

THE STATE OF THE PRISONS IN NSW UNDER THE GREINER GOVERNMENT: DEFINITIONS OF VALUE

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I would like to be remembered as someone who has put the value back in punishment.¹ Michael Yabsley, NSW Minister for Corrective Services, October 1990.

We have not been driven by some ideologically blinkered notion of the future. Instead we have been motivated by a commitment to improve the efficiency and effectiveness of the public sector, so that it gives real value for money for the tax-payer and meets its social obligations to the tax-payer.² The Hon NF Greiner, MP, Premier and Treasurer Budget Speech 11 September 1990.

Introduction

After exactly three years in government it is timely to assess the record of the Greiner government in the area of prison policy and practice. This paper³ offers such an assessment. It is restricted to adult prisons, excluding the important area of juvenile justice which deserves separate treatment.⁴ Drawing on evidence from a range of sources it will be argued that penal practice under the Greiner government has been marked by:

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- 1 John O'Neill, "The Punishment Salesman", *The Independent Monthly* October, 1990, p.20.
 - 2 Budget Speech 1990-1991, *Budget Paper No 1*, p24.
 - 3 For an earlier assessment of the law and order policies of the Greiner government after only 3 months in office see D Brown, "Post Election Blues: Law and Order in NSW INC", (1988) 13 LSB 99-104; see also R Hogg and D Brown, "Violence, Public Policy and Politics in Australia" in I Taylor (ed) *The Social Effects of Free Market Policies* (1990).
 - 4 For a comprehensive and ground-breaking report on juvenile justice in NSW see: *Youth Justice Coalition, Kids in Justice: a blueprint for the 90's: Overview Report and Full Report*.

- * an explosion in the prison population and in the size and proportion of government spending on prisons and law and order
- * a systematic attack on various mechanisms of accountability and review within the prison system
- * the intensification of penal discipline
- * the cutting of educational and rehabilitative programs.

It will be argued that the combined effect of these developments has been to decisively reverse the reforms introduced following the Nagle Royal Commission into Prisons⁵ in 1978. Prisoners and prison staff have been demoralised, prison disturbances have increased and public safety has been jeopardised. The seeds of division, distrust and hatred have been planted deep in the system. Michael Yabsley, NSW Minister for Corrective Services has indeed achieved certain 'record highs'⁶ of which he boasts. Record increases in prison population, record levels of prison overcrowding, record levels of government expenditure, record levels of assaults, record numbers of prisoners on protection, record levels of disturbances. The question is : what have these 'record highs' got to do with the Greiner government's much proclaimed commitment to sound economic management and a pragmatic, non-ideological form of liberalism? The last section of the paper will grapple with this question.

Population and Cost Explosions

Taking the two year and 9 month period March 1988 (the month of the election of the NSW Liberal/National Party Coalition government) to December 1990, Australian Institute of Criminology figures⁷ reveal that the Australian prison population increased from 11,436 to 13,600, an increase of 18.9%. Over three quarters (76.7%) of this increase was produced by NSW with a prison increase

⁵ *Report of the Nagle Royal Commission into Prisons* (1978). For a detailed account of the lead up, conduct and aftermath of the Nagle Royal Commission see: G Zdenkowski and D Brown, *The Prison Struggle* (1982); see also T Vinson, *Wilful Obstruction: The Frustration of Prison Reform* (1982); M Findlay, *The State of the Prison* (1982); T Anderson, *Inside Outlaws* (1989).

⁶ *SMH* 12/3/1990.

⁷ The Australian Institute of Criminology produces a very useful Australian Prison Trends monthly series in addition to its annual Prison Census. Both these publications are available from the AIC.

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of 42.1% from 3,950 to 5,616 (4.4% for all other states combined). Queensland, and Tasmania decreased their prison populations over this period (by 5.58% and 13.8%) the Northern Territory recorded a small increase (2.1%) Victoria and Western Australia recorded moderate increases of 10.45% and 8.67% respectively. South Australia recorded a significant increase of 20.6% but this was less than half that of NSW. If we look at the rate figures per 100,000 adult population in each state we find a similar pattern. Over the period of the Greiner government NSW rates have vaulted over those of the traditionally much higher Queensland rates and are closing on Western Australia for the dubious distinction of second highest adult imprisonment rate in Australia after the Northern Territory.

The NSW increase has a number of components. At the broader contextual level the Coalition government came to office in part on a law and order platform replete with the rhetoric of 'tough', 'hard' policies of increasing police numbers and expenditure, increased penalties and 'truth in sentencing'.⁸ The election campaign created a perception of a pending crack-down on crime and 'criminals', especially in relation to prisons and juvenile justice. In the prisons the reform process would be reversed and in relation to juvenile offenders who were largely blamed for a 'crime wave' they would alternatively be driven back to their families or incarcerated. This 'talking up' of a law and order 'crisis' and climate by the Coalition in opposition was continued in government, the Minister for Corrective Services Michael Yabsley being one of its chief exponents. At a more specific level the new government moved quickly to legislatively increase maximum penalties in a number of areas. Imprisonment as a penalty was reintroduced for certain summary offences, overturning previous Labor government initiatives.⁹ More police were appointed but it is a matter of dispute whether the election commitment of an additional 1600 police in the first term of office has in fact been met.

A significant factor in the increased prison population has been the introduction of the NSW *Sentencing Act 1989*. This measure which was

⁸ For a comparative analysis of the law and election policies of both the ALP and the Coalition in the lead up to the 1988 election see *Campaign for Criminal Justice Bulletin* No 1, March, 1988.

⁹ See for example: the reintroduction of imprisonment as a penalty for offensive behaviour in s4 of the Summary Offences Act 1988; the creation of new imprisonable prostitution offences under the Summary Offences Act 1988; the creation of a new "professional" car stealing offence under s154AA of the Crimes Act 1900 with a maximum penalty of 10 years; and in 1991 the increase in penalties for sexual assault from 8 to 14 years (Crimes Act 1900 s611); and see generally D Brown et al, *Criminal Laws* (1990).

promoted under the 'truth in sentencing' slogan¹⁰ abolished prison remissions, removed the presumption in favour of parole and legislatively fixed the custodial or 'minimum' period of the sentence at 3/4 of the total sentence.

At the time of the passage of the legislation Mr Yabsley stated in parliament that 'the government is not seeking to make sentences longer' and that 'there will be no increase in the length of sentences. That is not the desire of the Bill'.¹¹ If this was indeed the desire of the government it could easily have been given legislative expression in various established ways¹² but this was not done. Most commentators predicted that the measure would lead to an increase in the time served in prison of up to 1/3, depending on quite how trial judges and ultimately the NSW Court of Criminal Appeal would interpret the legislation¹³. A June 1990 report by the Research Division of the Corrective Services Department¹⁴ found an overall increase of 50 days in the average time to serve in custody after the Act, calculating the increase as equivalent to 525 additional sentenced prisoners held on any one day.

Rather than acknowledge any inconsistency between his parliamentary statements of the government's intentions and the effects everyone but he predicted, Mr Yabsley stated in March 1990 that 'as far as we look into the future we are going to have record highs'.¹⁵ Such 'record highs' in the prison population worsen overcrowding in a system already running at well over 100% occupancy, increase the proportion of prisoners 2 and 3 to a cell, and put added strain on physical and human resources.

10 See D Brown, "Sentencing Changes: What Truth?", (1989) 14 *LSB* 161; J Basten, "Legislation Comment: The Sentencing Act 1989 (NSW) *Crim L J* 42; J Chan, "Sentencing Violent Offenders: Where does the truth lie?", paper presented to the National Conference on Violence 10/10/1989.

11 *Hansard*, Legislative Assembly, 10/5/1989 at 23 and 56.

12 eg s17A Crimes Act 1914 (Cth); Criminal Justice Act 1985 (NZ); Criminal Justice Act (UK); ALRC, Report No. 44, Sentencing (1988) pp27-31; G Zdenkowski, "Sentencing Reform?", University of NSW Continuing Legal Education Seminar, 20 March 1990; *The Times* 23/4/1990.

13 On the interpretation see P Hidden, "The Sentencing Act 1989 NSW", CLE Seminar Paper 20/3/1990; *R v Paul Alexander Maclay* (1990) 19 NSWLR 112; *R v Moffit* (1990) 20 NSWLR 114.

14 A Gorta and S Eyland, "Truth in Sentencing: Impact of the Sentencing Act, 1989, Report 1", Research and Statistics Division of the NSW Dept of Corrective Services, June 1990 p2; M Moore, "Govt blunders on prison sentences", *SMH* 25/7/1990.

15 *SMH* 12/3/1990.

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The role of the *Sentencing Act 1989* in the 40% increase in the NSW prison population under the Greiner government was further highlighted by a NSW Bureau of Crime Statistics and Research Report on the Sentencing Act released on 31 March 1991.¹⁶ The Report shows that the average minimum sentence in Local Courts has risen from six months to one year. In the higher criminal courts there has been a 25% increase in the average minimum term, from 18 months to two years. In addition in sentencing under the Act courts have been more inclined to impose prison-only sentences and less likely to include a probation or parole component. This report reinforces the disjunction between the government's proclaimed intention and the actual effects of the legislation and increases the pressure to amend the Act.

