

BATHURST GAOL AND THE ROYAL COMMISSION INTO PRISONS — A SUMMARY BY THE PRISONERS' ACTION GROUP

WHY HAVE A SUMMARY AT THIS TIME?

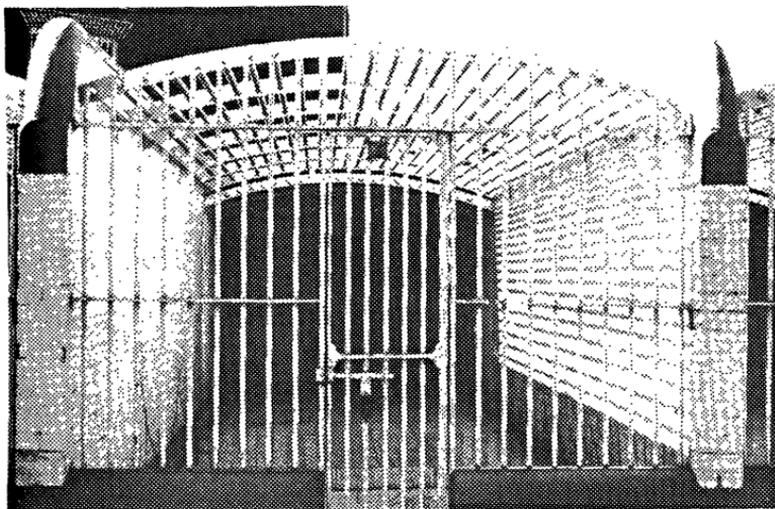
Many people have asked us, "How's the Royal Commission going? You don't see much about it in the papers." "Do you people think it will have any effect on what happens in the gaols?" and, of course, "What does the Prisoners Action Group really think of the inquiry?". To answer the questions constantly asked of us we have put together this summary of the inquiry — as it relates to Bathurst gaol. In it we have also included a precis of the events leading up to the inquiry, plus the actions of the groups and individuals involved with the early call for an inquiry into the gaols and those who opposed it. We'll also discuss the conduct of the inquiry and what, we believe, will be the aftermath of the Royal Commission.

We do this whilst the Royal Commissioner, Mr. Justice John Nagle, and his associates busy themselves with the writing of the final report and recommendations which are due to be handed to the Governor on the 24th December, 1977 — nearly four (4) years after Bathurst Gaol was destroyed by fire and some of its prisoners were tear gassed (after they had surrendered) and then forced to run through a gauntlet of baton wielding warders; seven years, two months and four days after over two hundred prisoners in Bathurst Gaol had been "systematically flogged" by warders who told the Royal Commission that the floggings represented "official policy"; and thirty-four years and eight months after the first "intractable" prisoner was brutally flogged on reception into Grafton's notorious gaol where serving warders said the "reception biff" intractable prisoners received represented "official policy".

THE CALL FOR A PRISON INQUIRY.

The first contemporary call for an inquiry into the practices inside New South Wales came shortly after reports surfaced stating that prisoners had been assaulted by prison officers in Bathurst and Goulburn gaols and the Metropolitan Reception Prison

following demonstrations in the three prisons in October, 1970. Unfortunately, it was a call which failed.



THE PROMISE OF AN INQUIRY.

It took the destruction of Bathurst gaol in February, 1974, unrest in Maitland gaol immediately after the then Minister for Police and Services, Mr. John Waddy, had visited the gaol in October, 1975, and unrest in Parramatta gaol a couple of days later before, finally, the former Liberal Government consented to the demands for an inquiry. Even though the people of New South Wales had been promised an inquiry by former Premier, Sir Robert Askin, into "...the circumstances of the riot and its underlying causes" immediately after the riot that led to the destruction of Bathurst Gaol in February, 1974, doubts as to whether or not an inquiry would be held started to form when the then Minister for Justice, Mr. John Maddison, announced the promised inquiry wouldn't be held until all the 46 prisoners charged with the destruction of the gaol had been dealt with by the Courts.

