visits.  
*Non-English Speaking Prisoners*
- 201 2. Prisoners who do not speak or understand English should receive an instruction card or pamphlet upon reception, written in a language they understand, providing all relevant information about the prison and its rules.
- 202 3. Foreign language library books should be made available at the prison library at the Malabar Complex.
- 203 4. Non-English speaking inmates should, unless security reasons clearly dictate to the contrary, be permitted to correspond with or speak to visitors in any language selected by them.
- 204 5. Basic English courses should be made available for non-English speaking prisoners.
- GOVERNOR'S PLEASURE PRISONERS** (Chapter 29)
- 205 1. The responsibility for persons acquitted on the grounds of mental illness should be removed from the Department of Corrective Services and placed in the hands of the Health Commission.

2. Upon hearing psychiatric evidence as to the present mental state of a person acquitted on the ground of mental illness, the trial Judge should have a discretion as to his or her disposition.

3. The Mental Health Act should be amended to enable a trial Judge to commit a convicted offender to a mental hospital in the circumstances set out in this Report.

4. After admission to a mental hospital, persons acquitted on the ground of mental illness should be treated in the same manner as other mental patients, subject to the Court's power to refuse their release in certain circumstances.

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**PROBATION AND PAROLE (Chaper 30) *Granting of Parole***

1. The present work load on the Parole Board is so great that a change or tne parole system is necessary.

2. AU prisoners with head sentences of less than four years should be released on parole automatically at the end of their non-parole period, unless it is proved to the satisfaction of a Court that the release of the prisoner would constitute a danger to the public. Prisoners serving a sentence of four years and over should be considered by the Parole Board as at present.

3. The fundamental principle underlying parole should be that it is preferable to have a prisoner in the community than in gaol. The relevant issue for the Parole Board or the Court should be: "Are there any reasons why this prisoner should not be able to adapt to a normal community life?"

4. The refusal of parole should be subject to appeal to a Court. For this purpose the Parole Board should give detailed reasons for it~ decision.

5. The prisoner should have made available to him all material considered C:, the Parole Board, except that which may be withheld for security reasons.

*Pre-Sentence Reports*

**214**

6. Consideration should be given to recruiting personnel other than

probation  
and parole officers to prepare pre-sentence reports.  
*Case Load of Officers*

**215**

7. The present case load of probation and parole officers must be reduced,

**216**

*Revocation of Parole*

8. Time spent by a prisoner on parole before revocation should be deducted from the period of his sentence remaining to be served and the Parole Board should be given a discretion in all cases as to whether parole should be revoked.

**217**

*Release Dates*

9. The Parole of Prisoners Act should be amended to permit a trial Judge to backdate non-parole periods.

**218**

*Reciprocity Between States*

10. The proposed legislation approved by the Standing Committee of Commonwealth and State Attorneys-General should be implemented.

*Work Release I*

MEDIA COMMUNITIES

**219** 11. It is not appropriate to transfer to the Parole Board the responsibility for placing prisoners on Work Release I.

*Interchange with Custodial Officers*

**220** 12. The increased experience resulting from interchanges between custodial and parole officers should be taken into account in considering promotion.

*Life Sentences*

**221** 13. Legislation should be enacted to permit Judges to set non-parole periods when imposing life sentences.

**222** 14. The Life Sentence and Governor's Pleasure Review Committee should be disbanded, and all decisions relating to life prisoners should be left to the Parole Board.

*General*

**223** 15. The Probation and Parole Service should remain within the administration of the Prisons Commission. The status of the Probation and Parole Service should be upgraded and the Director of the Service should be responsible directly to a member of the Prisons Commission.

PRE-RELEASE AND AFTER-CARE (Chapter 31)

**224** 1. Pre-release and after-care should be better co-ordinated and placed on a formal basis.

**225** 2. Work Release programmes should be extended so that they are available for most prisoners before their discharge from prison.

**226** 3. Pre-release leave covering day, weekend and home leave should be more widely used.

**227** 4. Prisoners about to be released should receive instruction to help them to plan for their release and to prepare them for life in the community.

**228** 5. Arrangements should be made for officers from the Commonwealth Employment Service to visit all institutions on a regular basis.

**229** 6. The Prisons Commission should make every effort to educate the general public and to foster favourable community attitudes to newly-released prisoners.

**230** 7. The Prisons Commission should in appropriate cases provide funding for half-way houses.

PRISON RECORDS (Chapter 32)

**231** 1. A study should be undertaken into the feasibility of a computerized central filing and records system.

**232** 2. In any event, a systems analyst should examine and report upon the present deficiencies in the manual records system of the Department.

PUBLIC RELATIONS (Chapter 33)

**233** 1. The Prisons Commission should appoint a Public Relations Officer and the necessary support staff.

2. The Public Relations Officer should be involved in departmental discussions.  
RESEARCH (Chapter 34)

**235** 1. The existing Research and Statistics Division should satisfy the basic  
intc:"mi  
research requirements of the Service.

**236** 2. An independent body such as the New South Wales Bureau of Criminal  
Statistics and Research should be asked to undertake research directed to more  
genc:a issues and the evaluation of programmes in the Service.

ALTERNATIVES TO AND VARIATIONS m< IMPIUSUNMENT (Chapter 35)

**237**

1. Alternatives to imprisonment should be used as extensively as possible,  
and prisons should be used only as a last resort.

2. Facilities should be provided as soon as practicable to extend Work  
R~ and Periodic Detention programmes.

3. Fines should be enforceable by the Crown through garnishee or  
..ril::execution orders. There should not be automatic imprisonment in default of  
pa~ of fines.

4. Courts should be empowered to order convicted offenders to perform  
~ community works.

5. The Project Survival Scheme should be abandoned.

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THE DEPARTMENT AND FUTURE PLANNING (Chapter 36)

**242** 1. Although general planning should cover the period up to the year ~ (O:.  
a detailed plan should be devised for the next ten years. The principles which  
sb.."liit be embodied in the ten-year plan are spelt out in this Report.

**243** 2. A new maximum security gaol to accommodate 200 to 300 prisoners  
sOOriii  
be built near to Sydney within the next five years.

**244** 3. The re-development of Bathurst Gaol should be restricted to a re-deveke-  
ment of the old gaol. This should be made suitable for the housing of prisoners :ii  
security classifications Category A and Category B.

**245** 4. The Parramatta Psychiatric Centre buildings adjoining Parramatta GJ.:i  
should be assessed for possible immediate use as a prison.

**246** 5. Work should be carried out on all old gaols in New South Wales to up-  
their accommodation areas and to provide improved facilities.

**247** 6. Old prisons which are made redundant by the construction of new instinnicss  
should be used for some public purpose or destroyed.

**248** 7. The use of the present Observation Section at Malabar should ~  
immediately.

**249** 8. The present use of Katingal should cease. A committee should be f~  
to advise the Prisons Commission on the future use of the building.

**250** 9. A new remand centre should be built as soon as possible for unsentenced and unconvicted offenders. Consideration should be given to leasing or building a high rise building in close proximity to City Courts.

**251** 10. Buildings similar to X-Wings at Bathurst and Goulburn should be erected at other maximum security gaols.

GENERAL (Chapter 9)

**252** 1. The Public Service Board should take proceedings against Keith Frederick Newling pursuant to section 56 of the Public Service Act for breach of discipline.







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Others assisted in various ways. My appreciation is extended to Emeritus Professor A. G. Mitchell, for his historical research and assistance; Mr S. C. Derwent, for his advice and helpful comments; Dr J. Sutton, Director of Bureau of Crime Statistics and Research, Mr J. O'Donnell of the Auditor General's Department; Miss L. Pollack, the Librarian of the Supreme Court of New South Wales; Mr W. M. Horton, the Deputy State Librarian, Library of New South Wales, and the Law Foundation of New South Wales.

Also there are those who helped myself and the staff of the Commission in organization and administration, Mr E. Staines of the Management Division of the Premier's Department; Mr C. Royston of the Agent General's Office in London; Mr W. Parsons from the New South Wales Office in New York and the Police who assisted the Commission, particularly Detective Sergeants Shiels, Hoggett, Webster and Doyle.

There are many others too numerous to mention who have helped me. I would wish it to be thought that the mere omission of their names is the measure of my **gratitude** to them.

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APPENDIX  
A

ELIZABETH THE SECOND, BY THE GRACE OF GOD QUEEN OF AUSTRALIA AND HER OTHER REALMS AND TERRITORIES, HEAD OF THE COMMONWEALTH

To Our Trusty and Well-beloved

THE HONOURABLE JOHN FLOOD NAGLE, A Judge of the Supreme Court of Our State of New South Wales

GREETING:-

WHEREAS by Royal Commission by Letters Patent under the Great Seal of our State of New South Wales and the hand of Sir ARTHUR RODEN CUTLER, our Governor of Our State, dated the thirty-first day of March, one thousand nine hundred and seventy-six, and recorded in the Register of Patents No. 76, Page 150, you the abovenamed the Honourable JOHN FLOOD NAGLE, together with ALEXANDER GEORGE MITCHELL, Esquire, and SYDNEY CONRAD DERWENT, Esquire, were authorized to make the Inquiry therein referred to.

AND WHEREAS WE are minded to make other provision in lieu thereof.

NOW THEREFORE WE DO, by these presents revoke the aforesaid Royal Commission, but without prejudice to anything lawfully done thereunder, and instead thereof We do hereby declare Our will and pleasure as follows:-

WHEREAS it is desirable that the matters hereinafter referred to should be investigated by a Judge of the Supreme Court of Our State of New South Wales: NOW KNOW YE illa:

WE, reposing great trust and confidence in your integrity, learning and ability DO, with the advice of the Executive Council of Our said State, hereby authorize and appoint you Sole Commissioner to inquire into and report upon the general working of the Department of Corrective Services of New South Wales, its policies, facilities and practices in the light of contemporary penal practice and knowledge of crime and its causes, and without restricting: the generality of the foregoing, to inquire into and report upon:-

- (a) The custody, care and control of prisoners and the relationship between staff and prisoners;
- (b) The selection and training of prison officers and of other staff engaged in training, correctional and rehabilitative programmes for prisoners;

and to recommend any legislative and other changes necessary or desirable in consequence of your findings.

AND SUBJECT AS IS HEREINAFTER PROVIDED WE DO by these presents give and grant to you full power and authority to call before you all such persons as you may judge necessary, by whom you may be better informed of the truth in the premises.. and to require the production of all such books, papers, writings and other documents as you may deem expedient and to visit and inspect the same at the offices or places where the same or any of them may be deposited, and to inquire of the premises by all lawful ways and means:

AND OUR further will and pleasure is that you do, within the space of six calendar months from the date of this Our Commission, certify to Us, in the office of Our Premier. at Sydney in Our said State, what you shall find touching the premises: AND WE DO hereby command all Government Officers and other persons whomsoever within Our said State, that they be assistant to you in the execution of these presents:

AND IT IS HEREBY DECLARED that the "Royal Commissions Act 1923", including: Section Seventeen thereof, shall apply to and with respect to this inquiry.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent: and the Great Seal of Our State to be hereunto affixed.

WITNESS Our Trusty and Well-beloved Sir ARTHUR RODEN CUTLER, upon whom has been conferred the decoration of the Victoria Cross, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Royal Victorian Order, Commander of the Most Excellent Order of the British Empire, Knight of the Most Venerable Order of St John of Jerusalem, Our Governor of Our State of New South Wales and its Dependencies, in the Commonwealth of Australia, at Sydney, in Our said State, this twenty-eighth day of June, in the year one thousand nine hundred and seventy-six and in the twenty-fifth year of Our Reign.

(Signed) A. R. CUTLER, Governor.

By His Excellency's  
Command,  
(Signed)  
NEVILLE  
WRAN.

ENTERED on Record by me, in REGISTER OF PATENTS, No. 76, Page 216,  
this twenty-eight day of June, one thousand nine hundred and seventy-six.

(Signed) J. B. HOLLIDAY,

Under Secretary,  
Department of  
Services.

Royal Commission extended in similar terms on 24th December, 1976. Entered in  
Register of Patents No. 76, Page 258, 24th December, 1976.

Further extension in similar terms on 22nd June, 1977. Entered in Register of  
Patents No. 76, Page 307, 22nd June, 1977.

Further extension in similar terms on 22nd December, 1977. Entered in Register of  
Patents No. 77, Page 46, 22nd December, 1977.

**APPENDI  
X •**

**LIST OF LEGAL REPRESENTATIVES OF PERSONS OR  
BODIES APPEARING BEFORE ROYAL COMMISSIO~**

Assisting Royal Commissioner  
Department of Corrective Services and Walter Richard McGeechan.  
Prisoners and ex-prisoners  
Public Service Association  
Council for Civil Liberties (Professor K. Buckley) and Penal Reform Council  
of N.S.W. (Mr L. Evers).  
Prisoners Action Group (Mr A.  
Green),  
Women Behind Bars (Miss W.  
Bacon).  
Aboriginal Legal Service (Mr P. Coe) John Winter Pallot ..  
John Winter Pallot  
Eric Cameron Frame  
Allan John Penning  
James Henry Bradley  
John Jacob Klok  
Barry Robin Doorey  
William Aitken  
Brett Anthony Collins Ian Michael Fraser John Johns  
Hon. J. C. Maddison, M.L.A.

N.S.W. Police Department .. Frederick William Henning Geoffrey Allan  
Kinney Ronald Leslie Wells  
Paul Richard Genner  
B. J. McDonald, M.L.A.  
Stephen Nittes  
Arthur Stanley Smith.

Counsel  
Solicitors  
State Crown Solicitor (K. b ...  
and J. Cox).  
David Hunt, Q.C. D. G. Stewart'  
J. H. Mathews"  
J. A. Timbs'  
W. K. Fisher, Q.C.:  
A. Porter, Q.C.'  
I. Cassidy" J. D. Cummins  
P. A. McInerney, Q.C. M. L. Rutherford  
F. S. McAlary, Q.C.8 T. Falkingham, Q.C.9 K. Coleman'?'  
M. J. Sweeney  
W. Haylen  
J. D. Shaw  
P. L. Stein '2  
D. G. Letcher  
R. N. Madgwick M. C. Ramage G. E. O'Connor P.O'Shane  
P. J. Hidden  
D. I. Cassidy" H. L. Cooper"  
W. Haylen J. D. Shaw  
State Crown Solicitor iLL  
Sheridan and R. Bolt).  
M. J. Clarke, Q.C. W. S. Veitch  
C. L. J. Bowie  
F. S. McAlary, Q.C. W. Haylen  
S. J. O'Keefe, Q.C.  
C. Branson F. C. Lawrence  
The Public Solicitor ..  
Newham).  
W. C. Taylor & Scott IF I.  
Liddy").  
G. D. Campbell & Co.  
Geoffrey Edwards & Co.





Witnesses who appeared at Royal Commission Hearings – continued

Witnesses who appeared at Royal Commission Hearings – continued

Witnesses who appeared at Royal Commission Hearings – continued



**APPENDIX  
D**

**INSPECTIONS OF PENAL INSTITUTIONS IN AUSTRALIA AND  
OVERSEAS ADMINISTRATIONS VISITED**

*New South Wales-*

Complex of Prisons, Malabar-Including Central Industrial Prison. Metropolitan Reception Prison. Malabar Training Centre. Metropolitan Remand Centre. Katingal, Periodic Detention Centre. Officer Training Unit. Staff Development Centre.  
Parramatta Gaol-Including Periodic Detention Centre. Parramatta Linen Service. Bathurst Gaol-Including X-Wing. Periodic Detention Centre.  
Silverwater Complex-Including Mulawa Training and Detention Centre. Work Release Houses.  
Maitland  
Gaol.  
Grafton  
Gaol.  
Cessnock Correction Centre.  
Goulburn Training Centre.  
Emu Plains Training Centre.  
Berrima Training Centre.  
Kirkconnel Afforestation Camp.  
Glen Innes Afforestation Camp.  
Brookfield Afforestation Camp, Mannus.  
Leslie Nott, Afforestation Camp, Laurel Hill.  
Cooma Gaol.

*Interstate-*

*Australian Capital  
Territory*Belconnen  
Remand Centre.

*Victoria-*

Pentridge  
Prison. Ararat  
Gaol. Castle  
main Gaol.  
Fairlea Gaol.

*South*

*Australia*Ad  
elaide Gaol.  
Yatala Prison (including Security Hospital).  
Womens Rehabilitation Centre.  
Cadell Training Centre.  
Police Cells, Police Headquarters.

*Overseas-*

*United States of America-*

*Federal Bureau of Prisons, Washington. D.C.-*

Mr R. Rowe (Unit Management Administrator).  
Dr Levinson (Administrator, Inmate Programme Services). Mr  
John Day (Administrator, Population Management). Mr  
Norman Laird (Correctional Services Co-ordinator).  
Mr Dennis Hubbard (Chief of Training Programmes Development). Mr J.  
Brent (Administrator, Federal Prison Industries).  
Mr M. Quinlan (Executive Assistant to Director of Bureau).  
Mr Peter Jones (Executive Assistant to Assistant Director of Planning and Development). Dr  
Sherman Day (Director of National Institute of Corrections and Deputy Director  
of Bureau).  
Mr Curtis Crawford (Acting Chairman of the Parole Board). Mr  
Ira L. Kirschbaum (Assistant General Counsel).  
Marion Penitentiary, Marion, Illinois.

*Department of Corrections, Sacramento, California-*

**MEDIA COMMUNICATIONS**

Mr George F. Warner (Assistant Deputy Director, Programmes). Folsom Prison, Sacramento.  
San Quentin Prison, San Francisco. California  
Medical Facility, Vacaville. Trenton Prison,  
Trenton, New Jersey.

*Canada-*

*Federal Department of Penitentiaries, Ottawa-*

Mr Hofley (Assistant Deputy Minister to the Solicitor-General). Mr Andre Therrien (Commissioner of Penitentiaries).  
Mr Outerbridge (Chairman of the Parole Board).  
Mr Suprenant (Director of the Commissioner's Secretariat). Mr John Vandoremalen (Parole).  
Mr Watkins (Programmes).  
Mr Mark Rossignol (Director of Finance).  
Mr John Rama (Director of Human Resources).

*Regional Office for Ontario Region,*

*Kingston* Mr Don Clarke (Regional

Director).

Mr Guy Verrault (Public Affairs Administrator, Ontario Region). Millhaven Penitentiary, Kingston.  
Reception Centre, Kingston.  
Joyceville Penitentiary, Kingston.  
Warkworth Institution, Warkworth, Ontario.

Mr Mark MacGuigan, M.P., Chairman of the Parliamentary Sub-Committee on the Penitentiary System in Canada.

*Ontario Ministry of Correctional Services, Scarborough* Mr H. Hughes

(Assistant Deputy Minister).

Mr Crew (Executive Assistant to the Deputy Minister). Mr John Pahapi (Manager of Industrial Programmes).  
Ms B. Silverman (Executive Director of Health Care Services). Dr H. Hutchison (Executive Director of the Juvenile Division). Miss Judy Clapp (Executive Assistant to the Minister).  
Mr John McKenna (Personnel Officer).  
Mr D. Reid (Assistant Director of Staff Training and Development). Mr Glenn Carter (Executive Director of the Adult Division). Inspector M. V. Villeneuve (Inspection and Investigations Branch). Mr I. Eastaugh (Chairman of the Advisory Council).  
Toronto East Detention Centre, Scarborough.  
Toronto Gaol.  
Ontario Correction Institute, Toronto.  
Vanier Centre for Women, Toronto.  
Brampton Adult Training Centre, Toronto. Maplehurst Correctional Complex, Milton, Ontario.

*United Kingdom-*

*Home Office (Prisons Department), London-*

Mr K. Neale (Controller of Planning and Development). Mr Peter Canovan (Secretary to the Prisons Board).  
Mr Colin Honey (a Governor seconded to the Home Office). H.M. Prison, Wormwood Scrubs.  
H.M. Prison, Lewes, Sussex.  
H.M. Prison for Women, Holloway. H.M. Prison, Coldingley, Surrey. H.M. Prison, Wakefield.  
Prison Service College, Wakefield. Officer Training School, Wakefield.

*Home Office (Probation and After Care Department) i-:-:*

Sir Louis Petch (Chairman of Parole Board). Mr Head (Policy, Training and Administration). Mr Gonsalves (Secretary to the Parole Board).

Professor Sir Rupert Cross (Vinerian Professor of English Law). Dr  
Roger Hood (Reader in Criminology).  
Mrs Sarah McKay (Centre for Penological Research, Oxford). Mr  
Michael Maguire (Centre for Penological Research, Oxford).

*Cambridge University-*

Professor Nigel Walker (Wolfson Professor of Criminology and Director of the ..... of Criminology at  
the University of Cambridge).

*Sweden-*

*National Prison and Probation Administration, Stockholm-*

Mr Gunnar Marnell (Regional Director, Stockholm Area).  
Stockholm Remand Prison.  
Stockholm Probation Treatment Centre.

*Bjorkahemmet (a hostel for prisoners approaching release date)-*

Ms Eva Gustaffson (Women's Vice-President of the National Prisoners' Union). Svatsjo  
Open Prison.

*Kumla Maximum Security Prison-*

Mr P. L. Karlsson (a member of the Central Committee of the National P~ Union).  
*Denmark-*

*Department of Prison and Probation Services, Copenhagen-*

Mr J. Johnsen (Director of Staff and Budgets, formerly Director of Probation Dt Parole).  
Herstedvester Clinic, Copenhagen.  
Ringe State Prison, Funen.

*Holland-*

*Prison Service Department of Justice, The Hague-*

Mr R. J. H. de Vries (Recruitment and Information). Mr E.  
G. Schraze (Head of Training).  
Mr E. Besier (Prison Service Administration, External Relations). The  
Corridor Youth Penitentiary Training Camp, Zeeland.

*Switzerland-*

Department of Police and Justice, Berne.  
Hindelbank Penitentiary for Women. Thorberg  
Penitentiary for Men. Department of Police  
and Justice, Geneva. St Antoine Gaol, Geneva.  
Champ Dollon Gaol, Geneva.

*United Nations-*

U.N. Social Defence, Research Institute, Rome.

*Council of Europe-*

Legal Division, Social Affairs Division, Strasbourg, France.



### INTERVIEWS AND DISCUSSIONS

During the course of the Inquiry interviews or discussions were held with the following:

The Hon. Mr Justice Allen-Former Chairman, The Parole Board of New South Wales.

Mr R. Bible-Auditor Generals Department, N.S.W.

Mr D. M. Collins-Director, Management Systems Review Division, Public Service Board of N.S.W.

The Hon. J. P. Ducker, MLC-Secretary, Labor Council of N.S.W.

Mr L. Gard-Director, Department of Correctional Services, South Australia.

Mr F. K. Hayes-Former Director, Probation and Parole Service, now Director School of Social Work, Milperra College of Advanced Education.

The Hon. Mr Justice Hope-Chairman, Corrective Services Advisory Council. Inmates of Various Institutions.

The Hon. Mr Justice Jenkinson-Supreme Court, Victoria. Mr J. Jepson-Administrator, Rainbow Lodge.

Mr R. Lucas-Secretary, Adult Parole Board, Victoria.

Mr P. Lynn-Director of Prisons, Social Welfare Department, Victoria. The

Hon. Justice Roma Mitchell-Supreme Court, South Australia.

Dr R. McEwin-Chairman, Health Commission of N.S.W.

Prison Officers Parra matta-Representatives of Parramatta Gaol Sub-Branch of Prison Officers' Vocational Branch, Public Service Association.

Resurgent Group-Prisoner Organization Parramatta Gaol.

The Hon. Mr Justice Slattery=Chairman, Parole Board of New South Wales. The

Hon. Sir John Starke-Chairman, Adult Parole Board, Victoria.

Mr A. Stewart-Assistant Director, Department of Correctional Services, South Australia.

**APPENDIX E**

**EXHIBITS**

1. 2.

*Description*

First Notice to Prisoners concerning Royal Commission.  
Annual Reports of N.S.W. Department of Corrective Services 1970-71-1976: inclusive.  
(a) Periodic Detention in N.S.W. 1973. A Statistical Report. (b) Work Release in N.S.W. 1973. A Statistical Report.  
(c) N.S.W. Prison Population 1973. A Statistical Report.  
(d) Census of Prisoners in N.S.W. 30th June, 1971.  
(e) Statistical Compendium to 1971 Census of Prisoners N.S.W.  
(f) The First Year of Project Survival An Evaluative Report-December, 1971-72. (g) The Background of Women in Prison.  
(h) The Social Atmosphere of the Womans Prison October, 1975. (i) The Female Recidivist-November, 1975.  
(j) Parole Trends and Revocations 1976.  
Manual of General Information for Custodial Division.  
Report of the Working Party on the Prisons Act, 1952 and the Regulations and Prison Rules. (McClemens Report)  
Manual for Staff Instructions and Guidance, 1956, incorporating Rules. Administrative Rules made in accordance with the Provisions of section 49 of the Prisons Act, 1952, as amended.  
Approval of former Minister, Mr Waddy to building of Maximum Security Quarters at Silverwater. Letter dated 20th July, 1976 from the Treasurer, Mr Renshaw to Mr Mulock.  
Relevant extracts from Department of Corrective Services File No. 7111846 regarding submissions for extra time out of cells.  
Cost of Towers at Cessnock. Report of the Corrective Services Advisory Committee entitled "Corrective Health Planning for N.S.W.", dated February, 1975.  
Four Training Manuals for Prison Officers-Syllabus.  
Probationary Prison Officers Pre-Service Course Stage A.  
Probationary Prison Officers Pre-Service Course Stage B.  
Senior Prison Officer In-Service Course.  
Chief Prison Officers In-Service Course.  
Heating and Cooking devices made by Prisoners at Malabar-"Boiling up Appliances" Papers relating to Regina v. Brennan Smithells & Fraser (1974) 1 N.S.W.L.R. 6:~ Daily Mirror Headlines "Killers Let Out". Page 1, 22nd July, 1976.  
Report of inquiry conducted under section 10 (3) of Prisons Act, 1952; Report of Mr Farquhar C.S.M., dated 1st May, 1972.  
Report by Mr Lewer, Deputy C.S.M. dated 17th October, 1972, relating to allegation by one Peter Kenneth Wiggins.  
Documents from prisoner E to illustrate difficulties of handling prisoners moving from their cells.  
Submissions to Minister of the day from Mr McGeechan raising overcrowding situation. 30th July, 1976.  
Booklet in relation to Mulawa. "Mulawa Handbook". Pamphlet in relation to Katingal. "Information for Inmates".  
Folder in relation to Grafton. "A list of the cell rules and regulations." Letter handed to persons sentenced to Periodic Detention.  
Description of Base Expectancy Tables dated 27th July, 1976.  
Submission to Public Service Board "Variation to the Project Survival Programme for males".  
Series of letters to Premier by Australian Crime Prevention, Correction and Care Council concerning post release hostels.  
File No. 76/975 correspondence with Ombudsman relating to Departmental Inquiry into interviewing of prisoner in gaol by Police.  
Prison Magazines from Cessnock. Volume 1. NO.3 "Freeway" February, 1975. Volume 1. No.8 "Freeway" August, 1975.  
Two documents produced by witness Mr N. S. Day relating to quarter horse stud breeding at Cessnock Corrective Centre.  
Minutes of the Inmate Advisory Committee held at Cessnock on Thursday, 19th August, 1976.

- Prison Magazine "Freeway", dated June, 1976, Cessnock Corrective Centre.
- File number 60121P15 relating to quarter horse and viticulture industries at Cessnock.
- Photostats from File No. 7511766 relating to accommodation of women at Cessnock.
- Constitution (1964) and Annual Reports for 1972-73, 1973-74 and 1974-75 of the Prisoner's Aid Association.
- Pamphlet entitled "Cessnock an Experiment. Its Gaols".
- Report of Misconduct by a prisoner.
- Cessnock Farm Employment Plan.
- Typescript of address delivered by British Home Secretary on 12th July, 1976. Re: Prisons and prison rules.
- Address of witness H. A. Carson.
- List of convictions and Gaol record. H. A. Carson.
- List of names of prisoners in B Wing, Bathurst as recalled by witness H. A. Carson.
- Names of prisoners shot in B Wing during Bathurst Fires written down by witness H. A. Carson.
- Five movement orders, with dates, relating to H. A. Carson.
- Instructions and Information for Prisoners and the Rules of the Prisons.
- Police record of interview with H. A. Carson, 24th February, 1974.
- Address of W. J. Kennedy.
- List of convictions and prison record relating to W. J. Kennedy.
- Statement of witness W. J. Kennedy to Visiting Justice, 16th July, 1974, and depositions.
- Blue document handwritten by W. J. Kennedy and cross-lined through.
- Two records of interview of W. J. Kennedy, dated 22nd February, 1974, and 15th March, 1974.
- List of convictions and gaol record of R. W. Quinn.
- Evidence of witness Quinn at his trial. 1st December, 1975.
- Two documents, forms of prisoners application, both bearing date 1st April, 1974, one addressed to the Commissioner of Police and the other to the Council of Civil Liberties, by R. W. Quinn.
- Record of interview of R. W. Quinn.
- Report of Dr Lucas, 30th January, 1973, re R. W. Quinn, Departmental File 73/1089.
- Also further reports of Dr Lucas and Psychiatrist Dr A. Reid.
- Further report of Dr Lucas of 17th September, 1974, appearing in medical File No. 01.80.0923. Re R. W. Quinn.
- Report of classification sub-committee dated 24th December, 1973, relating to R. W. Quinn.
- Private address of C. M. Welland.
- List of convictions and gaol record of C. M. Welland.
- Police record of interview with C. M. Welland, 26th February, 1974.
- Record of convictions and gaol record of G. Van Heythuysen.
- Record of interview with G. Van Heythuysen, 27th February, 1974.
- Document Term No. 86 of 1975, *R. v. G. Van Heythuysen*, Decision on application for bail.
- Prisoners Application or Statement Form, G. Van Heythuysen, 18th August, 1974, also report of 19th August, 1974, by Chief Superintendent Stewart, Malabar Complex, concerning Protest by Bathurst Prisoners.
- Report of Classification Sub-Committee re G. Van Heythuysen,
- Document headed "Department of Corrective Services, submissions to the Minister".
- Medical reports concerning prisoners injured at Bathurst Gaol 3rd February, 1974, signed by the Commissioner, on 24th May, 1974, together with two documents signed by the Superintendent of the Prison Medical Service dated 3rd May, 1974 and 6th February, 1974.
- Three pages dated 18th January, 1974, referring to R. G. Rice, Esq., Visiting Justice, from a book designated "Superintendent's Book" dated 27th March, 1973 to 12th January, 1976-Bathurst Gaol.
- Report of P. C. Milton of 15th January, 1974. Also document recording proceedings before the Visiting Justice.

| No.                  | Description                                                                                                                                                                                                                                                                                              |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| MEDIA COMMUNICATIONS | <p>Documents written by G. Van Heythuysen with two documents of 6th January, 1975, from Superintendent, Maitland Gaol to Commissioner of Correctional Services. Also letter to Council of Civil Liberties in 1975. Mrs G. O'Connor (member of the Committee).</p>                                        |
|                      | <p>Medical file of G. Van Heythuysen.</p>                                                                                                                                                                                                                                                                |
|                      | <p>Parole Board Notice in relation to witness G. Van Heythuysen.</p>                                                                                                                                                                                                                                     |
|                      | <p>Documents relating to Visiting Justice's hearing of 18th October, 1974-G. "Heythuysen.</p>                                                                                                                                                                                                            |
|                      | <p>Bathurst trial-remarks of Judge on sentence regarding psychiatric attention. Letter of 10th June, 1976, from Clerk of the Peace to the Department sending copy of judgment. A letter of 25th June, 1976, from Commissioner of Correctional Services to Prison Medical Service. G. Van Heythuysen.</p> |
|                      | <p>File of documents relating to Cessnock Corrective Centre.</p>                                                                                                                                                                                                                                         |
|                      | <p>Sketch plans for proposed new penal institution complex at Silverwater.</p>                                                                                                                                                                                                                           |
|                      | <p>Corporate Plan of Department of Correctional Services. 1972.</p>                                                                                                                                                                                                                                      |
|                      | <p>Corporate Plan of Department of Correctional Services. 1976.</p>                                                                                                                                                                                                                                      |
|                      | <p>Security documents concerning concepts for Detention Centre. Letters from:<br/>Wormald Safe &amp; Vault Co.<br/>K. A. Jessup Pty Ltd.<br/>Australian Security Systems.</p>                                                                                                                            |
|                      | <p>Handwritten explanation by Mr Saunders in regard to Prisoner Z.</p>                                                                                                                                                                                                                                   |
|                      | <p>Correspondence between Solicitors for Prisoners' Action Group and Mr McGee concerning visits to prisons in connection with the Royal Commission.</p>                                                                                                                                                  |
|                      | <p>File of documents relating to certain control units in Great Britain.</p>                                                                                                                                                                                                                             |
|                      | <p>Article entitled "Solitary Confinement-Insolation as coercion to Conform". by Dr Lucas, contained in the Australian &amp; New Zealand Journal of Criminology September, 1976.</p>                                                                                                                     |
|                      | <p>Plan of Katingal Cell.</p>                                                                                                                                                                                                                                                                            |
|                      | <p>Extracts from Movement File of Prisoner AE.</p>                                                                                                                                                                                                                                                       |
|                      | <p>Movement File of Prisoner AI.</p>                                                                                                                                                                                                                                                                     |
|                      | <p>Movement File of Prisoner AI.</p>                                                                                                                                                                                                                                                                     |
|                      | <p>Movement File of Prisoner AK.</p>                                                                                                                                                                                                                                                                     |
|                      | <p>Record of proceedings by Departmental Committee of Inquiry on treatment of Prisoners, Shipley, Hayes, Murray and Cavanough-held at Maitland Gaol. - 11 May, 1976.</p>                                                                                                                                 |
|                      | <p>File concerning appointment of Executive Staff to Prisons.</p>                                                                                                                                                                                                                                        |
|                      | <p>List of names of 4 prisoners of initial intake still at Katingal.</p>                                                                                                                                                                                                                                 |
|                      | <p>Depositions in respect of prisoners S. J. Dowd. Hearing of August/September. - 4</p>                                                                                                                                                                                                                  |
|                      | <p>Correspondence concerning proposed visit of Victorian Prisons Advisory Committee to Katingal on 23rd September, 1976.</p>                                                                                                                                                                             |
|                      | <p>Memo of 2nd September, 1976, concerning academic research project for re-education.</p>                                                                                                                                                                                                               |
|                      | <p>Correspondence with Public Service Board regarding changes in Staff Development Courses.</p>                                                                                                                                                                                                          |
|                      | <p>List of convictions and prison history relating to P. S. Simpson.</p>                                                                                                                                                                                                                                 |
|                      | <p>Five photographs of damage to witness' (P. Simpson) cell at Central Court at 11:00 am<br/>Sessions at time of committal.</p>                                                                                                                                                                          |
|                      | <p>Medical file of P. S. Simpson.</p>                                                                                                                                                                                                                                                                    |
|                      | <p>Riot Stick.</p>                                                                                                                                                                                                                                                                                       |
|                      | <p>Record of interview between Def-Sgt Whelan and P. S. Simpson. 27th February, 1974.</p>                                                                                                                                                                                                                |
|                      | <p>List of convictions and gaol record of G. N. Allen.</p>                                                                                                                                                                                                                                               |
|                      | <p>Record of interview with G. N. Allen 22nd February, 1974-Det. Sgt. Whelan.<br/>File relating to G. N. Allen-application for Engineering Course and in relation to<br/>in "Sit In".</p>                                                                                                                |
|                      | <p>List of convictions and gaol record H. E. Smith.</p>                                                                                                                                                                                                                                                  |
|                      | <p>Unexpurgated record of interview of 24th February, 1974 of H. E. Smith.</p>                                                                                                                                                                                                                           |
|                      | <p>Undated letter of witness H. E. Smith to fiancée.</p>                                                                                                                                                                                                                                                 |
|                      | <p>Medical file of G. N. Allen.</p>                                                                                                                                                                                                                                                                      |
|                      | <p>Photograph frame used at Bathurst Gaol.</p>                                                                                                                                                                                                                                                           |

| <i>No.</i> | <i>Description</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Medical    | Medical file of H. E. Smith.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|            | Document entitled "Related papers arising from a disturbance of prisoners in Bathurst Prison, October, 1970".                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|            | List of convictions and gaol record of E. S. Von Falkenhausen.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|            | Form 110 and C4-Rations Drawn Slip for 1, 2 and 3rd February, 1974 Bathurst Gaol.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|            | Head Office file relating to E. S. Von Falkenhausen.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|            | Gaol file relating to E. S. Von Falkenhausen. Tabbed in sections/application to go on work release, an application dated 21st July, 1973, relating to industrial remissions, a removal order dated 30th January, 1974, for removal for medical treatment from Bathurst to the M.R.P., a removal order dated 4th February, 1974, from Bathurst to Parramatta gaol via the M.R.C., a series of copy psychiatric reports from Dr Lucas, a transfer to camp prisoner's undertaking, a pre-work release programme, standing rules for day leave concessions, warrant of commitment dated 23rd August, 1973, in relation to the Queensland offence and day leave application dated 9th May, 1976. |
|            | Medical file of E. S. Von Falkenhausen.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|            | Record of interview between Police and E. S. Von Falkenhausen. 5th March, 1974.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|            | Extracts from file of prisoner AD relating to reasons for him being in Katingal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|            | List of convictions and gaol record of D. W. Newman.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|            | Record of interview with D. W. Newman. 8th March, 1974-Sen. Can. D. G. Haggett.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|            | File relating to D. W. Newman, re<br>Transfer application.<br>Ministerial letter to G. D. Campbell & Co.<br>K. J. Brown's report of 21st June, 1976, re Bathurst Riot.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|            | Extract from Katingal Magistrate's visiting justices records relating to the prisoner S. Dowd who was dealt with in evidence of Mr Saunders.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|            | List of convictions and Gaol record of M. L. Saunders.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|            | Record of interview with M. L. Saunders by Senior Constable Squires at Central Police Station, 5th March, 1971-Confidential Exhibit.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|            | Medical file of M. L. Saunders.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|            | List of convictions and gaol record of A. L. Brennan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|            | Police record of interview with A. L. Brennan. 28th February, 1974.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|            | Prison file relating to A. L. Brennan                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|            | Visiting Justice Book for Bathurst Gaol commencing 2nd March, 1973.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|            | Papers relating to prisoners refusing evening meals at Bathurst Gaol on 16th January, 1975.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|            | File relating to J. E. Khan re possession of Civilian Shoes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|            | List of convictions and gaol record of I. E. Khan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|            | List of Convictions and Gaol record of P. J. Wilson.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|            | Police record of interview with P. J. Wilson dated 4th March, 1974.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|            | Departmental file of P. J. Wilson.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|            | Letter of 2nd April, 1971, from Classification Committee to Penfolds Wine Ltd and letter from Secretary, Parole Board dated 24th February, 1975, in relation to cancellation on P. J. Wilson's parole.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|            | List of convictions and gaol record of T. Haley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|            | Medical file of T. Haley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|            | Notes written on cigarette papers found in possession of T. Haley at Bathurst Gaol on 3rd December, 1973.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|            | Gaol file of T. Haley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|            | Head Office file of T. Haley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|            | Visiting Justices Punishment Book, Bathurst, for the period 20th November, 1972, to 8th January, 1974.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|            | Orders of the Commissioner and Minister in respect of administrative segregation in relation to T. Haley. (Order of 9th June, 1972.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|            | List of convictions and gaol record of J. R. Dunks.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|            | Record of interview between J. R. Dunks and Det.-Sen. Canst. Haggett, 28th February, 1974.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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| No.            | Description                                                                                                                    |
|----------------|--------------------------------------------------------------------------------------------------------------------------------|
| MEDIA COMMUNIK | Head Office administrative segregation file in relation to T. Haley.                                                           |
|                | List of convictions and gaol record of G. 1. Purdey.                                                                           |
|                | Medical file of G. J. Purdey.                                                                                                  |
|                | Head Office file of G. 1. Pur dey.                                                                                             |
|                | Gaol file of G. J. Purdey.                                                                                                     |
|                | List of convictions and gaol record of F. N. Harling.                                                                          |
|                | Medical file of F. N. Harling.                                                                                                 |
|                | Gaol file of F. N. Harling.                                                                                                    |
|                | Head Office file of F. N. Harling.                                                                                             |
|                | Police record of interview with F. N. Harling. 25th February, 1974.                                                            |
|                | List of convictions and gaol record of D. G. Bruce.                                                                            |
|                | Police record of interview with D. G. Bruce. 4th March, 1974.                                                                  |
|                | Gaol file of D. G. Bruce.                                                                                                      |
|                | Head office file of D. G. Bruce.                                                                                               |
|                | Medical file of D. G. Bruce.                                                                                                   |
|                | List of convictions and gaol record of R. 1. C. Gibson.                                                                        |
|                | Police record of interview with R. J. C. Gibson. 5th March, 1974.                                                              |
|                | Gaol file of R. J. C. Gibson.                                                                                                  |
|                | Head Office file of R. J. C. Gibson.                                                                                           |
|                | Medical record of R. J. C. Gibson.                                                                                             |
|                | List of convictions and gaol record of C. J. Bishop.                                                                           |
|                | Head Office file relating to C. J. Bishop containing letter of 15th August. ~ t ...<br>to Commissioner of Corrective Services. |
|                | Medical file in relation to J. R. Dunks.                                                                                       |
|                | List of convictions and gaol record of W. H. Baldry.                                                                           |
|                | Purported record of interview between W. H. Baldry and Det.-Sgt C ..<br>Hodgkinson on 24th February, 1974.                     |
|                | Administrative segregation file in relation to W. H. Baldry.                                                                   |
|                | Gaol file of W. H. Baldry,                                                                                                     |
|                | Head office file of W. H. Baldry.                                                                                              |
|                | Medical file of W. H. Baldry.                                                                                                  |
|                | Medical file of C. J. Bishop.                                                                                                  |
|                | Police record of interview of C. J. Bishop. 27th February, 1974.                                                               |
|                | Address of witness K. E. Schwarz. (Confidential.)                                                                              |
|                | List of convictions and gaol record of K. E. Schwarz.                                                                          |
|                | Head office file of K. E. Schwarz.                                                                                             |
|                | Medical file of K. E. Schwarz.                                                                                                 |
|                | Description card for B. R. Saric.                                                                                              |
|                | Police record of interview with R. W. Briar dated 14th February, 1974.                                                         |
|                | List of convictions and gaol record of R. W. Briar.                                                                            |
|                | Head office file of R. W. Briar.                                                                                               |
|                | Police statement of F. W. Henning dated 13th February, 1974.                                                                   |
|                | Police statement of G. A. Kinney dated 13th February, 1974.                                                                    |
|                | Black Baton.                                                                                                                   |
|                | Police statement of R. L. Wells dated 13th February, 1974.                                                                     |
|                | Description card and gaol record of W. H. Baldry.                                                                              |
|                | Police statement of J. R. M. Walters dated 13th February, 1974.                                                                |
|                | Police statement of I. J. Wray dated 13th February, 1974.                                                                      |
|                | Statement to police by L. J. Clarke dated 13th February, 1974.                                                                 |
|                | Statement to police by C. F. Rose dated 14th February, 1974.                                                                   |
|                | Statement of B. G. King dated 12th February, 1974.                                                                             |
|                | Statement of J. R. Hall dated 12th February, 1974.                                                                             |
|                | Statement of G. E. Weeks dated 12th February, 1974.                                                                            |
|                | Statement of V. C. Bower dated 12th February, 1974.                                                                            |
|                | Statement of I. P. Foran dated 12th February, 1974.                                                                            |
|                | List of convictions and gaol record of J. P. M. Murphy.                                                                        |

| <i>No.</i> | <i>Description</i>                                                                                                |
|------------|-------------------------------------------------------------------------------------------------------------------|
|            | Police record of interview with J. P. M. Murphy dated 14th February, 1974.                                        |
|            | Gaol file of J. P. M. Murphy.                                                                                     |
|            | Head office file of J. P. M. Murphy.                                                                              |
|            | Medical file of J. P. M. Murphy.                                                                                  |
|            | Illustration of Gauntlet at Bathurst, "National Times" newspaper, of 8th to 13th September, 1975.                 |
|            | List of convictions and gaol record of R. P. Webb.                                                                |
|            | Police record of interview of R. P. Webb dated 4th March, 1974.                                                   |
|            | Medical file of R. P. Webb.                                                                                       |
|            | Head office file of R. P. Webb.                                                                                   |
|            | Gaol file of R. P. Webb.                                                                                          |
|            | "Daily State Book" for period 6th February, 1973, to 12th March, 1974-Bathurst Gaol.                              |
|            | List of convictions and gaol record of P. James.                                                                  |
|            | Head office file of P. James.                                                                                     |
|            | Gaol file of P. James.                                                                                            |
|            | Medical file of P. James.                                                                                         |
|            | List of convictions and gaol record of A. T. Morrison.                                                            |
|            | Medical file of A. T. Morrison.                                                                                   |
|            | Gaol file of A. T. Morrison.                                                                                      |
|            | List of convictions and gaol record of M. L. Baldwin.                                                             |
|            | One leaf of a Book of Gaol Passes for Prisoners.                                                                  |
|            | Gaol file of M. L. Baldwin.                                                                                       |
|            | Medical file of M. L. Baldwin.                                                                                    |
|            | Head office file of M. L. Baldwin.                                                                                |
|            | List of convictions and gaol record of J. V. Bobak.                                                               |
|            | Medical file of J. V. Bobak.                                                                                      |
|            | Head office file of J. V. Bobak.                                                                                  |
|            | List of convictions and gaol record of R. Barnett.                                                                |
|            | Head office file of R. Barnett.                                                                                   |
|            | Gaol file of R. Barnett.                                                                                          |
|            | List of convictions and gaol record of M. P. Kennedy.                                                             |
|            | Medical file of M. P. Kennedy.                                                                                    |
|            | Gaol file of M. P. Kennedy.                                                                                       |
|            | Head office file of M. P. Kennedy.                                                                                |
|            | List of convictions and gaol record of K. W. Clark.                                                               |
|            | Head office file of K. W. Clark.                                                                                  |
|            | Gaol file of K. W. Clark.                                                                                         |
|            | Medical file of K. W. Clark.                                                                                      |
|            | List of convictions and gaol record of L. W. Boyle.                                                               |
|            | Typewritten copy of Dr Doust's notes and submissions referring to Bathurst Gaol.                                  |
|            | Record of interview of Dr Doust by Bathurst Police on 1st March, 1974.                                            |
|            | Record of interview between L. W. Boyle and Department of Corrective Services Legal Officer dated 2nd July, 1971. |
|            | Private address of J. A. Kelly.                                                                                   |
|            | List of convictions and gaol record of J. A. Kelly.                                                               |
|            | Statement of Dr C. A. B. Murphy to police dated 12th March, 1974.                                                 |
|            | Gaol file of J. A. Kelly.                                                                                         |
|            | Head office file of J. A. Kelly.                                                                                  |
|            | Medical file of J. A. Kelly.                                                                                      |
|            | Administrative segregation file of J. A. Kelly.                                                                   |
|            | Police statement of M. Hanrahan dated 7th February, 1974.                                                         |
|            | Police statement of M. Hanrahan dated 13th March, 1974.                                                           |
|            | Staff file of M. Hanrahan. (No. 7111109.)                                                                         |
|            | Article on pages 8-10 of "The National Times" newspaper of 12th-17th July, 1976.                                  |
|            | List of convictions and gaol record of J. C. Palmer.                                                              |

No.