Analysis of the 1990-91 NSW Budget Summaries¹⁷ reveals the extent of the increase in spending on law and order, both capital and recurrent, in NSW Inc. Capital expenditure on law and order has more than trebled since 1987-88, with annual increases in percentage terms of 99% in 88-89, 16% in 89-90, and 43.8% in 90-91, reaching \$250 million in 1990-91. The 34.5% capital expenditure increase in 1990-91 in the law and order area is the highest of any sector of public expenditure, double that for health, and contrasting with education which received a 4.9% cut. Recurrent expenditure on the law and order sector accounts for 11.6% of total recurrent payments in 1990-91, at \$1773 million, an increase of 3.6% over the previous year.

In Corrective Services, expenditure on capital works has increased from \$77 million in 1989-90 to \$108.6 million in 1990. Most of this will be spent on work in progress on the construction of new prisons at Lithgow (estimated total cost \$57 million) and South Windsor (estimated total cost \$51.2 million). Recurrent expenditures have been increased from \$206.8 million in 1989-90 to \$245.7 million in 1990-91, with further 14% and 10.6% increases predicted in following years. This must be put in the context of a decline in total recurrent expenditures over three years of 1.4% in real terms. Most of the Corrective Services increase will be spent on employing more prison officers, ie. will be used simply on the containment of prisoners rather than on prison programs. In other words the massive increase in expenditure does not represent any real improvement in prison services and programs but is largely expended on

¹⁶ A Larriera, "Truth-in-sentencing debacle", *SMH* 1/4/1991; see also Editorial, "The pressure on prisons", *SMH* 2/4/1991.

¹⁷ The figures are drawn from: 1990-91 NSW *Budget Summary*, NSW Budget Paper No 2 Budget Information 1990-91; Budget Speech 1990-91, NF Greiner, Premier and Treasurer 11/9/1990; M Moore, "Govt lashes out on prison staff and new jails", *SMH* 12/9/1990; A Larriera, "Jail spending rises to cope with overcrowding", *SMH* 12/9/1990.

unsuccessfully attempting to keep up with the increase in prison population outlined above. Indeed as will be outlined later, many prison services and programs, particularly education, are being wound back, and conditions in the state's prison system are rapidly deteriorating.

Closing the Windows

One of the characteristics of the government's prison policies has been the systematic removal of various mechanisms of scrutiny, accountability and review within the prison system. This has taken many forms. It was started immediately upon attaining office with the abolition of the NSW Corrective Services Commission, set up on the recommendation of the Nagle Royal Commission to guard against 'autocracy' and 'administrative incompetence' and provide a level of 'outside independence and community involvement'.¹⁸ Similarly, the Corrective Services Advisory Council, a body of experts headed by a judge which advised and reported to the Minister on particular issues that had been referred to them, was immediately abolished. Many of the most competent Corrective Services Departmental administrators either resigned or were sacked, in a purge of reformists in the department which has continued throughout the three years of Mr Yabsley's reign.

After twice advertising the positions of departmental head throughout Australia and overseas Mr Yabsley appointed two retired senior police officers, Angus Graham and Ross Nixon, as Director General and Deputy Director General of the department, respectively. The apparent lack of applicants with any prior penological experience indicates the reluctance of proven prison administrators to subject themselves to the riding instructions of a Minister intent on winding back the Nagle reforms and instituting a punitive prison regime. Some of the dangers of conflating the specific roles of police and Corrective Services will be discussed later.

The purging of community representatives from welfare constituencies was illustrated in Mr Yabsley's removal of the Aboriginal and church representatives on the Serious Offenders Review Board which considers the release of prisoners convicted of serious crimes. They were replaced by a former policeman and a former head of the Corrective Services Commission.¹⁹ The former policeman, Mr Merv Beck, is one of the organisers

¹⁸ *Report of the Nagle Royal Commission into Prisons 1978* (Nagle Report) p205.

¹⁹ M Moore, "Aborigine off new jail review board", *SMH* 13/1/1990.

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of the extreme right wing, Orana Law and Order Forum Committee.²⁰ A former chairman of the Corrective Services Commission and a consultant to the Corrective Services Department, Mr Noel Day, was appointed to one of four 'community representative' positions, while prominent Aboriginal welfare worker Mrs Shirley Smith (Mum Shirl) and the Reverend Bill Payne, were not reappointed. Mr Day was criticised by Deputy Chief Magistrate Bruce Brown, during committal proceedings against former Minister for Corrective Services, Mr Rex Jackson. Mr Brown said he 'remained unsatisfied as to the credibility of Mr Day', stating that he seemed to 'suffer memory lapses, occasioned by convenience'. The other two appointments to the Board were Mr Gary Lynch, father of murdered Sydney nurse Anita Cobby, and Mr Dereck Cassidy QC, who appeared for the Department of Corrective Services at the Nagle Royal Commission.

Other potential avenues of communication and scrutiny have been curtailed. Delays in processing prisoners' mail, particularly at the Long Bay complex, are excessive, involving in some cases 'two to three weeks'.²¹ An attempt was made to remove the right of appeal from internal disciplinary courts to the NSW District Court. Although defeated in the Upper House the same effect was partially achieved by restricting appeals only to cases where extra imprisonment was imposed by the Visiting Justice. Several of the more conscientious and outspoken prison Official Visitors were sacked and the visits reduced from weekly to monthly. The 1988–89 *Annual Report* of the NSW Ombudsman outlined the erosion of the scheme under the Greiner government and the 1990 *Annual Report* noted that 'unless the situation improves between official visitors and the department, this office will have to reconsider its support for the scheme'.²²

Two prisoner produced magazines were banned by the Minister, supporting the decision of the department's Deputy Director General. Evidence to an Ombudsman's inquiry 'identified the magazine's chief value as being a particularly effective medium of communication between prisoners and staff in the education, health, welfare and custodial areas'.²³ Reasons for the decisions were not given (either to staff or prisoners) and one magazine was banned without the Deputy Director General even being shown any copies.

²⁰ See C Cunneen and T Robb, *Criminal Justice in North-West NSW* (1987) esp pp231–234.

²¹ *Annual Report Ombudsman of NSW* (1990) p100.

²² *ibid* p120.

²³ *ibid* p107

'The Superintendent of the Reception Prison which had encouraged production of the magazine, had not been consulted about its being banned'.²⁴ The editor of one of the magazines, *Rogues*, was shanghaied from Long Bay Reception Prison to Goulburn prison (the very day he was to appear before the Programs Review Committee at the Reception Prison)²⁵ an action described by the Ombudsman as 'unreasonable' and editions of the magazine impounded. The NSW Assistant Ombudsman later criticised the impounding as 'contrary to law'²⁶ and recommended that the department develop guidelines and policy for prisoner publications and that the decision to ban *Rogues* and *In Limbo* be reviewed in the light of that policy.²⁷

The threat of funding cuts to voluntary prison welfare rights organisations operates as a clear disincentive to criticise the Minister or departmental policies. Glebe House, a halfway house for ex-prisoners initially founded by the Prisoners Action Group in 1975 had its funding from the Department halved in 1990. A newspaper article noted that 'in the past, corrective services officials and police had accused it of being a hotbed of radicalism and a 'thieves' kitchen'. Its staff have spoken out in support of prisoners' rights'. The article went on to quote House Co-ordinator Cheryl Mathews : 'Now we're keeping a low profile'.²⁸ Such sensitivity is not peculiar to prison organisations. Adele Horin has noted that when Mrs Virginia Chadwick was Minister for Family and Community Services 'she wrote to all groups identified with the Campaign for a Just Society, to defend her record and to point out their level of government funding.' Horin observed that 'rightly or wrongly, some community groups believe they may endanger their funding if they publicly take a stand against the minister'. Meanwhile, over at Health, 'the minister, Mr Collins, has signalled intimidatory moves to take away funding from organisations such as women's health centres which join advocacy organisations such as NCOSS without his permission'.²⁹ Prison chaplains have been instructed not to make statements to the press without ministerial approval.³⁰ Restrictions have been placed on public statements by officers of

24 *ibid* p105

25 *ibid* p108

26 P Allport, "Ombudsman backs prison magazine", *Sun Herald* 8/7/1990.

27 *Annual Report of Ombudsman* 1990 p108.

28 S Long, "Halfway house struggles on", *Eastern Herald* 25/10/1990.

29 A Horin, "Silence as Chadwick goes a cost-cutting", *SMH* 24/4/1990.

30 O'Neill op cit note (1) p22.

the department and the Minister has launched personal attacks in the media on departmental officers. After the Head of the AIDS project in the department warned that the department was 'courting disaster' with its proposal to introduce compulsory HIV testing of prisoners in November 1990 Mr Yabsley was reported as saying that the author was 'firing a parting shot and he understood she would be leaving her job soon'.³¹ A vindictive, personal and retaliatory aspect can be perceived in particular decisions. In October 1990 Bathurst prisoners were denied church services in the prison chapel. The reason given was 'fears for the safety' of two prison chaplains, but the chaplains involved denied they were at risk.³² Bathurst church leaders had in the preceding weeks been outspoken in condemnation of the Minister's property confiscations policy and had raised complaints about prison officers. Journalist John O'Neill, author of an excellent background article in *The Independent Monthly* in October noted that access to the prison system had been 'freely granted by the Minister'. After publication of the critical piece O'Neill was not given similar access for a Prisons in Crisis series co-written with Sandra Harvey in the *Sydney Morning Herald*.

In late November 1990 it was announced that all prisoners in NSW jails were to be barred from giving interviews except in extraordinary circumstances.³³ As a correspondent to the SMH pointed out, 'if the suffering of prisoners and their families under brutal conditions is not sufficiently extraordinary, what is?'³⁴ In the weeks prior to the announcement of the new policy particular journalists had gained access to interview informer Ray Denning and Evan Pederick, leading Crown witnesses in the Hilton bombing trial. In contrast the ABC's 7.30 Report was refused access to interview Tim Anderson following his conviction for murder arising from the Hilton bombing. Several journalists have openly alleged that access to informants like Denning had to be cleared through particular NSW police officers, strengthening claims by prison officers and others that Denning and other key informants are 'run by police'.

Intensification of Penal Discipline

'Putting value back in punishment' seems to mean a reassertion of disciplinary practices curtailed in the reform period of the late 1970s and early 80s

31 M Moore, "'Disaster' in forced prison HIV testing", *SMH* 25/10/1990.

32 R Loos, "Jail Church Services Cut", *Sunday Herald* 21/10/1990.

33 L Garcia, "Prisoners barred from interviews with media", *SMH* 24/11/1990.

34 *SMH* Letters 3/12/1990.

following the Nagle Royal Commission. Head of the Corrective Services Commission at that time and now leading critic of the Yabsley regime, Professor Tony Vinson, has put it thus : 'THE BASH IS BACK'. The NSW Ombudsman has investigated prisoners complaints of bashings at Parramatta prison in April 1990. An investigation has also been carried out into bashings alleged to have occurred in disturbances during the property confiscation policy in September 1990.³⁵ The Ombudsman's reports on these complaints will be released shortly and are expected to uphold prisoners allegations of bashings, especially in relation to events at Parklea. The property confiscations policy itself is perhaps the clearest of a large number of potential examples of the intensification of penal discipline in the NSW prison system under the Greiner government.

Under the new policy announced in late August 1990 approved cell property was restricted, for example to three pairs of underpants and socks, 6 unframed photographs, 2 books, a 'limited quantity of legal documents'. Non-approved property completely banned originally included religious ornaments, thongs, hat/cap, posters, cell curtains, caged budgie or canary, wedding ring, ear studs and so on. The Premier was subsequently forced to step in to allow wedding rings. Quite how some of these items might be used to secrete needles and drugs, the professed aim of the policy, was not immediately clear and cartoonists and satirists had a field day. Richard Glover in *The Sydney Morning Herald* referred to the 'daily litany of thong stabbings, budgie attacks, rosary bead floggings, the book beatings', suggesting that family photographs and religious items were being banned because they 'turned prisoners against the jail system. They start wanting to go home and promising themselves they will go straight. ...We want people who'll reoffend quickly, returning to build up a really healthy jail system'.³⁶

The predictable response to the announcement and immediate implementation of the policy was a series of major disturbances and riots at prisons throughout the state, especially Parklea, Long Bay Assessment Prison (formerly the CIP), Cessnock and Bathurst. Prisoners and prison officers were injured in the riots. Initial estimates of the cost of the damage ranged between \$6-10 million. Chairman of the Prison Officers Vocational Branch of the Public Service Association, the prison officers union, Mr Dick Palmer, put the damage at 'conservatively' \$35 million, comprised of the damage to cells at a number of

³⁵ M Moore and S Harvey, "Prisoners beaten after riot: lawyer", *SMH* 13/10/1991; M Moore, "Jail bash claims set off inquiry", *SMH* 17/10/1990.

³⁶ *SMH* 14/9/1990.

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prisons, loss of 300 cells at Parklea, and loss of \$10 million income and contracts because prison industries were largely idle in key prisons throughout September and October 1990.³⁷

Yabsley's solution to this crisis suggested that the Minister was following the script of the much acclaimed Australian prison film *Ghosts of the Civil Dead*, in which prisoners and prison officers are caught up in a spiral of self-mutilation, violence and riots, property confiscations, drug crack-downs and lock-downs. The film suggests that these events are being manipulated to serve wider political interests. While the short term political attractions of a 'who runs the prisons' mobilisation of public opinion against prisoners may have seemed safe, the absurdist nature of the confiscations policy, the incompetence surrounding its introduction, the considerable economic cost of the damage caused in the rioting, and the intransigence of the Minister all combined to turn any potential advantage into a political liability for the Greiner government.

For the main issue rapidly became that of administrative (in)competence. The confiscations policy had been opposed by the Executive Director of Prison Operations, John Horton, who issued a memo before the policy triggered off the riots pointing out the desirability of consultation, arguing for deferral until 1991 and warning of unifying prisoner opposition. Yabsley rejected Horton's advice, his determination to instantly enforce a policy opposed by substantial sections of his own department indicated a serious lack of political judgment behind the punitive posturing.³⁸ First the existing property allowances had only been in force for 9 weeks. Second, far from protecting prison officers, the alleged aim of the confiscations following a needle stick injury to a prison officer who later tested HIV-positive, the build up of anger and violence put prison officers at far more risk than before. Prison officer delegations called for the policy to be modified and in prisons such as Bathurst refused to fully implement it. The Probation and Parole Officers' Association accused Mr Yabsley of deliberately putting the safety of prison officers at risk, describing as 'nonsense' the claim that property reductions would reduce the power of prison heavies, predicting the reverse effect. Dick Palmer, chairman of the Prison Officers Vocational Branch of the Public Service Association, said of the prison system 'It's far more dangerous than its ever been ...I am told all this

37 A Mitchell, "Jails bill a massive \$35 mil", *Sun Herald* 28/10/1990.

38 M Moore, "Yabsley ignored jail riot warning" *SMH* 26/9/1990; M Moore, "Riots could have been avoided: jails chief", *SMH* 28/9/1990.

was done to gain control of the jails. I think we had control by co-operation, I think we now have control by force, but we cannot maintain it indefinitely'.³⁹

As mentioned previously prisoners complaints of being bashed in the confiscations have been investigated by the NSW Ombudsman. The reports are awaited with interest. A Sydney lawyer reportedly filed summonses in the District Court for assault and damage to prisoner's property arising from alleged bashings at Long Bay and Parklea prisons during riots over the property confiscations policy, including allegations of bashings in a gauntlet set up by Emergency Unit officers.⁴⁰ Federal Human Rights Commissioner Brian Burdekin has twice written to Premier Greiner arguing that the government's treatment of prisoners in NSW appeared to be in breach of four international treaties on human rights. Amnesty International is keeping a watching brief on events in NSW. In November 1990 three independent members of parliament, Robyn Read, John Hatton and Dawn Fraser, along with Democrat leader Elizabeth Kirkby, released a report into the NSW prison system claiming it was 'in disarray', and that 'large numbers of allegations by prisoners about brutality and inhumane treatment had not been collated and examined'.⁴¹ At a media conference called to release the report the MPs called for a judicial inquiry into NSW jails and the removal of the Minister of Corrective Services from his portfolio.⁴² The NSW Parliament was pressed by the independent members of parliament to set up an Upper House Committee to examine the confiscations policy. Church leaders, prison superintendents, prison officers, teachers, civil liberties and penal reform groups such as the Prisons Coalition, Campaign for Criminal Justice and Council for Civil

39 J O'Neill and S Harvey, "Yabsley's jail legacy: fear and hatred", *SMH* 16/10/1990.

40 S Long, "Prisoners sue over claims of brutality", *SMH* 5/11/1990.

41 R Read, MP, E Kirkby, MLC, Dawn Fraser, MP, J Hatton, MP, Report on Prisons Following Visits to Bathurst, Goulburn and Parklea Gaols November 1990 p6.

42 M Moore, "Yabsley must go, say independents", *SMH* 14/11/1990.

Liberties, the NSW Bar Association and Law Society⁴³ have all attacked the government, whose vulnerability on the issue has been lost on the ALP opposition, leading one columnist to suggest that shadow 'Law and Order' Minister Peter Anderson had a bad case of laryngitis.⁴⁴ Anderson, like Yabsley, would evidently rather rely on the politically popular and lazy abstraction, 'punitive public opinion'.

But it is far from clear that there is strong public support for policies which restrict access to basic literacy and educational courses, which make contact with families as difficult as possible (including regular body searches of visitors,⁴⁵ which set out to humiliate prisoners through making personal hygiene more difficult.⁴⁶ Contrary to Yabsley's persistence in claiming popular

43 M Moore and L Garcia, "Lawyers attack prisons policy", *SMH* 27/10/1990; M Moore, "Lawyers step up attack on jail policy", *SMH* 6/11/1990. Both the Bar Association and the Law Society in "highly unusual public criticism" of the government's policies criticised the continued lock-downs more than six weeks after the introduction of the property confiscations policy and called for a judicial inquiry. Both the Minister (M Moore, "Jail claims attacked" *SMH* 7/11/1990) and the Premier (M Moore, "Jail criticism 'wrong'", *SMH* 8/11/1990) refuted the claims as "demonstrably wrong" and "absolute nonsense" respectively. In fact as several correspondents to the *Sydney Morning Herald* from both inside and outside the NSW prison system pointed out a few days later (Letters 15/11/1990) the Bar Association and Law Society claims were correct, a fact verified in the independent MP's Report published in November 1990 which noted that "some six weeks after the implementation of the possessions policy began, Goulburn prison was still locked for up to 22 hours a day." (p6). As one of the *SMH* letter writers put it, "it is a worrying situation when the Premier of NSW does not apparently have access to the truth about the situation in his prisons".