*Description*

MEDIA COMMUNICATIONS

263.

Head office of J. C. Palmer. Medical file of J. C. Palmer. Gaol file of J. C. Palmer.  
Report of Education Officer at Bathurst Gaol dated 14th March, 1973-Diffi~ in setting up programmes at Bathurst.

List of convictions and gaol record of R. H. Jewson. Gaol file of R. H. Jewson.  
Head office file of R. H. Jewson. Medical file of R. H. Jewson.

List of convictions and gaol record of A. R. P. Green. Head office file of A. R. P. Green.  
Gaol file of A. R. P. Green.  
Statutory Declaration of A. R. P. Green.

Joint submission of four members of Psychological Unit of M.R.P., ~1.1.b.!w' Complex, concerning disturbing aspects at recent prison demonstrations, dated -n December, 1970.  
Report of Rev. R. F. Brand of 31st May, 1974, addressed to Mr K. Johrsaza, Executive Officer, Department of Corrective Services.  
Extracts from Hansard of Legislative Assembly relating to Prisons.  
Minutes of meetings of Department of Corrective Services Advisory COCI-,,;i Departmental File No. 71/1676.  
File relating to resumption of education classes at Bathurst. File No. 73 -11 ~ "Announcement of Judgment" and "Judgment" of 29th May, 1973, of Cr=""T Employees Appeals Board-Ristau and Department of Corrective Services.  
Service record of Prison Officer, J. Ristau.

Envelope containing alleged Hornsby R.S.L. Club telephone numbers.  
Copy of letter from Commissioner of Corrective Services to Superintendent. "E" "ill£ Island concerning services of 1. Ristau dated 1st December, 1975.  
List of convictions and gaol record of W. I. F. Halligan.  
Head office file of W. I. F. Halligan.  
Gaol file of W. J. F. Halligan.  
Medical file of W. J. F. Halligan.

List of convictions and gaol record of V. P. McKinney. Head office file of V. P. McKinney.  
Gaol file of V. P. McKinney.  
Medical file of V. P. McKinney.  
List of convictions of E. P. Baker.  
List of convictions of B. L. Castles.

Diary of disturbances in penal institutions prior to 1970. Bathurst Riot. Photocopy of Superintendent Pall at's service record.  
Study of comparative prison populations July, 1971-February, 1974.  
Bathurst Gaol industrial stoppages and/or stop work meetings. 1st April. I"~c to 2nd April, 1974.  
Premier's press statement, Royal Commission on gaol riot of 5th February. 1;-Ministerial press statement of 19th February, 1974, relating to gaol riot.  
Letter from Department of Corrective Services to all prison officers at Bach-:-:; re making of statement re events at Bathurst 3rd and 4th February, 1974.  
Report from Superintendent Pallot dated 13th July, 1971, re events at Ba:t:;-" on 20th October, 1970.  
Report of 26th October, 1970, of Superintendent Pallot on medical report of f'-'-", prisoners.  
"General interest arising from radio talk by discharged prisoner" re Commis-icer memo 26th October, 1970.

Departmental papers re Statutory Declaration of K. W. Clark. File re disturbing aspects of Prison Demonstrations 1970.  
File re statement of L. H. Evers, Psychologist.  
Report and annexures by Mr Quinn of 14th December, 1970, to Commis-icer of Corrective Services re incidents at Bathurst following riot 1970.

264. 265.  
266. 267.  
268. 269. 270.  
271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281A. 281B. 281c. 281D.  
281E. 281F. 281G.  
281H.  
281I.  
281J.  
281K. 281L. 281M. 281N.



*Description*

2810.

Record of interview between Superintendent Pallet and Commissioner of Corrective Services 23rd December, 1970.

Report to the Minister of Justice from Commissioner of Corrective Services 18th January, 1971, re allegations of ill treatment at Bathurst.

Departmental file re Mr Smedley's experiences Bathurst Gaol 1970.

Departmental file re statement from A. T. Morrison.

Report of 5th July, 1971, re interview of Messrs L. Evers and B. Cleary with Commissioner.

Memorandum of 16th July, 1971, from Legal Officer to Commissioner re interview with L. Thompson Parramatta Gaol 10th July, 1971.

Report 19th July, 1971, Legal Officer to Commissioner of Corrective Services re interview with Dr Van Gelderen at Bathurst.

Graph of Prison population at Bathurst Gaol from December, 1970, to June, 1974. Notes and jottings of Commissioner of Corrective Services concerning Bathurst riot. Diary-Disturbances at Bathurst Gaol.

Statement from Commissioner to Minister, 19th October, 1970.

Correspondence between the Police Department and the Attorney-General, 1974. File No. 7012475 industrial dispute arising from the lateral transfer of an officer. File No. 76/1887 case of prison officer John Arndel.

File No. 69/13755 strike by prison officers at Long Bay in 1969.

File No. 74/551 stoppage of work by officers, demanding a full inquiry into the Department.

File No. 73/337 proposed development of sporting and recreational facilities for inmates. Bathurst Gaol.

File No. 73/1333 censoring of mail to and from prison inmates and policy regarding letter writing and censoring.

Extract from censored journal.

Correspondence between Commissioner of Corrective Services and Commissioner of Police concerning police investigations into Bathurst riot of February, 1974.

Letters dated 13th July, 1971, headed "Riot at Bathurst Gaol on Monday, 19th October, 1970", and Bathurst Gaol, Tuesday, 20th October, 1970, forwarded by Superintendent Pallot to Commissioner.

Reports of J. W. Pallot in relation to incidents Bathurst Gaol on 3rd February, 1974, and 4th February, 1974.

A selection of documents during Superintendent Pallot's term at Bathurst Gaol submitted on his behalf.

Statement to police by D. J. Gunning 7th February, 1974.

Letter from J. T. Miller dated 14th May, 1974, to Mr Johnston marked "Sydney District Court".

Police statements of J. T. Miller dated 10th February, 1974, and 13th March, 1974.

Police statements of J. Sullivan dated 9th February, 1974, and 13th March, 1974. Gaol file of G. G. Lansdall.

Police statement of A. J. Thompson dated 11th February, 1974.

Police statement of R. G. Atkins, dated 9th February, 1974. Police

statement of R. G. Atkins, dated 13th March, 1974.

Statement of R. G. Atkins to Mr Dodd, Solicitor, on 27th September, 1976.

Report of R. G. Atkins to Mr Pallot.

Police statements of R. P. Morgan dated 11th February, 1974, and 13th March, 1974.

List of convictions of C.

Paintin. Gaol record of C.

Paintin.

Gaol file of C. Paintin.

Medical file of C. Paintin.

Head office file of C. Paintin.

List of convictions and gaol record of D. Dunn.

Head office file of D. Dunn.

Gaol file of D. Dunn.

Medical file of D. Dunn.

| <i>No.</i> | <i>Description</i>                                                                                  |
|------------|-----------------------------------------------------------------------------------------------------|
|            | List of convictions and gaol record of V. Waugh.                                                    |
|            | Head office file of V. Waugh.                                                                       |
|            | Gaol file of V. Waugh.                                                                              |
|            | Medical file of V. Waugh.                                                                           |
|            | Administrative Segregation file of V. Waugh.                                                        |
|            | List of convictions and gaol record of V. L. Bates.                                                 |
|            | Head office file of V. L. Bates.                                                                    |
|            | Gaol file of V. L. Bates.                                                                           |
|            | Medical file of V. L. Bates.                                                                        |
|            | List of convictions and gaol record of M. House.                                                    |
|            | Head office file of M. House.                                                                       |
|            | List of convictions and gaol record of C. Butterworth.                                              |
|            | Gaol file of C. Butterworth.                                                                        |
|            | Head office file of C. Butterworth.                                                                 |
|            | Medical file of C. Butterworth.                                                                     |
|            | List of convictions and gaol record of R. Hoffman.                                                  |
|            | Medical file of R. Hoffman.                                                                         |
|            | Head Office file of R. Hoffman.                                                                     |
|            | Gaol file of R. Hoffman.                                                                            |
|            | List of convictions and gaol record of V. Roberts.                                                  |
|            | Head office file of V. Roberts.                                                                     |
|            | Gaol file of V. Roberts.                                                                            |
|            | Medical file of V. Roberts.                                                                         |
|            | Gaol file of M. House.                                                                              |
|            | Medical file of M. House.                                                                           |
|            | List of convictions of J. A. Todd.                                                                  |
|            | List of convictions and gaol record of L. J. Blake.                                                 |
|            | Gaol file of L. J. Blake.                                                                           |
|            | Head office file of L. J. Blake.                                                                    |
|            | Medical file of L. J. Blake.                                                                        |
|            | Gaol file of J. A. Todd.                                                                            |
|            | Head office file of J. A. Todd.                                                                     |
|            | Medical file of J. A. Todd.                                                                         |
|            | Prison record of J. A. Todd.                                                                        |
|            | List of convictions and gaol record of P. J. Diamond.                                               |
|            | Head office file of P. J. Diamond.                                                                  |
|            | Gaol file of P. J. Diamond.                                                                         |
|            | Judgment of His Honour Judge Shannon of 19th May, 1976, concerning P. G. Hares alias P. J. Diamond. |
|            | Letter from Dr S. Dalton to Mr P. Coleman, Chief Secretary, dated 3rd May, 1976.                    |
|            | Statement of P. J. Diamond.                                                                         |
|            | Reports of Parole Officers in relation to P. J. Diamond.                                            |
|            | Medical file of P. J. Diamond.                                                                      |
|            | Part of gaol file of W. F. Halligan.                                                                |
|            | List of convictions and gaol record of R. J. Hall.                                                  |
|            | Head office file of R. J. Hall.                                                                     |
|            | Gaol file of R. J. Hall.                                                                            |
|            | Medical file of R. J. Hall.                                                                         |
|            | Photograph of exit "A" Wing at Grafton Gaol.                                                        |
|            | List of convictions and gaol record of W. R. James.                                                 |
|            | Medical file of W. R. James.                                                                        |
|            | Head office file of W. R. James.                                                                    |
|            | Gaol file of W. R. James.                                                                           |
|            | 368A-B. Photographs of cell door (inside and outside) at Grafton Gaol.                              |

| <i>No.</i>           | <i>Description</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| MEDIA COMMUNICATIONS | Additional medical file of W. F. Halligan.<br>Copy of entry of November, 1976, in punishment book. Parramatta Gaol.<br>List of convictions and gaol record of E. Heatley.<br>Head office file of E. Heatley.<br>Gaol file of E. Heatley.<br>Medical file of E. Heatley.<br>Special file in respect of escapes attempted by E. Heatley. Administrative Segregation file of W. F. Halligan.<br>List of convictions and gaol record of F. H. Harbecke.<br>Head office file of F. H. Harbecke.<br>Gaol file of F. H. Harbecke.<br>Medical file of F. H. Harbecke.<br>List of convictions and gaol record of S. A. Blair. Head office file of S. A. Blair.<br>Gaol file of S. A. Blair.<br>Medical file of S. A. Blair.<br>List of convictions and gaol record of T. D. Humphries. Head office file of T. D. Humphries.<br>Gaol file of T. D. Humphries.<br>List of convictions and gaol record of A. Jorgensen. Head office file of A. Jorgensen.<br>Gaol file of A. Jorgensen.<br>List of convictions and gaol record of A. T. Kleinig. Head office file of A. T. Kleinig.<br>Gaol file of A. T. Kleinig.<br>Medical file of A. T. Kleinig.<br>Medical file of T. Humphries.<br>List of convictions and gaol record of K. H. Pulley. Head office file of K. H. Pulley.<br>Gaol file of K. H. Pulley.<br>Medical file of K. H. Pulley.<br>Record of interview with Police on 5th January, 1976, in relation to fire in boot shop at Parramatta Gaol. K. H. Pulley.<br>List of convictions and gaol record of H. L. Visser. Head office file of H. L. Visser.<br>Gaol file of H. L. Visser.<br>Medical card of H. L. Visser.<br>List of convictions and gaol record of G. V. Karta. Head office file of G. V. Karta.<br>Gaol file of G. V. Karta.<br>Medical file of G. V. Karta.<br>Medical file of A. Jorgensen.<br>List of convictions and gaol record of M. J. Meredith. Head office file of M. J. Meredith.<br>Gaol file of M. J. Meredith.<br>Medical file of M. J. Meredith.<br>List of convictions and gaol record of M. Manley. Head office file of M. Manley.<br>Gaol file of M. Manley.<br>Medical file of M. Manley.<br>Letter to Mrs O'Connor from Commissioner of Corrective Services in relation to wearing of sandals at Mulawa, 12th January, 1977.<br>List of convictions and gaol record of C. R. Reynolds. Head office file of C. R. Reynolds.<br>Gaol file of C. R. Reynolds.<br>Medical file of C. R. Reynolds. |

*Description*

438-439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454.  
455. 456. 457. 458. 459.

List of convictions of S. A. K. Willson. Head office file of S. A. K. Willson. Gaol file of S. A. K. Willson.

Medical file of S. A. K. Willson.

Name furnished by Miss S. Willson (sealed envelope). List of convictions and gaol record of D. Dugan.

Head office file of D. Dugan.

Gaol file of D. Dugan current since 1969-70.

Medical file of D. Dugan current since 1969-70. Account of feelings of D. Dugan concerning attempted List of convictions and gaol record of C. S. Roberts. Head office file of C. S. Roberts.

Gaol file of C. S. Roberts.

Medical file of C. S. Roberts.

Report from Mr Sanders dated 15th February, 1977, relating to prisoner E. ~ and recommendations of Life Sentence Committee of 2nd July, 1976.

List of convictions and gaol record of R. J. Moore.

Head office file of R. J. Moore.

Gaol file of R. J. Moore.

Medical file of R. J. Moore.

List of convictions and gaol record of F. Pavlovic. Head office file of F. Pavlovic.

Gaol file of F. Pavlovic.

Medical file of F. Pavlovic.

Statement of I. P. Black to Superintendent Grafton Gaol on 12th January, 1971. List of convictions and gaol record of J. P. Black.

Head office file of J. P. Black.

Gaol file of J. P. Black.

Medical file of J. P. Black.

Copies of correspondence addressed to Royal Commission by J. P. Black. List of convictions of D. Newling.

Gaol file of D. Newling.

List of convictions and gaol record of W. A. Owen. Head office file of W. A. Owen.

Gaol file of W. A. Owen.

Medical file of W. A. Owen.

Notes of I. M. Ristau re "Conference with Commissioner over Bathurst".

Comment of Mr Lindsay and report on staffing at Mulawa dated 30th No~ 1976.

File designated "Staff and Personnel Branch file: Staff establishment-s-Mulawa .Silverwater" .

File No. 73/625. "Visit of Dr M. Pasfield to Mulawa-1 session per week".

Series of papers, first dated 17th October, 1975, and entitled "Transfer of ~ to outside Hospitals".

File No. 72/1644-entitled "Mulawa T & D Centre: "Complaints involving rCm: tance of nursing staff to administer medication to prisoners undergoing rndi::It treatment.

File No. 66/1322-Inspection of Penal Institutions in N.S.W. by Dr J. J. O'Hara, Papers commencing 5th October, 1966-Psychiatric survey of prisoners at TeqRS of Stipendiary Magistrates.

File No. 75/1514. Dr T. R. Bolin-lack of prison officers to escort p~ for treatment.

File No. 68/1253-list of duties, hospital assistants, male nurses.

Transcript of compulsory conference of 18--4-75 before. Mr Conciliation Colllllll.. sioner Wall involving Public Service Board and Public Service Association.

Correspondence by Dr W. E. Lucas with Department relating to request to SCI: a prisoner at Katingal.

*Description*

470. 471.

Psychiatric report of Dr Lucas in relation to prisoner A. Baker.  
Correspondence between Messrs Bartier Perry & Purcell and the Commissioner of  
Corrective Services between 9th July, 1976 and 7th February, 1977 re E. Heuston. List of  
convictions and gaol record of E. H. Heuston.  
Head office file of E. H. Heuston.  
Gaol file of E. H. Heuston.  
Medical file of E. H. Heuston.  
Administrative Segregation file of E. H. Heuston.  
File No. 76/1639 relating to Department Inquiry of August, 1976, into Mr Heuston's allegations of  
assault at Grafton.  
Tapes of evidence of inquiry into actions of Prison Officer Baker against Prisoner Heuston  
at Grafton on 9th August, 1976.  
Letters of complaint concerning P. Schofield, nurse at Mulawa and report by B. Barrier.  
Medical card of D. N. Newling.  
List of convictions and gaol record of R. L.  
Myers. Head office file of R. L. Myers. File No.  
73/3557. Gaol file of R. L. Myers.  
Letter from R. L. Myers to Royal  
Commission. Medical file of R. L. Myers.  
Gaol record of T. W. Innes.  
Head office file of T. W. Innes.  
Gaol file of T. W. Innes.  
Medical file of T. W. Innes.  
List of convictions and gaol record of R. D. Fry.  
Head office file of R. D. Fry.  
Gaol file of R. D. Fry.  
Medical file of R. D. Fry.  
List of convictions and gaol record of C. W.  
Gidley. Head office file of C. W. Gidley.  
Gaol file of C. W. Gidley.  
Medical file of C. W. Gidley.  
List of convictions and gaol record of S. J.  
Grant. Head office file of S. J. Grant.  
Gaol file of S. J. Grant.  
Medical file of S. J. Grant.  
List of convictions and gaol record of K. R. Boardman.  
Head office file of K. R. Boardman.  
Gaol file of K. R. Boardman.  
Medical file of K. R. Boardman.  
File No. 75/1435-Departmental Inquiry into Prisoner "E".  
Medical file of Prisoner "E".  
Handwritten statement of R. J. Kirby.  
List of convictions and gaol record of R. J.  
Kirby. Head office file of R. J. Kirby.  
Gaol file of R. J. Kirby.  
Medical file of R. J. Kirby.  
List of convictions and gaol record of K. J.  
Mayfield. Head office file of K. J. Mayfield.  
Gaol file of K. J. Mayfield.  
Medical tile of *K. J. Mayfield*.  
List of convictions and *gaol* record of G. J.  
Walker. Gaol file of G. J. Walker.  
Medical file of G. J. Walker.  
List of "BUY-UPS" referred to in statement of R. J. Kirby.  
List of convictions and gaol record of M. J. Whiteoak.  
472. 473. 474. 475. 476. 477.  
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479.

| <i>No.</i> | <i>Description</i>                                                                                  |
|------------|-----------------------------------------------------------------------------------------------------|
|            | Head office file of M. J. Whiteoak.                                                                 |
|            | Gaol file of M. J. Whiteoak.                                                                        |
|            | Medical file of M. J. Whiteoak.                                                                     |
|            | Diary associated with statement of evidence of M. J. Whiteoak.                                      |
|            | List of convictions and gaol record of R. J. Aik.                                                   |
|            | Head office file of R. J. Aik, File No. 74/2876.                                                    |
|            | Gaol file of R. J. Aik.                                                                             |
|            | Medical file of R. J. Aik.                                                                          |
|            | List of convictions and gaol record of W. A. Avent.                                                 |
|            | Head office file of W. A. Avent, File No. 75/1509.                                                  |
|            | Gaol file of W. A. Avent.                                                                           |
|            | Medical file of W. A. Avent.                                                                        |
|            | List of convictions and gaol record of J. A. Harris.                                                |
|            | Head office file of J. A. Harris, File No. 75/953.                                                  |
|            | Gaol file of J. A. Harris.                                                                          |
|            | Medical file of J. A. Harris.                                                                       |
|            | List of convictions and gaol record of I. J. Loader.                                                |
|            | Head office file of I. J. Loader, File No. 73/1382.                                                 |
|            | Gaol file of I. J. Loader.                                                                          |
|            | Medical file of I. J. Loader.                                                                       |
|            | Petition concerning food by I. J. Loader.                                                           |
|            | List of convictions and gaol record of R. Marshall.                                                 |
|            | Head office file of R. Marshall, File No. 75/695.                                                   |
|            | Gaol file of R. Marshall.                                                                           |
|            | Medical file of R. Marshall.                                                                        |
|            | List of convictions and gaol record of B. K. McKenzie.                                              |
|            | Head office file of B. K. McKenzie.                                                                 |
|            | Gaol file of B. K. McKenzie.                                                                        |
|            | Medical file of B. K. McKenzie.                                                                     |
|            | Notes of Officer Newling attached to Statement of Colin Clifford Clarke.                            |
|            | List of convictions and gaol record of C. C. Clarke.                                                |
|            | Head office of C. C. Clarke.                                                                        |
|            | Gaol file of C. C. Clarke.                                                                          |
|            | Medical file of C. C. Clarke.                                                                       |
|            | Original of supplementary statement of Raymond Moskal. 8th March, 197-.                             |
|            | Original handwritten supplementary statement of Bruce McKenzie. 14th <b>!&gt;I .. -=i.</b><br>1977. |
|            | List of convictions and gaol record of P. L. A. Johannesen.                                         |
|            | Head office file of P. L. A. Johannesen.                                                            |
|            | Gaol file of P. L. A. Johannesen.                                                                   |
|            | Medical file of P. L. A. Johannesen.                                                                |
|            | List of convictions and gaol record of J. A. Anthony.                                               |
|            | Head office file of J. A. Anthony.                                                                  |
|            | Gaol file of J. A. Anthony.                                                                         |
|            | Medical file of J. A. Anthony.                                                                      |
|            | Movement file of J. A. Anthony.                                                                     |
|            | List of convictions and gaol record of D. W. Brown.                                                 |
|            | Gaol file of D. W. Brown.                                                                           |
|            | Medical file of D. W. Brown.                                                                        |
|            | List of convictions and gaol record of O. Natasien.                                                 |
|            | Head office file of O. Natasien.                                                                    |
|            | Gaol file of O. Natasien.                                                                           |
|            | Medical file of O. Natasien.                                                                        |
|            | Movement file of O. Natasien.                                                                       |
|            | Copies of letters from O. Natasien.                                                                 |

|         | <i>Description</i>                                                                                                                                  |
|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| 576-577 |                                                                                                                                                     |
| 578-579 |                                                                                                                                                     |
| 580-581 |                                                                                                                                                     |
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| 584-585 |                                                                                                                                                     |
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| 592-593 |                                                                                                                                                     |
| 594-595 |                                                                                                                                                     |
| 596-597 |                                                                                                                                                     |
|         | List of convictions and gaol record of M. L. Reardon.                                                                                               |
|         | Gaol file of M. L. Reardon.                                                                                                                         |
|         | Medical file of M. L. Reardon.                                                                                                                      |
|         | List of convictions and gaol record of D. W. Pomfret.                                                                                               |
|         | Head office file of D. W. Pomfret.                                                                                                                  |
|         | Gaol file of D. W. Pomfret.                                                                                                                         |
|         | Medical file of D. W. Pomfret.                                                                                                                      |
|         | List of convictions and gaol record of J. R. S. Barton.                                                                                             |
|         | Gaol file of J. R. S. Barton.                                                                                                                       |
|         | Medical file of J. R. S. Barton.                                                                                                                    |
|         | Head office file of J. R. S. Barton.                                                                                                                |
|         | List of convictions and gaol record of M. W. Burke.                                                                                                 |
|         | Head office file of M. W. Burke.                                                                                                                    |
|         | Gaol file of M. W. Burke.                                                                                                                           |
|         | Medical file of M. W. Burke.                                                                                                                        |
|         | List of convictions and gaol record of S. J. Dowd.                                                                                                  |
|         | Head office file of S. J. Dowd.                                                                                                                     |
|         | Gaol file of S. J. Dowd.                                                                                                                            |
|         | Medical file of S. J. Dowd.                                                                                                                         |
|         | Administrative Segregation file of S. J. Dowd.                                                                                                      |
|         | Letter and envelope written by Prisoner Dowd to Commissioner of Police.                                                                             |
|         | Report of Mr Amputch, Probation and Parole Officer, to Mr Justice O'Brien of 16th September, 1975, re Prisoner Dowd.                                |
|         | List of convictions and gaol record of R. P. Gardner.                                                                                               |
|         | Head office file of R. P. Gardner.                                                                                                                  |
|         | "BUY-UPS" list tendered re Katingal, furnished by S. J. Dowd.                                                                                       |
|         | List of convictions and gaol record of R. O. Lynott.                                                                                                |
|         | Head office file of R. O. Lynott.                                                                                                                   |
|         | Gaol file of R. O. Lynott.                                                                                                                          |
|         | Medical file of R. O. Lynott.                                                                                                                       |
|         | List of convictions and gaol record of C. D. Sewell.                                                                                                |
|         | Head office file of C. D. Sewell.                                                                                                                   |
|         | Medical file of C. D. Sewell.                                                                                                                       |
|         | List of convictions of J. E. Cowell.                                                                                                                |
|         | Gaol file of J. E. Cowell.                                                                                                                          |
|         | Medical file of J. E. Cowell.                                                                                                                       |
|         | Original of Submission by John Edwin Cowell. 25th October, 1976. Original of Submissions of Bernard Thomas Matthews.                                |
|         | Statement of evidence by B. T. Matthews.                                                                                                            |
|         | Annexures to statements by B. T. Matthews.                                                                                                          |
|         | Document entitled "Further Points for Consideration by the New South Wales Royal Commission"-Bernard Thomas Matthews.                               |
|         | Medical documents (three) re B. T. Matthews.                                                                                                        |
|         | Copy of Submission made to Staples J. by B. T. Matthews. List of convictions and gaol record of B. T. Matthews. Head office file of B. T. Matthews. |
|         | Medical file of B. T. Matthews.                                                                                                                     |
|         | Administrative Segregation file of B. T. Matthews.                                                                                                  |
|         | Two records of interview dated 14th February, 1974, and 22nd February, 1974, respectively, with Ross Phillip Gardner.                               |
|         | List of convictions and gaol record of T. Clarke. Head office file of T. Clarke.                                                                    |
|         | Gaol file of T. Clarke.                                                                                                                             |
|         | Medical file of T. Clarke.                                                                                                                          |
|         | Gaol file of C. D. Sewell.                                                                                                                          |

*Description*

629-630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646.

List of convictions and gaol record of J. F. Murray. Head office file of J. F. Murray.

Gaol file of J. F. Murray.

Medical file of J. F. Murray.

Head office file of D. W. Brown.

Head office file of M. L. Reardon.

List of convictions and gaol record of G. J. Page. Head office file of G. J. Page.

Gaol file of G. J. Page.

Medical file of G. J. Page.

List of convictions and gaol record of M. W. Leadbitter. Head office file of M. W. Leadbitter.

Gaol file of M. W. Leadbitter.

Medical file of M. W. Leadbitter.

List of convictions and gaol record of D. K. M. Phillips. Head office file of D. K. M. Phillips.

Gaol file of D. K. M. Phillips.

List of instructions issued to prisoners in Grafton regarding routine to be **okc...**, and relevant timetables.

Departmental file of E. Frame.

List of visitors at Grafton, 1953-1976. Staff file of A. J. Penning.

List of convictions and gaol record of F. A. Kooistra. Head office file of F. A. Kooistra.

Gaol file of F. A. Kooistra.

Medical file of F. A. Kooistra.

List of convictions and gaol record of P. Van der Wegen. Head office file of P. Van der Wegen.

Gaol file of P. Van der Wegen.

Medical file of P. Van der Wegen.

List of convictions and gaol record of B. M. Roberts. Head office file of B. M. Roberts.

Gaol file of B. M. Roberts.

Medical file of B. M. Roberts.

Head office file, gaol file, medical file of S. Williams. Gaol and medical files of G. M. Rosa.

Staff Service Card of E. C. Frame.

Staff Service Card of A. J. Penning.

List of convictions and record of D. L. Huntley. Head office file of D. L. Huntley.

Gaol file of D. L. Huntley.

Medical file of D. L. Huntley.

Extract from "Daily Telegraph" of 9th March, 1977, "Stars Forecast". Extract from "Daily Telegraph" of 10th March, 1977, "Stars Forecast". Departmental "Personal" file in relation to Prison Officer Newling. Specimen signature of Keith F. Newling.

Photographs of Prison Officer K. F. Newling (Goulburn Gaol).

Record of Attendance Book-Grafton Gaol staff-for period 13th September. **lr4**  
to 21st March, 1975.

Submissions from Counsel (various) regarding proposed issues for specific **au** during future course of Royal Commission. (a. to f. inclusive.)

(a) Department of Corrective Services.

(b) Public Service Association (Prison Officer's Branch).

(c) Penal Reform Council and Council for Civil Liberties. (d) Prisoner's Action Group.

(e) Women Behind Bars.

(f) Public Solicitors Office.







| No.                  | Description                                                                                                                                                                                                               |
|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| MEDIA COMMUNICATIONS | Submission by Penal Reform Council. Fifth submission-ensuring prisoners' complaints receive a full and proper hearing.                                                                                                    |
|                      | Submission by Penal Reform Council. Sixth submission-objectives of penal policy.                                                                                                                                          |
|                      | Submission by Penal Reform Council, on general issues (in addition to joint Submissions with c.c.L.).                                                                                                                     |
|                      | Submission by Prisoners Action Group, relating to conditions of prison life, unrest and fighting between prisoners and prison officers at Bathurst Gaol.                                                                  |
|                      | Submission by Prisoners Action Group. First submission-terms of reference of Royal Commission into Prisons.                                                                                                               |
|                      | Submission by Prisoners Action Group. Second submission-knowledge of crime and its causes.                                                                                                                                |
|                      | Submission by Prisoners Action Group, on Glebe House Limited.                                                                                                                                                             |
|                      | Submission by Prisoners Action Group, on general issues.                                                                                                                                                                  |
|                      | Submission by Prisoners Legal Co-operative, on general issues.                                                                                                                                                            |
|                      | Submission by Probation and Parole Officers Association. Submission relating to the working of the Association, problems encountered in the carrying out of their work and suggested practices which could be introduced. |
|                      | Submission by Public Service Association (Prison Officers Vocational Branch) on General Issues.                                                                                                                           |
|                      | Submission by Public Service Association. Separate submissions prepared by officers of the Prison Officers Vocational Branch.                                                                                             |
|                      | Submission by Public Service Association of N.S.W. on Industrial issues.                                                                                                                                                  |
|                      | Submission by Public Solicitor on general issues.                                                                                                                                                                         |
|                      | Submission by H. F. Purnell, regarding areas of unrest in prisons.                                                                                                                                                        |
|                      | Submission by Judge Rainbow. Memorial Appeal Fund. Submission stating the objectives, general working, achievements and future potential of this Fund.                                                                    |
|                      | Submission by C. N. Randall. Interim submission: Prisoner's experience in Long Bay and Goulburn Prisons and Mannus Afforestation Camp.                                                                                    |
|                      | Submission by Superintendents-Pallot, Penning and Bradley, on general issues.                                                                                                                                             |
|                      | Submission by B. O. Todd. General submission from Prison Officer.                                                                                                                                                         |
|                      | Submission by Tumberumba Residents (Mrs McEachern) on Mannus Camp.                                                                                                                                                        |
|                      | Submission by University of N.S.W. Law School on Alternatives to Imprisonment.                                                                                                                                            |
|                      | Submission by Visiting Justice (Mr McLennan, S.M.). General submission.                                                                                                                                                   |
|                      | Submission by Visiting Justice (Mr Farquhar, C.S.M.). General submission.                                                                                                                                                 |
|                      | Submission by D. Walsh. The rights of prisoners in intra prison disciplinary proceedings.                                                                                                                                 |
|                      | Submission by Prof. J. Ward. Interim Report: Results of inquiries into prison education.                                                                                                                                  |
|                      | Submission by Prof. J. Ward. Second Report: Review of education programmes in institutions in Great Britain.                                                                                                              |
|                      | Submission by Prof. J. Ward. Third Report: Review of education programmes in institutions in the U.S.                                                                                                                     |
|                      | Submission by S. Willson, General submission.                                                                                                                                                                             |
|                      | Submission by Women Behind Bars. Conditions of women in Mulawa prison for women.                                                                                                                                          |
|                      | Submission by Women Behind Bars, on general issues.                                                                                                                                                                       |
|                      | Submission by L. Young. Prison Officer-his thoughts on disadvantages of present system and alternatives to this system.                                                                                                   |
|                      | Tables on probation, parole, periodic detention, work release I and II, project survival.                                                                                                                                 |
|                      | Memorandum from Public Service Board concerning:                                                                                                                                                                          |
|                      | Objects of Imprisonment. Security.                                                                                                                                                                                        |
|                      | Administration.                                                                                                                                                                                                           |
|                      | Public Relations.                                                                                                                                                                                                         |
|                      | Staff.                                                                                                                                                                                                                    |
|                      | Industrial Relations. Parole.                                                                                                                                                                                             |
|                      | Probation and Parole Services. Consequences and Effects of Imprisonment.                                                                                                                                                  |

*Description*

Report on the percentage of the present prison population made up of (a) Prisoners sentenced for non-payment of fines.  
(b) Prisoners sentenced for "victimless crimes".

Report on the percentage of the present prison population serving sentences from three years onwards.

Length of sentences in N.S.W. as compared with other States and Countries. Australian Prison Trends.

Report on the number of men which would be required for employment at night to secure the prisons if the English system of employing outside men on night patrols were introduced.

Copy of the Commissioner's written policy "Procedure for Riots"-  
Issued 1971. Figures for Escapes-Updated to end of 1976.  
Filing Systems (Prisoners).

Capital Costs and Revenue Costs of maintaining the Department's establishments. Title of the Research and Statistics Division in Department of Corrective Services; Activities and Research *output*; Cost of Division.

*Industrial Disputes*-Tables on industrial dispute, details from July, 1976.

Capital Cost of Installation of each industry, its running costs, the returns from it and the number of personnel employed in it.

Physical Facilities, Tutorial Staff, Educational and Training Programmes, Policy, Remedial Education.

Cost of Training

Programmes.

Non-English  
migrants.

Costing of Corrective Establishments March, 1976-February, 1977.

Tables on time spent in prison, psychiatric hospitals. Updating of prison population. Table on period served by life sentence prisoners released in 1976 and 1977. Method of calculation of remissions and revisions to the anticipated date of release made as a result of loss of remissions.

Table on rate of failure of prisoners on parole.

Report of caseloads of Probation and Parole Service and reciprocal supervision. Report as to whether the Department considers itself bound by the United Nations' Minimum Rules.

Amounts which have been provided to Department over last five years for payment to prisoners and how amounts have been divided up amongst the prisoners.

Views on Advantages and Disadvantages of bulk purchasing for buy-ups. Whether extensions to the sporting facilities inside the main walls at Goulburn Training Centre are yet in operation.

Report as to how Chaplains are paid.

Present Plans for Work Release I for women prisoners. Tables on interpreting services for Aborigines.

Recording of homosexual attacks reported to Authorities over last five years. Table of locations and costs of Commonwealth prisoners.

Table on locations and costs of deportees.

Tables on receptions and locations of young prisoners.

Tables on number of drunks, vagrants, drug offenders, and prisoners gaoled for non-payment of fines.

Table on numbers of habitual criminals in custody.

Tables on numbers of remand prisoners in custody, locations and length of time held on remand.

Tables on numbers and natures of punishments handed out to prisoners and numbers, stages and period spent on administrative segregation.

Letter dated 2nd August, 1977, from Ombudsman to Messrs McIntosh and Henderson, Solicitors.

Submission of Department of Corrective Services to Minister of Justice re interview with Mr A. J. Hackett of 20th March, 1969, and transcript of interview between Hackett and John Laws and Press Statement.

Circular dated 17th August, 1977, by Department of Corrective Services.  
Issued to all prisoners around 17th August, 1977. Supplied in a communication from Brett Collins.

| No.                  | Description                                                                                                                                                                                                                                                                                                                                                                                                                            |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| MEDIA COMMUNICATIONS | Analysis of Punishment and Interview Books at Long Bay and Bathurst-1974-76, prepared by Council for Civil Liberties.                                                                                                                                                                                                                                                                                                                  |
|                      | Letter of 18th May, 1977, to Taylor & Scott, Solicitors, from Royal Commission and reply of 26th May, 1977, regarding Grafton officers associated with admissions by Mr McAlary, Q.C.                                                                                                                                                                                                                                                  |
|                      | Departmental Files 77/019 (Parts 1 and 2) re acquisition of land at Tumberumba.                                                                                                                                                                                                                                                                                                                                                        |
|                      | Article from Prison Journal of 1973, Vol. 53, entitled "Penal Education: United States and Europe".                                                                                                                                                                                                                                                                                                                                    |
|                      | Submission by Counsel on behalf of Mr J. C. Maddison.                                                                                                                                                                                                                                                                                                                                                                                  |
|                      | Material in present use at Officer Training Unit.                                                                                                                                                                                                                                                                                                                                                                                      |
|                      | Information upon which Prisoner Baldry was put into administrative segregation- Letter from Mr Sanders to Secretary, Royal Commission, dated 28th July, 1977.                                                                                                                                                                                                                                                                          |
|                      | Notice at M.R.P. banning certain persons entering.                                                                                                                                                                                                                                                                                                                                                                                     |
|                      | Sketch plans for M.90.                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                      | Memo of the 14th September, 1976, from the Research and Statistics Division to the "Officer-in-Charge" (supplied in answer to the question "When was the preparation of the uniform cell book commenced?").                                                                                                                                                                                                                            |
|                      | File of Department of Corrective Services No. 7212086.                                                                                                                                                                                                                                                                                                                                                                                 |
|                      | Correspondence supplied by Department in answer to the request to supply all requests from Reginald John Varley to interview the Commissioner and/or the Minister in 1976.                                                                                                                                                                                                                                                             |
|                      | Minutes of Meeting of Corrective Services Advisory Council held on the 11th March, 1974.                                                                                                                                                                                                                                                                                                                                               |
|                      | Department File No. 74/654 headed "Prisoners Demonstration-Bathurst Gaol, 29th October, 1973", together with related papers from Goulburn Training Centre, Prison Officers Sub-Branch to the P.S.A., supplied in response to a request made on the 8th September, 1976, for all papers and documents in relation to the boys' strike or sit-in during October, 1973, at Bathurst.                                                      |
|                      | Book entitled "Prisoners' Requests". Supplied in response to a request for "the Superintendent's Request Book or any Request Book for Bathurst for 1973-1974", which request was made on the 7th October, 1976.                                                                                                                                                                                                                        |
|                      | Head Office File on Russell Thomas Britton, No. 731713. Supplied in response to a request for copies of correspondence between Mr McGeechan and/or the Department and Messrs G. D. Campbell & Co., Solicitors, in February to April, 1974, relating to visits to Prisoner Russell Britton at the M.R.C. Also Copies of such correspondence concerning such visits between the Commissioner and any member of the Legislative Assembly. |
|                      | Head Office, Gaol and Medical File for T. M. Ryan.                                                                                                                                                                                                                                                                                                                                                                                     |
|                      | Letter dated 8th February, 1971, which would have issued to Superintendents with the attachment document. This letter was supplied in response to a request to supply the documents entitled "Procedures for Riots" referred by Prison Officer Ristau as having been handed down by the Commissioner for Corrective Services in 1971.                                                                                                  |
|                      | Document entitled "Submission to the Minister dated 15th February, 1977". This document was supplied in response to a request made on 3rd May, 1977, to supply Mr McGeechan's New Thesis on the Use of Force.                                                                                                                                                                                                                          |
|                      | Ministerial Submission regarding the case of Prisoner Gregory McCarthy, together with a copy of an office memorandum which was sent to all sections of the Department. These were supplied in response to a request for the files concerning Prisoner Gregory McCarthy's treatment Whilst at Grafton Gaol.                                                                                                                             |
|                      | Letter from B. Barrier to R. A. Bott dated 8th June, 1977, concerning the question of repairs to the Recreation Hut at Glen Innes in 1975.                                                                                                                                                                                                                                                                                             |
|                      | Letter dated 14th June, 1977, from the Departmental Administrative Officer, together with Promotions Appeal Tribunal transcript. Supplied in response to a query as to the occasions during mid-1976 when the Department of Corrective Services was before the Industrial Commission and the nature of the issue on each occasion.                                                                                                     |
|                      | Document headed "Information for Royal Commission". Supplied in response to the question "How many actual teachers are seconded to the staff of the Department?"                                                                                                                                                                                                                                                                       |
|                      | Document headed "Request No. 50". Supplied in response to the question "What is the emphasis placed by the Department in their Educational Programmes on Illiteracy?"                                                                                                                                                                                                                                                                  |



865.

Letter from Director of Special Security Units to the Secretary, Royal Commission, dated 28th July, 1977. Supplied in response to the query "What was the procedure as at the 16th September, 1976, relating to returns sent in regarding intractable prisoners sent to the Intractable Section" at Grafton? Where are the monthly forms relating to the prisoner referred to as AE? Furnish a copy of the "Movement Order" whereby AE was taken off Administrative Segregation and moved to Ordinary Discipline.

Prison Officer's Roster Book for Bathurst, 1973 to 1974.

Report from the Department dealing with the cost of the Quarter Horse Stud. Submission by Ian Michael Fraser re certain pages of final submission to issues by Department of Corrective Services.

Submission by Barrie Levy re question of Workers' Compensation Insurance Cover for Prisoners. 861.

*Numbers 866 to 900 inclusive not used.*

Copy of Summons served on Paul Richard Genner.

"Information supplied to the Hon. Bruce McDonald, M.L.A."

Hansard notes of question asked by Mr McDonald, M.L.A. in Parliament on 5th October, 1977.

Transcript of T.V. Interviews with Mr McDonald on 5th October, 1977.

Statutory Declaration by Evelyne Wilson of 6th October, 1977.

Statutory Declaration of Alan David Gold of 6th October, 1977.

Hansard Notes of question by Mr McDonald, M.L.A. in Legislative Assembly on 6th October, 1977.

Statutory Declaration of Alan David Gold on 7th October, 1977.