44 J O'Neill, "Prison bug gives NSW Opposition laryngitis", *SMH* 26/9/1990.

45 L Garcia, "Jail visitors must endure body search, Yabsley says", *SMH* 1/6/1990.

46 Difficulties of maintaining personal hygiene stemming from the property confiscations policy are felt particularly acutely by women prisoners. For example the limit of only 3 pairs of underpants for maximum security prisoners was particularly cruel for women prisoners during menstruation – it was increased to 5 only after protests; as was the banning of hairdryers and cosmetics). Indeed the specific problems of women prisoners in NSW under the Yabsley regime have gone largely unremarked until recently. See J McKemmish, "Conditions are worse for women in NSW prisons", *Tribune* 14/11/1990; and "Five Years After: Women in NSW Prisons", *Campaign for Criminal Justice: Bulletin No 6* Dec 1990, for reports of a public seminar organised by the NSW Prisons Coalition on 7/11/1990. See also Women and Girls in Custody Group, Sub-Committee of NSW Prisons Coalition, Women in NSW Prisons March 1991.

support nearly all informed commentators have condemned his approach.⁴⁷ Nor is it clear that 'public opinion' is prepared to bankroll the escalating costs poured into the criminal justice system. If all other areas of government are being assessed on the criteria of efficiency and cost effectiveness, why not the criminal justice system and the prison in particular?

These costs are not only the direct ones of running the prison system, at over \$40,000 per prisoner per year, and capital costs of new prisons, \$50 million for a maximum security prison. There are also the indirect costs: such as social welfare support for prisoner's families, opportunity costs such as loss of earnings, loss of production, loss of taxation revenue, the long term impact on job prospects. To say nothing of the social costs, such as family breakdown, stigmatisation, violence, despair, and the consolidation of criminal careers.

The above discussion of the intensification of penal discipline has focussed mainly on the property confiscations policy. But there are numerous other examples some of which have been documented in detail elsewhere.⁴⁸ Shortly after taking office Yabsley's predecessor, Ray Aston, announced in May 1988 the re-opening of Katingal, the windowless maximum security 'electronic zoo' closed by the Wran government on the recommendation of the Nagle Royal Commission.⁴⁹ The announced re-opening of Katingal became somewhat of a ritual in the first year of the Greiner government, with the press release being cranked out again on at least two other occasions by Yabsley. In fact its opening is unlikely for structural and cost reasons. However very

⁴⁷ The sole press commentator support came from the *Daily Telegraph* and *Sydney Morning Herald* editorial writers, and the latter backed down in the face of the increasing criticism. See "All must pay for the actions of prison toughs", *Daily Telegraph* 18/9/1990; "Property as a jail security risk" *SMH* 12/9/1990; "Who runs the prisons?" *SMH* 29/9/1990; cf "The Yabsley Backlash", *SMH* 18/10/1990. For just some of the critical response see: R Gittins, "As offenders are jailed, tax-payers are penalised", *SMH* 4/4/1990; M Steketee, "May Day and NSW Inc is up a pole", *SMH* 1/5/1990; A Mitchell, "Yabsley's bullet in the back", *SMH* 6/9/1990; D Brown, "Law and Order Bites Back", and "Strangeways: The Path to Ruin", *Campaign for Criminal Justice Bulletin* No 5 July-Aug 1990; M Steketee, "Lessons in prison history", *SMH* 18/9/1990; M Moore, "Yabsley - a man for all seizures", *SMH* 6/10/1990; P Adams, "Penial politics: opportunism aids a vortex for vengeance", *The Weekend Australian* 6-7/10/1990; J McClelland, "Is the tough guy image worth it?" *SMH* 17/10/1990; J O'Neill op cit note (1); J O'Neill and S Harvey op cit note (39); J McClelland, "Yabsleyism viewed from the inside", *SMH* 7/11/1990; Tony Vinson, "Lessons we missed on prison reform", *SMH* 14/11/1990; G Zdenkowski, "Minister in the hot seat", *The Bulletin* 4/12/1990; T Guider, "The turn of the screw", *The Bulletin* 4/12/1990.

⁴⁸ See Brown op cit note (3) pp101-2 for early examples.

⁴⁹ *Report of the Royal Commission into NSW Prisons 1978* (Nagle Report) p165.

definitely under way is the transfer of Endeavour House, the former high security juvenile detention centre at Tamworth, closed as a juvenile institution in early 1990 after a spate of riots and suicides, to the Department of Corrective Services for use as a jail for escapees. In April 1990 Mr Yabsley announced the intention to build an institution for 'inmates who deserved the most spartan facilities'.⁵⁰ Just three months after its announcement the cost of the 'escapers prison' had blown out by nearly 350% to \$4.9 million.⁵¹ In a move which recreates the conditions for the return of the notorious Grafton 'trac' regime of 1943–1976 the Minister announced the regime will be marked by the loss of privileges such as television and radio, access to contact visits and phone calls. He stressed the isolation from family and friends⁵² reassuring the good citizens of Tamworth that they had no need to fear 'the sort of people who would visit the inmates' because no inmate would be allowed more than a single, one hour visit each month.⁵³

These announcements came at the same time as the release of a report from the Minister's department revealing that most escapees represent no great risk to the community.⁵⁴ The report examined 811 escapes from NSW prisons between 1983 and 1989. It found that 'a typical escapee was male, aged 24 or younger and was serving time for a property offence. He generally did not offend while on the run and came from a minimum security jail'. A further Departmental study of 156 escapees between 1985–1988 shows that many escapes were spontaneous, resulting from family problems and receiving bad news from outside. In short, escapees are predominantly non-dangerous minimum security inmates who escape either through fear of bashings or sexual assault or to try to sort out some family problems which could not be solved because of the difficulties in communication and access. These difficulties are exacerbated by the conditions obtaining on visits and in particular the increasing use of body searches, including strip and even internal searches, especially at Maitland and Bathurst prisons.⁵⁵ In an exercise in illogicality the Minister's solution is to isolate them in a special prison away from family and friends and curtail their access to visits and

50 "Tough new jail for prisoners who escape", *SMH* 14/4/1990; "Endeavour House to be new prison: 'Spartan' jail for escapees", *SMH* 28/4/1990.

51 "Old jail to hold hardest inmates", *Daily Telegraph* 1/5/1990.

52 A Larriera and S Harvey, "Escaper's prison cost blows out by 350%", *SMH* 17/7/1991.

53 O'Neill op cit note (1) p21

54 "Desperado image of escapees is ill-founded", *SMH* 9/5/1990.

55 M Moore, "Yabsley wants five years' jail for escapers", *SMH* 31/8/1990.

communication facilities, at an extra cost to the Department (read NSW taxpayer) of between \$4–8 million. Moreover a policy has been introduced preventing a prisoner who has escaped (however technical the breach) from ever receiving minimum security classification.⁵⁶ As if all this was not enough Mr Yabsley proposed the introduction of 5 year *mandatory* minimum sentences for escape, whatever the circumstances, and an increase in the maximum penalty from 7 to 10 years.⁵⁷ To which his cabinet colleagues have so far cried 'enough'.

The reintroduction of an explicit punishment regime, similar to the 'intractable' classification used against 'trouble-makers' and stirrers at Grafton, is a deeply symbolic move. The loss of the institutionalised brutality of Grafton as a weapon of intimidation and revenge *within* the prison system is still resented by old guard punitive elements in the Department, whose fortunes have revived under Yabsley. Superintendent Barry Mood, head of a 'Dog Squad' carrying out searches, bemoans the 'loss of authority': 'Its not just the sheer weight of numbers but, of course, we also had Grafton hanging over their head. That was an effective deterrent. Oh Christ, yes. Very effective.'⁵⁸

The theme of lost authority is given particular expression in the gearing up of the Internal Investigation Unit, the riot, 'special response' and security squads within the Special Operations Division of the department, the equivalents to the NSW police TRG and SWOS, themselves in the spotlight following the David Gundy and Darren Brennan shootings. Indeed the 119 member unit with an annual budget of \$5.5 million and equipped with laser-sighted shotguns, sniper rifles and tear gas grenade guns, engage in joint secret training sessions with SWOS and the TRG.⁵⁹ But little attention has been paid either to the activities of the IIU or to its increased power within the department, under Superintendent in Charge of Security, Ron Woodham. Rather than identifying and attempting to ameliorate the conditions leading to prison disturbances the clear strategy under Yabsley has been to gear up for confrontation, equipping a highly trained force with the latest riot control technology. Also evident is the tactic of 'getting your retaliation in first' through prompt use of tear gas and the strategy of 'lock-downs' – keeping prisoners confined to cells. In a disturbance at Long Bay in September over the property

⁵⁶ L Garcia, "Jail visitors must endure body search, Yabsley says", *SMH* 1/6/1990.

⁵⁷ See G Zdenkowski, ? *SMH* ?

⁵⁸ O'Neill op cit note (1) p22.

⁵⁹ *ibid*

confiscations policy so much tear gas was used that students and staff at nearby Matraville High School were affected and classes had to be evacuated.⁶⁰ In May members of the Malabar Emergency Unit sprayed mace over two juvenile offenders who refused to back to their cells after being transferred to Long bay from a juvenile institution.⁶¹ At a joint press conference at Parramatta prison after riots in April Woodham claimed that there would never be another Bathurst style riot and burning of a prison, going on to refer to the special response unit as 100 'hit men' with 'every type of chemical agent required to handle a large rebellion'.⁶²

Ironically the expansion in the powers and functions of the IIU actually fuels the loss of authority of the on the ground prison officer. In addition to the 'riot squad' emergency function and the IIU the Special Operations Division has since 1986 gained control over prisoner escorts, the special purpose prison (for witness protection) and more recently prisoner classification. This is a formidable repertoire of powers involving decisions such as transfers (including shanghais) classification and witness protection status which can be used both as more traditional disciplinary and control measures but also as incentives for co-operation in the supply of information to police and prison authorities. This is further enhanced by the removal of traditional official incentives in the form of the abolition of prison remissions. The problems with the IIU in particular are not only those of a lack of democratic debate surrounding its expansion, its enormous powers and lack of accountability. The problem is also that the strengthening of the IIU actually destabilises the whole prison system even further. Power is shifted away from on line prison managers such as superintendents to an elite paramilitary force operating from outside the specific situation and geared to the exercise of power in its most exceptional form. The exceptional moment is to become the norm, the routine. Such a regime is inherently unstable and in even the medium term impossible to sustain.