\_9D\_9\_ Note given 10 Mr McDonald by Anderson in jirison.

Statutory Declaration made by Alan David Gold, of 13th October, 1977.

Copy of transcript of interviews with Sandra Willson on "A Current Affair" and "This Day Tonight" on 24th October, 1977.

List of convictions of J. G. Wilson.

Head office file of J. G. Wilson.

Gaol file of J. G. Wilson.

List of convictions and gaol record of J. F. McIntosh.

Head office file of J. F. McIntosh.

Gaol file of J. F. McIntosh.

Statement of William Rogers.

List of convictions and gaol record of G. P. Willoughby.

Head office file of G. P. Willoughby.

Gaol file of G. P. Willoughby.

Statement of Annette Joan Willoughby.

List of convictions and gaol record of C. W. Anderson.

Head office file of C. W. Anderson.

Gaol file of C. W. Anderson.

Gaol record of P. E. Brown.

Head office file of P. E. Brown.

Gaol file of P. E. Brown.

List of convictions and gaol record of R. V. P. Potts.

Head office file of R. V. P. Potts.

Gaol file of R. V. P. Potts.

Head office file of K. J. Davis.

Head office file of K. J. Holland.

Gaol file of K. J. Holland.

Gaol record of J. A. Blaikie.

Head office file of J. A. Blaikie.

Gaol file of J. A. Blaikie.

*Description*

938-939. 940. 941- 942. 943. 944. 945. 946. 947. 948. 949. 950.  
Head office file of B. F. P. Wiley. Gaol file of B. F. P. Wiley.  
Statement of Mrs Jacqueline Rhoda Parkin.  
List of convictions and gaol record of R. L. Parkin. Head office file of R. L. Parkin.  
Gaol file of R. L. Parkin.  
Gaol record of S. M. Bunch.  
Head office file of S. M. Bunch.  
Gaol file of S. M. Bunch.  
Gaol record of A. W. Honeysett. Head Office file of A. W. Honeysett. Gaol file of A. W. Honeysett.  
Copy of letter of A. W. Honeysett of 17th October, 1977, to Secretary, Commission.  
Name written on sheet of paper by Mr A. W. Honeysett. (Confidential). Prison record of A. M. Russell.  
Head Office file of C. J. Ferguson.  
Gaol file of C. J. Ferguson.  
Extracts from diaries of Messrs Foxwell and Navybox. Gaol record of S. Nittes.  
Head Office file of S. Nittes.  
Gaol file of S. Nittes,  
List of convictions and gaol record of R. G. Brownlowe. Gaol file of R. G. Brownlowe.  
Special file re complaints of R. G. Brownlowe. Head Office file of R. G. Brownlowe.  
List of convictions and gaol record of R. J. Gaylor. Head Office file of R. J. Gaylor.  
Gaol file of R. J. Gaylor.  
Gaol record of C. R. Synnerdahl. Head Office file of C. R. Synnerdahl. Gaol file of C. R. Synnerdahl.  
Gaol file re K. J. Davis.  
Letters of 17th October, 1977, by Mr A. I. C. Beacroft to Secretary, ~ Commission.  
List of convictions of A. I. C. Beacroft.  
Head Office file (containing Gaol Record) of A. I. C. Beacroft. Gaol file of A. I. C. Beacroft.  
Gaol record of W. D. J. Haeney.  
Head Office file of W. D. J. Haeney. Gaol file of W. D. J. Haeney.  
Extracts of Prisoner's Private Moneys Account, showing transfer of \$30 to Mr A. I. C. Beacroft.  
Gaol record of L. T. Brady. Head Office file of L. T. Brady. Gaol record of E. J. Hinton. Head Office file of E. J. Hinton. Gaol file of E. J. Hinton.  
Gaol record of J. L. Wakefield. Head Office file of J. L. Wakefield. Gaol file of J. L. Wakefield.  
List of convictions of A. S. ("Neddy") Smith. Head Office file of A. S. ("Neddy") Smith Gaol file of A. S. ("Neddy") Smith.  
Card Index System=P. R. Genner,



| No.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Description                                                                                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| Classification Diary-P. R. Genner,<br>P. R. Genner-Personal Diary, 1974.<br>P. R. Genner-Personal Diary, 1975.<br>P. R. Genner-Personal Diary, 1976.<br>P. R. Genner-Personal Diary, 1977.<br>Staff file of P. R. Germer.<br>Photographs shown to Mr Genner for identification:<br>"B"-Leonard Arthur<br>McPherson. "C"-Neville<br>William Biber. "D"-<br>Kenneth Robert Daley.<br>"E"-John Van Houten.<br>"F"-George William<br>Raynor.<br>File 751222-Unauthorized movement of prisoners from Glen Innes-27th January, 1975.<br>Diary entries (typed) of Mr Foxwell (1977).<br>Report by P. R. Genner re A. J. Hanlon and prisoner R. I. Gaylor (undated). |                                                                                                                                      |
| 1000.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Photocopy of Notes of I. E. Nash, commencing "Evelyn Wilson". (Re notes in Foxwell's and Navybox's diary).                           |
| 1001.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Staff Reports (3) relating to P. R. Genner from 1968-1974.                                                                           |
| 1002.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Submission dated 13th July, 1977, entitled "Role of Programme Review Committee in Prisoner Movements" and reply of 2nd August, 1977. |



Nash, L. and Broekhuijse, H.-Final year Law Graduates, University of N.S.W.-(Letter to Secretary, Royal Commission 29th July, 1977)-on Visiting Justices Punishment and Administrative Segregation.

National Peoples Party of Australia-Report with recommendations for reforms within the prison system.

Parramatta Resurgent Group-Problems affecting the lives of prisoners and their families. Penal Reform Council-A general rationale of an effective and humane correctional system and credibility of Prisoners' evidence.

Penal Reform Council-Events at Bathurst.

Penal Reform Council-Relating to Exhibit No. 108.

Penal Reform Council-Ensuring prisoners' complaints receive a full and proper hearing. Penal Reform Council-Objectives of penal policy.

Penal Reform Council-On general issues (in addition to joint submission with Council for Civil Liberties).

Prisoners Action Group-Relating to conditions of prison life unrest and fighting between prisoners and Prison Officers at Bathurst Gaol.

Prisoners Action Group-terms of reference of Royal Commission into

Prisons. Prisoners Action Group-knowledge of crime and its causes.

Prisoners Action Group-on Glebe House Limited.

Prisoners Action Group-on general issues.

Prison Officers--Goulburn Training Centre-

Prison Officers--Cessnock Corrective Centre-

Prisoners Legal Co-operative-on general issues.

Probation and Parole Officers Association-relating to the working of the Association, problems encountered in the carrying out of their work and suggested practices which could be introduced.

Probation and Parole Service-by Director.

Public Service Association (Prison Officers Vocational Branch)-on general issues.

Public Service Association-Separate submissions prepared by officers of the Prison Officers Sub-Branch.

Public Service Association of New South Wales-on Industrial issues. Public Solicitor-on general issues.

Purnell, H. F.-regarding areas of unrest in prisons.

Rainbow, Judge. Memorial Appeal Fund-stating the objectives, general working, achievements and future potential of this fund.

Randall, C. N.-Prisoner's experience in Long Bay and Goulburn Prisons and Mannus Afforestation Camp.

Superintendents-Pallot, Frame, Penning, and Bradley-on general issues. Todd, B. O.-from Prison Officer.

Tumbarumba Residents (Mrs McEachern)-on Manus Camp.

University of N.S.W., Law School-on Alternatives to imprisonment.

Walsh, Damien- The rights of prisoners in intra prison disciplinary proceedings. Ward, Professor J.-Interim Report: Results of inquiries into prison education.

Ward, Professor J.-Second Report: Review of education programs in institutions in Great Britain.

Ward, Professor J.-Third Report: Review of education programs in institutions in the United States.

Willson, Sandra A. K.-general submission.

Women Behind Bars-Condition of women in Mulawa prison for women. Women Behind Bars-on general issues.

Young, Leslie (Prison Officer)-his thoughts on disadvantages of present system **and alternatives** to this system.

*Category*

Actions of another prisoner

3

Aims of the system

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Appeal period to be part of sentence

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Bashings-Bathurst

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Bashings-General

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Bashings-Grafton

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Bashings-Goulburn

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Bashings-Maitland

.

Bashings-Malabar Complex

.

Bashings-Parramatta

.

Bathurst Riot, 1974

.

Buy-ups

.

Censorship

.

Classification

.

Clothing

.

Communications

.

Confinement in Cells

.

Conditions-Goulburn

.

Conditions- Women Prisoners

.

Contact Visits-Metropolitan Remand Centre

.

Disciplinary matters (apart from hearings before Visiting Justice) ..

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Discrimination against deportees and/or other minority groups

.

Educational facilities

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Food

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Industry-payment to prisoners

.

Katingal

.

Legal representatives-contact with

.

Life sentence prisoners

.

Living conditions

.

Maitland riot

.

Medical facilities/treatment

.

Mistreatment of prisoners

.

Parole

.

Parramatta Circle

.

Post-release problems

.

Prison Officers

10

Procedures-re interviews by Police

3

Protection for prisoners

..

1

Recreation facilities

7

Regulations

3

Rehabilitation

24

Remissions

MEDIA COMMUNICATIONS

*Category-continued.*

*Number of Complaints*

|                                               |    |
|-----------------------------------------------|----|
| Rights/facilities-unconvicted prisoners       | 4  |
| Segregation                                   | 9  |
| Staff/prisoner relations                      | 50 |
| Telephone facilities                          | .  |
| Transport facilities in transfer of prisoners | 17 |
| Visiting Justice system                       | 15 |
| Welfare.....                                  | 2  |

In many cases a letter from an inmate contained more than one area of complaint. The numbers listed do not necessarily cover the range of complaints made by prisoners who gave evidence before the Royal Commission. In addition to those witnesses who conveyed detailed information, in writing, the Royal Commission prior to their giving evidence others addressed such correspondence direct to the Public Solicitor. A number of prisoners also raised further complaints in their statements to the Royal Commission and/ or at the time of giving evidence before the Commission.

**APPENDI  
X H**

**IMPRISONMENT IN NEW SOUTH WALES**

The history of imprisonment in New South Wales may be conveniently divided into five periods:

The convict period 1788-1840.

From the New South Wales Prison Act, 1840-95.

The Neitenstein period 1895-1909.

The years 1909-43.

1943-67.

## 1. THE CONVICT PERIOD 1788-1840

### MEDIA COMMUNICATIONS

When the American War of Independence ended in 1776, England had to find other ways of dealing with her criminals than by transportation to America. In 1773 John Howard had been picked for the office of Sheriff of Bedfordshire and in 1777 began publication of "The State of the Prisons in England and Wales".

In 1779 the Penitentiary Act was passed by the British Parliament. In 1786 the decision was taken to transport convicts to New South Wales.

The British Government imprisoned in hulks the convicts it could no longer transport to America and put them to labour on public works. The central government was forced to concern itself with the housing and management of convicts, for whom accommodation was not available in prisons controlled by local authorities. This began a process of increasing provision by the central government of its own facilities and increasing supervision of local prisons, which led in 1877 to entire control by the central government and a national prison system. Howard's method of patient detailed description of the plight of prisoners in local gaols was able to stir the interest of Parliament and to move administrative apathy as even the revelations of horrifying conditions and cruelty in the Fleet and Marshalsea prisons by a parliamentary committee in 1729 could not do. The passing of the Penitentiary Act in 1779 followed a great deal of serious inquiry into the most effective means of deterring or reforming criminals, contributors including Jeremy Bentham and Sir William Blackstone. It may be said that the latter part of the eighteenth century saw the beginnings of serious consideration of penal methods and facilities.

Penitentiary Act 1779

The penal methods proposed in the Penitentiary Act of 1779 were a combination of cellular confinement at night and when not at work, strict supervision during associated work and exercise, hard and servile labour, enforced attendance at religious services, and a fixed daily routine.

Howard's Four Principles

Howard's four principles of gaol administration, which were to win general acceptance, were: The provision of structurally sound, roomy and sanitary prisons; the transformation of the gaoler from an independent profit maker into a salaried servant of the public authority; the subjection of all prisoners to a reformatory regime which included work and religious exercises; and the systematic inspection of the prison by an outside public authority.

Transportation Purposes of the British Government

The British Government saw transportation as a necessary means of disposing of convicts who could not be accommodated in the overcrowded local gaols and hulks. It was hoped that it would be cheap and that it would remove criminals permanently from England. Though there was no legal impediment to the return of a convict on the expiry of his sentence, it was made clear that the government would do nothing to facilitate return. It was hoped that the sentence of transportation would be feared and so deter criminals at home. Reform of criminals and development of a colony were not among the first considerations. There were constant complaints from Colonial Secretaries about rising costs and pressure to reduce them. There was a growing concern that insidiously the British Government was getting itself into the position of subsidizing the growth of a colony whereas the primary purpose of the settlement was the removal of convicted criminals and the deterring of potential criminals at home.

The instructions given to Phillip were few and scrappy, and the whole arrangement in the early years was haphazard and untidy. There were no quarters for convicts and they had to find lodging in the town.

They worked part of the day for the government and were free for the rest to find work for pay and so get the rent for lodging. It was not until 1819 that a convict barracks was built to house them. In the early years of settlement, convicts had great freedom in their comings and goings.

The Governor had authority to remit sentences in whole or in part, conditionally or unconditionally. Governor King began the issue of tickets-of-leave to well-behaved convicts, giving them exemption from government service and the right to private work for wages. When grants of land were made to ex-prisoners and a demand for labour appeared in the town, the system of assigned service developed. Convicts were assigned to masters and went entirely under their control.

Tickets-of-leave and assigned service took convicts "off the stores". They were not a public charge and this reduction of cost appealed to the British Government and to the Governors under constant pressure to keep public costs down.

#### Assigned Servants: Importance of the System

The lot of the assigned servant depended upon the kind of master that he got. Good masters, even though only for self-interest and to get better work out of them, thought it worthwhile to keep their servants in good health and reasonably contented and had some interest in their reform. Some placed a special value on subservience and obedience and sent them for punishment on principle. Some were slave-drivers and some were brutes. The servant had dubious protection against ill-treatment or illegal punishment because official supervision was poorly organized. Magistrates were widely scattered and to a large extent of wrong sorts of people.

Macquarie said that the condition of a well behaved convict in the service of a good master was preferable to service for the government when confined to barracks. Governor Franklin said in 1837 that assignment was a punishment where the state of the convict was the least removed from his ordinary condition, was the least artificial. The assigned servant under a good master probably had a better chance of re-establishing himself than those being treated under the artificial conditions of penitentiaries, barracks and penal settlements. The assigned servants were scattered among the free community, not concentrated in crime, association.

After the system of assignment had been discontinued, its importance in sustaining the development of the colony came to be understood.

Indeed it was probably the only system that could have worked. Funds were not made available to provide accommodation and thorough, systematic supervision of convicts. Assigned servants, therefore, could work to provide for themselves and their masters. The system had the advantages of cheap labour. Cost was further reduced because their supervision was in the hands of civilians, not paid officials.

Various constraints and opportunities affected the equilibrium of the system. These were the crime rate in England, the need for convict labour at home, demand (or the lack of it) for convict labour in the colonies, the capacity of the hulks. The crime rate, for example, rose during the Irish famine and fell when it ended. Peel's police force added to the recorded crime rate by making detection more likely. During the French wars, convicts were sent to the navy or required for work on the docks. The demand for labour in the colony rose and fell with the development of agriculture and trade and economic growth or recession.

#### Criticism in England of Transportation

The passing of the Penitentiary Act, the strength of conviction supporting it and the eminence of its sponsors (Blackstone and Sir William Eden drafted it) makes it not surprising that transportation had its critics from the beginning. Exponents of the penitentiary principle were so confident of the reformatory efficiency of its regime that almost any other mode seems loose and uncertain by comparison. Transportation seemed uncertain and haphazard. To this was added a growing doubt whether transportation was really a deterrent, the deterrence effect being measured by the fear it struck into potential law breakers at home as indicated by the prevalence of crime, not by its effect on those transported. Many began to doubt whether the convicted criminal really dreaded a sentence of transportation. There were extravagant statements about the happy lot of the convict sent to a country with a better climate, with the eventual prospect of acquiring land and property and prospering. Responsible and intelligent people believed that greater deterrence could be achieved by harsher treatment; that the lot of the convict was not hard enough or strictly enough disciplined.

These criticisms and doubts reached a point of serious concern during Macquarie's governorship. Macquarie wished to emphasize reformation as well as deterrence. Bathurst, the Colonial Secretary, wanted above all to make the punishment an effective deterrent. Bathurst told Bigge: "Transportation to New South Wales is intended as a severe punishment ... and must be rendered an Object of real Terror". Bigge, arriving in 1819, was instructed to report on any measures that might achieve this end.



Bigge's inquiries were conducted at a time when there were increased difficulties in the management of transportation. After the French wars, the numbers transported increased markedly. There was an increase in crime in England and the use of convicts in the services and the dockyards declined. In 1817, there was an influx of prisoners into New South Wales for whom private settlers and the government could not possibly find work. Macquarie re-opened the Emu Plains farm in order to get unassigned convicts off his hands.

Increased Severity

Bigge's recommendations were for a general tightening of the system. Assignment was to be more selective and was to be regarded as an indulgence. Government service should be made more rigorous if being returned to it would be considered a punishment: The severer policy was provided for in the amended and consolidated Transportation Act, 1823. Penal settlements were established at Newcastle in 1804 and Port Macquarie in 1821. Norfolk Island was re-opened in 1825.

In 1826, the chain-gang system was developed by Darling. There had been unironed gangs working on the roads previously, but working in chains was now regarded as a cheaper approximation to the penal settlement. The chain-gangs involved great severity and brutality. The men were locked up at night in "prisoners' boxes", mounted on wheels, in cramped and uncomfortable conditions. By day they worked in heavy chains, including a neck collar, and were punished on the spot for trivial offences.

Opposition in the Colony

In the early 1830's, colonial opposition to the system of transportation grew partly because, following the reduction of the numbers of capital offences in the reforms of the new Whig government, the crimes committed by the felons sent out were on average more serious. Criticism in England was reinforced by opposition in the colony, at a time when New South Wales was becoming manifestly a settled and prosperous community and conditions were better for many ordinary people than in England.

End of Transportation 1840

In 1840, the British Government ended transportation to New South Wales. It was said that the colony had become too settled and civilized to be useful as a penal settlement. Opinion was not unanimous in New South Wales, but there was no strong expression of objection. Relations between the colony and the home government had become strained because the government had decided that the colony should pay a portion of the cost of maintaining the convict system because of the benefits from it, but the colony did not see why it should pay towards the supervision of British convicts. Free migration, some assisted, had increased and the demand for labour was satisfied. In the 1841 depression, demand fell. There was a feeling that so long as convicts were transported to New South Wales, its aspirations to self-government would be lessened. The last convict ship sailed to New South Wales in November, 1840. In the same year, the first Prisons Act was passed by the New South Wales Legislative Council.

Developments in England **1788-1840**

During transportation to New South Wales there had been in England a great deal of disputation about, and many inquiries into, the purposes of imprisonment and the best means of pursuing them. The Penitentiary Act of 1779 and the Gaols Act of 1791 laid the purposes and routines of imprisonment which, in their general intentions and assumptions, were little changed for a century and a half. But these policies required high costs both for capital and running expenditure, and it was not until the 1840's that the system could be afforded. The use of transportation to New South Wales bought time for the British Government while, through controversy and in the face of practical difficulties, it moved towards putting into effect the penal policies proposed in 1779.

When the central government in England was obliged to accept responsibilities for the disposition of convicts there began a process towards increasing supervision of the prisons controlled by local authorities of all kinds. As the central government with increasing firmness espoused Howard's four principles and the principles of the Penitentiary Act, increasing pressure was brought to bear on local authorities to conform. In 1823, Peel succeeded in having passed into law an Act requiring the observation of Howard's four principles and laying down strict responsibilities for the Justices, gaolers, surgeons and chaplains and strict procedures for reporting.

British Act of 1835. Triumph of the Penitentiary Side

MEDIA COMMUNICATIONS

Peel's Act of 1823 was ineffective because it lacked powers to enforce the will of Parliament. Following it there was renewed controversy about the purposes and means • imprisonment, always vigorous and often acrimonious. This ineffectiveness became more and less tolerable and gross inequalities of treatment and conditions and administrative decay in the local prisons continued more and more in evidence. In 1835, a committee - appointed by the House of Lords to inquire into the state of the prisons in England and Wales. The reporting of this committee led to the Act of 1835 which provided that the local authorities would continue to administer their gaols, they would be closely supervised by the officers of the Secretary of State and would be subject to regulations made in detail by the Home Office on prison management. The 1835 Act appropriated the "sepio-treatment" prison regime and thus marked the triumph of what might be called "penitentiary side" in a controversy that had been going on since 1779.

Inquiry into Police and Gaols New South Wales 1835

In May 1835, the New South Wales Legislative Council appointed a Committee - Police and Gaols. The evidence before the Committee was largely concerned with the problems of policing and of escort following the rapid geographical expansion of the colony. It was deposed that at Yass Plains there was no Court, gaol or lock-up in the district. "It

Court was held in a blacksmith's shop.

"We secure prisoners", said one witness, "by handcuffs and leg irons, and by fastening them to a post in a hut in which the constable is obliged to keep watch; but notwithstanding all these precautions, they sometimes manage to escape". One J.P. confined and examined prisoners in his own premises.

Conditions at Sydney and Parramatta Gaols

The most significant revelations in the evidence were the condition of Sydney Gaol and Parramatta Gaol. The descriptions match the worst of the horrors in the private and county gaols in England reported by Howard. The familiar overcrowding, indiscriminate herding together are reported. Both gaols were in a ruinous state and insecure. Sydney gaol was designed to hold 200 prisoners. At the time of the Committee's hearings 275 were confined there and in August 1834, 326 were crammed into it. In January 1835, 62 females were confined in one room, besides eight or ten children.

The High Sheriff of the Colony deposed on July 23, 1835:

"It has not infrequently happened latterly that in the only two rooms appropriated to prisoners for trial, and those under sentence to the ironed gangs, there has not been sufficient space for all of them to lie down and take rest at the same time: thus, allowing the space necessary for a man to sleep in a straight position, was not room, and many more were therefore obliged either to take their turn standing up during the night, or to lie on the top of others; and this during the hottest season of the year! Nor is it at all an improbable case that a prisoner (perhaps a youth) innocent of the crime for which he was committed to be tried, had for his pillow and next neighbour, a thrice convicted felon of the most hardened character under colonial sentence to an ironed gang."

The Principal Gaoler said that, "In consequence of the very confined area of the prison, and its generally crowded state, the necessities are found to be a very great nuisance to all within the gaol, and to the neighbourhood in general".

The Committee in its first report, July, 1835, recorded its view that new gaols at Sydney and Parramatta were "absolutely necessary for the purposes of justice".

Three months later, the Committee made its final report. The Committee said it understood that Newcastle Gaol was the best gaol in the colony, and likely to be sufficient for the requirements of the Hunter Valley until the new gaol at Maitland was completed. A contract had been let for a new gaol at Berrima to house 66 prisoners.

There were at that time gaols at Sydney, Parramatta, Windsor, Liverpool, Campbelltown,



Inquiry into Plans for Building a Gaol at Darlinghurst 1836

In the following year, 1836, a Committee of the Legislative Council was appointed "to take into consideration and report upon the best plan for erecting a gaol within the walls now standing at Darlinghurst, in the suburbs of Sydney". Its report was ordered to be printed in August, 1836.

The Committee said that it had read and considered the report of the House of Lords Committee on Gaols in England, 1835, "which recommended the adoption of new principles in Prison Discipline-namely complete separation and silence during the confinement of prisoners, whether tried or untried, the abolition of day-rooms, and the cessation of labour as a punishment or as an occupation, except where labour on the tread-mill is awarded".

The gaol was to be built on an area of some three and a half acres set aside in Governor Brisbane's time for a gaol and enclosed by substantial walls.

The Committee concluded: "It will appear from the evidence taken by your Committee . . . that the gaol best adapted for this part of the Colony, is one framed on the principle of the Eastern Penitentiary at Philadelphia, in the United States of America, which is the last, and considered the best yet suggested for buildings of this kind".

The plan put before the Committee by the Colonial Architect was in some measure on the model of the Westminster New Bridewall, which was said to be the most approved of in England.  
'Committee on Police and Gaols 1839

In 1839, a Select Committee of the Legislative Council on Police and Gaols was appointed with almost the same terms of reference as the Committee of 1835.

In the evidence before the Committee the earlier complaints about the difficulties of - escorting prisoners in the absence of halting places and lock-ups and of holding court in *J113wita'hb' JwiMirgs'* wue- i epeateu' *IL* was- clumeo' that **"the** greatest want in the colony is 'that of halting places, at convenient distances on every line of road in order to keep up a complete chain of police". It was said that some constables on escort duty were never off the road and it was, therefore, difficult to recruit men. Constables escorting prisoners were instructed to avoid as far as possible staying at public houses, particularly when escorting 'females. It was reported that at Raymond Terrace, court was held at the public house and the "most disgraceful and riotous scenes took place often". Magistrates were complaining that the absence of solitary cells and treadmills forced them to resort to flogging as a punishment.

The Committee of 1835 had been told that the gaols at Sydney and Parramatta were in an advanced state of decay. Indeed it was feared that the gaol at Parramatta was likely to collapse and cause grave injury to prisoners and gaolers alike. The 1839 Committee was told that progress on the gaol at Darlinghurst was urgent because "the old gaol in George Street, so very inadequate as a place of security and separation has been rendered still more crowded in consequences of the hulk, which was found of great use as a receiving place for men under sentence of transportation, having broken up, having gone to decay".

The Committee was able to report that considerable progress had been made on the erection of a new gaol at Darlinghurst and permanent gaols on the improved system of separation and inspection were in process of erection at Parramatta, Goulburn, Maitland and Bathurst. The Committee was of the opinion that important benefits would arise to the Colony -from the classification system that the new gaols would make possible, and recommended that parts of them, at any rate, should be completed as early as possible.

The Committee injected an interesting note of hopefulness into their report: "It is hoped, however, that the recent order to discontinue transportation to this Colony, will render it unnecessary to provide buildings of the magnitude originally intended. Your Committee therefore recommends that until the actual wants of the Colony can be ascertained, with reference to the change in the character of its population which that important measure is calculated to effect, such portions of those buildings only may be erected as may be found to be absolutely necessary".

'Significance of the years 1835-40

~~In 1839, the New South Wales Act of 1839 was passed by the British Parliament in the first Exports Act~~



amounted to solitary confinement. In the separate system, it was explained, the prisoner was visited by the gaoler, the chaplain, the surgeon and occasionally the schoolmaster. In solitary confinement, he was without these attentions. Not the same thing at all. The separate system was defended by reference to the defects in the silent system. It was pointed out that the prohibition of talking under the silent system was so frequently broken that constant punishments had to be visited on offenders. Such punishments were unnecessary when talk was impossible. Policy-makers became infatuated with the system and saw danger in any modification of its monstrous consistency. It was early recognized that the full rigors of the Pennsylvania System drove prisoners insane and that it would have to be mitigated. But blind faith in the merits of the system continued. There is reason to believe that policy-makers and officials were unable to see or deliberately concealed the extent of mental breakdown. Few voices were raised against it and those that were, were not listened to. Even the reformers accepted it. As late as 1896 the Secretary of the Howard Association expressed himself satisfied with it. Much of the history of prison reform well into the twentieth century is of small and grudging modifications of its most obvious cruelties.

This was the system approved as official policy in the English Act of 1835. The appalling rigor of the system practised in Pennsylvania was mitigated to the extent that the prisoner was visited by officers, chaplain and surgeon and might be allowed some two hours a day exercise in absolute silence outside his cell. It was laid down that the cell should be ventilated and fitted out with due regard to the maintenance of the prisoner's health.

The rival silent system, used in a number of English prisons, depended largely on the classification of prisoners for work in silent association. The Home Office Inspectors of Prisons, appointed under the Act of 1835, consistently reported in favour of the Separate System and pointed out the difficulties of enforcing silence and of finding a rational basis of classification in the silent system. They could see only two bases for classification: degree of guilt or diversity of character. The first it was argued would be futile, because the most hardened and depraved criminal might for the time be under sentence for a trivial offence. The second depended on "circumstances which are impenetrably veiled from all human scrutiny-the internal habits and disposition of the mind and heart".  
Comparisons

The separate system had a greater appeal to officials and administrators for a reason that understandably was not openly stated. In the separate system once the enormous capital cost was met, control and security were easier. When prisoners could be managed with a comparatively small staff. When prisoners were allowed to associate, even in silence, the need to enforce the rule and impose the numerous punishments for infringements and the need to be alert to the dangers of concerted action by prisoners required a larger staff and higher running costs.

Official opinion heavily favoured the separate system. The English Prison Act of 1839 repealed the classification clause of Peel's Act of 1823 (itself in part a reaction against the high capital cost of the separate system) and explicitly approved the system of separate confinement.

## 2. FROM THE NEW SOUTH WALES PRISON ACT 1840-95 The New South Wales Prison Act 1840

The New South Wales Prison Act of 1840 had to make provision for the transitory period following the decision to end transportation. It referred to the treatment of transported convicts whose sentences had not yet expired and its provisions did not apply to "the prisons or barracks at Hyde Park or to any other prison used or appropriated by the government of the said colony exclusively for the confinement and security of offenders transported to the said colony or its dependencies".

The preamble to the Act stated that the laws in force in England were not applicable to the Colony of New South Wales and it was therefore expedient to make provision for the better regulation of gaols, prisons and houses of correction in the Colony. The Act, however, was strongly influenced by the English Act of 1839. An enabling clause (10) provided for separate confinement and stated again the difference between the official regime of separate confinement and the punishment of solitary confinement:

"And be it enacted That in order to prevent contamination arising from the association of prisoners any prisoner may be by order of the Sheriff or Visiting Justice separately confined during the whole or any part of his or her imprisonment and such separate imprisonment shall not be deemed solitary confinement within the meaning of any



**Inquiry of a Committee of the Legislative Council into Prisons in Sydney and Cumberland**

In 1861, the Legislative Council appointed a Select Committee, under the Chairmanship of Sir Henry Parkes, to inquire into the Public Prisons in Sydney and Cumberland. Its report was published in May, 1861.

The Committee examined the gaols at Cockatoo, Darlinghurst, Parramatta and Penrith. Cockatoo was to an extent a public works prison, 68 of the 167 prisoners being employed on the Fitzroy dry dock.

The buildings and living conditions were "of a most deplorable description". The men slept in narrow wooden berths. There were 80 such berths in each dormitory (the largest of which measured 50 x 20 feet), arranged in double tiers, with forty berths on each side facing into a narrow central passage. The openings of these coffin-like berths were so narrow that the men had to creep into them on their hands and knees. In addition, the dormitories were very imperfectly ventilated.

The report says: "While the physical suffering from this inadequate night accommodation must aggravate the sentence of the law to many men to an extent beyond all calculation, the moral results of such a state of existence are, as might have been expected, of the very worst description."

The Committee described prison discipline at Cockatoo as very imperfect "and in no way determined by any of the moral axioms of the present age which have been established by philosophical investigations of the subject".

The Committee reported that at Darlinghurst the physical accommodation was good, the cells roomy and well ventilated.

"But," the report went on, "your Committee regret that they are compelled to present a state of affairs in the establishment at the time of their first visit and the 8th of February, so far as it affects the personal superintendence, exceedingly unsatisfactory and censurable."

"Very little has been done towards classification at Darlinghurst, and the discipline appears to have principally consisted of unlocking and locking up, setting to work in an unskilful manner, and virtually at fixed hours."

There were no regulations to ensure personal cleanliness. It was reported that Captain Webster used to muster prisoners every Sunday morning, require them to expose their legs (by pulling their trousers up to their knees) and bosoms to ensure that they were clean. This practice was discontinued after Captain Webster's death. If a man chose to leave his skin unwashed for six months he would not be interfered with except on a complaint of his fellow prisoners.

At Parramatta, discipline was found to be more rigid and uniform than in other establishments. General cleanliness was reported. Arrangements for directing prison labour showed more business aptitude and the labour performed was more varied and useful.

The Committee considered that the food supplied in all gaols was good and wholesome, sufficient in quantity but not in variety.

The Committee emphasized two paramount conclusions; first, the urgent need for an effective system of inspection; second, the desirability of an adequate and closer examination of primary principles, an examination that was not possible within the limit of their inquiry.

In their view it would not be sufficient merely to establish regulations, however carefully framed and excellent in principle they might be. "Their administration must be under the responsible inspection of a competent officer, whose time and attention would not be divided with other duties, and whose education, knowledge of mankind and habits of life would enable him to secure in subordinate appointments as well as to exercise a just discrimination in criminal treatment."

Because there was not scope within the inquiry for a close examination of primary principles, the recommendations of the Committee were "calculated, as they believe, with the least delay and the least cost, to alleviate the worst features of the existing state of things".



Sir Alfred Stephen's Views on the Purposes of Imprisonment

MEDIA COMMUNICATIONS

During the Committee's inquiries, Sir Alfred Stephen, Chief Justice, was asked ..... he considered the purposes of imprisonment, a primary consideration in which the ~ showed a commendable interest. Sir Alfred was clearly not prepared for the question .. not satisfied with his answer. He set out his considered views in a letter supplementing D! ..... he had said to the Committee and submitted it.

In Sir Alfred's view, the sole object of all punishment was the protection of the community at large from similar outrages. Two things, therefore, were to be aimed at - determining sentences adequate to the ill-disposed, so as to deter others from committing the like crime; and the prevention of any repetition (absolutely or for considerable period) by, at all events, the same individual.

Sir Alfred said that it did not follow that the attempt to reform the ~ especially in cases where it was considered possible that he might one day return to ~ might not need to be undertaken, but he maintained that this object neither was, nor ~ be connected with, any end or aim of legal punishment or of convict discipline. In view of the degree, he considered, to which the fear and terror of punishment, as such, might diminish the minds of those who may be tempted to crime, in that same proportion you inflict evil on the community.

Nevertheless if the terror and dread inspired by prison discipline produced tendencies and dispositions in criminals so that they were no danger to society when they were released from prison and returned to society, then reformation, provided it could be assured by some reliable test, was a welcome and beneficial accompaniment. But it was seen - a by-product of the warning and dread that prison discipline was calculated to inculcate - a main purpose of that discipline.

The British Act of 1865

The Prisons Act of 1865 marks a significant stage in English penal history. The climate of opinion in which it was enacted made for harsh measures. An increase in violence in the early 1860's and the consequent public demand for severer measures led to the so-called Garrotters' Act of 1862. A Select Committee of the House of Lords, re-called in 1863, took the most uncompromisingly severe view on all aspects of prison discipline. In relation to all the controversies that had raged for the previous forty years, the Committee came down on the side of severity and would not hear of any argument for humane treatment. The separate treatment was to be followed in all its rigor. Prison labour was to be strictly punitive. The aim was deterrence through fear. The Lords used the phrase "hard ~ hard fare and a hard bed". From this most terribly harsh, almost vindictive report, prisoners were to suffer for more than a generation. The report led to the draconian Prisons Act of 1865, which established the prison regime that was to last to almost the end of the century. This established a uniform prison policy, provided for rigorous powers of inspection and sanctions which helped to ensure its observation. Though the central government was unable to enforce uniform rules and end practices in local prisons considered under a major step had been taken towards uniform prison policy and the diminution of local autonomy.

1867 New South Wales Regulations under the Act of 1840

Following and under the influence of the English Act of 1865, new prison regulations were issued in New South Wales in February, 1867, under the New South Wales ~ Act of 1840. It was still acknowledged that the prison facilities available might be **inadequate** for their implementation.

"If either by reason of the limited extent of any Gaol, or other cause, the provision of these regulations may not be applicable to that gaol, the officer in charge ~ shall represent such cause to the Sheriff, who may thereupon, with the sanction of the Colonial Secretary, authorize the modifications that may appear to be necessary."

These elaborate regulations were designed to put into effect in the spirit of ~ characteristic of the English Act of 1865, the blend of the separate and the silent ~ that had evolved in English penitentiaries.

There was a complicated system of classification. There were six classes of prisoners:  
prisoners sentenced to the roads and public works, of five years upwards,  
prisoners convicted of felony or misdemeanour, and sentenced for lesser periods,  
either to the roads and public works or to imprisonment *with hard labour*.  
prisoners under sentence of imprisonment only.  
prisoners awaiting trial or under examination.  
lunatics, comprising persons supposed to be of unsound mind.  
debtors, comprising persons confined for contempt upon civil process.

Prisoners of the first class were placed in divisions A, Band C.

Each prisoner served one-twelfth of his sentence in A Division, provided such service did not exceed twelve months. He was then removed to B Division where he served one-half of the remainder of his term and thence to C Division where he served the remainder of his term. For idleness or misconduct he could always be "thrown back" to either of the first divisions.

Prisoners in Division A were placed in separate treatment. They occupied separate cells and were employed upon such work as may be furnished. They were allowed to communicate with officers.

The life of the Class 1 Division A prisoner is well illustrated by quoting some of the regulations.

He will not upon any pretence, attempt to communicate with another prisoner. He must neither read aloud, sing, whistle, dance, nor make any noise in his cell, exercise yard, in the corridor or chapel.

He will wash his feet twice in summer and once in winter weekly, and will bathe once a week.

In marching or returning to or from the exercise yards or chapel, he will keep five yards distant from every other prisoner. *He will not upon any pretence, attempt to communicate with another prisoner.*

If it be found necessary for a prisoner, when out of his cell to permit another prisoner to pass him, he will immediately face, and stand opposite to the nearest wall, until the other shall have passed him.

By this time a limit of twelve months had been placed on separate treatment.

The regulations made formal provision for remission of sentences on the basis of a marks system. Marks were recorded for orderly and industrious behaviour or for idle and disorderly behaviour.

Full remission was gained by the prisoner who had earned the whole number of orderly and industrious marks. Days were lost from remission for idle and disorderly marks.

In these elaborate regulations we may see the real beginning of modern prison policy and its implicit underlying principles in New South Wales. It was declared at a time when it was considered that the State had, or was close to having the new-style cellular facilities to make the system possible. It took its origin from what is generally agreed to have been the most draconic prison Act ever passed in England, that of 1865.

#### **The Du Cane Regime in England 1877**

After successive stages and degrees of central inspection and supervision of local prisons, the Prisons Act of 1877 brought the whole prison system under the control of the central government.

A body of five Commissioners was appointed by the Home Secretary, who retained full authority and responsibility, to assist in the administration of prisons. The first Chairman of the Commissioners was Sir Edmund Du Cane.

Du Cane's regime, which lasted to almost the end of the century, was characterized by a fetish for uniformity. To achieve uniformity in every respect—buildings, regimens, prison rules, conditions of employment, ranks and duties of officers, dietaries, administrative procedures—was a prodigious task, and Du Cane has been given great credit for organizing the transformation.

The worst result of the zeal for overpowering uniformity was disregarded of differences among prisoners. Male or female, young or old, infirm or healthy, guilty in trivial or grave offences, sane or infirm of mind, first offender or hardened criminal, all were subject to



Prisoners sent to Berrima were those sentenced to hard labour or hard labour on the roads for any period over three years. Every prisoner sentenced to three years or more had to do the first nine months of the sentence in separate treatment and was sent to Berrima for the purpose. On the completion of this period they were sent to Parramatta or Darlinghurst for less rigorous forms of punishment, as laid down under the 1867 Regulations.

Sheriff McClean had described Berrima to a Select Committee of the Legislative Council as "the corner stone of the penal system of the colony". Nearly a century later a journalist writing in the *Sydney Morning Herald* said that the refractories' section at Grafton, feared for its severity, was the price that had to be paid for easier conditions in other prisons.

The Commission reported that at Parramatta, Darlinghurst and Berrima they had "caused the invitation to be made to all prisoners, in the most public manner possible, that they should have the opportunity to come forward to give evidence . . . To prevent the possibility of a witness being deterred from making his evidence full and frank, we directed withdrawal of all warders and other gaol officials during the examination, and at Berrima Gaol we personally visited every prisoner, whether in the cells, at exercise, or in the yards, not allowing any gaol official to be present or within earshot". The Commission examined prisoners at other gaols who had been in Berrima. At Bathurst 34 of the 206 who had been at Berrima came forward and at Darlinghurst 26 of the 67. At Berrima, 18 of the 100 prisoners came forward.  
Spreadeagling and the Gag

The two practices mainly complained of for their cruelty were spreadeagling and the gag. In spreadeagling, a prisoner was handcuffed with his arms outstretched to ringbolts in the wall of the cell, "the binding up of a man by his wrists with his feet not quite resting on the ground". (Minute of the Colonial Secretary, February, 1878.)

The Royal Commission concluded, "It must be admitted that the chaining of a man up to the walls of a cell is a barbarous means of punishment, which should not be tolerated as a means of punishment, and there should be no necessity for resorting to it as a method of restraint".

"We desire to see no further instance of the chaining of a prisoner to the walls of his cell and we beg to recommend that the ring-bolts be removed."

The gag was a piece of wood three inches long, one and three-quarter inches wide and three-quarters of an inch thick. From it projected a conical tube, about 1 1/2 inches wide at the base tapering to 1/2 inch and about 2 inches long. The cone was inserted in the prisoner's mouth, and straps buckled the base behind the prisoner's head.

The Commission's view was that the gag should be used only for repression as of shouting or bad language, its use should be immediate and the gaoler should have the authority to use it. The Commission considered that there should be modifications in its construction to avoid injury to the mouth. The tube should be shorter, and the edges of the base should not be sharp.  
The Operation of the Separate System

The Colonial Secretary in his letter to the Commissioners had said that while the inquiry into these alleged cruelties was the primary motive for their appointment, they might kindly understand that the entire system of management and discipline in Berrima gaol was fairly within their scope.

Under these terms the Commission expressed its opinions on the Separate system as operating at Berrima. They considered it a success and saw room for improvement only in minor details.

"We concur in thinking that in itself it is an excellent one (system), largely conducing to the great ends of punishment-the deterring from crime and the reformation of the criminal. It tends largely to deter, for it is greatly feared, especially by the hardened and habitual criminal. That, with rare exceptions, it tames the most refractory is testified by all competent to form a judgment. It operates largely as a means of reformation, giving as it does to the prisoner, who is isolated from the world, and especially from criminal companionship, an opportunity for reflection and self-examination which, in the majority of instances, begets a feeling of contrition. But this feeling of contrition, this sense of the folly and evil of crime, this desire to lead a new life, sincere and earnest as it may be, what chance has it of being permanent when the prisoner leaves his separate treatment for an enforced association, daily and hourly for months and for years, with the most experienced, the most habitual, the most hardened of criminals?"



McClellan's successor, George Miller, was a firm believer in the system. He believed, too, in the efficacy of flogging, administered with the solemn ritual observed in prison, followed by immediate release. He believed it would be the awesome ritual rather than the pain that would carry the lesson. In 1892, he was assuring people that the belief that flogging was inflicted on boys with the cat-o-nine-tails was erroneous. The instrument prescribed for the punishment of boys under eighteen was a leather tawse, he said, and two descriptions of the instrument were in use according to the age of the delinquent.

Miller reported that in 1891 the State Children's Relief Department had referred to the separate treatment of young larrikins at Darlinghurst as inhuman, and likely either to seriously affect a boy mentally or to confirm him in criminal tendencies. Miller denied that there was any evidence to support this statement, and further asserted that if such results seemed likely, the surgeon would intervene and order modifications of the conditions.

Amended regulations for the treatment of offenders aged under twenty-five were gazetted in April, 1893. As under the original regulations separate treatment was maintained, but henceforth the confinement was not to be solitary, in as much as the youthful prisoners would be visited regularly by the chaplain, the surgeon, the schoolmaster and other officials. They were also to be allowed daily exercise and monthly visits from friends. For sentences up to fourteen days a bread and water diet was prescribed. For sentences from fourteen days to six months, and for the first six months of sentences exceeding that period, bread and water diet was to alternate weekly with a substantial ration. In sentences not exceeding six months, a plank bed was provided, with no mattress or a substitute.

In his report for 1895, Miller reported some vague public unease (the most that history shows can be expected) about the treatment of seventh class prisoners, "much misunderstanding" of the purposes of this treatment. He took up again McClellan's urging of the need for a properly equipped and organized reformatory for boys. To his credit, he expressed the hope that when such a reformatory was established, the Prisons Department might be relieved by the magistrates of having to receive a large number of young people then sent to gaol as seventh class prisoners.

He referred to "a strong article in the public press", the writers assuming that such treatment was productive either of insanity or of serious permanent injury to the mental condition of prisoners.

Miller reported that Dr Manning, Inspector-General of the Insane, had made a careful inquiry into the matter and concluded that separate treatment was no doubt desirable, and designedly so, but there was no evidence that it tended to produce insanity. He said that it was important that the system should be conducted under the safeguards of proper medical supervision.

It was not to be wondered at, he said, that some cases of insanity occurred during, and apparently by reason of, separate treatment. When one considers the close alliance, hereditary and otherwise, between crime and insanity, the number of criminals who are on the border of insanity, and the irregular lives led by prisoners before committal. He assumed that many were incidentally insane on committal, but the insanity was not apparent until later.

Dr Manning said that he found that prisoners soon released from separate treatment are often dull and lethargic. But this, he said, is a condition which passes off in a short time, "and which is apparently due rather to a return to the use of tobacco (which is chewed) and tea, which are given under the prison regulations than the cessation of separate treatment: and are sometimes taken in excessive quantity, the craving for them being so great, and other prisoners giving up some part of their allowance to those newly released from separate treatment."

Whether this authoritative pronouncement of medical science stilled the vague public uneasiness we cannot tell.

### **The Trial Bay Experiment**

In 1874, McClellan proposed a prison camp at Laggery Point, Trial Bay: it was to house fit and well-behaved convicts who were within seven years of the end of their sentences. They were to work on the breakwall designed to produce a harbour of refuge and were to live in conditions of considerable freedom so long as they did not move beyond the reserve area.

The Government favoured the idea but decided that the men should live in a conventional gaol. The new gaol was built at enormous cost and was not ready for use until 1886. In developing the idea, McClellan was much influenced by the Intermediate prison which he had seen at Lusk in Ireland, but he considered that the Trial Bay plan was a considerable advance.

The prisoners were to be paid wages by the Ports and Rivers Authority and clothed and fed by the Department of Prisons. Wives and families would be allowed to visit them.

Section 409 of the Criminal Law Amendment Act provided for the granting of "Licences for Public Works". This meant an amelioration towards the end of their term in the conditions of imprisonment towards partial freedom. It was hoped that this would accustom the men to some self-guidance in preparation for release and enable them to earn some money for a new start in life.

But the experiment was to fail: the breakwall kept washing away, the bay continued to silt up and when ships of higher performance came on the route there were doubts whether the harbour of refuge was needed at all. The gaol at Trial Bay was closed in 1902. The comments made by the Comptroller-General show that the experiment in the treatment of prisoners had not been a success. For some time the prison authorities had viewed it with disfavour. The lines laid down for its conduct were not in harmony with the general system and the association that it involved did not assist reform.

But there was one useful outcome. Under section 409 of the Criminal Law Amendment Act, now embodied in section 463 of the Crimes Act, 1900, power was given to release a prisoner conditionally upon his fulfilling certain conditions during the unexpired portion of his sentence. The first prisoner was released under this provision in 1891.

After serving more than twenty-five years as Sheriff and Comptroller-General McClean died in 1889. His reports to the Minister during his term of office as Comptroller-General emphasize as his main problem the lack of cellular accommodation. This shortage made it impossible to operate the system of separation which, in his view, lay at the heart of prison discipline. In 1882, there were 2000 prisoners and cellular accommodation for 1 007. He recalled his visit to England and his consultation with Sir Edmund Du Cane and Sir Walter Crofton, author of the British prison system, and more than once invoked the weight of their authority.

Toward the end of his term he was able to see some signs of hope that cellular provision would become adequate. In 1883, work on the new *gaol* at Goulburn was progressing satisfactorily. The similar new gaol at Bathurst was "in immediate contemplation". Extensions to Parramatta were progressing and extensions to Maitland had been designed. There was progress on the new type of prison at Trial Bay. In 1887 the central western prison at Bathurst had been completed; additional cells were available at Parramatta. Darlinghurst could be relieved because Biloela had become available for the detention of petty town offenders, and there was increased accommodation in huts at Trial Bay.

This extension of cell room, he said, would enable the Department to move toward the long-held aim of dissociation of prisoners. The general association of prisoners in gaol, he said, had merely relegated prisoners from the association with an outside community to that of a community within the prison, a prison society, and had both diminished deterrence and propagated corrupting influences.

In 1879, the industrial school for girls, run by the Education Department, was removed from Cockatoo Island to "new and commodious" premises at South Head, given the name Shaftesbury. The buildings were occupied by the Prisons Department. McClean thought it lamentable that cell accommodation at Darlinghurst, urgently needed for separate treatment should be taken up with vagrants, drunkards and petty street offenders in and out of prison for repeated short sentences. He welcomed this relief to Darlinghurst by the facilities vacated by delinquent girls at Biloela, as the institution on Cockatoo Island was named.

McClean's action started discussion of the problems of handling vagrants and petty offenders, child and juvenile delinquents of both sexes, and drunkards. They were to go on for many years.

### 3. THE NEITENSTEIN PERIOD 1895-1909

Captain F. W. Neitenstein was appointed Comptroller-General of Prisons in 1895.

He had been trained as a seaman and had been Officer-in-charge of the "Vernon" and "Sabraon", training ships for truant and delinquent boys. He was a man of some stature. He had considerable administrative skill and was for a time a Public Service Commissioner. He had a reputation as a firm disciplinarian but he was humane and fought for a rational approach to the treatment of offenders.

In one of his first statements of principle he referred to the larrikins of the nineties in words that have a new ring: "In most cases there is no real vice or harm about the majority of these lads. They have the spirits and virility natural to their age. Society should consider that it has some obligation to them, and should not neglect its duty. The only alternative to the prison that has yet been suggested is the lash. Neither one nor the other commends itself much to me, except as forming really last resorts."

Neitenstein inherited from his predecessors some assessments of urgent problems and views on their remedy.

### **Problems of Scattered Population and Distance**

Problems arising from the scattered character of the population, with long distances and difficulties of travel between centres and the areas of sparse population, concerned the Committee of Inquiry into Police and Gaols in 1835 and continued well into the twentieth century. In 1879, there were forty-seven gaols. In 1885 there were fifty-one including seventeen established and thirty-four police gaols. The number had risen to fifty-nine in 1890. The police gaols were run jointly by the Police Department and the Department of Prisons. Police lock-ups were declared to be prisons or disestablished as prisons according to circumstances. A police lock-up, for example, was declared a prison at Grenfell when quarter sessions were held; later disestablished in 1893 and reduced to a police lock-up, when the quarter sessions were discontinued; in the following year proclaimed a gaol when it was decided that quarter sessions should again be held there.

The system was made necessary by the difficulties and cost of transporting prisoners to the major established gaols. Removal was clearly unrealistic when the sentence was short. But even long-sentenced prisoners were commonly detained in police gaols. Successive Comptrollers-General lamented the conditions in which prisoners with long sentences were kept in small prisons without any work assigned to them, and pointed to the high cost of maintaining a number of small local prisons as against concentration in a smaller number of major institutions.

In his report for 1897, Neitenstein provides a clear picture of the situation by a map of New South Wales, showing the established gaols, the minor gaols, the police gaols, the railways, the coach routes and the number of prisoners confined in each gaol. The changing situation may be traced year by year as these maps continued to be provided in his annual reports.

From 1898, there began a policy of closing or reducing the lock-up gaols and the smaller gaols. In 1898, lock-up gaols at Campbelltown, Queanbeyan and Windsor were closed, and Mudgee gaol was reduced. Lock-up gaols were, however, established at Narrandera and Wyalong. But this process of closure and reduction went steadily on year by year. In 1909, twenty-one police gaols were closed. They had outlived their usefulness, and were unsuitable for the treatment of any but the shortest term offenders. The only police gaols retained were those in outlying parts and in one or two special circumstances. The policy was that they were to be used for prisoners sentenced to less than fourteen days. Minor gaols were continued at Armidale, Young, Tamworth, Albury, Wollongong, Forbes, Hay and Deniliquin.

There were the problems of providing productive work for prisoners; the need for appropriate treatment for drunkards, broken down vagrants and petty offenders; the treatment of the young larrikins; the need for a properly organized reformatory for boys; the experiment at Trial Bay; provisions for the insane; the need to protect the State from the influx of criminals from interstate and overseas; the need for adequate cell accommodation. Speaking in 1895 of the need for a reformatory for boys, Miller had said he hoped that when one was established the prisons department would be relieved by the magistrates from a large number of cases who were then sent to gaol as seventh class prisoners.

When he took office, Neitenstein greatly expanded the statistical and other information provided in the annual reports to the Minister, a policy modelled on the reports issued by the Directors of the English prisons. In addition to his own reports, there began to appear reports from the officers in charge of individual prisons and, at a later stage, an account of amendments during the relevant year to the prison regulations. Early in his term of office he set out to visit every gaol and every prisoner in the State. Whenever there was a major change in prison routine or policy it was described at some length and 'views upon it copiously invited and quoted.

McClellan had been very much influenced by Sir Edmund Du Cane and the system that he developed.



Reaction against the Du Cane Regime in England

MEDIA COMMUNICATIONS

The Du Cane regime had brought improvements—more attention to health and sanitation, more books on a wider range of subjects, improvements in the training of governors and officers, limitations on the power of the governor to inflict punishment, rigorous inspection and an elaborate system of record-keeping.

But in general the system was one of harshness and severity. There was growing public uneasiness and a suspicion that the improvements were in externals only and that the regime caused damage in mind and attitude as bad as those associated with the older, less regulated system. The extent of recidivism and the mentally and physically enfeebled condition in which many prisoners were observed to leave prison seemed to many to require explanation.

Appointment of the Gladstone Committee in England 1894

In 1894, the British Government appointed a departmental Committee of Inquiry under the chairman of Herbert Gladstone, the Under Secretary of State.

The great achievement of the Gladstone Committee came of its going to the heart of the matter—the effect of imprisonment on the prisoners themselves, and in this it found much cause for concern. The Committee did not believe that conditions of imprisonment led to any moral reform or change in behaviour. On the contrary, it reduced the prisoner's capacity to cope with the demands of life in freedom. The Committee rejected the despairing view that admitted the harmful affects of imprisonment on mind and character but regarded them as inevitable, unchangeable results of conditions of imprisonment necessary for security. It recommended that the system should be more elastic, adaptable to individual conditions and needs, aimed at reform and at turning prisoners out of prison better, physically and mentally, than when they came in.

The Committee recommended the abolition of the treadmill and the crank, and other forms of servile, punitive labour, and a change in emphasis towards productive and rehabilitative labour. The Committee dismissed the idea, unchallenged for more than a century, that cellular isolation was beneficially reformatory in inducing reflection on wickedness. Indeed it emphasized that separate treatment was a "terrible ordeal" and recommended that the maximum period for its infliction should be reconsidered. It condemned the rule of silence as unnatural. It pointed to many ways in which the rigors of imprisonment might be alleviated. It considered that the mentally enfeebled should be held in a separate prison.

The Report was accepted by the Government and led to the Prisons Act of 1898. New rules under the Act came into force on 1st May, 1899. The treadmill and the crank were abolished. Cellular isolation was limited to an initial period of one month. (It did not disappear entirely in England until 1930.) The privilege of earning remission by good marks was extended. After a delay, feeble-minded inmates of local prisons began to be segregated.

The Gladstone Committee emphasized reform as an aim of imprisonment and propounded the policy of simultaneous deterrence and reform. The Committee declared: "We start from the principle that prison treatment should have its primary and concurrent objects deterrence and reformation." This began a controversy that still goes on. Are deterrence and reform compatible? Has the prison system been required to cope with two mutually exclusive aims?

Influence on Neitenstein

Neitenstein read and considered the Gladstone report and was undoubtedly influenced by it.

Neitenstein's Statement of his Views, 1896

In his report for the year 1896 Neitenstein included a substantial appendix with the title: "Crime and the treatment in New South Wales: Some Suggestions as to the future Procedure." It is a document of some importance.

He considered that improper work was thrust upon prisons. It was a common thing, he said, for people suspected of mental derangement to be sent to prison. "Feeble old vagrants, diseased and friendless incapables and dipsomaniacs" were also convicted. Boys any of these to prison and would have required the sentencing authority to declare in open possibly do them any good whatever". Neitenstein would have removed the power to sentence any of these to prison and would have required the sentencing authority to declare in open Court the specific circumstances which were held to justify this extraordinary course.

He exposed the confusion of thought that still exists between reformatory and punitive aims, though by a common sort of doubtful analogy. If we think of the prison as a moral hospital, he said, we see that it operates under great difficulties. Mental hospitals do not discharge their patients until they are considered cured. In hospitals treating physical illnesses, no fixed time is set for cure. But the moral hospital has to receive prisoners with a time fixed for their stay, and must turn them out at the end of that time, cured or not cured. It has to keep many past the time when they are cured. In sentencing, he said, the offence was more regarded than the offender and he was sceptical about belief in a capability to weigh out the exact measure of punishment proper to the crime.

He believed that simply retaliatory measures were ineffective in reducing crime. Punishment as simply revenge was no use to anybody and such principles, he said, had been practically discarded.

But he had no doubt that deterrence was the primary principle and reform came second. He would draw a sharp distinction between the accidental or impulsive offender and the deliberate wrongdoer. Every effort should be made to keep first offenders out of prison, by using measures such as fines, reparation, suspended sentences, police supervision in their own home. He would reserve imprisonment for the deliberate wrongdoer. It was the ultimate sanction, held *in terrorem*. Its impact should be short, sharp and severe. The more sparingly it was used the greater was its effect.

This was the proper role for prisons as he saw it. He returned again and again to his complaint that improper work was thrust upon prisons, uselessly and harmfully to the victims because the prisons were not fitted to handle many cases, for example, of mental derangement; uselessly and at inordinate cost because the imprisonment did not reform or cure the drunkards and vagrants, who returned again and again to prison and the elaborate fabric and routine of high security was not necessary to contain them; inhumanely and harmfully because these people needed and deserved curative not penal treatment.

Neitenstein put forward a proposal for the treatment of habitual offenders. He emphasized the uselessness of repeated short sentences and unfortunate effect of the element of lottery in the punishment. He would have the punishment increased with successive convictions and would have the offender know precisely what was in store for him. He would have the offender declared an habitual criminal after the fourth conviction, never to be free thereafter of police supervision.

On the basic problem of classification he was critical and sceptical. He had considered the Report of the Gladstone Committee and agreed with their judgment that it was difficult to carry out an ideal classification system within the unavoidable constraints of resources. The ideal classifications would mean individual treatment, and that was clearly unattainable.

He pointed to the special difficulties of a sparse, scattered population with small clusters of population widely scattered and difficult of access. Escort was costly and difficult. Small country gaols had to deal with a diversity of prisoners, and were relieved only when length of sentence justified removal to a larger gaol. Classification was applied only in the larger prisons and, apart from some special classes, like the seventh class prisoners, was based on the number and length of sentences.

Classification taken to its logical conclusion, he said, meant separation. He held to the prevailing view that separation was the true basis of effective prison management. However far classification is pursued, by age, crime, length of sentence, number of convictions, contamination was a danger when ever two prisoners were together. In this belief in the efficacy of separation he quoted the Howard Association in support: "To reform prisoners while in association is comparable to the attempt to wash dirty linen in a sewer."

Refreshingly, however, he conceded the dangers of isolation-moral and physical degeneration. "It is an undoubtable fact that derangement of the mind has followed upon separate treatment being applied to certain subjects who have not been able to bear a long seclusion." An initial period of seclusion, a separation from all but wholesome influences was, he said, a general principle in most countries.

He had, however, some suggestions to make. He would weed out the irreclaimably bad and send them to a separate prison. Special prisons should be built for vagrants. Drunkards should not be sent to ordinary prisons but to institutions specially fitted out to treat them. Women should be in separate establishments. The insane and imbecile should be removed from ordinary prison treatment. Magistrates should not be permitted to commit to prison lunatics, persons dangerously ill or needing protection. Boys and girls under sixteen should not in any circumstances be sent to prison.

After-Care

He raised the matter of after-care and its importance. Even if it were possible to hit upon the most perfect system of gaol treatment, he said, that system would be completely nullified if the care of the patient was relinquished on the gates opening to freedom. He was convinced that many prisoners on their release were resolved to lead honest and industrious lives. But what hope is there when, not only is no help offered them but all the signs they see are that every man's hand is raised against them? "At present society is strangely indifferent on the subject. If a quarter of the attention and sympathy given to the man in gaol were afforded to him when he gets out again, a very great gain to the community would ensue." He wished to see co-ordinated committees for after-care.

He looked forward to a time when there would be a training college for prison officers. In his time elementary examinations in writing and numbering were introduced with the idea of ending the recruitment of illiterate officers. Small collections of books were built up in prisons so that officers could inform themselves about ideas on crime and punishment.

We shall follow through separately some of these lines of change for which Neitenstein campaigned.

Lines of Change Pursued by Neitenstein: Lunatics

The holding or treatment of lunatics was emphatically, in Neitenstein's view, a task which the Prisons Department was not fitted to carry out and which it should not be asked to perform.

There was in 1896 a recommendation before the Minister for the building of an observation wing at Parramatta gaol. He drew attention to the fact that in England the prison management no longer had permanent custody of pronounced lunatics. If the observation wing were built within the gaol he argued that it should be only what its name strictly implied. People pronounced insane should be taken over by the lunacy department and the place where they were kept should not be within the walls of Parramatta gaol.

In 1897, more than 500 people had been treated in gaol for actual or supposed insanity. In the same year, following his representations, a Board was appointed by the Minister to examine the sending of the insane to prison. The Board reported in the following year its view that it was undesirable to confine a person suspected of insanity in the observation ward of a gaol for a long period. It considered that the existing practice of confining each insane prisoner with two sane prisoners in a cell at night should be discontinued. They recommended a separate building for handling the insane. It should be in two divisions, one for those suspected and one for those certified, and it should not form part of any existing gaol.

Neitenstein commented: "As a prison officer, I feel very adverse to being entrusted with the charge of these unfortunates who cannot receive, amid gaol surroundings, the treatment they require."

Observation Ward at Darlinghurst

In 1899, a new ward was completed at Darlinghurst for the observation of prisoners suspected of insanity. A year later he was still complaining that prisons were being used to detain lunatics and pointed to the use in England of the Broadmoor Asylum, which had no connection with the Prisons Department. In 1901, a total of 500 people suspected of insanity were received into prison. Gaols were still used for the medical treatment of people who had committed no crime. In some isolated districts sending the person to gaol might be the best or only course. In country areas, unfortunates found in a poor state of health were sent to prison because magistrates did not know what else to do with them. But he considered that it was unfair to place the prison brand on any person not guilty of an offence. In 1905, Neitenstein was still complaining that country hospitals, though supported by the State, would not receive the insane and the diseased, and was regretting the lack of central reception houses.

Neitenstein regarded drunkards as not offenders, except against themselves and, for the time being, not responsible for their actions. Then Biloela became available, and they were sent there and not to Darlinghurst. But through the reports, there runs a condemnation of Biloela as a degraded place of hopelessness and despair, in which no help or worthwhile treatment was possible. "The prisons department has nothing to be proud of in the retention of such a place." "Vagrants, drunkards and petty offenders with all numbers of previous convictions are grouped *en masse* in large dormitories at night." (1896.) What was needed was the sort of special prison that McClean had recommended as early as 1886. In 1906, Neitenstein was still pressing the urgent need for a "more rational and curative method of treating these derelicts of humanity". He pointed to the cost in money and misery of what he called unscientific methods of treating them.

In 1907, some progress could be reported. The Inebriates Act (1906), provided for the establishment of institutions for inebriates, where they would be treated as patients rather than as prisoners and where the routine would be fairly liberal as to association, work and general treatment.

A need, however, was felt to distinguish those inebriates likely to be troublesome, nuisances or threats to good order. A special portion of Darlinghurst Gaol was set apart for the confinement of the refractory inebriate.

The Act provided that a person convicted three times within the preceding twelve months for drunkenness or an offence related to drunkenness, might be detained for not less than six, nor more than twelve months in any institution established for their treatment. The term could be extended by a Judge if this was considered necessary.

It was claimed that as a result, the streets were relieved of the "drunken and indecent presence of the unfortunates now under detention".

In 1908, Neitenstein remarked that this sort of treatment might hardly seem work appropriate to prisons. But, it was a duty taken on as a sort of forlorn hope. It was weakness rather than wickedness, seeking release through alcohol from worry and trouble, that brought about their condition.

In 1908, the "three stage" system, a system which allowed prisoners to pass through three stages of improving conditions to a pre-release state, was applied to inebriates.

### **Habitual Criminals**

In 1901, Neitenstein wrote on the need for effective treatment of confirmed criminals, those who make no secret of their intention to commit further crimes on their release and for whom ideas about reform are idle. To release them is to endanger life and property afresh. He suggested that a new form of sentence should be available to the Judiciary the sentence for the offence committed to be followed by an indeterminate sentence in a special establishment, where they would be worked and treated under "less onerous and unpleasant conditions" than in prison.

The Habitual Criminals Act provided that when a person convicted of an indictable offence had been convicted on at least three previous occasions, he might be declared an habitual criminal as part of the sentence. This meant that he would serve the determinate part of the sentence under ordinary prison conditions, then enter upon an indeterminate sentence, during which the rigours of gaol life would be relaxed. Release might be approved on evidence of reform, when suitable employment had been found and then only on probation.

In 1906, new regulations for the indeterminate part of the sentence were gazetted. It was said that they had been framed with every safeguard against the powers extended to the Prisons Department.

### **Women**

Neitenstein persistently urged the building of a special prison for women. In his statement of policy in 1896, he said that, though the number of female offenders was small they required special consideration, and were less amendable than men to ordinary prison discipline. They were subject to emotional instability and periods of nervous depression, "liable to break out in fits of ungovernable hysteria for no apparent cause, and they necessarily require much consideration and even medical attention."

In 1898, women of the prostitute class were at Biloela, those under short sentences at Darlinghurst and those under long sentences at Bathurst.

In 1900, there were 185 female prisoners, most of them at Biloela under "nonreformatory and unhelpful conditions". In 1901, Neitenstein expressed a hope that on completion of the new prison then in course of construction at Little Bay, a more hopeful and rational procedure would be possible. The designs for the prison had been approved in 1899.

Most female prisoners were committed for a week, ninety-six per cent of them for less than three months. Drunkenness accounted for most of the convictions. Neitenstein commented that they were sent to gaol for periods "just long enough to recover from their 'burst' and to patch them up in readiness for further outbreaks of dissipation."

An experiment was begun in the treatment of female prisoners in 1907. This was the "stage and grade" programme which Neitenstein had used when he commanded the Industrial Schools on the training ships "Vernon" and "Sabraon". There were three stages—first the prison stage—prisoners could work their way to the top of this by industry and good conduct; second—removal to an intermediate institution, a sort of half-way house, in which prisoners were trained and tested in preparation for release; third—conditional release under a friendly and helpful supervisor.

Previously the transition from detention to liberty was considered too abrupt.

The Shaftsbury Girls' Reformatory, handed over to the Prisons Department and named the Shaftsbury Institution, was used as the sort of half-way house for the intermediate stage. Situations were found for the prisoners before discharge and a helpful supervision maintained during the period of conditional liberty.

The ladies of the Council of the Prisoners' Aid Association took a special interest in Shaftsbury. They read to the prisoners while they were at needlework, generally co-operated with the Prisons Department in reconciling them with estranged parents and relatives, helped in finding situations for them and maintained friendly help and counsel after their release.

The Women's Reformatory was opened in August, 1909. All female offenders from the metropolitan area were sent there: Bathurst and Darlinghurst were no longer used for long-sentenced females. When the sentences were too short to justify removal, they were dealt with at the nearest local gaol.

All female prisoners under long sentences at Bathurst, Darlinghurst and Biloela were transferred to the Women's Reformatory. Biloela was closed, bringing to an end one of the most sorrowful and discreditable chapters in the history of New South Wales prisons.

#### Children

Neitenstein said that no child should ever be sent to prison: And his predecessors had had the same view. The passing of the Neglected Children and Juvenile Offenders Act, which he reported in 1905, was a great satisfaction to him, a "great step forward", "a most humane and practical measure" he said. It cleared the police courts and the prisons of children. In 1906, he could report that there was no one under sixteen in gaol.

The Act came ten years after Miller, in 1895, and Neitenstein, in 1896, had urged that action be taken.

#### Defaulters

In 1898, Neitenstein took up the matters of the large number of persons in prison for default. In that year, 8402 or 71.9 per cent of those received, were imprisoned for default. They were in prison because they were too poor to pay fines (Neitenstein's own words). There was a proposal before the Minister for legislation to approve payment of fines by instalments and part-payment of fines with proportionate reduction of the sentence of imprisonment. At the end of 1899, the Justices Act, making these provisions, was passed. During 1900, a total of 661 received into prison as defaulters availed themselves of the provisions of the Act. The revenue benefited to the extent of £1,160, in addition to the savings in the cost of imprisonment. The imprisonment remitted totalled 30 years.

Thinking of this mass imprisonment of defaulters, first offenders and petty offenders and drunkards, not to mention the insane, the sick and the infirm and aged, Neitenstein more than once said: "There is too much gaoling," and he used the phrase "unnecessary gaoling".

Association for Aiding Discharged Persons

MEDIA COMMUNICATIONS

Neitenstein regarded after-care as an indispensable complement of any reformatory method. He pressed for it from the time he took up office. He denounced public apathy and society's neglect of "its duty towards these misguided and often friendless people". In 1899, he proposed a General Council with regional committees. In 1900, he said that only the fringe of the problem was touched by existing organizations. The following year, *the Minister established an Association for Aiding Discharged Persons*. Branches were established at Goulburn, Bathurst and Dubbo. Reports of the work of the Association began to appear as appendices to the Comptroller-General's annual report to the Minister.

In 1905, it was reported that the members of the Ladies' Committee regularly visited the female prisoners at Darlinghurst and, in the upper part of the chapel, read to them from selected works while they sewed and knitted.

In the report for 1908, there is a reference to "Police Court agents", of the Association who attended at Metropolitan police courts "in order to assist persons making first appearances at these places, who are sometimes either too bewildered or too ashamed, to understand the position."  
Major Changes in the System 1895-1909

There were some major changes in the system during Neitenstein's term of office. They were mainly:

Grading and specialized functions for prisons (linked with the concentration of prisons through the closing of the small gaols).

Introduction of restricted association.

Reduction of separate treatment.

The changes were possible because general facilities improved over the period. Additional facilities were built and simultaneously the prison population steadily and regularly declined. In 1899, Neitenstein was able to report that a separate cell was available for every prisoner, except for those imprisoned in the dormitories at Biloela or under medical treatment.

Grading and Specialized Functions of Prisons

This began in 1897 when Goulburn Gaol was set apart for first convicted prisoners sentenced to twelve months or more. A programme of special work was begun for more hopeful cases. Within the gaol, there was an "interclassification" of prisoners (a new term introduced with the development of specialized functions) and they were segregated according to their dispositions, past histories so far as could be ascertained, and behaviour.

The tougher and more experienced criminals were imprisoned at Bathurst. Thirty-four "preventive yards" were constructed for the reception of "men of particularly vicious and ungovernable temperaments, where they can be temporarily detained until their mania has left them." The yards allowed plenty of exercise and permitted ordinary work.

By 1904, the grading of the various gaols had been completed. The situation in 1909, the year in which Neitenstein retired, was described as follows:

Goulburn was set apart for the treatment of first offenders. A programme of special work was carried out for the more hopeful cases.

Bathurst was for prisoners with previous convictions whose cases were considered hopeful.

Parramatta was for men with previous convictions whose cases were considered less hopeful. Habitual criminals were treated there.

Grafton was for sexual perverts and prisoners who needed careful watching.

Maitland was for prisoners from the northern districts with sentences less than six months.

Darlinghurst was regarded as simply a distributory gaol. It was for prisoners awaiting trial in Sydney or who needed observation for suspected mental weakness.

The smaller gaols, eight in 1909, were not used for the detention of long-term prisoners.



The police gaols and lock-ups were intended for prisoners sentenced to less than fourteen days.

By this time, Biloela and Berrima had been closed.

The System of Restricted Association

This system, introduced in 1897, was considered a very significant change. While cellular accommodation was inadequate to provide individual cells, the prisons were organized in yards, prisoners being assigned to yards according to classification. The members of each group took their meals in company in the yards and freely associated for several hours of each day. This not only bred contamination, but it was thought in addition a dreadful experience for the better type of prisoner who was preyed upon and bullied by the worst type.

The aim of the new scheme was to limit association without going too far towards solitary confinement. The main change was simple—the men would eat their meals alone in their cells. They would associate only at work, religious instruction and at exercise.

The system was introduced first at Berrima in 1897 and by 1900 had been extended to all prisons except Trial Bay and Biloela. It was favourably reported upon by gaol governors and chaplains. It was claimed that to the less hardened offender and those wishing to reform, it opened "relief from degrading companionship".

The system still generally applies, though the situation has reverted to the assignment commonly of more than one prisoner to a cell.

Reduction of Separate Treatment

When the system of restricted association was introduced, it was considered no longer necessary to retain the nine months of separate treatment imposed at the beginning of each sentence to hard labour for three years and upwards. On and after 1st July, 1901, the period of separate treatment was reduced to one month for first offenders, two months for prisoners with one previous conviction and four months for prisoners with more than one previous conviction. In 1909, there was a further reduction. First offenders served fourteen days in separate, prisoners with one previous conviction four weeks, prisoners with two previous convictions six weeks and those with more than two previous convictions, two months.

The report for 1909 says: "The old system of requiring all prisoners—first offender and hardened criminals alike—to undergo long periods of similar duration in separate treatment was wrong. It could not be regarded as reformatory; its severity was undoubted, yet it could not be shown to be deterrent. The long periods were responsible for some mental trouble, and effected no good purpose". This is a very significant statement.

Closing of Berrima Gaol 1908

Berrima Gaol was closed in 1908, largely because alterations to the time to be served in separate treatment rendered its use unnecessary. The changed prison system had no use for it. At one time it had been among the principal penal establishments. McClean told the Royal Commission in 1879 that it was the cornerstone of the system. It was primarily used for the treatment of refractory and turbulent prisoners. To be sent to Berrima "for coercion" was a prospect that terrified the toughest criminal, and the measures employed were severe indeed. Neitenstein said: "The principal measures of 'coercion', apart from flogging as a last resort, consisted of solitary confinement, dark cells and various forms of ironing. Of these, prolonged detention in dark cells was the most drastic punishment." On entering into office he said, "I made careful inquiry into this matter and found that individuals were punished over and over again without checking offences or bringing about better conduct. On my recommendation, therefore, all these things were abolished."

In 1909, the year Neitenstein retired, there were further reductions in the time to be spent in separate treatment by various types of prisoners. First offenders were not to be subject to separate treatment at all, it being considered that "with the almost certain depression of spirits in a person imprisoned for the first time, the punitive effect of separate treatment is unnecessarily severe." Terms in separate treatment for persons previously convicted were also shortened. It was stated that in many cases, prisoners subjected to long terms of separate treatment had come out of it "in a dispirited condition."

... Along with these changes went various small ameliorations. The Royal Commission into the Gaol sanctioned the continuation of the gag, provided the design was changed to reduce the danger of injury to the mouth. But the Government forbade its use and McClean did not cease to lament the ban on this admirable instrument for the suppression of unruly behaviour. Its use was again sanctioned for a time in 1894.

One of the most important changes was the introduction of electric lighting into cells, installed first at Darlinghurst and Berrima in 1894. This made reading possible in the cells at night, stimulated additions to the stocks of books available in gaols and the gradual extension of education.

In 1897, calling by numbers replaced calling by names, a benefit, it was claimed, because prisoners could more easily conceal their identity in gaol and avoid the risk of blackmail by former fellow prisoners on release.

In 1899, gaol endorsement on envelopes containing correspondence from prisoners was abolished; the close shave was abolished and replaced by clipping; dark cells were abolished as a method of punishment.

In 1901, other ameliorations were listed. They included increased bathing accommodation, privacy at bathing and more frequent bathing, separate bathing for diseased cases; the elimination of the vermin pest at Darlinghurst; improved routine in the night-tub system; more varied diet, including mince meat for old prisoners and those with defective teeth.

There was an increase in the yearly supply of books; the works of Dickens, Thackeray and Scott, previously disallowed, were permitted. Library privileges were extended to first offenders.  
Neitenstein's Visit Overseas

Neitenstein visited gaols, reformatories, asylums and related institutions in England, Scotland, Ireland, Switzerland, and the United States. His report was printed in 1904.

He went with a special interest in reformatories for young offenders, inebriates' institutions, industrial schools and truant schools, and institutions for the detention of habitual criminals. He came back convinced that we should mend our ways in our treatment of the unfortunate victims of drink. We had, he said, been going to "do something in this direction" for many years. Just as for many years we had been talking about ways of treating truants and neglected children. He was confirmed in his view that it was wrong to use prisons as asylums or poor houses.  
Recommendations

Neitenstein laid out at the end of his quite lengthy report a set of recommendations for the carrying out of broad principles so far as local circumstances would permit. Many of these he saw realized or on the way to realization during his term of office. When we look down the subsequent history, his capacity for forward-looking thinking is remarkably demonstrated.

He proposed that gaols should be graded for hopeful cases and first offenders; for habitual criminals, for the feeble-minded, including sexual perverts, who were not actual lunatics or imbeciles; for incorrigibles.

He proposed that habitual drunkards should be dealt with under the English system: retreats for voluntary cases, and inebriate asylums for compulsory cases, reformatories for the incorrigible cases whom asylums could not deal with. Many of the features of the legislation that he proposed were later passed into law.

Reception houses and asylums, not gaols, should be used for lunatics. When circumstances allowed, a separate institution should be established for the feeble-minded. Sick vagrants should be treated in hospitals and paupers should be dealt with by the Director of Charities.

He proposed that help for discharged prisoners should be increased and the role of the Prisoners' Aid Association, as the chief agent, should be greatly extended. The Association should develop a system of "patronage" and supervision of conditionally released prisoners. It should have control of parole and district probation officers when they were appointed; have power to obtain direct information through the police and prison officers;



have control of labour homes for men and refuges for women; undertake supervision of persons whose sentences were suspended with the prisons department to provide female visitors for women prisoners. The Association should arrange details in case of poor prisoners in the lower Courts.

He recommended gratuitous legal aid to poor prisoners under committal to the higher Courts.

Magistrates, he considered, should have a discretionary power to place convicted offenders under the care of the Association or other approved persons and institutions, and similar powers with respect to trial and remand prisoners.

He wished to see more uniformity in the system throughout the States and proposed periodical conferences of the Chief Justices of the Commonwealth.

He was much concerned with the problem of vagrant, delinquent, mendicant and neglected children. He urged the establishment of children's shelters, to which children aged 5-14 found wandering the streets after school hours could be taken; the establishment of day industrial schools; the extension of the apprenticeship system to reformatory children; the passing of a comprehensive measure to deal with all preventive schools and State children.

He wanted the establishment of institutes, gymnasias, drill corps to provide something rational for youths who now, he said, had no decent recreation.

"Crime", he said, "is not a matter which concerns prisons only. It is created out of prison, and principally by the criminal neglect of children, and by other defects in our social system."

4. 1909-43

#### The Use of Prisons

The workshops were removed from Darlinghurst to Parramatta in 1910, and it became the principal industrial gaol. The worst type of criminal, including habitual criminals, were located there. In 1911, special workshops for habitual criminals were built at Parramatta, so designed that the habitual criminals would in no way come into contact with ordinary prisoners. In 1914, young offenders, particularly the first offenders, were transferred from Parramatta to Goulburn. Grafton was reserved for known sex perverts and prisoners requiring special supervision. Bathurst was selected in 1912 for the treatment of seventh class prisoners who had previous convictions but whose cases were considered hopeful. In 1913, the afforestation camp at Tuncurry was opened.

Land was purchased in 1914 near Emu Plains railway station for the growing of farm produce to supply government institutions. Emu Plains was proclaimed a prison farm in December, 1914, and young offenders were sent there. In 1916, a changed system operated briefly. Emu Plains was placed entirely under the control of the Department of Agriculture and was known as the Emu Plains Irrigation Farm. Young offenders were released on licence when a certain portion of their sentence had been served, conditionally on their remaining at the farm and complying with specified conditions until, with benefit of remission for good conduct, they were released. The conditions of the licence would then continue to the end of the sentence. The only responsibility of the Department of Prisons was the selection of the prisoners. After a year, however, Emu Plains passed back to the control of the Comptroller-General of Prisons and was re-proclaimed a place of detention.

#### Closing of Gaols

The gaols at Hay and Wollongong were closed in 1915. The police gaols at Hillston and Wilcannia were closed a year later. The minor gaol at Forbes was disestablished and used for the reception of military prisoners convicted by court martial. It was closed in 1917. During the war, Trial Bay was used for the internment of German nationals. The police gaol at Taree was closed in 1940 and the gaol at West Kempsey was closed in 1942. The gaols at Hay, Broken Hill, Tamworth and Albury were made available during the years 1940-43 for use by the military authorities.

#### Long Term Proposals

In the years 1943-44 three important conclusions were reached. It was suggested that there was a need for an institution similar to Emu Plains but with stricter security, and, to put this idea into effect, it was decided to demolish and rebuild Berrima gaol. It was

felt desirable to develop an institution intermediate between prison and normal social life, to which prisoners, when first placed in employment, would return each evening. They would be under supervision and efforts would be made to teach them to use leisure time effectively. Finally the decision was taken to build a new prison.

In 1924, it was reported that Bathurst was used for the housing of the most desperate and most violent criminals, most of those convicted of sensational and violent crimes. Many were described as "desperate and reckless men, ready to take advantage of the slightest opening to combine and cause trouble to the gaol authorities."

Brookfield Afforestation Camp and Mount Mitchell Afforestation Camp were opened three years later.

In 1937, buildings were completed at the State Penitentiary suitable for the housing of reformable female prisoners. The rooms were designed to resemble bedrooms in a cottage rather than cells in a prison. Each room had a large window, a wooden door and a mat on the floor.

The afforestation camp at Tuncurry was closed in 1938. The area had been found unsuitable for silviculture.

#### **Grafton**

In 1942, Grafton became a special institution. A Royal Commission investigating the Canadian penal system had recommended that all incorrigible and intractable prisoners should be segregated in one institution. The Minister of Justice decided that Grafton should be set aside for the incarceration of known trouble-makers.

#### **The Prison Population**

##### *Decline 1895-1918*

From 1895 to 1911, the prison population steadily declined. From 1911-16, there were increases but there were decreases from 1917-19. In 1917, receptions into prison were the lowest since prison records began in 1873.

In 1918, Parramatta gaol was closed. Reports issued by the Inspector General of Mental Hospitals had stated that his department had to care for patients in temporary conditions. The decline in the prison population enabled the Comptroller-General of Prisons to recommend that Parramatta gaol, separated by only a wall from the Mental Hospital, should be placed at the disposal of the Inspector General of Mental Hospitals. To provide for the prisoners who had to vacate the gaol, the gaol at Young was proclaimed a place of detention for habitual criminals in the indeterminate stage. There was accommodation at Tamworth for short-sentenced prisoners. Long-sentenced prisoners were sent to Bathurst, Maitland and Long Bay. Even with this removal there was room in the gaols for 600 more.

From 1920, however, with few exceptions, including notable decreases in 1926-27 and 1933-35, there were increases each year in the prison population. By 1920, it was reported that at Long Bay, always vulnerable to large fluctuations in convictions in the Courts of the metropolitan area, accommodation was taxed and, in 1921, the congestion was causing anxiety. It had become necessary to associate prisoners in cells and to incur considerable expense in transferring short-sentenced prisoners to other gaols. The Minister decided to reopen Parramatta. It was clear that a good deal of re-fitting would be necessary to return it to its former use. The reconditioning was carried out entirely by prison labour and, while this was going on, prisoners were gradually withdrawn from Maitland, Albury, Grafton, Tamworth and Young.

Parramatta was re-opened in 1922. It was hoped that the result might be a more effective scheme of classification (individualization was mentioned as a goal) and an expansion of prison industry.

Within two years of the emergence of a situation in which a major gaol could be closed and still leave surplus accommodation for 600, the problem that was to harass prison administrations to this day appeared. At first they regretted and tried to mitigate the effects of overcrowding but in the end were forced to accept it as an unavoidable condition.

There were substantial increases in the prison population in the years 1929-33 and the pressure on the State Penitentiary, particularly vulnerable to the outcome of street offences incurring short sentences. It was estimated in 1933 that of 7 120 prisoners received 4 098 were serving sentences of less than a week.

Prisoners of the Seventh Class

MEDIA COMMUNICATIONS

By 1909, Goulburn had become the gaol for first offenders. Bathurst was selected for the treatment of seventh class offenders who had previous convictions but were considered hopeful cases. They were kept rigidly apart. There was a differentiation between those serving up to twelve months and those serving more than twelve months, the latter, regarded as "a most dangerous class", being provided for in a separate part of the gaol. The treatment of seventh class prisoners continued to be "of the drastic disciplinary type". In 1913, however, the Comptroller-General expressed a doubt whether, since some were convicted over and over again, any good was achieved by subjecting them to "the treatment".

The situation of seventh class prisoners was affected by the reduction in the periods to be spent in separate treatment. In 1915 their position was that, after the surgeon's examination, they passed into "lower grade treatment" for seven days if first offenders for fourteen days if previously convicted. During this time they were permitted only one hour's exercise a day and allowed No. 3 ration, bread (lib) and water. After the seventh day they were allowed a working diet on alternate days.

A general change of view had emerged with the practice of cultivating the waste lands around prisons. In the metropolitan area plentiful opportunity for healthy outdoor work had become available with the development of vegetable growing in the large surrounding area. It was decided in 1915 to discontinue lower grade treatment of seventh class prisoners except for punishment. Plenty of work was considered better than confinement in cells.

The Superintendent of the State Penitentiary reported his experience that seventh class prisoners, when they worked in their cells or in cubicles in the yards, were a great source of trouble. Healthy work in the open on a full diet had produced a noticeable improvement. This humane alteration in their treatment, he said had without doubt "a marked effect both morally and physically, as low diet and long confinement in cells or cubicles was bad, especially in the cases of weak, growing young men."

More Humane Treatment

It was said a year later that these prisoners were now treated "generally with a standard more applicable to human beings with a body to nourish and a soul to save." Judge Bevan, sentencing a young prisoner in 1916 is reported as saying:

"It is a curious thing that after all these years we find that harshness does no good, but clemency does an enormous amount of good."

By 1920, a programme had been developed for the treatment of seventh class prisoners. They were divided into two classes-seventh class, those sentenced to twelve months or less, and seventh class extended, those sentenced to more than twelve months. First offenders were sent to Goulburn, those with a history of delinquency were generally sent to Bathurst.

The prisoners were worked in the open air, cubicles being built in the yards to separate them. The disadvantages of this arrangement was that work was confined to things like knitting and straw-plaiting.

During 1920 it was arranged that after three months of this "preliminary" treatment they were drafted into specially designed workshops. At Goulburn, after a period in the workshops, they were given training in basic farm operations in the gaol's agricultural area and then transferred to Emu Plains.

Later, 1925-26, young prisoners received in to gaol for the first time were sent to Goulburn for classification and were given special consideration for reformatory treatment.

In 1936, in the report of the Prisoners' Aid Association, there is expressed a somewhat more understanding and sympathetic attitude to young people who found their way into gaol. They were seen as falling into two classes:

"On the one hand we have the sturdy, self-assertive youth, whose excursions into crime have been due to the lack of opportunity to give expression to youthful vigour in a natural, healthy way. Thwarted by unemployment, or incapable of adaptation to many of those occupations of modern civilisation, which however necessary in themselves, afford little scope for the adventurous, his natural energies have given way under stress of boredom to undesirable and anti-social forms of expression. At the other end of the scale we find the youth whose delinquency is the result of physical defect, low mental development or general flabbiness of moral fibre. Lacking the faculty, rather than the opportunity for self-expression, he continues to obtain by stealth benefits otherwise to be obtained by hard work. He is a real problem, and he requires special care, sympathy and understanding on the one hand, and, it may be, medical or psychological treatment on the other, to bring him back to physical, mental and moral health."

In the following year, in its report, the Association appealed to the public for cooperation in helping young people who get into trouble through social, environmental, physical defects or narrow mental development. There remained, however, said the report, those who considered that modern views and practices in the treatment of delinquents pampered individuals whom only severity and harsh discipline could benefit.

It is worth recording that a dominating feature of the year 1942-43 was the increase in the number of receptions under twenty-five, and particularly under twenty-one. Fourteen per cent of receptions were under twenty-one, compared with nine per cent the previous year.