Woodham's increasing power within the department is enhanced by his relationship with and direct reporting to, the Minister, for whom his unit's members occasionally provide 'protection'. Indeed the IIU is alleged by prison officers to be carrying out surveillance and intelligence gathering activities *outside* the prisons against prisoners' visitors, friends and relatives, and

60 ibid

61 "Schol Flees Jail Riot" *Daily Telegraph* 19/9/1990; R Macey, "Gas fired to quell jail riot", *SMH* 18/9/1990.

62 A Larriera, "Mace used on young prisoners", *SMH* 25/5/1990.

against prison officers, including union officials. Power is increasingly being centralised in a small coterie including Woodham, Graham and Nixon, all of whom broadly share Yabsley's punitive approach. O'Neill quotes Woodham as saying of Yabsley: 'The Minister fully supports us in what we do ...law and order is the theme of the day'.⁶³ Indeed the increasing interpenetration of police into the prison system is notable under Yabsley. Monitoring of prisoners' mail, phone calls and visitors has been stepped up and information gained is increasingly supplied to police. An industry of prison informants, representing a state sponsored privatisation of the police verbal has grown up.⁶⁴ The dangers of such a centralisation of power in a police and security dominated administrative hierarchy include a diminution of the usual checks and balances both within and between departments. Such dangers are even more acute under a confrontationist, punitive and vindictive Minister who has a tendency to blur Ministerial, departmental and personal electoral functions.

In January 1991 27 inmates at Long Bay's Assessment Prison wrote to the Human Rights Commission and the NSW Ombudsman asking for an investigation into their living conditions. The prisoners complained that in the only 6 hours a day they were allowed out of their cells they were confined to a concrete yard measuring 23 metres by seven metres with little shade and two toilets which overflowed.⁶⁵ The Federal Human Rights Commissioner reasserted his belief that conditions in NSW prisons breached article 16 of the United Nations Convention Against Torture, covering cruel, inhumane or degrading punishment, and also breached the International Covenant on Civil Rights and Political Rights. He pointed out that he had expressed these views to the Premier in writing on a number of occasions but that the only response he had received was a two-line letter of acknowledgement. A spokesman for the Premier was quoted as saying that the Federal Human Rights

63 O'Neill op cit note (1) p22.

64 ibid

65 See B Duffy, "An Unholy Alliance", 15 *LSB* 3:134-5; J Fife-Yeomans, "Informants: Justice goes to the dogs", *SMH* 17/3/1990; J Fife-Yeomans, "Jail officer did a deal: prisoner", *SMH* 10/4/1990; ABC Radio National, Background Briefing, "Justice gone to the dogs: criminal informers in our justice system", 09/12/1990; K Gosman, "Yabsley's spy master", *Sun Herald* 23/12/1990; M Curriden, "No Honour Among Thieves", *American Bar Association Journal* June 1989; A Freiberg, Reward, Law and Power: Toward a Jurisprudence of the Carrot" (1986) 19 *Australian and New Zealand Journal of Criminology*; A Keenan, "Do police use 'tainted' supergrasses", *SMH* 13/4/1988; G Zdenkowski, "The Traps in Trade Offs", *The Bulletin* 8/1/1991 p 70; D Brown, "Prisoner Informants and the Privatisation of Police Verbal", University of NSW Law School Alumni Newsletter No 1 May 1991.

Commissioner had no jurisdiction over NSW.⁶⁶

The Slashing of Educational and Rehabilitative Programs

While the prison system has been earmarked as a 'high priority' area with the significant infusion of both capital and recurrent funds detailed earlier, educational and rehabilitative programs have been slashed. Most of the increase in recurrent funding is used for containment of prisoners, while continued cut backs are made in allocation of funds for educational and development services for prisoners. In 1989–90 \$3 million of the \$18.6 million allocated for staff wages in these areas remained unspent, and the expenditure for 1990–91 has been cut to \$17.7 million.⁶⁷ In mid 1989 funding was cut to the Prisoners Aid Association, operating since the beginning of the century, while the education, welfare and psychiatric sections in the Department's head office were abolished. Substantial cuts were made in the Equal Opportunity, Occupational Health and Safety, Prisoner Programs and Research Sections.⁶⁸ In April 1990 a departmental spokesman was quoted as saying that after-care services would be cut from \$520,000 by \$400,000 beginning June 30, leaving only \$120,000⁶⁹ causing the few voluntary run halfway houses to close. It seems the cuts have not been quite as savage as this, although the intimidation effect achieved by the uncertainty associated with the cuts has been noted above and a clear political dimension is apparent in the decisions as to where the cuts fall.

Teachers have complained of the disruption caused to education programs by the confiscation policy. And the Minister has threatened to cut existing education programs to help pay for the damage caused in response to the policy.⁷⁰ Prisoners who required tape recorders for their courses have had them confiscated. Prisoners at Mulawa women's prison were unable to practice keyboard skills because they were no longer allowed to have a

66 W Jamrozik, "Long Bay prisoners angry over conditions", *SMH* 2/2/1991; "Inquiry into jail conditions", *SMH* 11/2/1991.

67 C Jones and C Sutton, "NSW jails 'inhumane'" *Sun Herald* 10/2/1991.

68 M Moore, "Govt lashes out on prison staff and new jails", *SMH* 12/9/1990.

69 G Williams, "Shake-up to cut jail education programs", *SMH* 19/7/1989; M Moore, "Money cuts may close prisoner's aid body", *SMH* 21/7/1989.

70 D Sider, "Threat to cut prisoners lifeline", *Eastern Herald* 26/4/1990.

typewriter in their cells.⁷¹ Prisoners preparing for exams had most of their texts confiscated. One prisoner had the manuscript of a book he had been working on for two years confiscated.⁷² Cuts have been made to basic literacy and numeracy programs, this in the 'international year of literacy'. Cuts to the weekly prisoner's wage of \$9 for those doing full-time educational courses indicate an attempt to discourage educational involvement.⁷³ At Mulawa women's prison there are no full time teachers and women are discouraged from attending classes taught by the part-time teachers. Wages are docked for those attending classes.⁷⁴

The disciplinary effects of many of these cuts are clear. For example prisoners have been prohibited from seeing a dentist unless they are 'actually in pain'.⁷⁵ Similarly, cuts introduced for explicitly disciplinary or security reasons have had clear medical effects. The property confiscations policy for example had clear medical effects. A spokesperson for the NSW branch of the Australian College of Psychiatry, Professor Derrick Silove, stated that 'excessive deprivation generated a spiral of tension and frustration, and a likely increase in damaging acts such as suicide and aggression towards others'.⁷⁶ Some of the prison policies are directly contrary to major government health campaigns launched by the Department of Health. For example under the property confiscations policy prisoners are not permitted hats or sunglasses. In some prisons prisoners spend considerable periods outside with little or no shelter from the sun. Meanwhile the Department of Health is conducting an expensive campaign to encourage the use of suncream, sunglasses and hats to prevent skin cancer and eye damage.

In 1988 beans, seeds and sprouts were removed from the buy-up list, supposedly on the grounds that those items might be used in the manufacture of alcohol 'brews'. But in investigating a complaint over the withdrawals from women prisoners at Mulawa prison the Ombudsman stated that the department 'was unable to produce evidence that any of those particular items

71 S Long, "Yabsley's policy wrecks Long Bay education programs", *Eastern Herald* 18/10/1990.

72 J Earle, "Five years after: Women in NSW Prisons", *CCJ Bulletin* No 6 Dec 1990-Jan 1991 p11).

73 J O'Neill and S Harvey, "Yabsley's jail legacy: fear and hatred", *SMH* 16/10/1990.

74 Women and Girls in Custody Group, Sub Committee of NSW Prisons Coalition, Women in NSW Prisons March 1991, p3.

75 "Stay in Touch", *SMH* 2/5/1990.

76 *SMH* 19/12/1990.

had ever been used for the manufacture of alcohol at the gaol. In fact, investigation revealed that the instances of gaol brews at Mulawa were very few indeed'.⁷⁷ The Ombudsman's inquiry flushed out the following 'somewhat startling remarks' from the then Director General in January 1989 that

the minority of prisoners who are health-conscious are correct in assuming that prolonged consumption of the present diet exposes them (and all other prisoners) to the risk of premature death or serious and permanent disability as a result of illnesses such as coronary occlusion and arteriosclerosis.⁷⁸

After noting that allowing such a situation to continue would appear to contravene *Prison Regulation 44* the Ombudsman noted with evident disgust that 'an urgent investigation' of dietary issues recommended in January 1989 and promptly approved had 18 months later only been translated into a *draft* report.⁷⁹

In December 1990 the General Secretary of the Public Service Association condemned the department's decision to reduce the number of prison-based nursing positions by 10%. He pointed out that 'the system is already 40 nurses short for the current high workload'.⁸⁰ Medical services are seriously deficient both in terms of availability and adequacy. A Review Committee is currently conducting an inquiry into NSW prison medical services. A submission to the review by Guthrie and McLean⁸¹ highlights many of the problems with particular reference to women prisoners. They note that 'there appears to be little co-operation between the Prison Medical Service and the Corrective Services Department'.⁸² Detailed examples are given of the arbitrary and discretionary way access is or is not granted to medical services and the inordinate delays in gaining treatment. Panadol appears to be used as a treatment for many complaints. Psychiatric services are deficient in most prisons and non-existent for prisoners on protection as are counselling and other treatment programs. Medical confidentiality and privacy are routinely

⁷⁷ *Annual Report of the Ombudsman of NSW* 1990 p112.