#### Mental Defectives

In the early thirties the question of mental defectives was raised. These were people who were not certifiably insane, but were considered mentally deficient. A number were received into prison and had to be released on the expiry of their sentence though they were unable to function as "self-reliant units of society". There might be, it was thought, a need for more definite supervision and control.

In 1933, eighty-nine patients in the observation ward at the State Penitentiary were submitted to psychological tests. One was found to be of superior intelligence, twenty of normal intelligence, fifteen of dull intelligence, twenty-one on the borderline of mental deficiency and thirty-two moronic.

What was to be done with the moron type, "the feeble-minded unfortunate who, through no fault of his own, is incapable of keeping clear of trouble, and who finds himself landed from time to time in gaol, whence he goes unreformed and unreformable?" It was thought that something might be done to protect society if, after conviction, he were given an indeterminate sentence to be served in a segregated environment.

#### Inebriates

During the period there were further developments in the treatment of inebriates and

Since 1907 inebriates had been committed to inebriate institutions attached to gaols. They were transferred in 1914, from Darlinghurst to Long Bay where there were facilities for work in the open air.

There was provision for inebriates to be released on licence, and most had gone on release, to a government asylum or to a philanthropic home. There was no power to detain them if they wished to leave these places.

Inebriates of the non-criminal class were treated at the Shaftsbury Institution. Those convicted of a felony or misdemeanour were held at the State Penitentiary. In September, 1915, a system began under which inebriates, as the time of their release approached, were allowed leave for a day or for weekends to visit relatives. One purpose of this system was to test whether they could resist the temptation to alcoholic excess.

Officers in charge visited the homes of inebriates, after their release, to see how things were going with them and to offer friendly counsel. Inebriates were also encouraged, after release, to visit the Institution and renew acquaintance. It was hoped in these ways to give the Institution and its methods a better image.

A portion of the Shaftsbury Institution was set aside in 1916 to receive females, voluntarily or at the request of relatives, on their conviction in the Courts. Arrangements were also made for paying guests, both male and female.

In spite of such well intentioned measures, experience indicated little hope for improvement in the condition of the confirmed inebriate. In 1923 Dr Branthwaite, Inspector General of English Inebriate Institutions, described them as mostly hopeless, constant nuisances when at liberty, causing enormous expense in their constant arrests, Court hearings and detention, "fit subjects for the nearest approach to permanent detention".

By 1925-26 it came to be felt that prolonged detention, frequent revocation of licences and extensions of detention orders had a deranging effect on inebriates. They felt that they were worse off than criminals. Temporary leave on parole became a feature of the system, the former element of the indeterminate sentence was eliminated and replaced by a pattern of short sentences, followed by parole and then leave on licence. Extension of detention orders was applied only when circumstances were exceptional.

In 1938, it was reported that few inebriates had been committed to Inebriate Institutions.

In 1940, Dr Holloway expressed the view that the existing treatment of hopeless alcoholics was worthless. In most cases there was no chance of cure. He considered that they should be treated as mental defectives and detained for long periods.

Maintenance Confinees  
For some time the situation in respect of maintenance confinees had been thought unsatisfactory. Some maintained themselves and were exempt from any work except what they volunteered to do. For the most part the confinees idled their time away.

The Deserted Wives and Children's Act, 1913, provided that people imprisoned under that Act or the Infants Protection Act, 1904, should perform any work directed by the Comptroller-General. A value was set upon the work, an amount deducted for the confinee's keep and the balance applied towards satisfying the order of the Court for maintenance.

The Act was further amended in 1931 to take into account the difficulty of obtaining employment during the years of the Depression. The amended Act empowered a magistrate to refuse to enforce an order or to enforce it to the degree that he considered fit, having regard to the circumstances, including the inability of the defendant to find employment or to comply with the order because of continuing ill-health.

Leg-ironing Stopped

The leg-ironing of prisoners in transit was stopped in 1917. Until then prisoners sentenced to two years or more had passed the last month of their detention in "nonassociation". In 1917, there were fewer prisoners and consequently more demand for the products of their labour. It was therefore inconvenient to withdraw them from the workshops and have them spend a month in a special yard or unimportant labour. The rule was repealed.

Prisoners at Emu Plains and Tuncurry were allowed to play cricket and football and bathe in the river or surf.

The reading of daily newspapers was sanctioned (1918). Some controversial material, however, was excised, as likely to cause difference of opinion that might affect discipline and good order.

Measures were taken in 1920 to relieve the monotony of non-working hours at weekends. The single-file system at exercise was abandoned. Prisoners were allowed to walk in double files. Saturday night concerts and lectures were organized in the major gaols. All restrictions on the issue of library books and magazines were lifted. There were arrangements for bathing each working day instead of twice weekly. Calling at half-hourly intervals by the night-guards, "a custom inherited from the old Imperial convict days", was discontinued.

There were improvements in opportunities for mental relaxation and the pursuit of knowledge, particularly technical knowledge. Full library rights and lights in cells were made available to all prisoners. Previously a prisoner was allowed lights only to 8 p.m. until he had served six months; he had to serve one month before an educational work could be withdrawn from the library, two months before he could receive one ordinary library book a week, four months before two issues a week could be withdrawn, and six months before a magazine could be withdrawn.

In 1921 the principle of the penal diet was abandoned. Previously a daily task had been set, judged suitable to the capacity of the prisoner, and if he did not complete it his diet, on the principle that he who will work will not eat, was reduced. This policy was replaced by a scheme of bonus payment for work completed over and above the allotted task.

In 1925, prisoners serving two years and more were allowed to have writing materials in their cells. This had previously been forbidden and had been regarded as a serious breach of discipline.

In 1933, the kindness of the local citizens of Penrith and Emu Plains was acknowledged.

They provided concerts at the prison farm and brought cakes, fruit and cigarettes on their visits.



The period 1909-43 is a long one and little of note may appear to have happened. It included two world wars and the great economic depression and there are interesting reflections of these major events in the character of receptions into prison. But wars and major social problems, because they preoccupy governments and have prior call on resources, distract attention from problems like imprisonment and penal policy. The record, as revealed in the annual reports of the Comptroller-General to the Minister, which Neitenstein had maintained at a high standard, declined in both fullness of information and presentation and did not become informative and presentable again until the 1940's. In 1938, the reports ceased to be tabled in Parliament.

Post-War Reconstruction

Yet the period at its beginning and at its end included two very significant developments, the fading of belief in the efficacy of severity and coercion in the earlier part, and the increase in the influence of the social scientist in the latter part. The way was being prepared for a dramatic impact of this influence, particularly by the psychologists, sociologists and educationists. Penal policy was caught up in the wide-ranging discussion of the plans for post-war reconstruction. A better society with a bright future was to be prepared for after the war. The end of the war was not, it was resolved, going to find society weakened, disorganized and uncertain of direction. L. C. Nott, Comptroller-General, in 1943 saw the work of his department as "a great social task" and looked to seeing great advances in the years following the cessation of hostilities.

5. 11)43-67

L. C. Nott Comptroller-General 1943

L. C. Nott was appointed Comptroller-General of Prisons in 1943. In his report for the year ending 30th June, 1944, he laid out a statement of prison policy with some reference to programmes that, he said, the Minister intended to implement when conditions made it possible.

In 1946 the Premier, W. J. McKell, appointed committees to report on three matters: the rehabilitation of young people aged 16-23 convicted of offences, prison reform and the provisions appropriate for young people of the mentally defective type who offended against the law. The Premier requested a comprehensive statement of policy bases on the three reports when they were to hand.

The three reports were available in June, 1946, and it was agreed that there should be a reporting committee comprising representatives of the Departments of Justice, of Education and of Child Welfare. This committee submitted a comprehensive report in September, 1946.

While the Ministers of Education and Child Welfare were anxious that quick action should be taken to improve the treatment of youthful offenders and mentally defective offenders, the Minister of Justice was not keen on comprehensive legislation to embrace the recommendations of all three committees. He considered that any comprehensive measure dealing with prison reform along the lines of the British Criminal Justice Bill would require "very deliberate consideration".

Report of Committee on Prison Reform

Unfortunately, it seems, the report of the Committee on Prison Reform, chaired by a member of the Public Service Board, Mr A. W. Hicks, is not extant. Only the correspondence between the Premier, the Ministers concerned, the Chairman of the Committee on Prison Reform and the Chairman of the Public Service Board is available. We have only a summary of the recommendations of the Committee on Prison Reform in the covering letter to the Premier accompanying the submission of the report and, at a later stage, the record of an interview between the Committee and delegates of the Prison Reform Council.

Some Recommendations

In the covering letter the Committee recommended that immediate effect should be given to certain recommendations: alterations to Long Bay Penitentiary to admit of more satisfactory conditions for those awaiting trial; sewerage in the principal prisons to replace



the unsatisfactory pan system in cells; appointment of an education officer responsible to the Comptroller-General of Prisons, to establish evening courses of a vocational nature for selected prisoners; provision of staff and facilities to enable prisoners to be out of their cells for at least an additional two hours a day; immediate recruitment of twenty additional prison officers who would be required to attend courses of instruction; appointment of a standing committee to review dietary scales; appointment of a standing committee consisting of representatives of the Department of Prisons, employers and employees to examine opportunities for the employment of ex-prisoners; re-organization of prison libraries to provide vocational and recreational reading, and the secondment of a trained member of the staff of the Public Library to supervise the work; replacement of outmoded vocational equipment in prisons by modern machinery; organization of suitable therapeutic exercises for mental defectives and inebriates pending the establishment of a separate institution under the Department of Health.

The delegates of the Prison Reform Council, when they met the Committee, agreed that most of the matters that had concerned them were well covered in the Committee's recommendations.

In 1947, the Comptroller-General, L. C. Nott, was sent abroad to study prisons and penal methods in the United Kingdom and the United States. Like Neitenstein, forty-three years before, he presented a full report on his return. In his report to the Minister for the financial year 1949-50, he laid out his principles and intentions for the financial year 1949-50, he laid out his principles and intentions set out 1949-50

Nott quoted with approval the statement of Sir Lionel Fox, Chairman of the English Prisons Commission, on deterrence. The conflict between the aims of deterrence and reform had been debated since the Gladstone Committee in 1895 laid these down as concurrent aims of imprisonment. There had been a turning away from confidence in the deterrent effect of harsh treatment. Nott considered that the deterrent effect of punishment lay not in severity but in its certainty. Society relied mainly on the efficiency of the police and the swift and certain administration of justice in the judicial system. Sir Lionel Fox said that deterrence had never been an end in itself. The purpose of prison was to protect society against the criminal, and the best protection, *if it could be done*, was to reform the offender. Society's deterrent weapons, he considered, were the police and the judicial systems and the fact of imprisonment, rather than any deterrent effect of imprisonment itself. Given these assumptions, he said, it should be possible, without impairing the principle of deterrence, to remove from the prison regime any features introduced to emphasize its deterrent aspect which were incompatible with the concurrent duty to turn prisoners out of gaol better men and women than when they came in.

This plausible but rather sophisticated concept was to set the general policy of the New South Wales prison system. True, it was conceded, there was still a conflict. Security would be easier if no thought were given to rehabilitation. Rehabilitation would be easier if security could be ignored.

The influence of the psychologists and sociologists may be seen in the emphasis on individual differences of personality:

"Some of them are professional men who have betrayed the trust reposed in them; others are the drunken mendicants from the streets of the city. Some are people who have made one serious mistake; others regard crime as a normal means of livelihood; some are subservient and obsequious, others arrogant and aggressive; some are highly intelligent, some are mentally deficient."

Imprisonment meant different things to an enormous variety of people and not all prisoners required the same degree of security. Yet it was necessary to standardize penal conditions and administer impartial treatment. Individualization of treatment being an unattainable goal it was yet possible to move some way towards it by two means, classification and specialized functions of institutions.

#### Individual Functions of Gaols

Since the classification of gaols in Neitenstein's time there had evolved individual functions and characters of gaols as well as reputations for them among prisoners. In 1949, Bathurst was for habitual criminals, hardened offenders and recidivists whose cases



appeared more hopeful than those at Parramatta. The State Penitentiary at Long Bay was the reception prison for offenders from the metropolitan Courts. Parramatta was for habitual criminals, confirmed recidivists and long-sentenced prisoners. Maitland was for receptions from the Hunter River Valley. Goulburn Training Centre was for prisoners serving their first sentence, or who had served only minor previous sentences, particularly those serving long sentences. Berrima Training Centre was for young prisoners serving lengthy sentences who appeared likely to respond to training, medium security. Emu Plains was for young prisoners serving shorter sentences or nearing the end of long sentences, minimum security. Brookfield Afforestation Camp, Mannus, was for trustworthy, mature, first-timers, minimum security. Glen Innes Afforestation Camp was similar to Brookfield, but drawing mainly from the northern area, minimum security. Oberon Afforestation Camp was for mature recidivists considered to be trustworthy, minimum security. Grafton gaol was for those whose demeanour and overt conduct showed that they could not be safely associated and employed at other prisons, maximum security. The gaols at Dubbo, Narrabri and Broken Hill were for local short-sentenced prisoners.

The other means was classification within the prison, intra-mural classification. It had been in operation since Neitenstein's time. It rested on disposition, likely response to discipline, likelihood of co-operation, the indications of previous record. Attempt was made to identify and assess personal factors which are not revealed by the nature of the offence or the length of sentence, so that the likelihood of rehabilitation might be weighed against the requirements of safe custody. Classification Committee-Professional Strength

The new approach to intra-mural classification was to enlist the resources of the social sciences. In 1950, a Classification Committee was set up. It included an educationist, a psychologist and a trades supervisor. The services of a medical officer and a psychiatrist were available. Case histories were prepared by an Assistant Education Officer. The responsibility of the Committee was to match the prisoner to the institution and to devise a training programme.

An Allocation Centre, writi worksriops and' testing rooms, was tieihg erected. A booklet, "Make Time Serve You", was presented to prisoners in the hope that their thoughts might be turned towards rehabilitation and reform.

Reality required that not all prisoners should be allocated training programmes. There was no point in extending them to the constant, time-consuming parade of short-sentenced prisoners, or to the confirmed recidivists of mature years. They would remain subject to "the older, less developed regime". Berrima Training Centre 1949

In the same year, 1949, the rebuilt Berrima Gaol, which had been unused for forty years and had been gutted by fire, was opened by the Governor with the title "Berrima Training Centre". The high hopes for a new era of rehabilitation come through in the description of the regime of the Centre: "The lives of trainees are filled to capacity with constructive activity, work, education, hobbies and handicrafts, physical training and organized games".

Great advances were hoped for in education and the scientists and professional experts were called in to assist. With the co-operation of Guidance Officers of the Youth Welfare Division, a survey was made of all prisoners at the training centres. Two officers of the Public Library conducted a complete survey of prison libraries. The prisons benefited from the general movement at the time for the expansion of city and municipal public libraries. As a result of public subscription a central technical library was established as a memorial to the late Commissioner of Police, W. J. McKay. Prisoners were given access to the Country Reference Section of the Public Library. After-care Co-ordination

There were proposals for a greatly expanded after-care programme. The general pattern was to be a union of government and private voluntary bodies. It was envisaged that the voluntary bodies would each continue its own work, but that there should be an executive or council to co-ordinate the activities. It was proposed that the Prisons Department should employ a social worker to assess the needs of prisoners three months before their release

was due and that this assessment of need and the best way of meeting it would be channelled through a co-ordinating committee to the most suitable organization.

It was recognized that it would not be possible to provide after-care for all discharged prisoners. Seventy-five per cent of those discharged in the previous year were cases for whom, it seemed, nothing could be done—drunkards, mendicants, vagrants and other city nuisances who would not work and probably, because of deterioration through drunkenness and neglect, could not even if they wanted to. It did not appear that much could be done, either, for recidivists. It seemed best and most practicable to concentrate on first offenders and younger prisoners. The after-care association would work in harmony with the Probation Officers of the Department of Justice, and it was expected that the services of these officers would be particularly valuable to the Parole Board, established under the Crimes (Amendment) Act, 1950.

#### **Further Ameliorations**

It was considered that rehabilitation required that conditions in prisons should approximate those in normal community living. There were some further ameliorations. Beds replaced hammocks, food was served in more hygienic containers of improved appearance, dietary was improved and the style of clothing made less unattractive. Since it was necessary to apply conditions impartially it was recognized that prison conditions would be better for some and worse for others

#### **Increase in Prison Population Higher than Anticipated**

The Report for 1950-51 emphasized the fact that since the prison system was obliged to accept all convicted persons, planning could not be precise. It had been anticipated, for example, that there would be an increase in convictions corresponding to the increase in the general population. But the actual increase was in excess of the prediction and it was found that the daily average prison population had risen independently of the rise in the number of committals. This was a result of longer sentences.

The result of all this was a measure of overcrowding which, as far as possible, was confined to Long Bay, where, because it was a reception prison in which people were held temporarily for classification before being sent to other prisons, the disruption of training and rehabilitative programmes was least.

#### **Prison Act of 1952**

All this inquiry and planning culminated in the Prison Act of 1952, the first and, so far, the only serious and comprehensive attention given by Parliament to the problems of penal policy.

The Act of 1952 repealed the Prison Act of 1899, itself a consolidating Act only, most of whose provisions had come from the Prisons Act of 1940. Prison policy and organization had for over a century been developed administratively and by Regulation under the Acts. Its course is traced through the accretion of additions and amendments to Regulations published at long intervals in consolidated form in the Government Gazette.

In the debates in Parliament it was made clear that the Parliament would not depart from the general policy of leaving the maximum freedom to the department and would avoid unnecessary detail in the Act. Its main intention was to remove some archaic provisions in the Act, some of which had stood since 1940, to remove those which restricted the freedom of the department and to clarify its power to act where this might be in some doubt.

Parliament did incorporate in the Act some provisions previously not covered and left to Regulations and administrative action. Standards of diet and clothing, provisions for the maintenance of health were laid down. There was explicit reference to facilities for educational opportunity. To a large extent the Act caught up and legitimated policies and practices that had grown up administratively. The Minister, however, in presenting the bill, emphasized that it was in administration, not in law, that improvements were to be expected. He expressed great confidence in the increasingly enlightened administrations of recent years. He cited the open prisons, going back to 1914, as a striking advance, and pointed to Berrima as "one of the most remarkable projects of human reclamation in the world".

During the debate a point of view was put forward by the Member for Armidale that has acquired increased relevance, though he was thought unrealistic at the time. He contended that so long as prisoners are confined in an artificial environment remote from society and regarded as social outcasts on release there is little hope of rehabilitation. "When men are grouped in close proximity in a confined, walled space and deprived of all contact with normal living conditions, any reformatory measures that are taken are doomed to failure".

"The conditions of prison life destroy whatever self-reliance the inmates might have, and damage severely whatever shreds of self-respect remain with them".

Current thinking in 1952 is reflected in the classification of prisoners into nine classes:

- (a) unconvicted; (b) appellants; (c) debtors;
- (d) maintenance confinees; (e) short-sentenced prisoners; (f) remediable;
- (g) recidivists;
- (h) intractable;
- (i) homosexual.

It was considered that training was not possible for those classified (a) to (e) and (h). Facilities for recidivists were almost identical in the fields of leisure and vocational training with those for the remediable class. But for recidivists the facilities for education were much inferior.

The classifications "intractable" and "homosexual" have since been discontinued.

Debtors and, with the passing of the Family Law Act, maintenance confinees have pretty well disappeared from prisons.

Development following the 1952 Act

We shall follow through some of the lines of development from 1952-67, under the main heads of education, the influence of psychologists and sociologists, after-care and probation.  
Education

In 1951-52 three major aims were proposed:

- (1) To bring a large group to the stage of functional literacy. It was estimated that thirty per cent of prisoners had scholastic attainments below fourth class level; (2) to provide secondary education classes leading to the Intermediate and Leaving Certificates;
- (3) a significant initiative-to prepare individuals to return to free society with the ability and the desire to make an adequate adjustment. In this the discussion group techniques developed by the Tutorial Class Department of the University of Sydney were used.

By 1956-57 it was claimed that educational services had reached the stage at which they were fully integrated into prison life, but they were conducted after hours and were, therefore, really extra-curricular.

Courses continued to be expanded. By 1965 courses in domestic science, social graces and women's handicrafts were introduced at the State Reformatory for Women. Musical education was introduced at Goulburn leading to examinations conducted by the Conservatorium of Music. An attempt was made to meet the needs of short-sentenced prisoners. At Emu Plains courses lasting one month were introduced in social studies, current affairs, conservation, musical appreciation, art appreciation, horticulture and agriculture.

By 1963 there was a full-time teacher at the State Penitentiary and forty part-time teachers were employed. In 1965-66 it was considered that part-time educational activity had pretty well reached its optimum and there was a case for intensive full-time education. for prisoners at either end of the scale of educational capacity and need.

Late in 1964 a Supervisor of Activities was appointed with responsibility for stimulating and supervising leisure time interests. At about the same time teams from the Berrima and Goulburn Training Centres were entered in Districts Basketball competitions.

#### Development of Psychological Diagnosis and Treatment

In 1961, group counselling was introduced. The technique was based on the belief that people with problems can, under proper direction, get help from other people who have, -or have had the same problems. (0,2149) Word Phrases and Verbs 8;6:(0,20456):(16294,20456):(16294,0):(

The help of the universities was enlisted. The Post Graduate Committee of the Law School of University of Sydney organized, as an evening extension course, a series of lectures on criminology and penology in 1961. A course was instituted at the University of New South Wales leading to a Diploma in Social Studies. A course in group counselling techniques was provided by a psychiatrist.

In 1961, the technique of group discussion was introduced at Emu Plains to provide -opportunities for prisoners within three months of their release to talk over problems of post release adjustment. Discussion groups were organized for homosexual prisoners at -Cooma a year earlier.

The development and leadership of these early discussion groups was undertaken by the parole officers. In 1961, an experimental group included long-sentenced prisoners who had shown the effects of institutional life. They worked in an unstructured setting and leadership was provided by parole officers, psychologists and chaplains. The idea was that the group might examine in depth such matters as:

- (1) The social functioning of members within the prison in meeting the standards required by the authorities in institutional life;
- (2) the nature of the anti-criminal values of free society.

In 1964, the technique of group work was extended to include officers. Officers were trained in the technique of discussion group leadership. Some success was reported in the inculcation of new social and moral values. It was decided to move to a system in which newly received groups of prisoners would be led entirely by uniformed staff. It was hoped that young offenders would be influenced to turn to officers rather than to other criminals for guidance. The subject of the discussions was down-to-earth practical problems of prison life and the relations between staff and prisoners.

#### After-care and Parole

For some years the Department had employed two parole officers who established contact with prisoners in training centres and prison camps and, at the time of their release, worked with the Civil Rehabilitation Committee to find accommodation and employment.

In 1951-52 their duties were:

- (1) Investigation and supervision of certain cases released on special licence;
- (2) placement of and assistance to prisoners discharged from Goulburn, Berrima, Emu Plains and Glen Innes and Tumbarumba Afforestation Camps.
- (3) Counselling men serving terms of imprisonment in personal problems of adjustment.

They were the Government section of the after-care organization. After their appointment the Civil Rehabilitation Committee was appointed and a beginning was made on the establishment of an after-care organization throughout the State.

A third parole officer was appointed in 1956-57. The force of trained parole officers was doubled in 1958. All trained to at least the standard of a Diploma in Social Studies increased to seven in 1959. A Principal Parole Officer was appointed in 1960.

The influence of Parole Officers gradually extended. By 1962 they were members of the Reception Board at the State Penitentiary, and the Principal Parole Officer and Senior Parole Officers were members of the Classification Committee. Individual Parole Officers regularly visited every institution. A parole service was maintained in 470 cases and assistance and counselling was provided for 1 674 prisoners in prison and on release.

In 1967-68, eight trained parole officers were appointed to the Parole Training Unit at the Metropolitan Reception Prison. The position of Senior Parole Officer (Community Work) was created. His duty was to maintain contact with civil rehabilitation committees and other social work organizations and to ensure that the organization gave maximum assistance to the Prison Field Service. A Senior Parole Officer (training) was appointed. The service had grown to the point at which it made for economy of effort to appoint four Parole Assistants for the more routine work, in the past carried by parole officers.

By 1965-66 there were thirteen Civil Rehabilitation Committees. In 1963, a policy was adopted that the committees were autonomous and self-directing in their activities, a government grant being provided to meet operating costs.

A decision was taken in 1968 to merge the Probation and the Parole Services. The then Minister, Mr Maddison, was anxious to have a unified adult corrective service. When this decision was taken the initial staff of seven in 1951 had grown to 100. The annual intake of offenders on probation had grown from a little over 100 to 1 500.

#### Use of Gaols and Building Programme 1943--67

In 1943, a building programme was considered. A decision was taken to rebuild Berrima gaol, the need for a new prison for unconvicted prisoners was mentioned and a decision was taken to build a new prison as part of the post-war reconstruction programme. A need was seen for a new sort of institution to operate between prison and the conditions of normal social life. It was thought that when a prisoner was first placed in employment it would be beneficial if he returned each evening to a hostel where he would be under supervision and where a major endeavour would be made to teach him to use his leisure time to good purpose.

The Berrima Training Centre was opened by the N.S.W. Governor in November, 1949. The old gaol, symbol of coercion, suppression and severity, had been closed in 1909, had been gutted by fire, lain idle for forty years, and had fallen into a dilapidated condition. The new Training Centre was built within the old walls by prison labour, using existing materials. The original stones were re-dressed and re-used. The rebuilding had taken five years.

Work began in 1953 on the extension and remodelling of the old Cooma gaol, to provide for 130 prisoners. This project was completed four years later. It was designed as a special institution for homosexual offenders. These prisoners had suffered because it had been thought difficult to release them to participate in the rehabilitative programme of prison life. Cooma had been designed so that they might have the benefit of education, physical activity and communal living previously denied them.

#### Overcrowding

In 1954-55, the problem of overcrowding in prisons was reported to be serious. The problem had been apparent since the war years, and in 1954--55 the prison population exceeded the accommodation by 500. The increase in receptions since 1950 had been far in excess of predictions. By deliberate policy the overcrowding had been confined to Long Bay, the reception prison. In 1956-57, it was stated that the overwhelming consideration had been the fifty per cent increase in the prison population over the previous two years. Over the previous ten years, additional accommodation had not kept pace with the increasing prison population.

In 1958, there was considerable criticism of overcrowding in prisons, much of it by Members of Parliament. W. C. Wurth, Chairman of the Public Service Board, who maintained a great personal interest in prisons, was moved to make a statement which was put before Parliament. The prison population, he said, had climbed steadily but slowly up to 1955 but the position was felt to be in hand and the programme of renovation and construction was considered adequate. But in the years 1955-57 there were dramatic and unexpected increases, from 2 313 to 2 651 to 3 267.

There was again the problem whether to spread this increase over institutions and so destroy possibilities of rehabilitation, or to concentrate it. Initially the overcrowding was restricted to the reception prisons, Long Bay and Maitland. But continuing pressure forced the department to add to the population of Goulburn, Bathurst and Parramatta. It was the general practice, Wurth said, to allocate one or three prisoners to a cell, never two.

Wurth thought that the explanations of the dramatic increase in receptions might be mainly a hardening of heart by the Judiciary in handing down more and longer sentences and the remarkably high proportion of crimes solved by the police.

J. A. Morony, Comptroller-General 1960

**MEDIA COMMUNICATIONS**

In 1960, J. A. Morony took over as Comptroller-General. His term of office, 1960~68, was notable for a greatly increased emphasis on research and for his expression, in his last year, of a scepticism and disenchantment about prisons and their power to deter or to rehabilitate.

Morony had travelled overseas and had been impressed by the amount of research into penology that went on in the United Kingdom and the United States. It had been remarked in 1922, that New South Wales could not match the research being done in England and America because it had not the general population, the number of institutions and prison population and, consequently, the volume of expenditure to justify it. We have noticed the beginnings of the influence of the psychologists and sociologists in the thirties. In the 1950's the universities began to show an interest. In 1959, the University of New South Wales organized a seminar, "The Conflict between Security and Rehabilitation". Courses in Social Work which led to professional qualifications for parole officers began. The University of Sydney established criminology as a discipline.

Morony reported in 1960 that serious professional research had begun. There were plans for an ambitious project—first to discover the common factors in those who return to prison as against those who do not; and secondly, to try to identify points of environment, intellect and personality common to offenders received into prison. The data were the dossiers of 7 000 prisoners examined by the classification committee over a ten-year period. Though expenditure on research increased greatly in the early 1960's, Morony considered that we were still only taking the first faltering steps in assessing the real value of penal measures.

In 1965~66, the annual reports of the Comptroller-General were in a new public relations style: glossy paper, larger pages and pictures.

**Building Programme**

To cope with this situation a building programme was proposed in 1954-55. The wooden huts at Emu Plains were to be rebuilt in brick by prison labour. A new medium security prison for female prisoners was proposed which would free for other uses the existing women's prison which had a needlessly high provision for security. There were plans for a minimum security institution for maintenance confinees. There were plans to erect buildings outside the walls at Goulburn and Bathurst to accommodate prisoners working on the farm and garden areas. In 1958, the building of a block for unconvicted prisoners at Long Bay was proposed. There were to be new afforestation camps and additions to the capacity of existing camps.

These additions to accommodation were completed one by one. Many of the buildings planned became available by 1961. It was said 1960 was the first year since 1955 that the State of overcrowding was stabilized, though the number of prisoners still exceeded the accommodation available. In 1962, the new State Reformatory for Women was opened. In 1967, the Remand Centre at Long Bay, a major complex for unconvicted prisoners, was opened, and a new medical clinic was established in the Metropolitan Reception Prison.

In 1962 predictions of additional accommodation needed were made. It was estimated that 1 000 additional cells were needed over the subsequent nine years. Morony's Retrospect

In the first of these Morony, apparently on pre-retirement leave, wrote a letter to the Minister, a retrospect. There is in it a tinge of scepticism, not new in the history of ideas about imprisonment, but unusual in the post 1943 era of optimism in New South Wales.

He had served forty-five years in the prison service, eight years as Comptroller-General. He had come into the service, he said, when imprisonment was accepted as one of the lesser forms of punishment, questioned, when it was questioned at all, on the basis of its efficiency as an inflexible and rigorous deterrent. He had witnessed a gradual movement away from those concepts until a serious body of thought had evolved that imprisonment was a very drastic form of punishment and that its concomitant of security detracted from the good it might do.

He had, he said, served through twenty per cent of the time during which imprisonment had been accepted as a primary punishment. He was far from convinced that it was the most appropriate punishment for general application. It was historically new and unjustified by accurate evaluation.

"Imprisonment as a concept", he said, "is not a desirable state for man or animal and it should be carefully justified and not dispensed without careful thought."

He was doubtful whether there existed any useful picture of law enforcement statistics. There were no answers to questions like: what is the effect of imprisonment? or are long sentences justified? He said that we know that imprisoned offenders are not committing offences in prison, and "that is probably all that we do know".

He gave a reminder of the position of the prison officer: "It is seldom realized that prisoners are antisocial persons who rebel against the authority of society itself and that this authority is personalized, whilst they are in prison in the prison officers. It is not to be wondered at, therefore, that emotionally unstable, rebellious criminals, unable to accept the justice of their own sentences nor the wrongfulness of their own conduct, blame the authority figure for their own shortcomings."



COpy OF

**INTERIM RECOMMENDATIONS**

To: His Excellency the Governor,

Sir ARTHUR RODEN CUTLER, V.C.,  
K.C.M.G., K.C.V.O., C.B.E., KSt.}

**ROYAL COMMISSION INTO NEW SOUTH WALES  
PRISONS INTERIM RECOMMENDATIONS**

MAY IT PLEASE YOUR EXCELLENCY:

1. Having been appointed by Your Excellency's command to inquire into and report upon the general working of the Department of Corrective Services of New South Wales, its policies, facilities and practices, I have come to the conclusion during the course of my inquiries that it would be impracticable to examine each and every complaint that has been made to the Commission and still properly investigate the major issues raised in the terms of reference of my Commission in order to recommend any necessary or desirable changes to the general working of the Department. For practicable purposes not only would the requirements of time inhibit such a course but the procedures of a Royal Commission appointed to examine individual complaints; for such matters its procedures are too cumbersome and too expensive.

2. I have, therefore, decided that it is imperative to the future conduct of my inquiry that I should concentrate on the major issues that have been raised for my consideration in the Commission, but this will perforce result in my failing to investigate complaints which not only are very real to those who have made them but their resolution without undue delay is important for the proper and just administration of New South Wales prisons.

3. I do not, of course, myself have the power to do more than investigate and make recommendations on those complaints. Nor for that matter does the Ombudsman, appointed pursuant to the Ombudsman Act, 1974, have the power to enforce any decision he may come to in resolving complaints made to him in relation to the conduct of the officers of the Public Service employed in the Department of Corrective Services.

4. I now propose to make part of the record of the Commission all complaints made to it. These I will accept without sworn evidence in their support as evidence of complaints made which will serve to indicate the issues raised but which will not be accepted as evidence of the facts stated. Generally so far as these are major issues I intend to call direct attention to them and evidence will be called from a selected number of prisoners and others in order to assist me in determining such issues. But as already mentioned, this would leave unresolved many complaints and problems raised by individual prisoners and others who might justifiably have looked to the Commission to investigate these complaints.

5. I do not feel it right that issues raised by individuals whose complaints have been brought properly to my attention should go completely unresolved and that there should be no action taken on them. It is with this in view that I respectfully recommend to Your Excellency the temporary appointment of a person who will examine forthwith these matters which by reasons of practicality I would be unable to examine if I am to give the prompt and due attention to the more general and vital matters raised before me.

6. In recommending that these complaints be examined by someone other than myself, I do not in any way wish to be thought to have depreciated the importance of those complaints, both to the persons who made them and to the subject matter of my general inquiry. Indeed, I accept that complaints which may in isolation appear to be inconsequential in nature often assume great importance in the restricted climate of a prison and that consideration will have to be given in my final report to the adoption of adequate procedures to hear



prisoner grievances. I do not at this stage wish to express any concluded view on these matters. It is a large and complex subject upon which I propose to invite submissions by interested parties before coming to any conclusion. However, I have concluded, from the evidence I have already heard and from an analysis of the nature of the complaints already made, that a great many of the complaints which arise are of a type which could more efficiently be resolved by a far less formal procedure than that which in the circumstances must be applied by me as Royal Commissioner in this Commission.

7. The types of complaint to which I have referred above from prisoners and others appear to fall roughly into three broad general categories:

(a)

Complaints which the person whose appointment I am recommending should be able to resolve by informal discussion and conciliation with and between the prisoners and prison officers concerned and the Department of Corrective Services.

Examples of this type of complaint are those resulting from administrative errors and the failure of the Department to act through oversight or inertia.

Complaints where after investigation the person appointed may find the complaint of a prisoner justified and the conduct of an officer of the Public Service employed in the Department (which includes prison officers) to have been wrong; but that the conduct was not such in his opinion as to warrant a charge against that officer because he or she was merely carrying out a policy decision made by the Department.

An example of such a case would be the decision to remove a prisoner from a minimum secured institution to a more secured institution which decision was found later to have been based on incorrect information obtained from another prisoner and the prisoner removed has not been told of the reason for his removal or given the opportunity to deny the truth of the information upon which the Department acted.

(c) Complaints where the person appointed finds not only that the complaint of a prisoner was justified but also that there has been misconduct by an officer of the Public Service of such a nature sufficient to lay a charge against him.

(b)

8. Many of the complaints falling within the first category are ephemeral in nature and require speedy action. If they had to await hearing before my Commission and even if it was considered practical to continue the hearing of individual complaints, the very lapse of time could destroy the value of their ultimate resolution. They do not in reality require any decision at all, but readily lend themselves to be settled by discussion followed by Departmental action.

9. In relation to those complaints falling within the second category, I do not envisage the person appointed being granted the power directly to enforce his conclusion that a policy decision made by the Department was wrong, for this would be an interference with the working of the Department of Corrective Services which at this stage would be unwarranted. However, as a temporary measure, I think that complaints of this nature could be dealt with adequately by the person appointed being placed in a position similar to that of the Ombudsman under Section 26 of the Ombudsman Act, so that he would be entitled to make a report to the responsible Minister and to the Commissioner for Corrective Services recommending:

- (a) that the conduct found by him to have been wrong be considered or reconsidered by the Department of Corrective Services or by nominated officers of the Public Service employed in that department;
- (b) that action be taken to rectify, mitigate or change the conduct or its consequences;
- (c) that reasons be given for the conduct;
- (d) that any practice relating to the conduct be changed; or (e) that any other step be taken.

Furthermore, as under section 27 of the Ombudsman Act, the person appointed should, if he is not satisfied that sufficient steps have been taken in due time in consequence of a report containing any such recommendations, have power to make a report to the responsible Minister for presentation to Parliament, including a recommendation that the report be made public forthwith.

12. I recommend that the person appointed to investigate the matters that I propose to refer to him with a minimum of formality, for it seems to me that a proper hearing and investigation can be made without any of the procedures more properly used by Courts. There are very many reasons why the Courts are unable to deal efficiently or adequately with complaints such as those to which I have made reference; in my view, the person appointed should hear and investigate the complaints in whatever fashion he thinks most suited to carry out his functions efficiently.

13. I recommend that I be empowered to refer to the person appointed such of the matters of complaint as I think proper for his investigation. He or any investigating officer appointed by him should be obliged to interview each complaint personally in order to elucidate the details of his complaint. I regard this personal contact as a vital element of any such investigation. The person appointed should not proceed by calling upon the Department, or its officers, to investigate and report to him the results of its or their investigation. He should conduct his own investigation and in order to do so should be given by statute the powers given the Ombudsman relating to the investigation of complaints, including the employment of staff, engagement of expert assistance and the availability for his use of the services of any public authority.

10. Finally, in relation to those complaints falling within the third category, I propose that the person appointed be empowered by statute not only to investigate them but also to enforce his decision so far as it concerns the conduct of officers. This would entail giving him the powers now possessed by the Public Service Board to deal with officers of the Public Service employed in the Department of Corrective Services (including prison officers) by Section 56 of the Public Service Act, 1902. I recommend that the decision of the person appointed be deemed to be a decision of the Public Service Board and that there be available an appeal from his decision to the Crown Employees Appeal Board constituted by the Crown Employees Appeal Board Act, 1944.

11. It is clear from evidence which has been given in the hearings of the Commission and the complaints which have been made by prisoners that there exists a considerable mistrust by prisoners and some members of the public in inquiries conducted by the Department, the Public Service and by the Magistracy. Without hearing submissions I cannot endorse the validity of that mistrust, but its obvious existence warrants a recommendation that the person appointed be independent of the Public Service (which includes, of course, the Magistracy). It is for the same reason that I have proposed that in cases of alleged misconduct by a prison officer or other member of the Department that the investigation be other than by way of a Public Service Board inquiry.

14. I have recommended the appointment of some person other than the Ombudsman to investigate the remaining complaints by prisoners and others in preference to a straight out reference of those complaints to the Ombudsman for a number of reasons.

Firstly, because I think that it is important that the person who carries out the investigation be given power to enforce certain of the decisions he reaches. Time already taken in investigating some of the major complaints means that many of the complaints still to be investigated are already stale; further delays caused by the consideration of recommendations or additional proceedings before the Public Service Board will exacerbate that situation. Secondly, following decision of the Supreme Court of Victoria relating to analogous legislation, there exists a doubt as to the Ombudsman's powers to investigate charges of assault against prison officers (see particularly the decision of Lush *I. in Booth v. Dillon* (No. 1) (1976) V.R. 291). Thirdly, I envisage that the hearing by the person appointed of charges of misconduct against officers of the Public Service would be in public. The Ombudsman does not proceed in this fashion. Fourthly, the procedure which appears largely to have been adopted by the Ombudsman in the past in relation to complaints from prisoners has been to call upon the Department to investigate and report to him whereas my proposal requires the actual investigation to be conducted by the person to be appointed.

15. Complaints will continue to be made to the Ombudsman directly by prisoners which he will be called upon to investigate under the Ombudsman Act. If he were to be appointed to investigate also the complaints referred by the Royal Commission he would be in the embarrassing position of being obliged to deal with complaints referred by the Royal Commission in a different way to those coming to him directly from prisoners.

16. I do not intend my remarks to be critical in any way of the Ombudsman or of his procedures. Although there is some similarity in the powers of and the procedures which I suggest should be followed by the person that I recommend should be appointed to investigate the complaints there is the very real difference that, unlike the Ombudsman, the person appointed will be given what I think is the essential power, the power to deal with specified officers.

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MEDIA COMMUNICATIONS

17. It is my view that the appointment should be of a **telJJPODIJ.:** ~ - I ...  
not had the benefit of submissions on or a full consideration of the **questio:n** of a **po** .....  
appointment of such a nature. However, I do feel that at this stage **such an appo -** .....  
is a necessity, for my decision to confine my inquiry because of the time and **expcD5IC** ..... in adopting any other course b  
undesirable ~ ....  
many individual complaints will not properly be ventilated.

**ROYAL COMMISSIONAL** .....  
4th March, 1977.

**APPENDIX J**

This interim report has been allocated page numbers 579/611 inclusive, in these appendices.  
However, to avoid confusion and facilitate reference, the page numbers which appeared on the original report remain unaltered.

**INTERIM REPORT**

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**THE HONOURABLE MR. JUSTICE**

**NAGLE**

**ROYAL COMMISSIONER**

appointed to inquire in respect of certain matters relating to

**NEW SOUTH WALES PRISONS**

TO: His Excellency, The Governor,  
Sir Arthur Roden Cutler,

MEDIA COMMUNICATIONS

V.C., K.C.M.G., K.C.V.O., C.B.E., K.St.J.

MAY IT PLEASE YOUR EXCELLENCY:

Having been appointed by Letters Patent to inquire into and report upon the general working of the Department of Corrective Services, its policies, facilities and practices in the light of contemporary penal practice and knowledge of crime and its causes, and having been requested by the Premier to re-convene the public hearings of the Commission to consider certain matters referred to in that request, I have the honour to present to Your Excellency this Interim Report in relation to those matters.

ROYAL  
COMMISSIONER.

20th December, 1977.

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## INTERIM REPORT

MEDIA COMMUNICATIONS

2. Also on 5th October, Mr McDonald appeared on all four Sydney television channels, and repeated the allegations he had made in the House. At the same time, a woman identified only as 'Frances' was interviewed on television and stated that she herself had paid money to an unnamed person in the Department to procure her husband's transfer from Parramatta Gaol to the Silverwater complex.

8. A number a strictly outside the pre same general subject • terms of reference of 1 the possibility of bn"b Commission would be the possibility of bno.

9. The Comma day appearances were documents relating to Clerk in the Prisoner most of the allegatioes for him. evidence

10. During the statements relating to 1 tendered and received.

### 1. Background

1. On 5th October, 1977, Mr B. McDonald, M.L.A., asked a question in the Legislative Assembly of the Minister Services, Mr Haigh, about a "practice" whereby a prisoner in a high-security gaol might, for a price, procure a transfer to low-security gaol. The price mentioned was \$800. Later that day, the Premier announced that he would be requesting this Commission be re-convened for the purpose of investigating Mr McDonald's allegations.

3. On 6th October, 1977, the matter was again raised in the Legislative Assembly, first by the Opposition Leader, Sir Eric Willis, and later by Mr McDonald. On the latter occasion, Mr McDonald identified the 'Frances' who had appeared on television the previous evening as Evelyne Wilson, the wife of John Wilson, an inmate of the Silverwater Detention Centre. He also quoted from a statutory declaration of Mrs Wilson, in which she referred to two other prisoners, John McIntosh and George Willoughby. Her information in relation to those two prisoners purported to be hearsay only, and to come from information supplied by her husband. That statutory declaration will be mentioned again in this Report.

4. On 10th October, 1977, the Premier requested that the Public hearings of the Royal Commission be re-convened. The Premier's request sought an inquiry into the following specific issues:

- (1) Has any money been paid by Evelyne Wilson to an employee of the Department of Corrective Services on understanding that a prisoner would, in consequence, be transferred from a high-security prison to a low-security prison? and
- (2) Have three prisoners, as alleged by the Member for Kirribilli, Mr B. McDonald, on 5th and 6th October, 1977, been transferred from a high-security prison to Silverwater as a result of the payment of money to an officer or employee of the Department of Corrective Services?

Together with any other matters necessarily incidental thereto.

11. The evidence knowledge of any material witness's role in the events were drawn up were described in the "family tree" form, and the second related to information supplied to them frequently included as Appendix • where each witness fit

5. The three prisoners named by Mr McDonald in Parliament were John Guy Wilson, John Frederick McIntosh and George Peter Wozniacki, alias Willoughby.

### 2. Allegations of 'B' -

12. As indicated to bribery in the Department from the Department

#### (a) Information received

13. Mr McDonald David Gold. Mr Gold friend of Mrs Evelyne of car-stealing on 201 non-parole period of ~ an early conviction, 3 a further period of 10

6. The Commission held a preliminary hearing on 14th October, 1977. At that time, inquiries were under way in pursuance of the Premier's request, and the hearing was adjourned until a date to be fixed.

14. Mrs Wilson indirectly, for her husband These requests were made and was therefore, 11

15. Mrs Wilson have Wilson released having Wilson transferred telephoned Mr Garry difficulties faced by .. direct result of this 11:1 transfer to Silverwater accordingly transferred to Linen Service 11

(d) Following up all information supplied to the Commission by Mr McDonald, whether relating to specific allegations or not. Under this head, every person who was mentioned by Mr McDonald as a possible source of information, and who could be identified and located, was interviewed.

A few refused to give statements. All were eventually called as witnesses, except for three whose statements, by consent, became exhibits before the Commission.

number of the matters which were thus investigated by the Commission were the precise terms of the Premier's request. Nevertheless, they related to the matter as contained in that request, and were clearly within the general of the Commission. It was felt that, having embarked on an inquiry into bribery in relation to the movement of the three named prisoners, the I be adopting an excessively narrow position if it refused to investigate bribery in relation to any other prisoners.

Commission again resumed its hearings on Friday, 11th November. On that --rances were taken, and Paul Richard Genner was summoned to produce certain relating to his financial affairs. It was indicated that Mr Germer, who is Senior the Prisoner Movement Section of the Department, was the person against whom the allegations had been made. Counsel was therefore given general leave to appear. No evidence was taken until the following Monday, 14th November.

During the week commencing 14th November, some 51 witnesses were called, and relating to three others were tendered to the Commission. In all, 102 exhibits were and received.

The evidence of many of the witnesses was very short. Many denied having of any matter which could assist the Commission. For the purpose of clarifying role in the overall pattern of information received by the Commission, docuup and distributed amongst those appearing before the Commission, which in the evidence as "family trees". The first of

these documents showed, in form, the various sources of all the information received by Mr McDonald; related to the information received by the Department; the third related to the supplied by the prisoner Beacroft. Although they were not tendered as exhibits,

referred to during the taking of the oral evidence. These documents are -1111111111 "A" to this Report. They indicate, in a readily accessible form, precisely fits into the general scheme of information obtained by the Commission.

#### **of Bribery**

. As indicated by the three documents in Appendix "A", the allegations relating in the Department came from three main sources, namely from Mr McDonald, Department and from the prisoner Beacroft.

*received from Mr McDonald*

Mr McDonald's first information in relation to these matters came from Alan Mr Gold was a business constituent of Mr McDonald's. He was also a personal Evelyne Wilson and her husband John Wilson. John Wilson was convicted on 20th May, 1977, and was sentenced to two years hard labour with a period of 9 months. At the time of his offence, Wilson was *on* parole following conviction, and his parole was revoked on 10th June, 1977. This meant that he had period of nearly three years to serve. He was sent to Parramatta Gaol.

Mrs Wilson made a number of approaches to the Department, both directly and for her husband to be allowed out on work release, or on weekend detention. uests were refused; Wilson had previously been in the work release programme, therefore, according to departmental policy, ineligible for it on this occasion.

Mrs Wilson also enlisted the assistance of Mr Gold, who tried unsuccessfully to released early on compassionate grounds. He was successful, however, in transferred to the Silverwater Dentention Centre. On 22nd June, 1977, he

Mr Garry Cole, an administrative officer in the Department, and pointed out the faced by Mrs Wilson and her son. Wilson's Head Office file indicates that as a of this representation, Mr Barrier, the Assistant Commissioner, authorized Wilson's Silverwater, for employment in the Parramatta Linen Service. Wilson was transferred on 24th June, 1977. He was subsequently removed from the ParraService and employed on the house staff at Silverwater.



16. From the evidence before the Commission, it is clear that there were strong compassionate grounds for Wilson's transfer; Mrs Wilson's young son, a chronic asthmatic, was suffering both physically and emotionally as a result of his separation from his stepfather, and Mrs Wilson herself was in a state of extreme emotional distress. There is no suggestion that this transfer was anything but legitimate and proper in the circumstances.

17. At Mrs Wilson's request, Mr Gold continued to press the Department for Wilson's early release. To that end, he wrote a letter to the Department on 2nd September, enclosing medical reports relating to Mrs Wilson's son. Approximately one month later, either at the end of September or the beginning of October, Mrs Wilson came to Gold's office and told him that she herself had paid money in relation to her husband. There is some inconsistency in Mr Gold's evidence as to whether she told him the purpose of the payment. In his statement, he indicated that she said that the payment had been for her husband's transfer. However, under questioning from Counsel Assisting the Commission, Mr David Hunt, Q.C., he said that she gave no indication of the purpose of the payment, but he assumed it was for her husband's transfer. Later, in answer to Mr F. S. McAlary, Q.c. (who appeared for Mr Germer), he said he thought the payment was for Wilson's early discharge.

18. According to Mr Gold, Mrs Wilson was extremely distraught and near to hysteria during this conversation. He therefore tried to calm her down, and did not seek to obtain any further details from her until the next day. On that occasion, and it seems on all subsequent occasions, she was extremely evasive about the matter, and refused to say how much money had been paid, or to whom. Indeed, the only witness who said he obtained any information from her apart from vague generalisations was Colin William Anderson, a prisoner at Silverwater. He said that approximately 7 weeks before 5th October, he was talking to Mr and Mrs Wilson at Silverwater, when she told him either that she had paid money or that she had arranged to pay money for her husband's early release. The recipient of this money was said to be Mr Haigh, the Minister for Services. The Commission does not take this allegation seriously. Apart from the inherent unlikelihood of any such arrangement between Mrs Wilson and Mr Haigh, both Mr and Mrs Wilson deny that this conversation took place. In addition, Anderson's evidence, which will be discussed in more detail later in this report, was unsatisfactory in a number of respects.

19. In addition to telling Mr Gold about her own payment, Mrs Wilson also apparently told him about the general rumours which she had heard relating to the payment of bribes to procure the transfer of prisoners. The cases of McIntosh and Willoughby were specifically mentioned. Mr Gold then proceeded to place into written form all the information he had obtained from Mrs Wilson, excluding any mention of her own alleged payment. He said that this was omitted at Mrs Wilson's request, as she wanted to remain out of it as much as possible.

20. The writing thus produced by Mr Gold, and headed "Information supplied to the Honourable Bruce McDonald M.L.A.", is now Exhibit 902. Mr Gold said that he had this document typed on the morning of 5th October, before going to see Mr McDonald at Parliament House. It is clear that there had been a number of previous telephone conversations between Mr McDonald and Mr Gold, as a result of which Mr McDonald had resolved to raise the matter in Parliament. At Mr McDonald's request, both Mr Gold and Mrs Wilson saw him at Parliament House at about lunchtime on 5th October. Mr Gold handed Exhibit 902 to Mr McDonald, and Mrs Wilson apparently told him that she herself had made a payment. She again refused to give any details. As Mr McDonald was pressed for time and had been warned by Mr Gold that it was not in his best interests to make any further inquiries, he did not question her further.

21. It was immediately after this meeting that Mr McDonald first raised the matter in Parliament.

22. Subsequently, on 6th October, both Mr Gold and Mrs Wilson swore statutory declarations which were supplied to Mr McDonald that day. Mrs Wilson's statutory declaration repeated the allegations set out in Exhibit 902, and again omitted any reference to her own alleged payment. Mr Gold's statutory declaration confirmed Mrs Wilson's statutory declaration

insofar as it stated that John Wilson had given him information to the same effect. It also contained certain additional allegations, apparently originating from the prisoner Anderson. These allegations do not concern Mr and Mrs Wilson, and will be discussed in more detail later. These two statutory declarations were apparently in Mr McDonald's possession when he again raised the matter in Parliament on 6th October.

23. On 20th October, 1977, Mrs Wilson was interviewed by investigators appointed by the Commission. A statement was taken, and a number of questions were asked of her, which she answered. This statement and record of interview was incorporated into the Commission's transcript after she swore its contents to be true. The statement contains details of her attempts to obtain her husband's release, and indicates the severe emotional pressure to which she was subjected at the time. In paragraph 15, she admitted telling Mr Gold that she had paid money to have her husband transferred. In paragraph 17 she said that this allegation was not correct, and that she had not paid any money at all. She said that she had subsequently become so involved in this lie that she had been forced to repeat it, both to Mr McDonald and on television.

24. Mrs Wilson gave evidence before the Commission, and repeated that she had never paid money to anyone to procure her husband's transfer or release. She denied telling either her husband or the prisoner Anderson that she had done so. She admitted to having heard about other prisoners paying money for transfer or release, and to having passed that information on to Mr Gold.

25. Three other witnesses gave evidence about the Wilson matter. They were Wilson himself, Colin Anderson and Roy David Foxwell. Anderson's evidence had already been mentioned. Wilson's evidence consisted of a statement and record of interview taken by the Commission's investigators which was later incorporated into the transcript, and oral evidence given before the Commission. In his statement, Wilson said that the first he had heard of his wife's allegations was when he saw her on television on the evening of 5th October. Later that night he had telephoned her and she had told him that the allegation was true. However, more recently, she had visited him at Silverwater and told him that she had been lying.

26. In his evidence, Mr Wilson again said, somewhat reluctantly, that his wife had told him that she had paid money on his behalf. He emphasized that she was under a great strain at the time, and was receiving psychiatric treatment.

27. Mr Foxwell is an Establishments Officer in the Department. In a statement taken by the Commission's investigators, he said that on 20th August, 1977, he was told by his ex-wife that she knew of a woman who had allegedly paid money to have her husband transferred from Parramatta to Silverwater. Genner was named as the purported recipient of this money. The woman was Evelyne Wilson. Foxwell was given her telephone number and asked to ring her. He did so, and apparently had a lengthy telephone conversation with her in which she told him of the various reasons why she thought her husband should be released on compassionate grounds. Foxwell asked whether she had been approached to pay money for her husband's transfer. She displayed ignorance on this matter, and certainly never stated that she had paid money for his transfer or release. The only reference to Genner during this conversation was as a person in the Department who had been helpful to her.

28. Perhaps the most significant aspect of Foxwell's evidence is that there was apparently talk of Mrs Wilson paying money for her husband's transfer as early as 20th August, well over a month before Mr Gold said that she first raised the matter with him.

29. In view of Mrs Wilson's denials under oath that she had paid any money to procure her husband's transfer or release, it would be inappropriate for this Commission to make any finding to the contrary. The only evidence to contradict her sworn denials were her own prior statements, which she consistently refused to elaborate, and which she now says were untrue. Although one may wonder why she would embark upon such a series of lies, and would particularly question why she would need to lie to her own husband, these doubts do not entitle the Commission to reach any finding contrary to the sworn evidence.

30. John Frederick McIntosh was one of the other two prisoners mentioned by Mr McDonald in the Legislative Assembly on 6th October, 1977. McIntosh was convicted on 20th May, 1977, of two charges of break, enter and steal, and was sentenced to two years hard labour, with a non-parole period of six months. He was sent to Parramatta Gaol.

31. While at Parramatta, McIntosh twice applied for work release, and also for "home detention" (known in the Department as "Work Release II"). Both were refused. Like Wilson, McIntosh had been in the work release programme during a previous sentence, and was therefore ineligible for it on this occasion; Work Release II was only available to prisoners serving their first sentence. Also during this period, his wife, Susan McIntosh, apparently telephoned the Department on a number of occasions and made inquiries as to his placement, and particularly about his being placed on work release.

32. In view of possible hardship to his wife, who was expecting a baby shortly, a recommendation was made on 23rd May, 1977, that McIntosh be transferred for employment at the Parramatta Linen Service. He was in fact transferred to Silverwater on 20th June, 1977, the baby having been born on 6th June. Strangely, a further recommendation was made two days after his transfer, apparently upon the assumption that he was still at Parramatta, that he be transferred to Milson Island for employment with the Parramatta Linen Service. This recommendation was never acted upon, as he was already attending the Parramatta Linen Service from Silverwater.

33. There is no explanation for this inconsistency. It may have been due only to a lack of communication within the Department. In all other respects, McIntosh's transfer appears to have been a proper one in the circumstances of his case.

34. The first occasion on which there was any official indication that McIntosh's transfer might have been procured through bribery was on 28th July, when an officer from the Parramatta Linen Service, Alex Patty, rang Mr Foxwell, an Establishments Officer in the Department. Patty told Foxwell that he had received information from a prisoner that he had paid \$800 to get to Silverwater. He later rang back and said that the prisoner's name was McIntosh, but that he did not want to talk about it.

35. However, on 4th August, Patty met Foxwell at the Parramatta Linen Service, and told him that McIntosh would be prepared to discuss the matter. The next day, Foxwell and another Establishments Officer, Navybox, interviewed McIntosh at Silverwater.

36. There is no doubt that at this interview, McIntosh admitted to having arranged for the payment of \$800 to procure his transfer to Silverwater. Each of the three people who were present at the meeting gave essentially consistent accounts of these allegations. McIntosh told them that he had heard from a prisoner at Parramatta, named Bill Rogers, that a person called Coleman (or "Colesman", according to McIntosh), who he thought was a secretary at Head Office, could arrange a transfer to Silverwater on the payment of \$800. He further said that he had arranged for his father to pay the \$800 to a solicitor, Howard Hilton, who would then make the necessary arrangements with Coleman.

37. The context in which this admission was made, however, is very much in issue. McIntosh, in his sworn evidence, denied having ever arranged for the payment of a bribe, and said that he was intimidated by Foxwell and Navybox into telling this story. He said that Foxwell had threatened him that if he did not tell them "a story-any story", he would be sent back to maximum security. Accordingly, he made up a story, using false names. He denied ever knowing a Bill Rogers at Parramatta, or a Colesman at Head Office, and he said that he had hoped there was no one of either name. Howard Hilton had acted for him professionally, and he thought he would "even up" with him for what McIntosh took to be overcharging. There was no factual basis whatsoever for his allegations.

38. In his evidence, McIntosh also denied that he had ever, before or since that meeting, said that he had paid for his transfer. He said that there had been rumours at Silverwater that he must have paid money to get there. He had not denied them, and had even joked about it with other prisoners, and with Mr Patty, although he knew the rumours were untrue. At one time, Patty said to him that any information he could give regarding the payment of a bribe for a transfer could be worth work release. Shortly afterwards, he had been interviewed by Foxwell and Navybox. He said that when they first came to see him, he had thought it was all a big joke.

MEDIA COMMUNICATIONS 39. Not surprisingly, both Foxwell and Navybox denied that they had in any way intimidated McIntosh. They said that at the beginning of the interview, McIntosh appeared nervous and agitated, and that he had later calmed down. His allegations were entirely voluntary.

40. It transpires that there is no "Colesman" in the Department, and that the only

"Coleman" at head office is a typist. There was a prisoner called Bill Rogers who was at Parramatta at the same time as McIntosh, but each subsequently denied knowing each other. Rogers did not give evidence, but his statement was admitted, by consent, as an exhibit. Howard Hilton gave evidence before the Commission, and denied any implication in the payment of money for McIntosh's transfer. The Commission accepts Mr Hilton's denial.

41. In his statement which was incorporated into the transcript, McIntosh said that the weekend after the interview with Foxwell and Navybox, his father visited him at Silverwater. He told his father about the story he had told to Foxwell and Navybox, and asked his father, if questioned about it, to say that he had taken a package and put it on Howard Hilton's desk. This version was supported by McIntosh's wife, although she did not indicate whether she was present during this conversation. However, it was not supported by Mr McIntosh senior. He gave evidence before the Commission in which he said that the first he ever heard on the subject of bribes within the Department was when he heard it mentioned on television. He denied having paid any money on his son's behalf.

42. According to Foxwell, there were two subsequent conversations between himself and McIntosh. On 22nd August, he spoke casually to him at the Parramatta Linen Service, and McIntosh told him that friends of his had taken out a writ against the solicitor, this presumably being a reference to Hilton. Later, during another casual meeting, McIntosh told him that the solicitor had agreed to repay the \$800. Foxwell took it from this that McIntosh had been the victim of a confidence trick which did not involve anyone in the Department. In his evidence, McIntosh denied that either of these conversations took place. Certainly it appears that no writs have been issued against Hilton on behalf of McIntosh, nor has Hilton agreed to return any part of his fees.

43. On 6th October, 1977, McIntosh's name was mentioned in the Legislative Assembly by Mr McDonald as a prisoner who had paid \$800 through a relative, for his transfer to . The allegation was repeated on television that night, and was seen by McIntosh. Apparently the first that McIntosh knew of the allegation in the House. To use his own words he was "pretty wild" about it, and he apparently telephoned the television channel concerned and threatened to sue it.

44. That night, McIntosh also had a telephone conversation with Mr Gold. Apart from the fact that McIntosh was most annoyed, about which they both agreed, there was no conflict between them as to the substance of this conversation. Gold set out his own version in a statutory declaration sworn the next day, 7th October, and later handed to Mr McDonald. According to his version, McIntosh initially retracted all statements relating to money paid for his transfer, but, on being reassured by Gold that his parole would not be affected as a result of his allegations, McIntosh told Gold that a close relative

had offered a substantial amount of money to Paul Genner to procure his, McIntosh's, transfer.

45. In his statement, which was incorporated into the transcript, Gold said that he had mentioned the sum of \$500, but had said that he was not sure how much was although it was a substantial amount of money. According to Gold, McIntosh also when he had been interviewed by Foxwell, he had lied, and had given no evidence in support of his allegations. Gold imputed to McIntosh the intention of procuring the release of Paul Genner, as he was frightened of repercussions within the prison system. In his

statement, Gold said that he had gained the impression from McIntosh that he had denied having anything to do with the payment of bribes. According to Gold, McIntosh said that he

would continue to deny any implication in bribery until he was out, which time he would "spill the beans", he would tell everything".

McIntosh's version of this telephone conversation was quite different. In his he denied having told Gold that money had been paid to Genner to procure. On the contrary, he said that he had denied any implication in bribery, and that about the "bodgy" story which he had told to Foxwell. The denial in his was emphatic, and when he gave evidence he swore that its contents were true

Nevertheless, during his evidence, he was asked whether he had ever told anybody other than Foxwell about a payment made on his behalf. He answered: "Only when this story broke, I told Mr Gold."

47. On the evening of 7th October, 1977, both McIntosh and his wife were separately interviewed by two legal officers from the Department, Messrs Maughan and Considine, in the presence of the Director of Establishments, Mr Nash. Both denied any involvement in bribery transactions. However, it was never put to McIntosh that he had previously admitted such involvement to Foxwell and Navybox. This aspect of the matter will be discussed later.

48. McIntosh's denials that he had ever been implicated in the payment of bribes were supported by both his wife and his father. Both gave evidence and denied having paid money on his behalf. According to his father, McIntosh had no brothers, although there was a step-brother who had not been seen for some years.

49. The first written allegation regarding the payment of money to procure McIntosh's transfer to Silverwater was contained in Exhibit 902, this being the document handed by Mr Gold to Mr McDonald on 5th October, 1977. In this document, the sum of \$800 was specified, and Genner was named as the recipient. A similar allegation was made in Mrs Wilson's statutory declaration sworn on 6th October, and corroborated by Mr Gold's statutory declaration of the same date.

50. It is clear that the source of these allegations was Mrs Wilson's husband, John Guy Wilson, who was then in Silverwater. In his evidence, Wilson did not seek to deny this. However, he asserted that all he had passed on to his wife and to Mr Gold was general gaol tumour. McIntosh himself had never told him that he had been involved in the payment of money.

51. There is a clear conflict between Wilson's evidence on this point and the evidence of Colin Anderson. In his statement to the Commission's investigators, Anderson said that he was present when McIntosh told Wilson that he had paid a sum of money, which he thought was \$250, for his transfer from Parramatta to Silverwater. Anderson said that he himself had spoken to McIntosh about it, and that McIntosh had first told him that his wife had made the payment, but later had said that the money was to come from his father. Anderson said that, less than a fortnight before he gave evidence before the Commission, McIntosh had told him that he was frightened of repercussions from the authorities, and that he proposed to say nothing and deny knowledge of any payments until he was released on parole.

52. One cannot help but be uneasy at the substantial discrepancies and conflicts in the accounts emanating both from McIntosh himself, and from the other witnesses connected with this matter. Nevertheless, a disbelief of McIntosh's denial, even coupled with a disbelief of all the other denials which have been made in relation to his case, does not necessarily provide positive evidence that money was paid to effect his transfer.

53. The finding of the Commission must accordingly be that no bribery has been proved in relation to McIntosh's transfer to Silverwater.

54. The third prisoner named in Parliament by Mr McDonald was George Peter Wozniacki, alias Willoughby. On 15th April, 1977, Willoughby was convicted of a number of driving charges and was sentenced to six months imprisonment. At the time of these offences he was on parole in relation to a 1974 conviction for stealing a motor vehicle. Accordingly, on 22nd April, 1977, his parole was revoked, adding a further twenty months to the time he had to serve.

55. Immediately after his conviction, Willoughby was sent to Parramatta Gaol. From there he made a number of applications for work release and for transfer to Silverwater. He also applied, on 5th July, 1974, for re-parole. In support of each of these applications, he indicated that his wife was expecting a baby in September, and that she was suffering financial hardship. Financial difficulties were also cited as the indirect cause of the commission of his offences.

56. The Parole Board originally indicated that it proposed to consider Willoughby's case on 11th January, 1978. Subsequently it notified Willoughby that the date of review had been brought forward to 5th October, 1977. Although there is no formal notification

on the file, it is 311 in fact met and CIOI the review date WOI

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on the file, it is apparent that the review date was again brought forward, for the Board in fact met and considered his case on 26th August, 1977. This second bringing forward of the review date would appear to have been in response to a request made by Mrs Willoughby.

57. On 8th July, 1977, the Programme Review Committee considered Willoughby's case. It noted that although Willoughby had requested work release, and this had been recommended, his non-parole period had been brought forward, making the time too short for him to join the work release programme. It accordingly recommended that he be transferred to Silverwater, for employment at the Parramatta Linen Service. This transfer took place 10 days later, on 18th July, 1977.

58. As already indicated, Willoughby's case was considered by the Parole Board on 26th August, 1977. On that date it recommended that he be released between 1st and 15th September, 1977, and remain on parole until 30th December, 1978. His file indicates that the Parole Board was not aware of Willoughby's transfer from Parramatta to Silverwater, and its recommendation was originally sent to Parramatta. It was then sent on to Silverwater, where it arrived on the first day specified for Willoughby's release, namely, 1st September. Steps were immediately undertaken to implement the recommendation, and he was released later that day.

59. Willoughby had thus been out of gaol for over a month when Mr McDonald first made his allegations in Parliament.

60. Exhibit 902, the document which was handed by Mr Gold to Mr McDonald on 5th October, 1977, contains this reference to Willoughby:

"We have positive information from John Wilson that George Willoughby, who was serving 6 months (we believe for breaking and entering) in fact served 4 months of his sentence and only 3 days of his sentence for breach of parole. We have no positive information as to the amount of money paid, but Willoughby was released from prison within 24 hours of his wife's visit, for no justifiable reason, causing severe unrest among the other prisoners for preferential treatment."

61. This statement does not precisely indicate that bribery took place in relation to Willoughby, nor does it specify to whom any money was allegedly paid. However, these matters were rectified in the statutory declaration of Mrs Wilson sworn on 6th October, in which she stated:

"I have further been informed that George Willoughby was released from prison shortly after a visit by his wife to Silverwater's Governor ... John Wilson was informed by George Willoughby that payment of a substantial amount of money was made to facilitate this."

62. It is clear that the source of this information was the prisoner Wilson. Initially it came through Mr Gold, later through Mrs Wilson, and subsequently, on 8th October, 1977, Mr McDonald saw Wilson himself. Mr McDonald said, in relation to this meeting, that it was "not a very precise discussion", and Mrs Wilson's statutory declaration was not shown to Wilson. Nevertheless, he said that Wilson confirmed the facts contained in Mrs Wilson's statutory declaration. Mrs Wilson, in her evidence, confirmed that her statutory declaration was truthful in that it accurately set out what she had heard at the time.

63. However Wilson, in his evidence, said that all he had ever told Gold in relation to Willoughby was that it was strange that he was doing a sentence one minute, and the next minute was plucked from his place of work and released. He denied that he had ever mentioned a visit by Willoughby's wife to the Governor of Silverwater. He also denied that Willoughby had ever told him that money had been paid to procure his release, or that he, Wilson, had told his wife that Willoughby had said this.

64. Willoughby made a statement to the Commission's investigators on 25th October, 1977, which was later incorporated into the transcript. In it he denied that his wife had had any personal contact with any prison official at Silverwater. He said that during her visits there she was in his company from the time she entered the gaol until the time she left. He denied that any money had been offered or paid in order to procure his transfer to Silverwater or his early parole. He expressed concern that the publication of his name in relation to these allegations might prejudice his employment possibilities. In his evidence he also denied that he had told John Wilson that money had been paid for his release.



65. Mrs Willoughby was in hospital when her husband gave his evidence, but her statement to the Commission's investigators was admitted into evidence by consent. In it she said that she had written two letters to the Parole Board setting out the problems she was facing, and presumably asking for her husband's early release on parole. She denied that she had had any personal contact with prison officers, or that she had approached or been approached by any person in relation to the payment of money to procure her husband's transfer or early release. She said that the first that she had heard of the allegations of bribery in relation to her husband was when she read it in the newspapers.

66. At the time of Willoughby's release, Mr P. F. Nordstrom was the Superintendent of the Silverwater complex of prisons. He gave evidence in which he denied having anything to do with determining Willoughby's date of release; the decision was one for the Parole Board, and all he did was obey a direction to release Willoughby between 1st and 15th September. He said that he did not know Mrs Willoughby.

67. There is not a scintilla of evidence that Mr Nordstrom was involved in the decision to release Willoughby. The allegation in relation to this matter is rejected in its entirety. The only surprising feature of the Willoughby matter is that an allegation of bribery was made in the first place. It is abundantly clear that it was entirely without foundation.

68. The only other prisoner who supplied information to Mr Gold, and through him to Mr McDonald, was Colin Anderson. It appears that the first contact between Gold and Anderson was by telephone on Thursday, 6th October, the day after the matter was first raised in Parliament. Anderson made a number of allegations which were then reproduced by Mr Gold in a statutory declaration which he swore on the same day. That declaration, together with Mrs Wilson's statutory declaration on the same date, was apparently courierdelivered to Mr McDonald before he again raised the matter in Parliament.

69. The allegations themselves are somewhat imprecise. Anderson apparently told Gold that he had heard from other prisoners, and also had personal knowledge, that Mr Nordstrom was collaborating with an ex-prisoner named "Ned" who acted as an intermediary between Nordstrom and Genner; Anderson believed that the purpose of the intermediary was for joint payments to be made to Nordstrom and Germer, to facilitate the premature movement of prisoners from maximum to minimum security prisons. Anderson was said to be prepared to supply the names of prisoners who had thus been illegally transferred. There was no suggestion made then, nor has there been since, that Anderson himself had ever been involved in the payment of money to procure a transfer.

70. Subsequently, on 8th October, both Mr McDonald and Mr Gold interviewed Anderson at the Parramatta Linen Service. Anderson enlarged on his prior allegations, giving details of two distinct types of illegal prisoner movement, which he said depended on whether the prisoner concerned was a member of the criminal underworld. These allegations were again incorporated by Mr Gold in a statutory declaration which he swore on 13th October, 1977. There is little purpose in repeating the allegations in detail, as they were ultimately shown to be based on mere unsubstantiated rumour. However, it is worthy of note that "Ned" was again mentioned as an intermediary between the prisoner seeking transfer and Paul Genner in the Department.

71. Anderson told Gold that shortly before this meeting, he had received a note which read: "Leave well enough alone Anderson. You will not be warned again." This was handed to Mr McDonald, and later tendered into evidence.

72. Anderson again said that he was in a position to give the names of several prisoners who had been illegally transferred, although he was prepared to name only one person at that meeting. The person thus named was Kevin Davies (which later transpired to be "Davis"), who had been released from Silverwater some time earlier.

73. Anderson subsequently made two statements, one to the Commission's investigators, and the other to the Public Solicitor. Both were incorporated into the transcript. Apart from his references to Wilson and McIntosh, which have already been discussed, he named only one person who had allegedly told him that he had paid money to an officer in the Department to obtain transfers or other privileges. That person was Kevin Davis (or "Davies")



as Anderson described him). He also named three people who were reputed, by gaol rumour, to have been transferred as a result of bribery. One of them, Kevin Holland, will be discussed later in this report. In addition, he mentioned a Ray Brownlowe, whose case will also be dealt with later. This third was quite unsubstantiated.

74. Apart from Wilson, McIntosh and Davis, Anderson said in his evidence that his sources of information had been nothing but rumour within the prison system. Contrary to what he had told Mr Gold, he admitted that he had no personal knowledge of any bribery within the Department. He was unable even to recall the names of any of the people who had told him of these rumours, except for two ex-prisoners, Reaux and Essington-Wilson, who were living interstate.

75. Not daunted by the paucity of reliable informants, Anderson proceeded to name a number of people in the prison system as having received bribes in relation to prisoner movements. These included the Minister, Mr Haigh, Mr Nordstrom, Mr Genner, and several others. Except for the cases of Wilson, McIntosh and Davis, there was not one specific allegation in support of these accusations.

76. The cases of Wilson and McIntosh have already been discussed in this report, as has Anderson's evidence in relation to them. Suffice it to say that there was no acceptable support for his evidence in either case.

77. In relation to Davis, Anderson made very specific allegations. He said that Davis had told him of a "deal" whereby his father had paid to have him transferred to Cessnock, to be near his wife who lived in Maitland. Subsequently, he had been transferred to Silverwater where it was alleged that his father had paid Nordstrom for Davis to have special privileges. Finally, his father was alleged to have paid for his release on parole. Mr Haigh was mentioned in relation to this last alleged payment.

78. Davis gave evidence before the Commission in which he denied all of these allegations. He had in fact been transferred from Long Bay to Cessnock and later to Silverwater, but he denied that any money had been paid in relation to either of these transfers. His release from Silverwater, on 7th September, 1977, took place precisely at the expiration of his non-parole period. He said that his father had helped him to obtain parole by providing him with a home and a job to return to, but no money had been paid for his release.

79. Davis denied having ever told Colin Anderson that money had been paid for his transfer or release. On the contrary, he said it was Anderson who told him about rumours in the gaol system relating to bribery.

80. Mr Nordstrom said that he had never met or spoken to Davis' father. He denied being involved in the taking of bribes for any purpose.

81. Davis' Head Office file was tendered in evidence, and there is nothing in it to suggest that his transfers or his release were anything but normal and proper in the circumstances. The Commission finds nothing suspicious about his case.

82. Accordingly, the information passed on by Anderson, to the extent that it consisted of specific allegations, has not been supported by the evidence. To the extent that it consisted of unsubstantiated rumour, no weight can be attached to it.

83. The allegations dealt with thus far are essentially those which Mr McDonald had before him when this matter was raised in Parliament. They have been discussed in some detail, as they constituted the substantial basis for the re-convening of this Commission.

84. Between the time when the Commission was requested by the Premier to reconvene its public hearings, and the commencement of those hearings, Mr McDonald supplied to the Commission the names of a number of other prisoners and ex-prisoners who were said to have information in relation to this enquiry. In every case, the information was followed up by the Commission's investigators, and the person concerned was called to give evidence before the Commission. In each case, a negative result was eventually obtained. All prisoners who were said to have paid money for their transfers denied doing so; many who were said to have relevant information denied having any knowledge of any relevant matter.

85. These additional allegations supplied by Mr McDonald will be dealt with in this report, but in considerably less detail than the cases already discussed.

86. The first prisoner so named by Mr McDonald to the Commission was Raymond Potts, who sought and obtained legal representation from the Public Solicitor.

87. Potts made two statements, one to the Commission's investigators, and the other to the Public Solicitor, both of which were incorporated into the transcript. It was never alleged that he himself had paid money for any transfer, but he made several allegations, which can conveniently be divided into two categories, the first consisting of matters he heard outside prison, and the second comprising matters he heard while in gaol.

88. Dealing first with the matters he heard outside prison. These consisted of allegations regarding a printing firm which he said published a road safety patrol magazine, and which employed prisoners who were on work release. Potts said he was told that the proprietor of the firm, a man called "Nick", and his off-sider, Mr Wright, would pay for a prisoner who was a "good talker" to be placed on work release, and would then recoup the money from the prisoner's wages. He was not told to whom the money was paid. The sources of this information were said to be three prisoners or ex-prisoners, John Sanderson, Barry Wiley and Danny Feeney (or Pheaney).

89. It transpires that the firm involved in this allegation is Westminster Press, which carries on its business in Lawson Street, Redfern. The proprietor of the firm is Cartwright Holdings Pty Limited, which is jointly owned by Frederick ("Nick") Carter and William Charles Wright.

90. Pheaney could not be located, and therefore could not give evidence to the Commission. However, both Sanderson and Wiley gave evidence, from which it emerged that they had both worked for Westminster Press, although not while they were on work release. Wiley said that a few prisoners on work release were working with the firm while he was there. Both denied any knowledge of the payment of money in relation to prisoners on work release, and similarly denied having told Potts that money had been paid.

91. Both Mr Carter and Mr Wright also gave evidence. They said that they had employed prisoners on work release for approximately six years, and the project had generally been a successful one. They denied paying any money to procure workers for their firm. Neither of them knew Mr Genner.

92. This allegation of Potts' is accordingly found to be completely without foundation. It is only to be hoped that Messrs Carter and Wright have not been deterred by these allegations from continuing to employ prisoners who are on work release.

93. The allegations made by Potts from information received inside the gaol essentially related to three other prisoners, Victor Boyd, John Blaikie and Kevin Holland. According to Potts, he was told by Blaikie, with whom he shared a cell at Parramatta, that the prison bookmaker, Victor Boyd, had offered to arrange his, Blaikie's, transfer to Silverwater on the payment of \$300.00. In order to convince him that the offer was genuine, Boyd had told Blaikie to watch the movement of another prisoner, Kevin Holland. Although Holland was serving a long sentence for rape and other offences, Boyd said that he had paid a substantial sum of money for a transfer, and would shortly be transferred to a camp. He also said this to Potts. Shortly afterwards, Holland was in fact transferred, although Potts could not remember to which camp.

94. This apparently convinced Blaikie of Boyd's power to arrange transfers, and according to Potts, Blaikie later handed Boyd \$300 to procure his own transfer. Potts contributed \$10 towards this sum, in exchange for which Blaikie knitted a dress for his, Potts', child. Blaikie was apparently told that the money would be passed on by a prison officer named Plunkett to Paul Genner, who would then arrange the transfer. When Potts left Parramatta in early April, 1977, Blaikie had still not been transferred, the reason given being that he could not be transferred until his divorce was finalized.

95. There was some inconsistency between the various statements of Potts as to whether he actually saw Blaikie handing the money to Boyd.

96. By the time these all He refused to make a statement while he was out of the State.

97. However, both Blaikie each denied that he had paid or never paid money to Boyd for family the previous Christmas. It that Boyd had told him that or that he had told Potts about him \$10, although he said he of clothes at his home. This, I for him in assisting to obtains

98. A perusal of Blaikie's matta since these events are all which he spent in the Metrope treatment. He was transferred to be returned to Parramatta and pattern-drafting course. It which contained enthusiastic should have paid \$300 only a

99. Mr Plunkett gave evidence and specifically denied being any prisoner.

100. The case of Kevin from Parramatta to Berrima this transfer, and pointed out training centre.

101. Although there is it took place under quite irregular transfer.

102. Holland was originally 1976. His non-parole period October, 1976, he was convicted added to his total sentence, at 1982. Holland had previously at one time been sent to Gra

103. For some reason, at all during his present sentence: eventuate as he was apparent)) explanation as to why no 011 Committee.

104. It appears from (J was incorporated into the first raised by the Superintendent for the Berrima football team at Parramatta as to whether He also asked Holland whether a

positive response. According attendants' course, and as the considered to be a suitable pill

96. By the time these allegations were made, Boyd was serving a sentence in Victoria, refused to make a statement, and was subsequently transferred to the Metropolitan Reception Prison for the purpose of obtaining medical treatment. He was transferred there on 20th April, 1977, and after only five days he applied for transfer to Parramatta as soon as possible so that he could continue his dress-making course. It seems unlikely that the person who made this application, contained enthusiastic details about the projects he was involved in at Parramatta, have paid \$300 only a short time earlier to be removed from Parramatta.

97. However, both Blaikie and Holland gave evidence before the Commission, and denied that he had paid money to procure his own transfer. Blaikie said that he had

paid money to Boyd for any purpose, although he had made some gifts for Boyd's the previous Christmas. In exchange, Boyd had bought some wool for him. He denied having told him that Holland had paid money to be transferred from Parramatta, had told Potts about any such conversation. He also denied that Potts had given \$10, although he said he had given Potts a dress for his daughter out of a collection of clothes at his home. This, however, was in payment for a favour Potts' wife had done him in assisting to obtain evidence for his divorce.

98. A perusal of Blaikie's prison file reinforces his denials. He has remained at Parramatta since these events are alleged to have taken place, except for approximately two weeks he spent in the Metropolitan Reception Prison for the purpose of obtaining medical treatment. He was transferred there on 20th April, 1977, and after only five days he applied for transfer to Parramatta as soon as possible so that he could continue his dress-making

course. It seems unlikely that the person who made this application, contained enthusiastic details about the projects he was involved in at Parramatta, have paid \$300 only a short time earlier to be removed from Parramatta.

99. Mr Plunkett gave evidence in which he denied any knowledge of these allegations, specifically denied being involved in the payment of money to procure the transfer of a prisoner.

100. *The case of Kevin Holland raises some interesting issues.* Holland was transferred to Parramatta to Berrima on 11th February, 1977. He denied paying money to procure his transfer, and pointed out that Berrima was not a camp, but a minimum security centre.

101. Although there is no direct evidence of bribery in relation to Holland's transfer, quite extraordinary circumstances. It appears to have been a highly

102. Holland was originally sentenced to 15 years' imprisonment for rape in February, 1976, and his non-parole period was to expire on 11th August, 1981. Subsequently, on 11th August, 1976, he was convicted of certain other offences, as a result of which 5 years were added to his total sentence, and his non-parole period was fixed to expire on 11th August, 1981. Holland had previously been in gaol, and did not have a good prison record, having

time been sent to Grafton as an "intractable".

103. For some reason, Holland has not appeared before the Classification Committee during his present sentence. He was due to do so on one occasion, but this did not occur as he was apparently required to referee a football match on that day. There is no explanation as to why no other arrangements were made for him to appear before the

104. It appears from Germer's oral evidence and from his record of interview which incorporated into the transcript, that the subject of Holland's transfer to Berrima was raised by the Superintendent of that institution, who told Germer that he wanted Holland to join the Berrima football team. Germer said that he then made inquiries from senior officers

as to whether they thought Holland would constitute a security risk at Berrima.

Holland whether he would like to go to Berrima, and not surprisingly, received a positive response. According to Germer, "Holland was interested in undertaking the boiler course, and as there was a vacancy for a boiler attendant at Berrima, this was to be a suitable programme for the prisoner".

105. It appears from the evidence that the person who made this decision about Holland's programme was Genner himself. Holland's case was never considered by the Programme Review Committee before he went to Berrima. Nor did Germer's superior in the Department, Mr Blomfield, know about Holland's transfer until a few months ago when Holland was already at Berrima. He then spoke to the Superintendent of that institution who said that Holland was doing well. He, did not know that Holland had never been before the Classification Committee until he heard it in evidence in these proceedings. It goes without saying that it is completely outside the ambit of Germer's responsibility in the Department to make decisions of this nature.

106. This case provides a good illustration of how the existing system of classification and prisoner movements can be circumvented. It is not surprising that it provided fuel for Tumours within the prison system that money had been paid for the transfer.

107. Nevertheless, in the absence of any direct evidence that money was paid to procure Holland's transfer, there is no legal basis for the Commission to make a finding that bribery did take place in relation to this transaction.

108. Potts made one other allegation which, in the ordinary course of events, would not be worth mentioning, as it purported to be based only on rumour within the prison system. However, it assumes some significance when considering the association between Germer and Arthur Stanley Smith, a matter which will be discussed in detail later in this report. Potts said: "It was ... common knowledge that if a prisoner did not have the money in gaol but had it outside, it could be arranged for an ex-prisoner, Stanley Arthur 'Ned' Smith to collect it and he would fix up Genner and arrange the transfer." This, of course, is similar to Anderson's allegation about an ex-prisoner named "Ned" acting as an intermediary in bribery transactions.

109. The next information from Mr McDonald related to Robert Lewis Parkin, an inmate of Goulburn Gaol. Mr McDonald first learnt of him through a letter he received from Parkin's mother. She later made a statement to her local police, in which she said that her son had told her that, upon the payment of money, a prisoner could obtain a transfer to a "better" gaol. Mr Germer's name was mentioned, but no prisoners were named.

110. Parkin was interviewed by the Commission's investigators, but refused to say anything except that he had heard rumours in gaol about the payment of money for the transfer of prisoners. In his evidence, he was barely more informative. He said that he had once shared a cell with a Steven Bunch, but denied that he had told Mr McDonald anything about Bunch. He mentioned a prisoner named Carl Synnerdahl, who will be discussed later in this report, and admitted that he had told Mr McDonald about a further prisoner named Alan Honeysett. He understood that someone in Honeysett's family had arranged for his, Honeysett's, transfer.

111. Steven Bunch gave evidence and denied having any information which could 'assist the Commissioner. He expressed some annoyance at being implicated in the matter at call.

112. The prisoner Honeysett also gave evidence before the Commission. In addition to having been mentioned by Parkin to Mr McDonald as a person with relevant information, Honeysett had also written a letter to the Commission in response to the circular sent to prisoners. Further, a welfare officer in the Department, Mr Goldsmith, had made a statement, which was later incorporated into the transcript, indicating that in 1971 he was supervising a visit between Honeysett and his wife when he heard her say to him: "I have contacted the person to whom I have to pay the \$1,000 to get you to Silverwater".

113. Honeysett was reluctant to give evidence before the Commission. He feared repercussions for his family. However, he admitted that an incident such as described by Mr Goldsmith had taken place, except he said that it was in 1973 and the woman was not his wife. (Mr Goldsmith later conceded that he was probably wrong on these matters.) Honeysett said that the amount to be paid was \$2,000, not \$1,000, but to his knowledge the transaction was never completed. He did not know who was to receive the money.

114. As to the allegations contained in his letter to the Commission, Honeysett said that they did not relate to any of the three prisoners named in the Premier's request to re-convene the Commission. He was unable to assist the Commission in any other respect.

118. Fisher gave evidence in which he denied knowing Foxwell, and also denied Beale or anybody else that a friend of his father's was going to help him get work. He said that as far as he was concerned, he went to work release entirely on his own.

115. One of the last persons named by Mr McDonald as a possible source of relevant information was an ex-prisoner named Robert Beale, Colin Anderson's brother-in-law. Beale's statement to the Commission's investigators in which he made no claim to having knowledge of bribery, although he mentioned 5 other prisoners or ex-prisoners as having information relevant to this inquiry.

116. Dealing with these 5 people in turn:

117. The first was Wayne Fisher, who was working with Beale in the garage at Long Bay. They both applied for work release at much the same time. Beale said that a few days before being interviewed in relation to their applications, Fisher spent some time talking to "Foxall". After this conversation, Fisher told Beale that Foxwell and his father had in the Army or the R.S.L. together, and Foxwell was going to help Fisher get work.

Shortly afterwards, Fisher was transferred to Silverwater for work release.

119. Foxwell similarly denied that he knew anybody by the name of Fisher, or that he ever had a conversation with any prisoner such as recounted by Beale.

120. The second prisoner was known to Beale only by his first name, "George". To Beale, he made certain allegations about his wife paying money to Germer, who was still at Long Bay when Beale left. Without further details of this person's case, it has been impossible to follow up the matter, and no weight should be attached to allegations of Beale's.

121. The third person mentioned by Beale was Larry Hilder, who was reported by to have said, in relation to the fact that there were many transfers to Silverwater from Bay printing shop: "Germer favours us print shop boys".

122. Hilder gave evidence in which he denied ever speaking to Beale about Genner. He had not known Genner at that time. He had never heard rumours about the payment of money in relation to the transfer of prisoners.