⁷⁸ *ibid* p112-113.

⁷⁹ *ibid* p115.

⁸⁰ A Mitchell, "Prison nursing cuts attacked", *Sun Herald* 23/12/1990.

⁸¹ L Guthrie and S McLean, Prison Medical Service Review Submission by the New South Wales Prisons Coalition March 1991.

⁸² *ibid* p35.

breached, a particular concern in relation to HIV status. Mulawa inmates complain that while psychiatric drugs are easy to obtain (while counselling and therapy services are not) suitable medication was not forthcoming for physical conditions. Pregnancy is treated as an illness. No methadone counselling has been available since June 1990.⁸³

Much of the HIV policy has a clear disciplinary character. After considerable debate Mr Yabsley won the day and an earlier Cabinet decision to allow condoms to be made available to prisoners has been reversed.⁸⁴ Not only has the policy of refusal to make clean syringes available in some controlled way been continued but the Minister has announced that he will be bringing forward legislation in 1990 to provide increased penalties for people working in prisons, including officers and people working in welfare and health, who were giving needles to prisoners.⁸⁵ Milton tablets, a bleach used for sterilising needles used in intravenous drug use, has been withdrawn on the orders of the Minister. Legislation has been introduced⁸⁶ against the advice of most AIDS experts, to require compulsory testing of all prisoners upon entry to prison and all prisoners serving three months or more before release. Compulsory testing does nothing to stem the transmission of Aids and has been specifically rejected by the World Organisation.⁸⁷ The NSW compulsory testing regime does not take account of the three month 'window period', generates a false sense of security among supposedly HIV negative prisoners which may ultimately lead to greater spread of the infection, is not backed up with sufficient counselling and medical services⁸⁸ and does little to guarantee confidentiality of results, either legislatively or administratively. While prevention and education policies in relation to the two high risk groups, male gays and intravenous drug users have had considerable success in reducing transmission of the HIV virus, AIDS policy in relation to prisons lags far behind.

⁸³ ibid p24.

⁸⁴ See B Lagan, "Cabinet backs condom supply for prisoners" *SMH* 28/2/1990; M Moore, "Condoms pose risk in jails, says Yabsley, *SMH* 11/5/1990; L Garcia, "No condoms in NSW prisons, Govt decides", *SMH* 14/6/1990.

⁸⁵ M Moore, "Yabsley cracks down on prison property", *SMH* 10/9/1990.

⁸⁶ The Prisons (Medical Test) Amendment Act 1990. The Act contains only the skeleton power to make regulations.

⁸⁷ For a comprehensive review of the issues see H Heilpern and S Egger, *Aids in Australian prisons: Issues and Policy Options Report* Commissioned by the Department of Community Services and Health, Canberra, March 1990; S Egger and H Heilpern, paper delivered to National Conference on Aids in Prison, Melbourne November 1990.

⁸⁸ B Lagan, "Prison AIDS tests banned", *SMH* 22/10/1990.

Prisons contain significant numbers of the high risk groups, and prison life is acknowledged to involve a considerable amount of high risk behaviour. Many experts see prisoners as a 'bridge' group for transmission into the wider community. The first national conference on HIV infection in Australian prisons, including prison officer representatives from all states, ended with a unanimous call for all states to distribute condoms and establish needle exchange programs in prisons.⁸⁹ This call was backed by the President of the NSW Court of Appeal, Justice Michael Kirby.⁹⁰ Mr Yabsley's refusal to countenance condom availability and needle exchange programs were described at the conference as 'not an acceptable response' by Professor Bob Douglas, Director of the National Centre for Epidemiology and Population Health.⁹¹ Co-author of a major report on Aids in prisons for the Australian government, Dr Sandra Egger, speaking at the conference said she hoped that the cost of Mr Yabsley's aspiration 'to put the value back in punishment' 'was not an increase in HIV infection in the prison and in the general community'.⁹²

'Real Value'?

The perplexing question is what does all this have to do with the Premier's claims to be 'motivated by a commitment to improve the efficiency and effectiveness of the public sector, so that it gives real value for money for the tax-payer and meets its social obligations to the disadvantaged'.⁹³ Mr Yabsley seems to conceive the 'real value' as being delivered through the intensification of penal discipline, a deepening of penal punishment. Such a vision invokes and seeks to reinforce the principle of 'less eligibility', that prison conditions should be worse than those enjoyed outside the prison by the honest poor. Greater immiseration in the prison system can thus be portrayed as making the tax-payers dollar go further. Not for the first time in the history of the prison, failure can be hailed as success. If efficiency and effectiveness can similarly be restricted to the calculus of delivery of punishment and the 'disadvantaged' defined so as to exclude prisoners themselves, their friends, families and children (and their future victims) then it may be possible to read the prison policies of the Greiner government as conforming with the premier's formulation of the government's guiding ethos.

89 M Skulley, "Plea for uniform action on jail AIDS", *SMH* 22/11/1990.

90 M Skulley, "Judge calls for jail needle exchange", *SMH* 21/11/1990.

91 op cit note (89).

92 M Skulley, "Yabsley's prison rule savaged at AIDS talk", *SMH* 20/11/1990.

93 op cit note (2).

Apart from the impoverished moral tone of such a vision (the dark in the dungeon rather than the light on the hill) intractable problems persist. First, is punishment to be conceived of predominantly as the loss of liberty or as a regime of material deprivation and subordination? If the latter then it becomes difficult to reconcile such a regime with the logic and the language of individual responsibility and economic rationality. Second, even at a popular 'commonsense' level the function of the prison cannot easily be reduced solely to that of punishment. For there is a strong expectation that such punishment will also have a reforming, a rehabilitative, a redemptive effect. That the prison system generally does not deliver such an effect, evident in the high recidivism rates and the consolidation of criminal careers, may not surprise those who, pace Foucault,⁹⁴ point out that such failure is recovered through the utility of creating an enclosed delinquency which can then be differentiated, distributed and managed. However contemporary politicians can hardly laud the prison for producing criminality or celebrate the political benefits such as the redistribution of forms of popular illegality and the justification of agencies and practices of surveillance. While the failure of the prison, according to Foucault, was reincorporated into the functioning of the prison through the discourse of prison reform which becomes the 'program' of the prison so that 'the prison has always been offered as its own remedy'⁹⁵ that same failure is nevertheless continually thrown up as a problem in popular penal debates, particularly those couched in the language of efficiency and effectiveness. For if the measure of efficiency and effectiveness is a deepening of commitment to criminality, then the notion of value in play has connotations far beyond the ken of Mr Greiner's bookkeeper, accountant or business manager. The practical difficulties involved in politically managing and negotiating the 'inverted efficiency' of the 'effective prison'⁹⁶ can be illustrated through an examination of the issues of prison industry and prisoner violence.

What appears to be a strategy of improving industrial and work opportunities in the prison, largely at the expense of educational programs, ('Every prison a factory, every prisoner a worker', as the Minister puts it) together with the introduction of selective privatisation, has largely failed in the turmoil and disruption caused by the Minister's insistence on implementing the confiscations policy. As the independent MP's report noted after nearly all Parklea prisoners had been shanghaied to other prisons in the aftermath of the riot over the confiscations policy : 'established successful prison industries at

⁹⁴ M Foucault, (1977) *Discipline and Punish*.

⁹⁵ *ibid* p234.

⁹⁶ *ibid* p271.

Parklea had collapsed and industrial officers now face restarting the shops from scratch, reskilling new workers'.⁹⁷ The *Anglican News* pointed out : 'As recently as six months ago Bathurst gaol operated four full-time accredited trades courses and employed eight training officers teaching such skills as carpentry and welding. Now there are no training officers and only one part-time trades course at Bathurst'.⁹⁸

While a captive workforce may have some attractions to private enterprise a workforce provoked to hostility and riot and a prison system ablaze, hardly comprise the conditions of stability necessary to private investment in prison industry. The *Sydney Morning Herald* reported that nearly 6 months after placing its first advertisements inviting companies to show interest in running prison industries, the Department of Corrective Services had failed to attract one acceptable response. And that there had been no written submissions to advertisements seeking companies to set up industries in a new prison being built at Windsor, or a new building at Bathurst Jail.⁹⁹ So much for NSW Prison Inc. The contrast with Borallon jail in Queensland, run by a private, US and Australian consortium, Corrections Corporation of Australia, operating with a reformist, rehabilitative regime, could not be clearer. As Borallon's General Manager, Brian Dickson put it: 'A little bit of basic respect costs you nothing and you get good value out of it. You treat them like you would want to be treated yourself'.¹⁰⁰ Here then is a rather different notion of value.

Indeed Borallon administrators have been scathing in their condemnation of the Yabsley approach. Borallon's program manager and former senior officer in the NSW system, Mr Jim Sachs is quoted as saying 'Under this (Greiner) government, conditions have taken a dramatic leap backwards 25 or 30 years...He (Yabsley) is not moving with the times. You've had a big increase in vocational training and other services'. Assistant operations manager at Borallon, Mr Clagg Wilkinson, said 'The attitude that you have to get tougher with inmates turns prisons into a growth industry. All it does is make them harder criminals when they come out'.¹⁰¹

97 op cit note (53) p6.