123. The fourth prisoner named by Beale was John Hyde, who was said to have some reference, in relation to his transfer to Silverwater, about it not being what you know but who you know that counts. Hyde could not subsequently be located, and therefore gave no evidence. No weight at all should be attached to this allegation; it could very well be said in a jocular vein, and in any case it is quite insufficient to constitute support for a finding of bribery in the Department.

124. The last prisoner referred to by Beale was Glen McDonald. It seems he was named by Beale on the relatively flimsy ground that, as he himself had been transferred on a number of occasions, he might have some information in relation to the payment of bribes for transfers. McDonald gave evidence and said he had no information which would assist the Commission. He had heard general rumours about the payment of bribes to prisoner transfers, but knew of no specific cases where this had occurred.

It hardly needs to be said that the following up of Beale's allegations has advanced no further.

126. The last prisoner named by Beale to give evidence who had been named by Mr McDonald was Ferguson. His evidence was less than helpful. He denied having had any contact with and further denied having made any payment in relation to his own transfers. He was left there.

It follows from an analysis of all these cases that the investigation of Mr Beale's allegations has produced no positive evidence of the payment of money in connection with the transfer of prisoners.

*(b) Information received from the Department*

MEDIA COMMUNICATIONS 128. The main source of information within the Department was Mr Roy Foxwell, an Establishments Officer. The duties of an Establishments Officer include the investigation of allegations made by and against prisoners and prison officers, so it is not surprising that Mr Foxwell was already aware of allegations about the payment of money in relation to the transfer of prisoners before Mr McDonald first raised the matter in Parliament. Indeed, Mr Foxwell had already been in contact with both Mrs Wilson and Mr McIntosh, two of the three persons alleged by Mr McDonald to be involved in such transactions.

129. Mr Foxwell, who was assisted during part of his investigations by Mr Robert Navybox, another Establishments Officer, made a lengthy statement to the Commission's investigators. In addition to the cases of Wilson and McIntosh, he mentioned six other matters which had been brought to his attention.

130. The first three matters involved prisoners named, respectively, Brownlowe, Rygram and Krebes. In each case, it was established to Mr Foxwell's satisfaction, that no member of the Department was involved in the transaction. In each case it became apparent that the prisoner was the victim of a confidence trick by another prisoner. In Rygram's case, the other prisoner was charged and convicted of false pretences in the District Court, and Rygram's money was recovered. In Krebes' case, no action was taken because he refused to report the matter to the police.

131. The only one of these prisoners who was called to give evidence was Raymond Brownlowe. In a statement made to the Commission's investigators, Brownlowe said that in 1975 he signed a power of attorney to a fellow-prisoner, Douglas Clift, authorizing him to sell certain of his, Brownlowe's assets. Clift was shortly due for release, and he apparently told Brownlowe that his sister was friendly with a "Mr Silverwater", whom he identified as Mr Nordstrom. Clift said that on payment of \$1,000 he could obtain a transfer for Brownlowe to a minimum security prison. It was as a result of this inducement that Brownlowe gave Clift the power of attorney. Brownlowe said that he now realized that this had been purely a confidence trick on Clift's part, but he did not want to lay charges against him because of possible repercussions from other prisoners. As far as he was aware, no officer in the Department was involved in the matter.

132. The next matter referred to in Mr Foxwell's statement arose out of a conversation he had with a welfare officer at Long Bay, named John Goldsmith. According to Foxwell, Goldsmith approached him on 26th August, 1977, and said that a prisoner had information about money being paid to Paul Germer to procure transfers, although Goldsmith declined to name the prisoner. Three days later, Goldsmith again spoke to Foxwell and told him that the prisoner concerned was Carl Synnerdahl. Foxwell was dubious of Synnerdahl because of his prior prison history, and he told Goldsmith that he would interview Synnerdahl only if he had something "concrete" to report. He had since heard no more about the matter.

133. Mr Goldsmith's version of these conversations was somewhat different. He said that over a period of time he had heard numerous rumours from prisoners and their families indicating that Paul Genner was involved in transferring prisoners "if the price was right". He had asked Carl Synnerdahl to check whether there was any substance in these rumours. Synnerdahl had tried to do so, but had been unable to find any firm proof that bribery was taking place. Goldsmith said that he had then reported this back to Mr Foxwell.

134. Synnerdahl, or "Number 214", as he called himself, confirmed that he had heard rumours about the payment of money to procure transfers, but said that he knew of no specific cases where this had occurred. He would have discussed these rumours with Mr Goldsmith, as he worked with him, and had conversations with him about many rumours.

135. The next portion of Foxwell's statement relates to a matter which will be discussed in considerable detail later in this report, namely the association between Genner and an ex-prisoner, Arthur Stanley ("Ned") Smith. Suffice it to say here that by the end of August, 1977, it was already known to the police that Genner and Smith were associating and drinking together.

136. The final matter mentioned in Foxwell's statement came from his off-sider, Navybox. On 29th September, 1977, Navybox was approached by John Shanley, a prison officer from Milson Island. Shanley told him that he was in charge of sporting activities on the island, and said that a prisoner, Stephen Nittes, had told him that he, Nittes, could



... to have suitable (sporting) prisoners transferred to Milson Island. When asked how, replied: "I know Ned Smith who drinks with Paul Genner, he can

~~arrange for the transfer of suitable prisoners through Smith and . He also, on one occasion, said to Shanley: "Don't worry about~~

137. Both Navybox and Shanley affirmed that this conversation took place. Shanley evidence enlarged on what Nittes had told him. Nittes had said on at least two ns that he could arrange for the transfer of suitable prisoners through Smith and . He also, on one occasion, said to Shanley: "Don't worry about Genner, we have in our pockets".

138. Nittes gave evidence in which he admitted knowing Smith, but emphatically knowing of any association between him and Genner, or telling Shanley of such an

He similarly denied saying anything about having Genner in his pocket.

139. In the light of the fact that Genner and Smith were in fact associating at this it is clear that Nittes' denials cannot be accepted. Neither Shanley nor Navybox had otive to misrepresent these conversations. On the other hand, Nittes was an acknowfriend of Smith's, and may also have been embarrassed at being caught out in what appear to be an act of informing.

140. Nittes' boasts to Shanley assume some significance when one tries to probe the purposes for the association between Smith and Genner. As already indicated, this will be discussed in detail later in this report.

141. Mr Foxwell gave evidence before the Commission and was questioned about of his diary entries which appeared to relate to Genner. Some of these concerned Smith, and will be discussed later. Another showed that as far back as June, 1977, officers in the Department were aware of rumours that Genner was involved in "graft", Mr Foxwell could not recall any details of the allegations made at that time.

142. To sum up the information obtained through Mr Foxwell, it throws some further on the association between Smith and Genner, but it goes nowhere towards proving Genner, or anybody else in the Department, was receiving money for the transfer of

143. Apart from the material obtained through Mr Foxwell, there was one further which emanated from the Department. This related to a prisoner at Parramatta named Gaylor. In about March of this year, Gaylor was overheard, by a prison officer, a visit from his wife, telling her to go and see Paul Genner at head office and to give ,000 and he, Genner, would arrange for Gaylor's transfer. When asked about this

l-nnuprc' >tion afterwards, Gaylor said that his wife would not have a thousand cents, let

thousand dollars, and he had only made the statement to "make a big man" of

144. This information is contained in Exhibit 999, an undated report written by , in which he referred both to the Gaylor matter and to an approach allegedly made by a prisoner named Hanlon. Hanlon apparently offered to pay Genner \$1,000 for transfer of another prisoner from Long Bay to Silverwater. According to Germer's report, offer was emphatically rejected. By the time this matter came to the notice of the Com's investigators, Hanlon had been released and could not be interviewed.

145. Gaylor, however, was still in prison, and he made a statement to the Com's investigators, in which he admitted having a conversation with his wife similar to outlined above. His explanation on this occasion was that he thought that the reference 1,000 would make his wife happy, as she would think he had a chance of getting to a However, he also said that his wife had no money, and if this is correct, it is difficult

see how she be made happy by his telling her that she needed \$1,000 to obtain his transfer a camp.

146. In his evidence, Gaylor at first tried to say that the \$1,000 had nothing to do

his transfer or with Genner; his wife was to keep the money for herself. Later he said \$1,000 was to enable him to lodge an appeal, although he was then forced to concede he knew that if an appeal were lodged, he would have to remain at Parramatta. and be ineligible for transfer to a camp.



147. It is impossible to regard Gaylor as a witness of truth. Nevertheless, there is no evidence that Genner was in fact approached by Mrs Gaylor. Genner said that he was not. Although one may have suspicions about the Gaylor matter, the finding of the Commission must be that no bribery has been proved in relation to it.

*(c) Information received from A. I. C. Beacroft*

148. In response to its advertisements and circulars, the Commission received a number of letters from prisoners purporting to have information in relation to this inquiry. With one exception, this information was of a general nature only, and did not advance the matter any further. The exception was the prisoner Arthur John Charles Beacroft, who wrote to the Commission from Maitland Gaol on 17th October, 1977, asserting that he himself had paid money to Genner in relation to a promised transfer from the C.I.P. to Parramatta.

149. In his letter, Beacroft said that on about 12th March, 1977 (he was uncertain of the date, but said it was a Friday), he spoke to Genner at the C.I.P. and asked him where he was likely to be sent on classification. Genner told him that if he, Beacroft, were to pay him \$100 he would ensure that he went to Parramatta, and if Beacroft could later arrange for Genner to receive a further \$100 at the Richmond Greyhound Tracks, he would be sent to a camp within 12 months. According to Beacroft, Genner said that he had greyhound dogs, which were expensive to feed. Beacroft said that he later obtained \$97 from another prisoner at the C.I.P., which he placed in an envelope. On the Wednesday of the following week, he saw Genner who handed him a book and asked him to "make out" that he was writing in it. Beacroft did this, and placed the envelope in the book. Beacroft said that he discussed the matter shortly afterwards with another prisoner, Haeney, who would have seen the transaction, as he spoke to Genner immediately after Beacroft did.

150. Beacroft's Head Office and prison files were before the Commission. They show that Beacroft was convicted on 9th March, 1976, of a number of charges of break, enter and steal. He was sentenced to five years hard labour with a non-parole period of two years. He was classified for Goulburn, where he went on 20th April, 1976. Apart from two months which he spent at Long Bay for medical treatment, he remained at Goulburn until October, 1976. On 5th January, 1977, he was transferred to Emu Plains Training Centre, from which he escaped on 19th January. He was apprehended the next morning, and was sent to Parramatta. From there he was transferred to Long Bay for classification purposes. On 22nd February, 1977, he was convicted of escaping from lawful custody, as a result of which one year was added to his total sentence, and 3 months to his non-parole period. He appeared before the Classification Committee at Long Bay on 25th March, 1977, and was classified for Parramatta. Genner was a member of that Committee. As a result of its recommendations, Beacroft was transferred to Parramatta on 13th April, 1977. Subsequently, on 9th June, he was transferred to Goulburn, a somewhat eventful journey which will be mentioned later. On 15th July, he was again transferred, this time to Maitland, and finally on 22nd October was transferred to Grafton.

151. In addition to his letter of 17th October, 1977, Beacroft made two statements, one to the Public Solicitor, and the other to the Commission's investigators. Both were incorporated into the transcript after Beacroft swore their contents to be true. In these statements, he said that the payment to Genner took place some time before his Classification Committee met on 25th March, 1977, although there was some conflict as to how long before. During the meeting itself, he said that Genner recommended that he be transferred to Parramatta, and this was accepted by the other members. Genner never approached him about the payment of the other \$100, and when he was transferred away from Parramatta, he felt that he had been double-crossed by Genner. That was why he had come forward with his allegations.

152. Beacroft gave evidence before the Commission, and was closely cross-examined by Mr McAlary on behalf of Mr Germer, who denied the allegations in their entirety.

153. It would not be understating the matter to say that any credibility which Beacroft may have had before the giving of his evidence was destroyed by the end of it. There were already a number of significant inconsistencies between the versions contained in his various statements. His attempts to explain these inconsistencies, and his demeanour generally, were less than satisfactory.

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155. The first relates to the amount of money which was allegedly paid by Beacroft Genner. In his original letter, Beacroft said that the amount was \$97. His statement to the Commission's investigators also mentioned the sum of \$97. However, in his statement Public Solicitor, he said that he had paid exactly \$100, and he specified the precise which went to make up that sum. In his evidence he said that the correct sum was \$97. He contradicted his previous statement as to the notes which went to make up ley, and gave a completely unsatisfactory explanation as to why his Public Solicitor's

156. There was also substantial conflict as to when the money was paid, and how times Beacroft met Genner beforehand. In his original statement, he referred to only tings, the first being on the Friday, when Genner asked him for the money, and the being the following Wednesday, when the money was paid. On Beacroft's reckoning, would have taken place on Wednesday, 16th March. His Public Solicitor's statement indicated that the payment was made on that Wednesday, but said that it was preceded vo meetings, not one. At the **first** meeting, Beacroft asked Genner whether he could be

"m<ff"Ted to Parramatta. Germer expressed doubt, but said it might help if Beacroft's were to telephone him. It was at the following meeting, after Beacroft's mother had telephoned Genner, that the latter promised to get Beacroft to Parramatta on the : of \$200. The payment then took place during the third meeting, and the classification held about a week later.

157. The statement to the Commission's investigators was consistent with neither of In it Beacroft again said that there were two meetings with Genner prior to the of the money, but this time he indicated that the money was paid on the morning classification, namely on 25th March.

158. In his evidence, Beacroft at first confirmed that the money was paid on the ~ of his classification. However, under cross-examination by Mr McAlary, he said the week before. At one point he said that he was sure it was on the preceding that this occurred, and shortly afterwards he said that he was clear that it was on

Wednesday, not the Friday. This was a matter of some significance to Mr Germer, as ew book showed that on the Wednesday, 16th March, he spent the day at Gaol.

159. Perhaps the most telling piece of evidence against Beacroft related to his allega about writing his name in Genner's book. In his original letter and his statement to Commission's investigators, Beacroft said that Genner handed him the book and asked to "make out" that he was writing in it. Beacroft then placed the envelope in the book. 'ever, in his Public Solicitor's statement, Beacroft said that Genner told him to write in book, and that he did in fact write his name and address in it, with a note saying that wanted to go to Parramatta. This was the version which he gave in his evidence, and he repeated on several occasions. He was asked to describe the book, and was then Genner's interview book, Exhibit 990. Although he said that the book he had written a plastic cover which Exhibit 990 does not have, his description of the contents of book precisely fitted Exhibit 990. Moreover, this was the book which Germer carried him when he was interviewing prisoners in the gaols. An analysis of the book shows it contains no writing other than Germer's, nor is there any entry even remotely similar the one described by Beacroft.

160. There are many other conflicts and discrepancies: Beacroft in his original letter that he obtained the money from a certain unnamed prisoner; in his Commission Statehe gave an elaborate story about obtaining \$60 from various prisoners, and winning additional \$37 on the races. Again, in his original letter he said that the payment of i0 was to procure his transfer to Parramatta, and the second \$100 was to obtain his ~sequent transfer to a camp. Later he said that the whole \$200 was for the Parramatta r, and he swore in his evidence that there was no mention of a camp before it was during the Classification Committee's meeting. He also gave conflicting versions as to he obtained Genner's telephone number so that his mother could ring him.



It is possible that Beacroft thought that, if he could convince this Commission, the prison authorities, that his transfer from Parramatta to Goulburn had a result of Germer's illegal activities, he might be able to return to Parramatta. In his mind, it would have constituted a powerful motive for him to fabricate

about Genner,

As already indicated, Genner denied Beacroft's allegations. He said that he spoke once before the meeting of the Classification Committee, but denied ever dismoney with him.

171. In his evidence, Genner said that, far from pressing for Beacroft to go to Parraas Beacroft had alleged, he had opposed it, and had expressed his opposition at the of the Classification Committee. Germer's evidence on this was unconvincing. He supposed reasons for opposing Beacroft's return to Parramatta, matters which to have little relevance to this question. Moreover, it had never been suggested giving of his evidence that he had opposed this transfer to Parramatta. It is that it was not mentioned to the investigators when they questioned him about Beacroft matter. Nor was it ever put by Mr McAlary to Beacroft that Genner had

his return to Parramatta.

172. Whatever may be the truth about the role Germer played during Beacroft's lillll.Oation, Beacroft cannot in any sense be accepted as a witness of truth. His allegations Genner are accordingly rejected.

173. In conclusion, it is clear that there is no evidence from any of the three sources were investigated, to establish that Paul Germer has received any money in exchange transfer of prisoners from maximum to minimum security prisons.

174. This does not mean that the evidence disproved all allegations of bribery. There some matters about which one may well be suspicious. These include the Wilson matter. would Mrs Wilson embark upon such a course of deception, including telling her own that she had paid money for his transfer? They include the McIntosh case, in which appears to have made a number of quite inconsistent statements at different times. ~ the Holland case. Although Holland denied that money was paid for his transfer, help but be suspicious about the circumstances in which it occurred. They also Gaylor matter. Gaylor's inconsistencies and prevarications during the taking of force one to question the truth of his denials. Suspicions, however, do not proof, and these suspicions would not entitle the Commission to make any affirm afinding on this issue.

175. It should be noted in Germer's favour that an examination of the documents he ed relating to his financial affairs revealed nothing out of the ordinary for a person position.

176. However, one surprising fact did emerge in relation to Genner. Germer has clearly an extremely able, efficient and hardworking employee of the Department. An examinaof his diaries and his interview book bears testimony to this. Nevertheless, after 20

of service with the Department, he remains a Grade 1 Clerk, the lowest grade of the Public Service, with a salary to match. Genner was asked why he had not notion, and he said that he was no good at passing examinations. However, it is for some years there has been no examination requirement in order to obtain at least as far as Grade 6. Genner said in his evidence that if he were promoted ie moved away from his present position, and one cannot help but surmise that be one reason why he has not sought any promotion.

177. For a Grade 1 Clerk in the Department, Germer has wielded extraordinary He sits on the Classification Committee, of which he is Secretary, as well as on a of other committees. He considers himself a participating member of these comAlthough he denied ever telling anybody that he himself had the power to authorize transfers, it is clear that many prisoners have gained that impression. Mr Cawley,

Prozrammes Officer in charge at Parrarnatta, said in his evidence that because of Genners power, the Programme Review Committee was appearing to many prisoners to be a

mere mockery. It was Germer who had the authority in their eyes, and any prisoner who was dissatisfied with the Committee's decisions would say: "All right: Next time Mr Genner comes out, I will see him." Mr Cawley felt so strongly about this matter that he and the other members of the Programme Review Committee lodged a written complaint with the Commissioner in July, 1977.

178. The fact that Genner appeared to have such authority may well have been a major reason for his being the target of the rumours about bribery. This was the view of the Prisoner Potts, who thought that the whole thing was a rip-off between prisoners. He said: "It was not much point them saying the Governor or Joe down the road can do it; they had to see Mr Genner, because Mr Genner was the officer who dealt with this sort of thing."

179. This enquiry might have ended there, but for a further matter which came to the Commission's notice during the course of its investigations into the bribery allegations. This related to Germer's association with Arthur Stanley ("Ned") Smith, an ex-prisoner who is also known to be an associate of criminals. An ex-prisoner named "Ned" was alleged by Anderson to act as an intermediary between a prisoner wanting to pay for his transfer, and Paul Germer. Potts made a similar allegation, naming Ned Smith as the ex-prisoner. Nittes carried the matter further by telling Shanley that Smith and Genner drank together.

180. Accordingly, the Commission considered it necessary to embark on a further inquiry into the alleged association between Smith and Genner.

### **3. The association between Smith and Genner**

181. Apart from rumours and second-hand statements about an alleged association between Smith and Germer, the first positive evidence of such an association came from Germer himself, when he was questioned by the Commission's investigators on 4th November, 1977. A substantial part of this lengthy interview was devoted to this subject. Genner said that he knew Smith as a result of Smith's prison sentence, and had subsequently met him on five or six occasions at the most. These meetings had been confined to three places; Eliza's Restaurant at Double Bay, the Royal Oak Hotel at Double Bay and the Kings Head Hotel in the city.

182. According to Germer, the first meeting took place approximately 18 months earlier, as a result of a telephone call he had received from Smith, suggesting that they meet for lunch. Genner said that this call would have been recorded in his official diary. They then met for lunch at Eliza's. The same thing occurred two or three months later. Smith rang and suggested lunch, and they again met at Eliza's. The third meeting took place at the King's Head Hotel in the city, again as a result of a telephone call from Smith. On this occasion they were joined by an acquaintance of Smith's, Kenneth Dearley. Dearley was an ex-prisoner himself, and had a brother who was currently serving a sentence at Milson Island. Germer thought he would have noted this meeting in his diary.

183. The fourth meeting occurred by chance a few months later, when Genner and a friend, Miss Bourke, were drinking at the Royal Oak Hotel at Double Bay. Smith came and sat with them for about three-quarters of an hour.

184. The fifth meeting again consisted of a lunch at Eliza's following a telephone call from Smith to Genner. Germer said that this was the last occasion he met Smith. He placed the meeting in about June, 1977.

185. When asked about the purpose of these meetings, Genner said that there was nothing specific; they discussed general topics such as cars, restaurants, and other matters of general interest. He denied that there had been any discussion about the movement of prisoners.

186. The first witness to give evidence on this subject in any detail was Smith himself.

He gave a history of being released from gaol on parole on 14th March, 1975, having become acquainted with Genner during his last year in custody. He said that he telephoned

Genner for the first time sometime over a year after his release, and suggested that they meet for lunch. Genner told him to ring back later, and Smith said he presumed that Genner was checking to see whether he should agree to meet Smith. This matter assumed major significance later in the evidence. According to Smith, Genner later accepted the invitation, and they met for lunch at Eliza's.

187. Smith was asked to give details of his subsequent meetings with Germer. These were essentially consistent with Germer's account, although Smith placed the order in which the meetings took place somewhat differently from Genner. Smith also gave details of only two lunches at Eliza's, although he said there could have been three. He said that they were the first two lunches at Eliza's.

188. In response to the last two questions asked of him on the first day he gave evidence, Smith said that the last occasion he had spoken to Genner was six weeks earlier, when they met at Eliza's. The next morning he corrected this; he said he had meant to say that it was six months earlier. This might be significant. It was almost precisely six weeks - earlier that Mr McDonald first made his allegations. On the other hand, six months earlier took the meeting back to May, 1977, at much the same time as Genner had said it had taken place.

189. Although Smith said that he and Genner had not met for some months before the giving of his evidence, he could not recall whether they had spoken on the telephone in the meantime. He was extraordinarily unconvincing on this. He said that he had heard of Mr McDonald's allegations only in the fortnight before giving his evidence, and he had been told that his name was linked with these allegations. When asked whether he had contacted Genner to try and find out what it was all about, he said: "I am not sure whether I did or not". This is completely unacceptable, and one can only assume that Smith was "hedging his bets". It leads one to surmise that he possibly did contact Genner during that time.

190. When asked his reasons for contacting Genner in the first place, Smith said: "I just wanted to thank him for treating me pretty decent in the last year and a half whilst I was in gaol". He had no acceptable explanation as to why it had taken fourteen months since his release from gaol for him to make this approach. He said that he "liked and respected" Genner. He also said that their conversation was confined to general subjects, and denied that they ever discussed the movement of prisoners.

191. Smith said that he was presently employed as a salesman. He denied that he had ever collected debts for bookmakers. However, when asked whether he had told Genner that he had done so, he said that it was possible. He was unable to explain how this was a possibility if the fact was that he had never worked as a debt collector. This matter of Smith's employment also assumes some significance in relation to the evidence of Genner.

192. Genner himself gave evidence before the Commission, much of which related to these meetings with Smith. Genner said that he had first met Smith in gaol. In 1975 he had made a statement in Smith's favour to the Parole Board, informing the Board of the assistance which Smith had rendered to a prison officer at Parramatta who was assaulted by a number of other prisoners.

193. Genner admitted that he knew of Smith's record in gaol. Until the last few years of his sentence, it was a sorry record indeed. Smith was known as a standover man in the gaols. He was an object of fear, and clearly had a reputation for violence. This could hardly have been an encouraging beginning for an officer in the Department faced with the prospect of meeting him socially, notwithstanding some subsequent improvement in Smith's behaviour in gaol. Yet Genner continued to meet him, even after learning that Smith was facing a number of additional charges. He admitted in evidence that he knew at the time that Smith was likely to be returned to gaol.

194. According to Genner, when Smith first rang him and suggested they meet for lunch, he went and checked with Mr Barrier, the Assistant Commissioner, to ensure that there was no objection to this. At the time he had thought that Smith might have some information to pass on. Barrier told him it would be all right to go, but to be careful. As it turned out, however, Smith wanted only to have a social outing, and Genner said that he later reported back to Mr Barrier and told him that there was "nothing in it; we just had the lunch and talked and that was it".

195. For some reason, Genner did not tell any of this to the investigators who questioned him in detail about his meetings with Smith only two weeks before the giving of his evidence. One would have thought that it would have been highly significant to him, as it tended to exculpate him from responsibility, at least in relation to the initial meeting with Smith.

196. Genner said that while these meetings were continuing, he had thought there was nothing wrong with them, but he now realized that he had placed himself into a highly compromising position. In this he was not entirely convincing. If he genuinely believed that there was nothing wrong with these meetings, why did he need to consult Mr Barrier before the first one? And if, as he now says, Mr Barrier told him to be careful, why did he not heed these warnings in relation to subsequent meetings? Why did he not report back to Mr Barrier after those subsequent meetings?

197. Genner told the investigators that he was sure that the telephone calls from Smith, and at least some of their meetings, would have been recorded in his official diary. They were not, and he had no real explanation for this. The only entries relating to Smith recorded telephone calls received from him on three consecutive days in January, 1977. None of them resulted in meetings. Although Smith apparently invited Genner to lunch, Genner declined because he was too busy.

198. Genner was asked on a number of occasions why he continued to put himself into such a compromising position by having these repeated meetings with Smith. In one answer, he referred to the Department's aim to rehabilitate prisoners, implying that he was enhancing this aim by his meetings with Smith. This sort of explanation is completely unacceptable, and only serves to throw doubt on Genner's general credibility in relation to his association with Smith.

199. The matter of Smith's occupation has already been mentioned in relation to Smith's evidence. Foxwell, who gave evidence earlier in the week, had the following note in his diary:

"30 March, 1977:

Rang P.G. He reckons Neddie Smith getting round with Kenneth Dearley-big guy who was at Cessnock. Debt collecting. Smith reckons he will beat the gun charge."

200. It was clear from Foxwell's evidence that "P.G." was Paul Genner, Foxwell had telephoned him to obtain information about Smith and his associates. It is apparent also that Genner must have known about Smith's occupation as a debt collector at that time. During his evidence, however, Genner was asked about his knowledge of Smith's employment. Twice he said that he did not know how Smith was employed; that Smith had never told him what he did. Faced with Foxwell's diary entry, he was forced to concede that he may have told Foxwell that Smith was a debt collector, but he could not recall it. Some time later in his evidence, Genner contradicted himself by saying that Smith had told him that he had a salesman-type job with a place at Darlinghurst.

201. A further matter on which Genner shifted in his evidence related to the question of whether he had told Mr Barrier about any of his later meetings with Smith. At first he said that he had only reported the first meeting to Mr Barrier, and had not mentioned any of the later meetings to him. When he was cross-examined on the basis that Mr Barrier recollected a recent conversation, but not one back in 1976, Genner said that he may have mentioned the last meeting to Mr Barrier, but he could not be sure. Shortly afterwards in his evidence, this vague recollection strengthened into a positive recall. Genner said that he was definite that he did tell Mr Barrier in July about his last meeting with Smith.



202. According to Genner, he also had a later conversation with Mr Barrier about Smith. This was after Mr McDonald's allegations had been made public, and "Ned" had been mentioned in relation to them. Genner said that he told Mr Barrier then that he had met Smith on a few occasions, and he was concerned because this might be the "link" referred to in the allegations.

203. Mr Barrier gave evidence in which he said that before 4th November, 1977, he had three conversations with Genner about Smith. They all occurred within a very short time span: it was a matter of a few days or a week between the first and the last. In the first conversation, Genner mentioned only that he had received a telephone call from Smith. He said that Smith just wanted to say hello. A few days later Genner told Barrier that he had received a further call from Smith who wanted to see him. Genner said that Smith would not commit himself over the phone as to why he wanted to meet him, and Barrier said that he and Genner had a discussion about the possible purposes of the meeting. Barrier told Genner to go ahead and make the contact, but to be careful, because Smith was "fairly notorious". Genner "should take care".

204. The next discussion took place the following morning when Genner told him that there was nothing to the meeting. Smith only wanted to say hello.

205. The most significant aspect of Mr Barrier's evidence relates to the timing of these conversations. Mr Barrier said that they took place approximately two months before he gave his evidence. (He gave evidence on 17th November, 1977.) It was before Mr McDonald first made his allegations in Parliament, and might have been as far back as July, 1977, but certainly not in 1976. He further said that it was the first time that he had received such a request from an officer in the Department, so there was no possibility of confusion on his part.

206. There were other discrepancies between Barrier and Genner. Mr Barrier denied that, after Mr McDonald's allegations had been made public, Genner told him that he had been seeing Smith. Mr Barrier was also quite emphatic that, on the occasion when Genner sought his permission to meet Smith, there was no mention of them having lunch together. If there had been, he said, he would have told Genner not to have lunch.

207. It is clear that the evidence of Genner and Barrier cannot stand together. Mr McAlary tried to dismiss their fundamental conflict as a mere disagreement on dates, but this argument ignores the conversation which Barrier said took place between himself and Genner on 4th November, 1977, immediately after Genner's questioning by the Commission's investigators. On that occasion Genner handed Barrier a copy of his record of interview, and asked him if he could recall giving him, Genner, permission to see Smith. Barrier said: "Yes, it was about a month ago." Genner said: "No, further back than that, I have a feeling two months. That is my recollection of it". Barrier said that he would not haggle over the dates, and nothing more was said on the matter. This conversation was not mentioned by Genner in his examination-in-chief. It was only under cross-examination by Counsel for the Department that he conceded that it had taken place.

208. The significance of Mr Barrier's evidence is that, if it is accepted, Genner did not approach him at all when Smith first suggested that they meet for lunch. On the contrary, when Genner first mentioned Smith to Barrier, he had already met Smith on a number of occasions. One might ask why Genner should do this. At that time Mr McDonald had not yet made his allegations implicating Smith and Genner, and it seems strange that Genner should seek permission for a meeting with Smith so late in the day. A possible explanation is that, at that time, as Mr Nash agreed, the "dogs were barking", and it would be reasonable to assume that Genner was aware of this. The goals were rife with rumours about Genner, Smith and bribery in relation to the movement of prisoners, and Genner must have known that an inquiry was inevitable. In order to give retrospective respectability to his meetings with Smith, he approached Barrier on the basis that he had recently heard from Smith for the first time, and sought permission to meet him. Had the inquiry not ensued so shortly afterwards, it is possible that the discrepancy between the times mentioned in their respective versions might have been put down to a mere faulty recollection of dates.

209. If one examines this hypothesis, it leads to a further matter of considerable significance. Both Genner and Smith gave evidence that, on the first occasion when Smith rang Genner, the latter told him to ring back later, although Genner did not mention this to the Commission's investigators. Smith said that he presumed that Genner was obtaining permission for the meeting. If, however, Genner did not obtain Mr Barrier's permission on



that occasion, but raised the matter much later, in the hope that Mr Barrier would not recall the date when it was raised, one is forced to the conclusion that Genner and Smith must have agreed to concoct that part of their evidence relating to Smith ringing back after the first telephone call. This is a very serious matter, and it is not an inference which should be drawn lightly. However, it is an inference which follows almost inevitably if one accepts the evidence of Barrier and rejects that of Germer.

210. The general credibility of Mr Barrier was never attacked during his evidence. The most which Mr McAlary sought to show in relation to him was that he must have been mistaken about his dates. However, the conflict between Barrier and Genner is too fundamental to be attributable to any mere mistake. If Barrier is accepted, then the evidence of Genner falls. Mr Barriers had no motive to misrepresent the situation. He presented as a completely objective witness, with nothing to gain or to lose from any finding the Commission could make. Germer, on the other hand, had everything to lose, and every motive to misrepresent the situation if it tended to incriminate him. When faced with the choice between the evidence of these two men, the Commission has no hesitation in accepting Barrier and rejecting Germer.

211. If Genner had so much to fear in relation to his association with Smith that he found it necessary to concoct a story, with Smith's assistance, about obtaining Mr Barrier's permission for their first meeting, it follows that their association was probably not an innocent one. Quite apart from Mr Barrier's decisive evidence on the matter, it stretches one's credulity to the extreme to accept the proposition put up by both Smith and Genner, that they continued to meet simply because they enjoyed each other's company. In addition, it is difficult to imagine someone on Germer's salary and with his commitments, repeatedly paying for expensive lunches for himself at Eliza's.

212. The finding of the Commission must be that the association between these two men was a sinister one. There is no evidence at all as to what the sinister purpose may have been. Nor is there evidence that Genner made any financial gain as a result of it. However, sinister is must have have been, to have led these two men to continue to meet over a considerable period of time, and then to lie about it before the Commission.

213. The Commission has no power to make any recommendations about Smith. Except that he is on parole, he is outside the purview of the prison system. However, in relation to Germer, the Commission recommends that proceedings be taken against him pursuant to section 56 of the Public Service Act for a breach of discipline, which is defined in subsection (2) of that section to include misconduct and disgraceful or improper conduct.

214. Rule 10 of the Prison Rules provides that an officer shall not associate or communicate with discharged prisoners or their friends except insofar as the proper performance of his duty requires. It is possible, depending on the interpretation of the rules, that this restriction does not apply to officers who are employed at Head Office, even those such as Genner, who regularly attend the gaols. This situation seems most unsatisfactory, and in order to rectify any doubts which may exist in the interpretation of the Rules, the Commission considers that Rule 10 should be amended and expressly made to apply to Head Office staff.

#### 4. The Role of the Department

215. The role of the Department assumed significance in this inquiry in two major respects. These were, firstly, the response of the Department and its senior officers to the rumours and allegations about bribery in the Department and about Germer's association with Smith; and secondly, the procedures adopted within the Department relating to the movement of prisoners. These are quite distinct matters, and will be dealt with separately.

##### *(a) How the Department reacted to rumours and allegations*

216. It is clear that by the time Mr McDonald first made his allegations in Parliament on 5th October, 1977, senior officers in the Department were already aware of a number of allegations involving Genner. Yet no inquiry had been instituted, nor had Genner himself been approached and asked for his version of any of these events.

217. To examine the matter more fully:

218. Foxwell and Navybox had interviewed McIntosh on 5th August, 1977, and been told that money had been paid, through Howard Hilton, to a secretary at Head Office called "Coleman". This information had been passed on to the Director of Establishments, Mr Nash, as had McIntosh's subsequent statement to Foxwell that he was in the process of recovering the money.

219. Foxwell had spoken over the telephone to Mrs Wilson, having previously been told by his ex-wife that Mrs Wilson had paid money to Paul Genner to procure her husband's transfer. Mr Nash had been informed of this matter before Foxwell telephoned Mrs Wilson. He was informed of her subsequent denials.

220. Foxwell had been told by Goldsmith that Synnerdahl had certain information about prisoners paying money to Genner to procure transfers. Foxwell did not follow this up, and probably did not tell Mr Nash about it at the time.

221. Detective Sergeant Rogerson of the C.L.B. had told Foxwell that Genner associated and drank with Ned Smith. This information was passed on to Mr Nash during a telephone conversation on 4th October, 1977.

222. Nittes had told Shanley that he could arrange a transfer of suitable prisoners to Milson Island because Genner drank with Ned Smith. This information was given by Navybox to Nash during the same telephone conversation on 4th October.

223. The report about the alleged approach by Hanlon to Genner, and about the conversation which was overheard between Gaylor and his wife, had been lost. As a result, no further investigations had been made in relation to either of those matters.

224. As far back as March, 1977, Foxwell had heard from a senior Establishments Officer that another senior officer in the Department had said that Genner was "in trouble re graft". By the time Foxwell gave evidence, he could not remember the nature of the alleged graft. As it was not a matter which involved him at the time, he said he would not have told Mr Nash about it.

225. Mr Nash said that during August and September, 1977, there was a notable increase in "suggestions" concerning Mr Genner. Certainly, on 4th October, 1977, Mr Nash was informed, from two quite separate sources, that there was an association between Smith and Genner. He asked Foxwell to thank Detective Sergeant Rogerson for his information, and requested that he pass on any further information he might receive; he told Mr Navybox to make a mental note of what Nittes had said. At that stage, one would have thought that the next step should have been to approach Genner with these allegations. Certainly, it would be fairer to the person involved to give him an opportunity of refuting the allegations. However, Mr Nash said that before he would confront an officer in the Department and ask him about allegations concerning him, he would require more concrete information than he had at the time.

226. Notwithstanding what Mr Nash said, it would appear that the attitude of Mr Nash, and probably many others in authority in the Department, is that any information which comes from a prisoner is prima facie not to be accepted. This also emerges from the way the 1970 incidents at Bathurst were investigated. In the present case, Mr Nash said that although he took Detective Sergeant Rogerson's allegations seriously, he did not believe McIntosh's allegations, and he suspected the information which came from Nittes.

227. It is no doubt true that gaols are "a hot-bed for gossip", as was said during the evidence. However, this does not absolve those in authority in the Department from responsibility for failing to take steps when they must have perceived that a very serious situation was developing. If this had been done, and proper inquiries had been instituted, it may not have been necessary for the Commission to embark upon this costly and largely fruitless inquiry.

228. Even after Mr McDonald raised the matter in Parliament on 5th October, this "blind eye" attitude persisted. On 7th October, 1977, McIntosh was interviewed by two legal officers from the Department, Messrs Maughan and Considine. Mr Nash was also present at that interview. Although he was well aware that McIntosh had previously made allegations

of bribery to Foxwell, neither Mangham nor Considine knew of this. They questioned McIntosh, and obtained his denials, while Mr Nash sat mutely by and never told the questioners, or himself put it to McIntosh, that McIntosh was in conflict with his previous version. He told the Commission that his reasons for this were that Mr McGeechan had, earlier that day, asked him not to impart his knowledge about the bribery matters to anyone, and he was only at the McIntosh interview as an observer. This was an absurd situation, and it leads one to wonder whether the Department really did want to find out the truth of the matter.

229. Although this is not a proper matter for recommendation, it is to be hoped that those in authority in the Department will heed this advice and will take more notice in the future when allegations against an officer in the Department accumulate to the extent that they had against Genner on this occasion.

(b) *The system for moving prisoners*

230. Until very recently, the only person who had power to order the movement of prisoners was the Commissioner himself. This was provided in Section 27 of the Prisons Act. However, by a recent amendment, assented to in September, 1977, the Commissioner was empowered to delegate his powers and functions under the Act, including his powers under section 27, to the Deputy Commissioner, to an officer in the Department, or to a class of officers in the Department specified in the instrument of delegation. With the possible exception of Mr Blomfield, no witness appeared to be aware of this amendment when the evidence was being taken about this matter. It is not clear from the evidence whether the Commissioner has yet exercised his power of delegation in relation to section 27.

231. Mr Blomfield, the Executive Officer (Establishments), who is Genner's immediate superior in the Department, gave evidence in which he outlined the operation of the present system for moving prisoners between institutions. He pointed out that there are many thousands of prisoner movements each year, and it would be impossible for the Commissioner personally to authorise each of them. The requirement in the Act that all movements be authorised by the Commissioner has therefore been circumvented by the issue of a rubber stamp, containing a facsimile of Mr McGeechan's signature. This stamp is kept in the Prisoner Movement Section, and applied by Genner after his superior officers have approved any movement order.

232. According to Mr Blomfield, the situation has evolved whereby six senior officers in the Department have assumed responsibility for authorising the transfer of prisoners. These are: The Deputy Commissioner, the Assistant Commissioner (Administration), the Assistant Commissioner (Industries and Services), the Director of Special Security Units, the Director of Establishments, and himself, the Executive Officer (Establishments). Each movement order under section 27 is prepared by Genner or by one of the junior clerks in the Prisoner Movement Section, and is then sent to Mr Blomfield. He, or one of the other five officers, approves the order, which is then returned to the Prisoner Movement Section. It is then that Genner applies the rubber stamp, and the direction accordingly issues for the transfer of the prisoner pursuant to the order.

233. When the order returns to the Prisoner Movement Section, having been approved by the senior officer, it bears no notation of that fact. As a result, it would clearly be possible for Genner to issue an order himself, having stamped it with the Commissioner's signature, and without having shown it to any senior officer in the Department. Mr Blomfield conceded that this was theoretically possible, but said that there were regular checks within the Department to ensure that there were no irregularities in the issue of movements orders, and that all orders had been previously authorised by senior officers.

234. It is questionable, however, whether these checks are adequate. They consist of spot checks within the Prisoner Movement Section, spot checks by Mr Blomfield during visits to institutions, and periodic checks of all the inmates at particular institutions. This last check is apparently not made in all institutions, and it would only require a knowledge of which institutions were subject to such regular checks on the part of the person making the unauthorised transfer, for the whole purpose of the checks to be nullified.

235. Mr Blomfield said that these checks had never revealed any unauthorized transfer. However, he was unable to explain how the prisoner Holland managed to get to Berrima without going before a Classification Committee. The spot check in his case

clearly did not pick up the fact that he had not been before the Classification Committee. Yet it appears from all accounts of the matter that Holland's case might indeed be one in which the regular procedures were not followed.

236. Notwithstanding Mr Blomfield's assurances that the present system has operated very well, it appears to the Commission that this system which is clearly open to abuse, is quite unsatisfactory. It is extraordinary that a Grade 1 Clerk such as Genner should have power to apply a rubber stamp to a document which will then operate as an effective order for the transfer of any prisoner between any institution.

237. As to how the system can be improved, Mr Blomfield initially said that, with increased staffing and cost, additional checks could be introduced. When it was put to him by Mr Hunt that the Deputy Commissioner might sign the movement order, he said that he had recommended this, but had been told by his superiors in the Department that he was being pedantic. However, it appears to the Commission that far from being pedantic, this is precisely the kind of change which is needed.

238. The solution might be provided by the recent amendment to the Act. If, as Mr Blomfield indicated, the authorization of prisoner movements is in fact undertaken by the six senior officers specified by him, the Commissioner could exercise his newly acquired power of delegation, and delegate to those six officers all his powers under section 27. All prisoner movement orders which thenceforth emanated from the Department would have to bear the signature of one of those six officers. This would completely eliminate the danger, which presently exists, of a junior officer stamping a movement order without any authorization from his superiors.

#### 5. Summary

239. This inquiry had its genesis in allegations made by Mr McDonald in the Legislative Assembly on 5th and 6th October, 1977. The matters raised by him concerned the prisoners John Wilson, John McIntosh and George Willoughby. Subsequently, the Premier requested the Commission to re-convene its public hearings. At that time, the only direct evidence in relation to any of these three matters consisted of statements made by Mrs Wilson, who was interviewed on television on 5th October, and admitted paying money to procure her husband's transfer to Silverwater.

240. Both Mr and Mrs Wilson gave evidence before the Commission in which they denied that any money had been paid to procure Mr Wilson's transfer. A perusal of Wilson's prison files supports these denials, although one may wonder why Mrs Wilson should have embarked on such a course of deception.

241. In relation to John McIntosh, both he and the members of his immediate family denied having been involved in the payment of money to procure his transfer. The Commission is bound to accept these sworn denials, although there are a number of suspicious factors about the McIntosh case. McIntosh himself has made a number of conflicting statements, in some of which he admitted that bribery had taken place in relation to his transfer. There are also significant conflicts between his evidence and that of some of the other witnesses.

242. There is no evidence at all to suggest that money was paid to procure either the transfer or release of George Willoughby, the third prisoner named by Mr McDonald.

243. Mr McDonald supplied the Commission with the names of various other prisoners and ex-prisoners who were said to be in a position to assist this inquiry. Each of these leads was followed up, resulting in the calling of a large number of witnesses. The outcome has been a negative one, in the sense that no further evidence has been produced which could establish an affirmative finding in relation to bribery in the Department. There was only one case which was remotely suspicious. That was the case of Kevin Holland, who was serving a lengthy sentence for rape and other offences. He was transferred from a maximum secured prison to the lesser secured prison at Berrima after serving only a year of that sentence, without ever having appeared before the Classification Committee. Nevertheless, Holland denied that any money had been paid to procure his transfer and, in the absence of any firm evidence to the contrary, the Commission is bound to accept his sworn denial.

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244. The person who was allegedly implicated in the majority of rumours and stories about bribery in the Department was Paul Genner, the Senior Clerk in the Prisoner Movement Section.

245. The Department was asked to produce to the Commission records relating to all Departmental investigations into allegations similar to those made by Mr McDonald. No evidence of any substance was uncovered as a result of these inquiries. They did, however, indicate that some officers in the Department were aware of rumours and allegations involving Genner well before Mr McDonald made his allegations in Parliament. They were also aware that Genner was associating with an ex-prisoner, Arthur Stanley ("Ned") Smith.

246. The only person who claimed to be directly involved in the payment of bribes to Genner was A. J. C. Beacroft. His allegations were first made in a letter to the Commission in which he said that he paid Genner \$97 in March, 1977, in order to procure his transfer to Parramatta. Subsequently, he made two further statements, one to the Public Solicitor, and the other to the Commission's investigators. There were marked discrepancies in a number of important matters between the versions contained in these three different accounts. Beacroft gave evidence before the Commission in which, far from resolving these discrepancies, he created more. He gave quite unacceptable explanations for the conflicts between his various versions. His demeanour was less than satisfactory.

247. No reliance at all could be placed upon Beacroft's allegations, and they were accordingly rejected.

248. An examination of documents produced by Genner in relation to his financial affairs has revealed nothing untoward for a person in his position.

249. During the course of the evidence, it became clear that Genner had formed an association with the ex-prisoner "Ned" Smith, who was named in some of the bribery rumours as a go-between for Genner. Genner admitted meeting Smith on a number of occasions between May, 1976, and June, 1977. He and Smith both gave essentially consistent accounts of how and when these meetings took place. They both said that they were purely social meetings between two people who liked and respected each other. The movement of prisoners was never discussed.

250. Genner gave evidence, which was corroborated by Smith, that on the first occasion when Smith invited him to lunch, in about May, 1976, he, Genner, sought permission from an Assistant Commissioner, Mr Barrier, to meet with Smith. Mr Barrier gave evidence from which it became clear that Genner had never mentioned Smith to Barrier until he purported to seek permission for a meeting with Smith late in 1977. Unlike Genner, Barrier presented as an objective witness who had nothing to gain or to lose from any finding of the Commission. Faced with an irreconcilable conflict between the evidence of the two, the Commission had no hesitation in accepting Barrier's version and rejecting Genner's. The significance of this is that Genner must have realized, late in 1977 and before Mr McDonald first made his allegations, that the rumours about him were reaching such a pitch that an investigation was inevitable. In an attempt to give retrospective respectability to his meetings with Smith he then approached Mr Barrier, purporting to seek his permission for a meeting with Smith. By that time, of course, he had already had a number of meetings with Smith over a period of at least one year. A further matter of great significance is that, as Genner and Smith both gave consistent accounts on this matter, which were shown by Barrier to be false, they must have agreed to concoct that part of their evidence. This is not an inference which should be drawn lightly, but it is an inevitable one if the evidence of Mr Barrier on this matter is accepted.

251. The findings of the Commission is that the association between Smith and Genner must have been a sinister one. The Commission recommends that proceedings be taken against Genner under section 56 of the Public Service Act.

252. As to the role of the Department, despite the fact that senior officers in the Department were already aware of a number of rumours and allegations about Genner before Mr McDonald first made his allegations in Parliament, no proper investigations

had been instituted, nor had Genner been questioned about any of these allegations. Although it is not an appropriate matter for recommendation, the Commission hopes that the Department will be more vigilant about such matters in the future.

253. It is also clear that the existing system for authorizing the transfer of prisoners between institutions is inadequate in that it is open to abuse by a person in Genner's position. A fundamental change in procedure is required, and the Commission recommends such a change whereby a senior officer in the Department should personally sign all prisoner movement orders.

**6. Recommendations**

254. The Commission makes the following recommendations:

(1)

That proceedings be taken against Paul Richard Genner pursuant to section 56 of the Public Service Act for breach of discipline;

that Rule 10 of the Prisons Rules be amended so that it expressly applies to officers of the Department employed at Head Office; and

That the existing procedures for authorizing prisoner movements should be terminated, and that the following procedures should be adopted in their place. All senior officers in the Department who now approve the movement of prisoners should be empowered by the Commissioner under the new section 48D of the Prisons Act to authorize such movements. Thenceforth, all prisoner movement orders which emanate from the Department should bear the personal signature of one of those officers. No rubber stamps containing facsimile signatures should be used for this purpose.

(2)

(3)











**BIBLIOGRAPHY  
REPORTS**

**Canada-**

- National Advisory Network on Correctional Manpower Planning Training and Development. The Carleton University Study. Ontario, June, 1976.
- National Advisory Network on Correctional Manpower Planning Training and Development. Policy Reports 1 and 2. The Carleton University Study (197 ).
- National Advisory Network on Correctional Manpower Planning Training and Development. Research Reports 2 and 3 (197 ).
- Quaker Committee on Jails and Justice. Submission No. 24 to the House of Commons Standing Committee on Justice and Legal Affairs. Sub-committee on the Penitentiary System in Canada, 1977.
- Report of the Commission of Inquiry into events at the British Columbia Penitentiary. June 9-11, 1975. Public Affairs Division of the Canadian Penitentiary Service and the National Parole Service. Ottawa, 1975.
- Report of Inquiry Milhaven Incident. 3rd November, 1975, Ottawa, 1976.
- Report of the Canadian Committee on Corrections. Toward Unity: Criminal Justice and Corrections. Ottawa. March 31, 1969.
- Report of the Royal Commission to Investigate the Penal System of. Canada. Ottawa, 1938.
- Report to Parliament by the Sub-committee on the Penitentiary System in Canada. Mark MacGuigan, Chairman. Second Session of the Thirtieth Parliament. Ottawa, 1976-1977.
- Solicitor General. The Role of Federal Corrections in Canada. Report of the Task Force on the Creation of an Integrated Canadian Corrections Service. Ottawa, 1977.
- Solicitor General. Report of the Task Force on Community based Residential Centres. Ottawa, 1972.
- Solicitor General. Report of the National Advisory Committee on the Female Offender. Public Affairs Division of the Canadian Penitentiary Service and the National Parole Service. Ottawa, 1977.
- Solicitor General. Report of the National Advisory Committee on the Female Offender. Selected Statistics. Ottawa, Spring 1977.
- Solicitor General. Report of the Study Group on Dissociation. Ottawa, 1975.
- Solicitor General. Report of the Commission of Inquiry into certain disturbances at Kingston Penitentiary during April, 1971. Information Canada. Ottawa, 1973.
- Solicitor General. Report of the Working Group on Federal Maximum Security Institutions Design. Ottawa, November 30, 1971.
- Solicitor General. The provision of Medical and Health Care Services to Inmates in Federal Penitentiaries. The Second Report of the National Health Services Advisory Committee to the Commissioner of Penitentiaries. Ottawa, 1975.
- Solicitor General. Response of the Solicitor General to the Parliamentary Sub-committee. Report of the Penitentiary Committee in Canada. Minister of Supply and Services. Ottawa, 1977.
- Canada-Ontario--**
- Hinkling-Johnson "Review of Industrial Activity" prepared for Ministry of Correctional Services, Scarborough, 1972.



- Home Office. Penal Practice in a Changing Society. Aspects of Future Development England and Wales. London. H.M.S.O. 1959. Reprinted 1963. Cmnd. 645.
- Home Office. Report of the Work of the Prison Department. 1976. London, H.M.S.O., July, 1977. Cmnd. 6877.
- Home Office. Prisons and the Prisoner. The Work of the Prison Service in England and Wales. London, H.M.S.O., 1977.
- Home Office. Report of the Prison Department, 1976. Statistical tables. London, H.M.S.O., July, 1977. Cmnd. 6884.
- Home Office. Report of the Inquiry into Prison Escapes and Security by Admiral of the Fleet the Earl Mountbatten of Burma. London, H.M.S.O., December, 1966.
- Home Office. Absconding from Open Prisons. Home Office Research Studies. London, H.M.S.O., 1975.
- Home Office. War Against Crime in England and Wales, 1959-64. London, H.M.S.O., Cmnd. 2296.
- Home Office. Report of the Advisory Council on the Treatment of Offenders. The Organization of After-care. London, H.M.S.O., 1963.
- Home Office. Report of the Advisory Council on the Treatment of Offenders. The After-care and Supervision of Discharged Prisoners. London, H.M.S.O., 1958.
- Home Office. Report of the Committee on Administrative Tribunals and Enquiries. Presented by the Lord High Chancellor to Parliament, July, 1957. London, H.M.S.O., Cmnd. 218.
- Home Office Working Paper: A Review of Criminal Justice Policy. London, H.M.S.O., 1976.
- Home Office. Prisons and the Prisoner. The Work of the Prison Service in England and Wales. London, H.M.S.O., 1977.
- NACRO Annual Reports, 1976-1977, London.
- NACRO. Parole, the Case for Change by Paul Cavadino et al. London, Barry Rose Ltd, 1977.
- Report from the Departmental Committee on Prisons (1895); Chairman, the Right Honourable H. 1. Gladstone, M.P.
- Royal Commission into Capital Punishment. 1949-1953. Report 1953. Chairman, E. A. Gowers. London, H.M.S.O., Cmnd. 8932.
- New **South Wales--**  
*N.S.W. Department of Corrective Services Reports--*
- Accommodation survey of all establishments. October, 1972-April, 1973.
- Accommodation survey. December, 1976. Research and Statistics Division. March 2, 1977. Accommodation in N.S.W. Prisons. June, 1977. Research and Statistics Division. 10th June, 1977.
- Annual Reports, 1970-1977.
- Background of Women in Prison (September, 1975) Research and Statistics Publication No.7.
- Background material on N.S.W. Corrective Services for the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Toronto, 1st-12th September, 1975. Sydney? 1975.
- Bathurst. A comparison between Bathurst prison populations, July, 1971, and February, 1974. Research and Statistics Division, March, 1974.
- Census of Prisoners, 1974. Aborigines in Prison. Research and Statistics Division. Publication No. 11, Sydney.
- Census of Prisoners, 1974. Prisoners' Social Background, Research and Statistics Division. Publication No. 12, Sydney.

Census of Prisoners, 1974. Past Criminal Aspects. Research and Statistics Division.  
Publication No. 13, Sydney.

Census of Prisoners, 1974. Prisoners' Current Criminal data. Research and Statistics  
Division.  
Publication No. 14, Sydney.

Census of Prisoners, 1974. Prison Experience. Research and Statistics Division. Publication  
No. 15, Sydney.

Census of Aborigines in Custody on 14th November, 1974. Research and Statistics Division.  
28th November, 1974. Sydney.

Census of Aborigines in Custody on 10th June, 1976. (Preliminary figures.) Research and  
Statistics Division. 6th September, 1976. Sydney.

Cessnock Corrective Centre. Staff Survey. 1974, Stage 1. Research and Statistics Division.

Cessnock. Distribution of violent offenders at Cessnock compared with other  
establishments.  
Research and Statistics Division. October 13th, 1976.

Directory of Corrective Services, 1977.

Effects of decriminalization upon time spent by prisoners in custody. Research and Statistics  
Division. September, 1976.

Escapes Study, 1970. Study of escapes from gaols from 1st January to end of November,  
1970.

Escapes Study. Study of escapes from July, 1974, to December, 1975.

Escapes Study. Summary of escapes, July, 1974-April, 1977. Research and Statistics  
Division. 31st May, 1977.

Evaluation of two performances for prisoners. Presented by Clare Dunn and funded by the  
Australian Council for the Arts. Research and Statistics Division. March, 1975.

Female Recidivist. Sydney. November, 1975.

General Information Booklet. Historical background (197 ). Information Manual for N.S.W.  
Prisoners (197 ).

Overtime. Hours worked by custodial and industrial staff in 4 weekly periods from 20th July,  
1967, to 15th June, 1972.

Overtime. Report and overtime incurred by prison officers between August, 1972, and  
January, 1973.

Overtime study. September, 1973-June, 1974. Research and Statistics Division. 23rd August,  
1974.

Overtime. Report on overtime incurred by prison officers over the two year period between  
July, 1974, and June, 1976.

Parole trends and revocations. A descriptive study. Research and Statistics Division. January,  
1975, 1976.

Persons detained at the Governor's Pleasure. January, 1977. Research and Statistics Division.  
January, 1977.

Project Survival. Almost three years of operation. Research and Statistics Division.

Role of the Psychologist in N.S.W. Corrective Establishments. September, 1974. Internal  
Report.

Recreational Activities. Questionnaire Study. Research and Statistics Division. January,  
1975. Social Atmosphere of the Women's Prison. Research and Statistics Division.  
Publication No.8 (197 ).

Study of escapes from January to December, 1976. Study of the Bathurst prison population,  
1971.

Survey of posts and staff utilization in Corrective Establishments. Research and Statistics  
Division. 6th December, 1973.

Survey into the incidence of speech impediments on 19th December, 1974. Research and Statistics Division, 29th January, 1975.

Uniform survey, 1971.

Uniform survey, 1974.

Views on periodic detention of prisoners, 1973. Research and Statistics Division.

Work Release on parole. A study of men released from work release between 1st July, 1973, and 31st December, 1975.

Law Foundation of N.S.W.: Working papers on alternatives to imprisonment. Ombudsman. 1st Report, 30th June, 1976.

Parole Board Report for 1975. Government Printer, Sydney, 1977.

Public Service Board. Inquiry into incidents involving four prisoners at the Central Industrial Prison on 15th October, 1973, and other matters: Report. Sydney, 1974 (Lewer Report).

Report of the N.S.W. Working Party on the Prisons Act, 1952, and the Regulations and Prison Rules (The Hon. Mr Justice J. H. McClemens, Chairman). Sydney Government Printer, 1975 (N.S.W. Parliamentary Paper No. 100 of 1974).

#### **Northern Territory (Aust.)-**

The Legislative Council for the Northern Territory. Report from the Select Committee appointed to inquire into Prisons and Prison Legislation. 1974.

#### **South Australia-**

Criminal Law and Penal Methods Reform Committee. First Report: Sentencing and Corrections. Adelaide, Government Printer, July, 1973 (Mitchell Report).

#### **Tasmania-**

Prisons Administration Inquiry, 1977. Report of the inquiry commissioned to inquire into the Administration of the Prisons of Tasmania and what improvements might reasonably be made to improve conditions for Prison Officers and Prisoners. Judge Grubb of South Australia Commissioner. Hobart. Government Printer, 1977.

#### **United Nations-**

Prevention of Crime and the Treatment of Offenders. International Review of Criminal Policy.

First Congress on the Prevention of Crime and the Treatment of Offenders. Geneva. 22nd August-3rd September, 1955. Report prepared by the Secretariat. United Nations Department of Economic and Social Affairs. New York, 1956.

Third Congress on the Prevention of Crime and the Treatment of Offenders. Stockholm, 1965.

Fourth Congress on the Prevention of Crime and the Treatment of Offenders. Kyoto, Japan, 1970.

Fifth Congress on the Prevention of Crime and Treatment of Offenders. The Treatment of Offenders in Custody or in the Community, with special reference to the implementation of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations. (Toronto, Canada, 1st-12th September, 1975.)

Training of Social Defense Personnel, both in the developed and the developing countries. (No. 24) 1966.

Prevention of delinquency in the context of national development. (No. 25) 1967.

Implementation of the standard minimum rules for the treatment of prisoners- other aspects of institutional treatment. (No. 26) 1968.

New tasks and orientations of the policy for the prevention and control of crime in its relation to social and economic change. (No. 30) 1972.

**United States-**

Attica. The Official Report of the N.Y. State Commission on Attica. N.Y. Praeger, 1972.

Chairman: R. M. McKay.

California Department of Corrections. Status Report, 1975.

Federal Parole Commission and Reorganization Act Conference Report.

February, 1976. National Advisory Commission on Criminal Justice Standards  
and Goals. Community Crime

Prevention. Washington D.C. U.S. Government Printing Office (197 ).

National Advisory Commission on Criminal Justice Standards and Goals.  
Corrections.

Washington D.C. U.S. Government Printing Office, 1973.

National Advisory Commission on Criminal Justice Standards and Goals.

Criminal Justice System. Washington D.C. U.S. Government Printing  
Office, 1973.

National Advisory Commission on Criminal Justice Standards and Goals. Police.

Washington D.C. U.S. Government Printing Office, 1976.

Task Force Reports. The President's Commission on Law Enforcement and Administration  
of Justice titled "The Challenge of Crime in a Free Society".

The Police. The Courts. Corrections.

Juvenile delinquency and youth crime. Organized crime.

Science and technology.

Narcotics and drug abuse. Washington D.C. U.S. Government Printing Office,  
1967.

Task Force Reports. Law Enforcement Administration. National Institute of Law  
Enforcement and Criminal Justice. Grievance Mechanisms in  
Correctional Institutions.

Washington D.C. U.S. Department of Justice, September, 1975.

**Victoria (Australia)-**

Department of Prisons. Fairlea Female Prison. Melbourne Government Printer, 1974.

Overseas **Brochures and Pamphlets**

**Canada-Federal-**

Canadian Penitentiary Service Organization Charts (197 ).

Canadian Penitentiary and National Parole Services. Public Affairs Division.

Inmate training -booklet. Reprinted, 1977.

Canadian Public Affairs Division. A better way-returning to society.

Reprinted, 1977. Canadian Public Affairs Division. Meeting the  
challeng~temporary absence. Reprinted, 1977.

Canadian Public Affairs Division. Returning to Society. Reprinted, 1977.

Canadian Public Affairs Division. Mission Institution. Medium Security Institution Mission,  
British Columbia, 1977.

Canadian Public Affairs Division. Industrial Change in CPS.

Reprinted, 1977. Correctional Investigation. Annual Reports,  
1973-1976.

Inspectors Manual No.5. Adult Institutions (197 ).



Maplehurst Education Centre. Student Handbook. Ontario Correctional  
Institutions, 1977. Parole-Mutual agreement programming: An overview.  
What is it? How does it work?  
What is its impact? What is its future? Corrections Project, 1974.

Programming in federal corrections (197 ).

Provision of medical and health care services to inmates in Federal Penitentiaries (197 ).

Solicitor General, Canada. Penitentiaries Parole, 1976.

Solicitor General, Canada. Living Unit Programme Information booklet. July, 1972. Solicitor General, Canada. Annual Reports, Canadian Royal Mounted Police, 1974-1976. Sweburg, Randy B.: Physical Education and Recreation in the Canadian Penitentiary Service.

Recreation Physical Education, 30th April, 1977.

#### **Canada-Ontario-**

Brampton Adult Training Centre-Programme structure (n.d.).

Careers in Corrections (n.d.).

Correctional Education in Ontario (n.d.).

Correctional Volunteers in Action (n.d.) .

. . . Can you help us-we need foster parents (n.d.). Information booklet, Jails Detention Centres (n.d.). Inmate Information booklet (n.d.).

Joyceville Industrial Pilot Project. November, 1976.

Justice Policy in Ontario (n.d.).

Key to change (n.d.).

Milhaven Institutional Complex (n.d.).

Ministry of Correctional Service Inspection and Standards Branch. Inspector's Manual. Adult Institutions. Original 1973, amended 1974 and 1975.

Ministry of Correctional Services. Report of the Minister, 1976. Ontario's Probation and After-care Service for juveniles (n.d.). Ontario's temporary absence programme (n.d.).

Ontario Correctional Institute Programme Information, February, 1977. Probation and Parole. A community service for adults (n.d.). Scholarships for native students, 1977-78.

Vanier Centre for Women (n.d.).

#### **Denmark-**

Andersen, Erik, Prison Governor: Ringe State Prison before it started (n.d.).

Andersen, Erik, Prison Governor: Ringe State Prison-after the first year (n.d.).

Department of Prison and Probation. The Penal System of Denmark. February, 1975.

Alternativer til frihedsstraf-et debatopæg. Afgivet af den af justitsministeriet den 29.august 1975 nedsatte arbejdsgruppe. Betaenkning nr .806 Kobenhavn 1977. Index to alternatives to imprisonment-an introduction for discussion. Copenhagen, 1977 (translated from Danish).

Lov om ændring af borgerlig straffelov, af lov om ikrafttraeden af borgerlig straffelov m.m. og af 10v om rettens pleje. lov.nr.320 af juni 1973. Law No. 320 of 13th June, 1973. Law about the change in civil penal code, and the coming into force of civil penal code, etc., and of law about the administration of justice. (Special measure in criminal law, etc.) (translated from Danish).

Lonberg Arne: The Penal System of Denmark. Ministry of Justice-The Department of Prison and Probation. Copenhagen K. February, 1975.

- Coldingley-an Industrial Prison. Printed at Leyhill Prison (197 ). Community Service assessed in 1976. Home Office Research Study No. 39.
- Emergency contingency planning and control. Published by Prison Department (confidential) (n.d.).
- H.M. Prison Service. Prison Service Staff College Wakefield-  
33rd Assistant Governors' Course-initial training for Assistant Governors of prisons in England and Wales. January-March, 1977.
- Management Studies-Pre-course preparation, 1974.
- Study Group. Royal Courts of Justice Criminal Appeal Office. 9-12 February, 1976. Chief Officer 1 Development Course, 6-17 September, 1976.
- Initial Training Course for Prison Officers (197 ).
- Administration Officers' Course, 8-9 March, part 1 (1976).
- Governor III Development Course, 29 November-10 December, 1976. ECR Training Course, 13-17 December, 1976.
- ECR Training Course, 17-21 January, 1977.
- Assistant Governor I Development Course, 1976.
- Police/Prison Liaison conference, 21-23 April, 1976.
- Chief Officer II Development Course, 3-21 May, 1976.
- 31st Assistant Governors' Course, 1975.
- Pre-college Preparation. Human Growth and Development. Study Notes (1970).
- Pre-course Training. Field Projects (197 ). Pre-course Preparation. Sociology (197 ).
- Prison Security Officers' Course, 16-27 May, 1977.
- Chief Officer II Development Course, 18 April-6 May, 1977. Seventh Principal Officers' Course, 18-29 April, 1977.
- Course for clerks to boards of visitors, 19-21 January, 1977. Senior Officers' Development Course, 21-25 February, 1977.
- 2nd Principal Officers' Development Course, 4-15 October, 1976. Course for clerks to boards of visitors, 1-3 June, 1977.
- 31st Assistant Governors' Course, 1975.
- Home Office Research Unit. Programme of Research, 1977-1978. Home Office Research Unit. Research Bulletin No.4, 1977.
- Life Sentence: Your questions answered, 1976. Parole: Your questions answered, 1976.
- Probation and after-care service in a changing society. H.M.S.O. (197 ). Probation and after-care service in England and Wales. H.M.S.O. (197 ). Probation and after-care service. Salaries. September, 1976.
- Prison Governor's Handbook, 1973.
- Social Work in Prison Department Establishments. Prison Department, 11th November, 1974.

- Central Recruitment and Training Institute of the Prison Service. Detention at the Governor's Pleasure. Treatment of Criminal Psychopaths in the Netherlands. The Hague (197 ).
- Central Recruitment and Training Institute of the Prison .Service, Netherlands Prison System. The Hague. 1975.
- Central Recruitment and Training Institute of the Prison Service. Summary of Training Courses (197 ).
- Imprisonment where? Institutions (prisons and remand houses) to which persons sentenced to terms of imprisonment may be committed, 1976.
- Sweden-**
- Bjorka-pre-release home in Bromma, Stockholm (1977).
- Competitive wages at Tillberga and Skogome-Information from the National Prison and Probation Administration (1976).
- Corrections in Sweden. Opening up the prisons (n.d.).
- FFCO-The United Prisoners Central Organization. An association of prisoner inmates in Swedish Prisons (1977) (translated from Swedish).
- National Correctional Administration Office of Public Information Unit. Corrections in Sweden. Education in Institutions (197 ).
- National Correctional Administration Office of Public Information Unit. Corrections in Sweden. The 1973 Correctional Care Reform.
- National Correctional Administration Office of Public Information Unit. Corrections in Sweden. The Prison and Probation System, 1975.
- National Correctional Administration Office of Public Information Unit. Corrections in Sweden. The Swedish System of Sanctions (197 ).
- New Prison Institution in Kumla (196 ) (translated from Russian).
- U.S.A. California-**
- California Medical Facility. Purpose, location and history (n.d.).
- California Rehabilitation Center Program Summary Statistics. Civil Commitment Program for Narcotic Addicts. Sacramento, 1971.
- Department of Corrections. General Information. Sacramento, California.
- January, 1976. Department of Corrections. Departmental training.
- Sacramento, California (1977). Department of Corrective Services.
- Administrative Manual. January, 1977.
- Jaman, D., Bennet, L. A., and Berecochea, J. E.: Early discharge from parole: Policy practice and outcome. Research Division. Department of Corrections. April, 1974.
- Jew, C. C., M.A., Clannon, T. L., M.D., and Mattocks, A. L., Ph.D: Group Psychotherapy in Correctional Institutions. Amer. J. Psychist. 129:5 November, 1972.
- Parole in California (197 ). Preparing men for industry, 1973.
- U.S.A. Federal-**
- Bureau of Prisons, Federal Prison System Facilities. Washington D.C., September, 1976. Bureau of Prisons, Policy Statement. Prisoner's Mail Box (197 ).
- Department of Justice. Compendium of Model Correctional Standards (197 ). Department of Justice, Federal Prison System, 1976.
- Department of Justice. Federal Prison System. Students Manual. Introduction to correctional techniques (197 ).

- Department of Justice. Federal Prison System Students Manual. Advanced Correctional techniques (197 ).
- Federal Prison Industries Inc.  
Annual Report, 1975. Federal Prison  
Industries Inc. Annual Report, 1976.  
Federal Prison Industries (197 ).
- Federal Prison System. Preliminary evaluation of the functional unit approach to correctional management (197 ).
- Federal Prison System. Instructors Manual. Basic Interpersonal communications (2nd ed.)  
Advanced Interpersonal communication correctional counselling (197 ).
- Federal Prison System. Institutional drug programme descriptions.  
May, 1976. No. We don't make license plates (Federal Prison  
Industries) (197 ).
- Prison Construction. Plans and Policy. U.S. Government Printing  
Office (197 ). Policy Statement. Withholding, forfeiture, and  
restoration of good time (197 ). U.S. Penitentiary Lewisburg,  
Pennsylvania. June, 1976.
- Statutes:* Parole Commission and Reorganization Act, 1976.  
Federal Criminal Code Bill before the Senate of the United States, 1977.  
U.S.A. New Jersey-  
Division of Correction and Parole. Prison Complex Handbook on  
Discipline (1970). Trenton State Prison. Inmate Handbook, 1977.  
Trenton State Prison. Memo re food service programme (1970).  
U.S.A. New York State-  
*Statutes:* Laws relating to Mental Hygiene. Mental Hygiene laws and general orders.
- BOOKS**
- ADAMSON, Robert and HANFORD, Bruce: Zimmers Essays. Wild and Wolley  
Pty Ltd, Sydney, 1974.
- ANONYMOUS: Five Years Penal Servitude by One Who Has Done It. 7th ed.,  
London, Bentley, 1879.
- ATKINS and GLICK: Prisons, Protests and Politics. Prentice, 1972.
- BARRY, Sir J.V.W.: The Courts and Criminal Punishments. Wellington, N.Z.  
Government Printer, 1969.
- BARRY, Sir J. V. W.: Alexander Maconochie of Norfolk Island: A Study of a  
Prisoner in Penal Reform. Melbourne, Oxford University Press, 1958.
- de BEAUMONT and de TOCQUEVILLE, A.: The Penitentiary System in the  
U.S.A. and its Application in France. Southern Illinois University Press.  
1833-translation 1964.
- de BEAUMONT, Gustav: "Le Siecle" (7th Sept. 1843) published in de Beaumont  
and de Tocqueville on Social Reform. N.Y. Harper Row, 1968.
- BERRY, Leonard, J.: Prison. Grossman, N.Y., 1972.
- BETHELL, Tom: Criminals Belong in Jail. Washington Monthly vol. 7 (No. 11)  
January, 1976.
- BILES, David: Australian Prison Trends. No. 1. July 1976-Canberra Australian  
Institute of Criminology.
- BISHOP, Norman: Aspects of European Penal System in Progress in Penal Reform  
ed. by Louis Blom-Cooper. Oxford, Clarendon Press, 1974.
- " See additions to bibliography page 630.

- BOTTOMLEY, Keith A.: *Prison Before Trial*. London, G. Bell & Sons, 1970.
- BRALY, Malcolm: *False Starts: A Memoir of San Quentin and Other Prisons*. Boston, Little, Brown, 1976.
- BROCKLEHURST, Frederick: *I was in Prison*. London, T. Fisher Unwin, 1898.
- CAMPBELL, Enid: *Parliamentary Investigations: The Australian Experience*. Atlanta, Ga., Emory University Law School, 1960.
- CARLSON, Rick J.: *The Dilemmas of Corrections*. Lexington, U.S.A., D. C. Health & Co., 1976.
- CARTER, Robert M.: *Probation, Parole and Community Corrections*. N.Y. Wiley, 1976.
- CHERNS, A. B.: *Social Science and Government*. Tavistock, 1972.
- CLAYTON, Tom: *Men in Prison*. London, Hamilton, 1970.
- CLEAVER, Eldridge: *Soul on Ice*. London, Panther Books, 1970.
- CLEMMER, Donald: *The Prison Community*. New York, Rinehart and Co., 1940 reissued 1958.
- COHEN, COLE and BAILEY: *Prison Violence*. University of Connecticut Lexington Books, 1976.
- CROSS, Rupert: *Punishment, Prison and the Public*. London, Stevens and Sons, 1971.
- DICKOVER, Robert M.: *California Department of Corrections Annual Research Review*.
- DROR, Y.: *Public Policy Making Re-examined*. Chandler, 1968.
- DUFFEE, D.: *Correctional Policy and Prison Organization*. N.Y. Halsted Press, 1975.
- ERIKSSON, Torsten: *The Reformers*. Elsevier Scientific Publishing Co. Inc., 1976.
- FITZGERALD, Mike: *Prisoners in Revolt*. London, Cox and Wyman, 1977.
- FITZGERALD, P. J.: *Criminal Law and Punishment*. Oxford, Clarendon Press, 1962.
- FREIBERG, Arie and BILES, David: *The Meaning of Life. A Study of Life Sentences in Australia*. Canberra. Australian Institute of Criminology, 1975.
- GELLHORN, Walter: *Ombudsman and Others*. Cambridge Mass. Harvard University Press, 1967.
- GOFFMAN, Erving: *Asylums*. Pelican, 1968.
- GOLDFARB, Ronald: *Jails*. New York. Anchor Books, 1975.
- HARRIS, Janet: *Crisis in Corrections*. New York. McGraw-Hill Book Co., 1973.
- HAWKINS, Gordon: *The Prison, Policy and Practice*. Chicago, University of Chicago Press, 1976.
- HAWKINS, Gordon and MORRIS, Norval: *The Honest Politicians Guide to Crime Control*. Melbourne, Sun Books Pty Ltd, 1970.
- HENSHELL, Richard L. and SILVERMAN, Robert A.: *Perception in Criminology*. New York and London, Columbia University Press, 1975.
- HILCARD, Ernest R. and ATKINSON, Richard C.: *Introduction to Psychology*. United States. Harcourt, Bruce and World Inc., 1967.
- HOLDSWORTH: *History of the English Law*. London. Methuen, 1938.
- HOOD, Roger: *Crime, Criminology and Public Policy*. London, Heinemann, 1974. Essays in honour of Sir Leon Radzinowicz.
- HOOD, Roger: *Tolerance and the Tarriff*. House of Lords, 22-7-74.
- HOPPER, Columbus, B. L.: *Sex in Prison*. Baton Rouge, Louisiana State University Press, 1969.
- IGNATIEFF, Michael: *Attica. A Time to Die-Book Review*. Harvard Civil Rights. -Civil Liberties Law Review, vol. 11.
- JOHNSTON, Norman: *The Human Cage*. N.Y., Walker & Co., 1973.

JOHNSTON, Robert: Culture and Crisis in Confinement. Toronto. Lexington Books, 1948.

JONES, Howard: Crime and the Penal System. University Tutorial Press Ltd., Foxton, near Cambridge, U.K., 1956.

KEATING, J. Michael and others: Grievances Mechanisms in Correctional Institutions. U.S. Department of Justice, 1975.

KIRBY, Mr Justice M. D.: Human Rights. The Challenge of Law Reform. University of Tasmania, Turner Memorial Lecture. University of Tasmania Law Review 103 (vol. 5, p. 103).

KLUWER, B. V.: Abstracts on Criminology and Penology, vol. 1-8, 1968, vol. 16, parts 1 and 2.

KROPOTKIN, Prince Peter: In Russian and French Prisons. London, Ward

Richard ed.: Behind Bars. N.Y. Vintage Books, June, 1977.

Chronicles of San Quentin. London, Long, 1963.

Douglas et. al.: The Effectiveness of Correctional Treatment. N.Y., Praeger, 1975.

H. H. J.: Callan Park Mental Hospital Royal Commission, vols 1, 2, 3, 4.

Sean: The Use of Imprisonment. London. Routledge and Keegan Pau, 1975.

I. M.: Psychiatry and the Prisoner. The Criminal Courts. Illinois, 1976.

ILLIENALD, I.: Psychiatry and the Criminal. 3rd ed. Charles C. Thomas Publishing.

Marvin: Criminal Justice Bibliography. Georgia State University, Atlanta, 1976. Hans W.: The Prosaic Sources of Prison Violence. Chicago Law School, UniverChicago, 1972.

Jessica: The American Prison Business. London. George Allen and Unwin, 1974.

Norval: The Future of Imprisonment. Chicago. U.S.A. University of Chicago Press, 1974.

m'lVRRIS, Norval: Psychiatry and the Dangerous Criminal. University of Southern California, 1968.

Norval, and JACOBS, James: Proposals for Prison Reform. Public Affairs pamphlet No. 510. Public Affairs Committee Inc. U.S.A., 1974.

Norval, and HAWKINS, Gordon: Letter to the President on Crime Control. Chicago. U.S.A., University of Chicago Press, 1977 .

• V1vRRIS. Terence and Pauline: A Sociological Study of an English Prison, Pentonville, 1963.

, Thomas O.: The Dilemma of Prison Reform. N.Y. Holt, Rinehart and Winston, 1976.

~\A.0EL, William C.: The New Red Barn. N.Y. Walker and Co., 1973.

ATIONAL COUNCIL OF CRIME AND DELINQUENCY: Crime and Delinquency. Paramus, N.J., N.C.C.D. Center, January, 1972.

Arveh: Crime and Punishment. N.Y. Stein and Day, 1975.

, Lloyd E.: Sociology and the Field of Corrections. N.Y., Russell Sage Foundation, 1956.

G.: Attica. My Story. N.Y. Doubleday, 1972.

, Cynthia Owen: Imprisoned in America. Prison Communications 1776 to Attica. N.Y. Harper Row, 1973.

Leon: Criminology and the Climate of Social Responsibility. Cambridge, . Heffer, 1964.

- RADZINOWICZ, L.: History of English Criminal Law and its Administration from 1750. London, Stevens, 1968.
- RADZINOWICZ, L.: Ideology and Crime. London, Heinemann Education Books, 1966.
- RADZINOWICZ, L.: In Search of Criminology. London, Heinemann Educational Books, 1961.
- RADZINOWICZ and WOLFGANG: Crime and Justice. Vols 1, 2 and 3. New York Basic Books, 1971.
- RADZINOWICZ and KING: The Growth of Crime. The International Experience. London, Hamish and Hamilton, 1977.
- RINALDI, F.: Australian Prisons. Canberra, F. & M. Publishers, 1977.
- RINALDI, F.: Essays in Australian Penology. Canberra Law School. Aust. National University. January, 1976.
- RINALDI, F.: Parole in Australia. Canberra, Law School, Aust. National University. April, 1974.
- ROSE, Gordon: The Struggle for Penal Reform. London, Stevens and Sons, 1961.
- SACKVILLE, Prof. Ronald: Aust. Government Commission of Inquiry into Poverty. Law and Poverty in Australia. Canberra. Aust. Govt. Publishing Service, 1975.
- SCHROEDER, Andreas: Shaking it Rough. Toronto, Doubleday, 1976.
- SCHUR, Edwin M.: Crimes Without Victims. Englewood Cliffs, N.J. Prentice Hall, 1965.
- SCHUR, Edwin M.: Labelling Deviant Behaviour. New York, Harper Row, 1971. SCHUR, Edwin M.: Radical Non Intervention, Englewood Cliffs, N.J. Prentice Hall, 1973. SCHUR, Edwin M.: Victimless Crimes. Englewood Cliffs, N.J. Prentice Hall, 1974. SCHUR, Edwin M.: Our Criminal Society. Englewood Cliffs, N.J. Prentice Hall, 1969. SEACCO, Anthony M. Jnr.: Rape in Prison. Springfield, Illinois. Charles Thomas, 1975. SELLIN, J. Thorsten: Slavery and the Penal System. N.Y. Elsevier Scientific Publishing Co. Inc., 1976.
- SELLIN, J. Thorsten: Capital Punishment. N.Y. Harper Row 1967. (Homicide in Retentionist and Abolitionist States.)
- SHAW, G. B.: The Crime of Imprisonment. N.Y., Greenwood Press, 1969.
- SINGER, L. A.: Attica. A Look at the Cause and the Future, 1971.
- SMITH, Desmond: Opening up Prisons. Sweden. Suneska Institute (National Correctional Administration Office of Public Information (1970)).
- SOLOMON, Hassin, M.: Community Corrections. Boston, Holbrook Press Inc., 1976.
- SOMMER, Robert: The End of Imprisonment. New York, Oxford University Press Inc., 1976.
- SPANN, R. N.: Public Administration in Australia, Sydney, Government Printer, 1973.
- STANLEY, David T.: Prisoners Among Us. Washington D.C., Brooking International, 1976.
- STEPHENS, H. J.: New Commentaries on the Law of England, 3rd ed. London, Butterworths, 1853.
- STEVAS, Norman St John: Life, Death and the Law: A Study of the Relationship between Law and Christian Morals in the English and American Legal Systems. London, Eyre and Spottiswoode, 1961.
- STEVAS, Norman St John: Obscenity and the law. London, Seeker and Warburg, 1956.
- SUTHERLAND, Edwin H., and CRESSEY, Donald R.: Criminology. 9th ed. Philadelphia. J. B. Lippincott Co., 1974.
- SYKES, Gresham M.: The Society of Captives. A Study of Maximum Security Prison. Princeton University Press, 1958.



THOMAS, D. A.: Parole. Its Implications for the Criminal Justice and Penal Systems.  
Institute of Criminology. Cambridge, 1974.

THOMAS, J. E. The English Prison Officer Since 1850. London, Routledge and Keegan Paul,  
1972.

THOMAS, J. E.: Policy and Administration in Penal Establishments in Progress and Penal  
Reform. L. BJorn-Cooper, London, 1974.

TOBIAS, J. J.: Against the Peace. London, Ginn and Co. Ltd, 1970.

TOCH, Hans: Peacekeeping. Police, Prisons and Violence. Mass., Lexington Books, 1976.

TOMASIC, Roman: Bail and Pretrial Release. Sydney, Law Foundation of N.S.W., 1976.

TOMASIC, Roman: Deterrence and the Drinking Driver. Sydney, Law Foundation of  
N.S.W., 1977.

TOMASIC, Roman: Drugs, Alcohol and Community Control. Sydney, Law Foundation of  
N.S.W., 1977.

UNITED NATIONS SOCIAL DEFENCE RESEARCH INSTITUTE: Prison Architecture.  
Wallop, Hampshire, BAS Printers Ltd, 1975.

Sir Paul: Historical Jurisprudence. Edinburgh, Oxford University Press,

shapeType75fBehindDocument1pWrapPolygonVertices8;30;(5286,4411);(13532,4411);(1353  
2,6279);(15787,6279);(15787,7638);(16069,7638);(16069,8033);(21500,8033);(21500,8710);(9373,8710);(9373,12954);(13180,12954);(13180,14993);(2467,14993);(2467,17256);(2536,17256);(2536,18273);(3451,18273);(3451,18953);(2254,18953);(2254,19858);(279,19858);(279,20707);(2114,20707);(2114,21500);(0,21500);(0,0);(5143,0);(5143,2204);(5286,2204)posrelh0  
posrelv0pib

Andrew: Doing Justice. N.Y., Hill and Wang, 1976.

The Aims of a Penal System. Edinburgh. Edinburgh University Press,  
1966. Crime and Punishment in England. Edinburgh. Edinburgh University  
Press,

London. Cox and Wyman Ltd, 1971.

Longman and Green, 1932. ,

Arthur: Attorney for the dammed. N.Y. Simon and Schuster, 1937.

and the  
U.S.A.

Ben: Crime and Society. London, Bland Educational, 1967.

Offender and the Psychiatrist. University of Queensland  
(Attica) N.Y., Quadrangle, 1975.

Jeremy, S.: The Law of Sentencing and Corrections. Buffalo, William S. Hein  
Inc., 1974.

Reformation. Extracts from Essay which Thinking about Crime. (New York Basic

Arthur L.: Deviant Behaviour and Control Strategies. Toronto, Lexington Books.

. Barbara: Crime and the Criminal Law: Reflections of a Magistrate and Social  
Scientist. London, Stevens, 1963.

Martin: Use of Criminology Literature. London, Butterworths, 1974.

Samuel and SAMENOW, Stanton E.: The Criminal Personality (vol. 1) Jason  
Aronson Inc., 1976.

MEDIA COMMUNITY  
ARONSON, Samuel and SAMENOW, Stanton E.: The Criminal Personality (vol. 11) The  
Change Process. N.Y. Jason Aronson Inc., 1977 .

. Graham: The Forcible Feeding of Prisoners: An Examination of the Legality of Enforced  
Therapy. Public Law, 1976.

JOURNALS AND PERIODICALS

- Alternative Criminology Journal vol. 1, Nos 1, 2 and 3. Brown, David and Todd, Dale, editors. Prisoners Action Group, N.S.W. 1975, 1976.
- American Bar Association Journal, June, 1976 (Daniel L. Skoler: The Story of the Association's Corrections Commission).
- Australian Law Journal No. 29, p. 253. Article by I. Holmes, Q.C. (later the Hon. Mr Justice Holmes).
- Australian Law Journal No. 35, page 275.
- Australian and New Zealand Journal of Criminology, 1972, vol. 5, No.1, page 13. Australian and New Zealand Journal of Criminology, 1977. September, p. 310.
- British Journal of Criminology, 1962 (Hayner, Norman S.: Correctional Systems and National Values).
- Commonwealth Law Reports 79 (1949), p. 8, *Flynn v. The King*.
- Corrections Magazine, March, 1977. Covering America's changing prison system.} Correctional Information Services Inc.
- Criminal Law Review, October, 1976, pp. 589-593.
- Federal Probation, vol. 36, 1972 (Hayner, Norman S.: Attitudes towards conjugal visits).
- Howard Journal of Penology and Crime Prevention, vol. 14, No.2, 1975.
- International Journal of Criminology and Penology, 1973. (Hanay, Banks and Zimbaro: Interpersonal Dynamics in a Simulated Prison).
- Justice of the Peace, 5th March, 1977 (Lewis, Ron, Senior Probation Officer: The truth about imprisonment).
- Modern Law Review, vol. 38, 1975. New Law Journal, 12th February, 1976.
- Ottawa Law Review, vol. 8:560 (Parole Committals and Habeas Corpus). Political Science Quarterly 49, 1934 (British Royal Commissions of Inquiry).
- Prison Service Journal, 1973 (Howlett, I.: Marital deprivations of prisoners and their wives). Prison Service Journal, 1973, vol. 9 (Marriage, Hugh: A Manifesto for Prison Management). Public Interest 35, 1974 (Mortinsen, R.: What works? Questions and answers about prison reform).
- Queens Law Journal, vol. 3, 1977.
- Social Developer. Quarterly Newsletter for the Social Development Division, Canadian Penitentiary Service, 1977.

LATE ADDITIONS TO BmUOGRAPHY

- BONGER, W. A.: An Introduction to Criminology, translated from the Dutch by Emil Van Loo, London, Methuen & Co. Ltd, 1936.
- European Committee on Crime Problems: Council of Europe Activities in the Field of Crime Problems, Strasbourg, 1977.
- European Committee on Crime Problems: Work in Penal Institutions. Council of Europe. Strasbourg, 1976.
- MACKEY, Stephanie: Parole-Background, Machinery and Statistics. In NACRO Report, "Parole, The Case for Change". London, Barry Rose Ltd (1977).
- WEBB, Sidney and Beatrice: English Prisons under Local Government. New York and London. Longman Green, 1922.