98 *Anglican News* Vol 13, No 9, October 1990.

99 M Moore, "Prison Inc appeal falls on deaf ears", *SMH* 5/10/1990.

100 G Roberts, "Private sector points to a softer solution to troubles in NSW", *SMH* 16/4/1990. See also S Kirk "Private Prisons: Making Money out of crime", *SMH* 8/8/1991.

101 Roberts *ibid*.

Similar comments were made by Dr Gordon Moyes, the Superintendent of Wesley Mission, which has made a joint submission with Costain Australia, to build and run the proposed new jail at Junee in NSW following a cabinet decision to allow the private sector to build and manage the biggest jail in the country (600 prisoners, as against the 300 figure first announced). Dr Moyes said a church-run jail would have 'greater emphasis on personal relationship, heavier concentration on work, and a humanisation of the system'.¹⁰² In the event Dr Moyes rejected the 600 figure saying that the 300 occupancy originally announced should be the maximum and the Wesley Mission tender was then excluded. A number of other tenders are still under consideration. One of the front-runners is a US-European-Australian consortium including *Group 4*, Europe's largest security organisation, which is also bidding for contracts in the newly opened up, eastern Europe. A senior executive of *Group 4* visiting Australia to promote his group's tender for the Junee prison was quoted as saying that inmates would be 'subject to a radical code of behaviour' in which 'inmates would be given 'as many privileges as possible'.¹⁰³

In contrast to those prison administrators both public and private who emphasise incentives, privileges, the development of individual responsibility, Yabsley's radical vision for the prison system appears to be to recreate the prison in the image of the military, establishing a rigid and hierarchical discipline attained through the exercise of paternal authority, coercion rather than consent. Such a vision seems to be held by Yabsley appointee, Corrective Services Departmental Head, Mr Angus Graham. In defending the prisoners' property confiscations Mr Graham referred to the clutter in prisoner's cells, contrasting this with the spartan tidiness of the Army, Navy or Air Force where : 'you have a neat, tidy bed, you've got a minimum of equipment'. Indeed such a regime evidently starts at home:

Your old man at home might have told you when you were 10 or 12 years old: 'Tidy up your room mate!' And get your stuff stacked neatly, hangered, and that sort of thing. That's a

¹⁰² M Moore, "Church wants to operate private jail", *SMH* 15/11/1990. For a broader discussion of the merits of privatisation see A George, "Private prisons: the state tries an escape", (1989) 14 *Legal Service Bulletin* 51; M Ryan and T Ward, *Privatisation and Penal Politics* (1989); R Mathews (ed) *Privatising Criminal Justice* (1989).

¹⁰³ S Warnock, "'Luxuries' await jail inmates", *Sun Herald* 24/2/1991.

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measure of discipline and control which these people don't have. They don't want to be told.¹⁰⁴

While as Foucault has shown, the origins of the prison drew on the architectural design and disciplinary practices of a range of institutions including the monastery and the military barracks¹⁰⁵ there are some fairly obvious contemporary differences, not the least being that prisoners are being detained against their will, sometimes for considerable periods of time, in very close confinement. It is possible that Mr Yabsley however deludedly does think an army style regime is both possible and desirable, although his controversial comments that rape in prison is 'inevitable'¹⁰⁶ suggest a more pragmatic accommodation to prison sexual violence. Indeed he went further, suggesting that the fear of prison rape might be a useful 'deterrent factor' to those thinking of offending.¹⁰⁷ The slippage between building a political career on repressing prisoners, using them as signifiers for disorder, violence and the necessity for punitive discipline, and then highlighting the productive nature of jail rape as an element of general deterrence was not lost in the outcry following Yabsley's comments.¹⁰⁸ To simultaneously deplore and utilise, to invoke the inverted efficiency discussed above, is not without political cost, as the Minister discovered.

As we have seen there are many different conceptions of value and of how it might be constituted. The conception of value promoted by those bidding to establish private prisons in Australia and state prison administrators in other jurisdictions such as Queensland which are embarking on a reform program 'revolutionising the state's custodial services'¹⁰⁹ coupled with significant reductions in prison population, is constituted in the language of incentives, of education and work opportunities, of individual responsibility and autonomy, of compensation and mediation, of cost saving through reducing prison populations, and of delivering more effective crime prevention. All of which is a

104 J O'Neill and S Harvey, "Yabsley's jail legacy: fear and hatred" *SMH* 16/10/1990.

105 *Discipline and Punish* p170–171.

106 J Hole, "Jail rape inevitable: Yabsley", *SMH* 22/2/1991; P Broekhuise, "'Yabsley Should Resign' Mother on the attack over brutal pack rape", *Sunday Telegraph* 24/2/1991.

107 Letters: "Callousness disgusts", "Debasing our society", *SMH* 27/2/1991.

108 Editorial: "Yabsley has a choice", *Sun Herald* 24/2/1991.

109 P Wilson, "Revolution in the Queensland", *Australian Society* January–February 1991; see also Editorial, "Prison reform from the north?", *SMH* 14/1/1991.

long way from the conception of value being pursued in NSW under the supposedly economic rationalist regime of NSW Inc.

The Yabsley Factor

In trying to account for the punitive and highly ideological prison policies of the Greiner government many commentators see the policies as fashioned from the predilection of the Minister Michael Yabsley rather than from the economic rationalist claims of the Greiner government. Such a view entails a closer look at the Minister's recent history, particularly his performance in opposition, and aspects of his personal approach to financial and personnel management in carrying out his ministerial functions.

Yabsley was undoubtedly one of the success stories in opposition with his 'head-kicking' style in both media and parliamentary debates. He was assisted in this by a steady stream of leaks from conservative elements within both the Corrective Services Department and the prison officers union, ensuring a barrage of sensationalist allegations (prison rapes, assaults, 'motel conditions'). Such material seems in NSW in particular to fulfil a key criteria of newsworthiness and at times to largely characterise parliamentary politics, substituting for policy debate. In the aftermath of the Jackson affair, the conviction and jailing of a Labor Minister of Corrective Services for corruptly using the prisoner licence release scheme, the Labor government was seen as particularly vulnerable to Yabsley's muck-raking style.

Nevertheless Yabsley was actually defeated in the 1988 election landslide victory by the Greiner-lead Coalition, in a clear repudiation of his 'yuppie yobbo' style (as the posters throughout Bligh, an electorate with a substantial gay vote, put it). But the death of Corrective Services Minister and member for Vaucluse, Ray Aston, after only a few months in office paved the way for Yabsley's return in June 1988 in a by-election uncontested by opposition candidates. Immediately drafted into the ministry to replace Aston, the newly unelected member for Vaucluse claiming a mandate for penal repression continued in the headkicking, boot-boy style he cultivated in opposition. Little attempt appeared to be made to work on a penal policy that might conform to and even promote the values of public sector efficiency and effectiveness supposedly guiding the new government. Similarly little attempt appeared to be made by the premier or the Liberal party to 'reign-in' Mr Yabsley or to point out that a rather different style was required when actually in office. Accordingly Yabsley has been allowed enormous autonomy in implementing the punitive prison policies outlined earlier in the paper and despite a growing chorus demanding his removal the premier has not seen fit to exercise the

damage control mode evident in the removal of Education Minister Terry Metherell and Family and Community Services Minister Virginia Chadwick.

A series of incidents involving Yabsley have publicly highlighted a somewhat cavalier approach to the expected proprieties in the exercise of ministerial functions and financial responsibility and accountability in the expenditure of public monies. While the premier has responded to such incidents as 'the greatest non-event in history' there is a clear pattern emerging which can be tied back to the more central issues of the proper management of the portfolio and the Department. The mismanagement which characterised the implementation of the prisoners property confiscations policy, the failure to follow departmental advice, the intransigent and vindictive response to criticism, are all the more likely where the Minister involved has no clear conception of the distinction between his Ministerial functions and duties and his personal and political interests.

No tenders were called when right wing radio commentator Alan Jones, an old friend of the Minister and his wife Suzie, was hired by the Department for \$45,000 to give a series of 12 'motivational talks' to prison officers.¹¹⁰ This at a time when funding for educational programs in prisons was being slashed and teachers whose *annual* salaries are less than \$45,000 laid off. Mr Jones subsequently resigned from the job after completing less than half the talks.¹¹¹ Mathew Moore in the *Sydney Morning Herald* commented: 'what did concern the Government was the appearance that a friend of the Minister's was being favoured. What concerns them now is that Yabsley will get a reputation for favouring himself.'¹¹²

That such a reputation is rapidly being established was illustrated by the government's admission that he had breached ministerial guide-lines when he furnished his Vaucluse electorate office at tax-payers expense. Goods charged to his department but placed in his electoral office included Freedom furniture and a dinner set plus \$1,000 in alcohol supplies for his office fridge in parliament.¹¹³ The expenditure of \$1,775 for a going-away gift for a public servant was described by the Auditor-General as 'significant' and 'may well

110 M Moore, "Jones defends \$45,000 fee", *SMH* 10/8/1989.

111 S Long, "Mr Yabsley's 'political sin'", *Eastern Herald* 25/10/1990.

112 M Moore, "Target-rich zone called Yabsley ... free-spending and cocky", *SMH* 29/3/1991.

113 B Lagan "Query on Yabsley's drinks, food bills", *SMH* 30/11/1990; B Lagan, "Yabsley bent cash rules, say Govt", *SMH* 1/12/1990.

exceed a desirable level of appreciation to be shown retiring personnel...'¹¹⁴
'This was followed by revelations that his new electoral office in Rose Bay was decorated by prisoners working under the supervision of a prison officer.'¹¹⁵
More recently a series of questions have been raised by the opposition concerning expenditure that appears to be outside the normal expenditure a minister is entitled to because it has a direct relationship with his portfolio. Examples include airline tickets, hotel bills, restaurant meals, footwear, helicopter charter, and entertainment.¹¹⁶ When Mr Yabsley visited London early in 1990 prominent Sydney stockbroker, friend and former employer, Mr Rene Rivkin paid for a week's accommodation and transport. When Mr Yabsley visited Sanctuary Cove Resort on the Gold Coast in January 1990 a weeks accommodation was paid for by a company called Bedford Productions.¹¹⁷

In a different and arguably more significant blurring of roles Mr Yabsley used the columns of a local newspaper to invite residents 'who have experienced vandalism to their homes...to contact my electoral office ...and I will try to have the graffiti removed by young offenders serving their sentence of community service work'.¹¹⁸ Feudalism lives on. While CSO offenders can undoubtedly be usefully employed in public works, it is doubtful that this should be organised through the Minister's electoral office, at his personal invitation.

NSW Inc

But before we consign events to the category of punitive aberration centred on the figure of Michael Yabsley it is important to tease out any connections between the penal policies of the Greiner government and its avowed general approach to government, encapsulated in the promise to run NSW 'like a business', hence NSW Inc. The foundation of the government's approach was laid in the first of a series of reports prepared by private consultants which dealt with various aspects of the public sector. The *Report on the State's*

114 M Moore note 112 op cit.

115 J Southward, "Convicts used to fix up Yabsley's office", *Sun Herald* 2/12/1990.

116 M Moore, "Auditor critical of Yabsley's spending on meals and gifts", *SMH* 26/2/1991; Editorial, "A question of meals and gifts", *SMH* 28/2/1991; M Moore, "Yabsley refuses answer on expenses", *SMH* 28/3/1991; M Moore, "Labor asks new questions about Yabsley's expenses", *SMH* 4/4/1991; P Grimshaw, "Minister accused of hotel rot", *The Telegraph Mirror* 4/4/1991.

117 B Lagan, "How Renee picked up the tab for Yabsley's London visit", *SMH* 29/9/1990.

118 M Yabsley, "Young offenders serve the community", *Wentworth Courier* 17/10/1990.

Finances (Commission of Audit, 1988, generally known as the Curran Report) adopted an essentially free market view of the role of the state, condemning the growing size of the public sector so as to lay the foundation for '...a significant downsizing of Government, based upon a review of the services and activities in which the Government should be engaged'. According to the Report the appropriate role of the state lies in the provision of '...the social infrastructure needs of the community...' ¹¹⁹ the typical example being that of law and order. The rising relative expenditures on law and order far outstripping the other major areas of public expenditure are implicitly understood to be a natural consequence of growing levels of reported crime ¹²⁰ and the agencies of criminal justice therefore exempted for the most part from the demands for efficiency applied to other areas of state administration. Law and order becomes, in the words of the 1990–91 budget, a 'high priority area'. The exceptions are what is referred to as '...soft' areas... ¹²¹ such as legal aid and rehabilitative prison programs. Hence a bifurcated strategy in which massive increases in expenditure on law and order actually hide cuts in particular, usually welfare oriented, sectors and programs.

These changes in the distribution of powers and resources within the law and order area reflect, and seek to reproduce, a popular understanding of law and order in terms of an enhancement of the coercive power of the state. Moreover, implicit in these developments is the decisive location of 'the crime problem' on the domain of the street, especially amongst youth. They are coupled with substantial cutbacks in social services in other areas, such as housing, child care, public transport and education. Education has also witnessed a political and ideological offensive centred on discipline and the 'restoration' of traditional standards in education.

Problems of crime are disconnected from social and economic relations. The working through of some of the central tenets from *Future Directions*, the mid-term manifesto released by the Liberal–National Coalition in December 1988, can be seen in a range of areas in NSW Inc, particularly perhaps child welfare and juvenile justice. A punitive–policing orientation to youth seeks to bolster familial ideology. Affirmation of the family and 'family values' becomes the vehicle for a particular construction of the problems of crime and violence, within which the issue of private violence within the family gives way to a focus on the problem of disorder, violence and crime which resides in the public

119 *Curran Report* p65.

120 *ibid* p18–19.

121 *ibid* p58.

realm. Violence, crime, homelessness and poverty all become the responsibility of the individual, who thereby becomes a fit subject for state discipline.

However even if we acknowledge, through such a briefly sketched account¹²² the links between the broader economic, political and ideological program of the Greiner government and the state of the NSW prison system, we might still expect limitations to the carrying through of the highly ideological, punitive and wasteful policies outlined in this paper, to have come into play sooner. In the way arguably they have in the spheres of education and juvenile justice, both of whose Ministers were removed in an attempt to diminish political opposition and a growing perception of mismanagement. The savagery of Yabsley's policies are arguably an illustration of the continuing triumph of punitive ideology over aspects of a genuine economic rationality which would interrogate the efficiency and effectiveness of criminal justice agencies in the same terms as other institutions in the public sector. The question is how long can such an ascendancy persist in the face of mounting opposition, increasing evidence of administrative incompetence, massive social and institutional dislocation and financial irresponsibility? Among the conditions sustaining such persistence have been the lack of political support for prisoners as a group, a contemporary version of the less eligibility thesis, and the mute role played by the Labor Party, one hesitates on this issue to use the word, opposition.

Prison politics and especially penal reform, is, to paraphrase Weber, a long hard grind. One of the features of the Yabsley reign has been the demoralisation of prison staff and prisoners, illustrated by the resignation of nearly 700 prison officers in two years, the huge growth of prisoners on protection, and the (yet another 'record high') 14 suicides in NSW prisons in a 9 month period between July 1989 and March 1990.¹²³ Indeed a recent report suggests that the jail suicide rate in NSW under NSW Inc had reached 200 per 100,000 prisoners in 1989, 17 times the equivalent rate in the general population and 'possibly the highest since colonisation'. The author of the report stated 'it is my considered opinion that the jail suicide rate is directly related to the inhumane conditions and outmoded practices in NSW

122 For a fuller account see R Hogg and D Brown op cit note 3; see also R Hogg, "Sentencing and Penal Politics in NSW" in *Proceedings of the Institute of Criminology* No 78 Sentencing (1988); D Brown, "Sentencing and Penal Politics" in G Wickham (ed) *Social Theory and Legal Politics* (1987); D Brown, "Are we putting too many people in gaol?" in A Gollan (ed) *Questions for the Nineties* (1990).

123 E Baldry, "Death behind bars: the suicide crisis in NSW", *SMH* 7/5/1990.

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prisons'.¹²⁴ This is born out by the fact that in Victoria in 1989–90 there were no prison suicides.

In addition to the actual loss of life there is the incalculable damage done to those small gains achieved in the aftermath of the Nagle Royal Commission and to the possibilities of co-operation and mutual respect. As one prisoner, a self proclaimed 'moderate' put it:

The longer I stayed locked in those cells and after I saw what they did to my cell and what they'd left me, I thought that we've got to go on with it now...Once upon a time, I must admit that if a screw was being bashed I would have tried to help the screw. Now I wouldn't. I'd turn and walk away. And if it was one of a few screws I'd probably get in there, anyway. Give him a boot, too. I mean this is the anger that it's made in me.¹²⁵

Another prisoner, serving out the last months of a 14 year sentence in Long Bay writes :

In real terms, Michael Yabsley has actually confiscated and banned the hopes and dreams of rehabilitation and left only a hopeless nightmare for people in the community who will suffer as each angry, oppressed and hopeless prisoner is released.¹²⁶

While it is important to sketch the free market/strong state links between the general law and order policies of the Greiner government and the crisis in the NSW prison system it is also important to note Michael Yabsley's single-minded pursuit of his own punitive obsessions, or as he puts it his intention 'to put the value back in punishment'. This paper has suggested that the prison policies of the Greiner government can be seen as delivering 'real value', to use the premier's words, only on the most perverse construction of what value might mean. Other definitions of value are readily available, not the least as

¹²⁴ Leanne Craze, "Prison Suicide in NSW", Paper presented at the 10th Annual Congress of the Australian and New Zealand Association of Psychiatry, Psychology and Law, November 1990; P Clark, "Jail suicides last year highest ever: researcher", *SMH* 31/10/1990; E Baldry, "Death behind bars: the suicide crisis in NSW", *SMH* 7/5/1990.

¹²⁵ J O'Neill and S Harvey, "At Long Bay, the prisoners stripped bare", *SMH* 15/10/1990.

¹²⁶ Tim Guider, "The turn of the screw", *The Bulletin* 4/12/1990.

we have seen being those offered by some contemporary Australian penal administrators outside the NSW system. Consider the following words of Keith Hamburger, head of the Queensland Corrective Services Department:

I am a prison administrator who hates prisons. I hate them because they are misused by society as an inappropriate means of social control; I hate them because they are, in the main, inhuman and unnatural places; I hate them because each year they take large numbers of hopeless people and turn them into bitter people; I hate them because they are part, among other things, of the systematic destruction of the Aboriginal race; I hate them because they institutionalise and make captive the people who work there. But above all this, I hate them because for hundreds of years the people who work the system, the influential people in the criminal justice system as a whole – politicians and community leaders – have used prison to perpetuate the longest running, biggest social fraud in the history of the modern world...that prisons serve a useful purpose in social control and crime prevention.¹²⁷