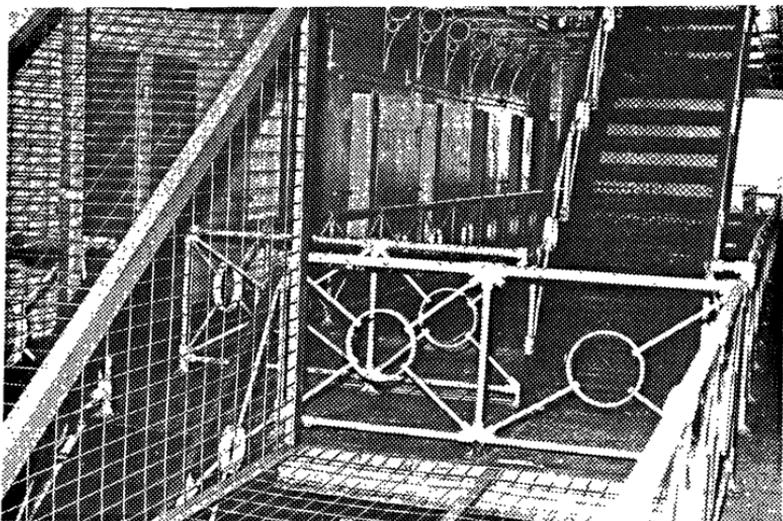
The doubts were reinforced when the next Liberal minister to hold the prison portfolio, Mr. John Waddy, said on 1st August, 1975, "It's just not on (a Royal Commission) we have one of the best prison systems in the world' and there's no need for a witch hunt." He went on to say he was considering setting up a parliamentary select committee to investigate the state's penal system.

¹ It's interesting to note that during the hearing of evidence at the Royal Commission, Mr. Justice Nagle said the treatment of prisoners in New South Wales prisons didn't even measure up to the minimum standards for the treatment of prisoners laid down by the United Nations.

THE SETTING UP OF THE ROYAL COMMISSION.

At the beginning of April, 1976, the new Liberal Premier, Sir Eric Willis, announced the formation of the Royal Commission into New South Wales Prisons. The Commission was to be headed by Mr. Justice Nagle assisted by two other commissioners: Professor Alexander George Mitchell (who'd just retired as Vice-Chancellor of Macquarie University and who had received a certain notoriety over the charging of demonstrating university students) and Mr. Sydney Derwent (who also had just retired from his position as Director of the Institute of Administration at the University of New South Wales but who was still a sitting member of the Advisory Council to the Department of Corrective Services). It was also announced that Professor Sir Leon Radzinowicz, Director of the United Kingdom Institute of

Criminology and Professor of Criminology at Cambridge University, would act as a consultant to the inquiry.



THE ROYAL COMMISSION'S FIRST SITTINGS.

On the 14th April, 1976, the inquiry sat for the first time. On that day, we found out Mr. David Hunt, Q.C. would be Senior Counsel assisting the inquiry, Mr. C. Porter, Q.C. would be looking after the interests of the Department of Corrective Services and Mr. Kevin Berry would be Secretary to the inquiry.

The terms of reference were outlined and were to be:

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 practices and the knowledge of crime and its causes, and without restricting the generality of the foregoing, to inquire into and report upon:

- (A) the care, custody and control of prisoners and the relationship between staff and prisoners;
- (B) the selection and training of prison officers and other staff engaged in training, correctional and rehabilitative programmes for prisoners, and to recommend any legislative and other changes desirable in consequence of its findings.

"COUNTER GROUPS".

In the early hearing, Mr. Justice Nagle said groups representing prisoners, ex-prisoners, penal reformists, civil libertarians and prison abolitionists would be, what he termed, "counter groups" in the inquiry as opposed to the prison officers' union and the Department of Corrective Services and he suggested the groups get together to instruct the same counsel to represent them. Mr. Tony Green, president of the Prisoners' Action Group, jumped to his feet on hearing this and said, "Many of the groups involved wouldn't even go to the same meeting, let alone brief the same Counsel".

Spokespersons from other groups supported this view. Seemingly piqued by this opposition to his suggestion, Justice Nagle said the position could be that he could read submissions to the inquiry and there was the possibility that there would be no need to hear oral evidence. Mr. Green rather heatedly replied, "If that's the case, we may as well all pack up and go home." After the exchanges, things settled down and Justice

Nagle laid down ground rules for those applying for leave to appear before the Commission. He also instructed counsel for the Department of Corrective Services to have the terms of reference issued to all prisoners in the gaols.

DEPARTMENT'S FIRST ACTS OF BAD FAITH.

At the second sittings of the inquiry (27th April, 1976) a Solicitor, Mr. Ian Dodd, told the inquiry a prisoner had been victimized for advertising the Royal Commission at Long Bay gaol. The prisoner, Mr. Brett Anthony Collins, according to Dodd had been shanghaied to Maitland gaol for talking to other prisoners about the Royal Commission and had been sent to see a psychiatrist.²

On the same day, Nagle made his first adverse comment about actions of the DCS. He took the Department's counsel to task because the notice about the terms of reference he had ordered to be issued to the prisoners had only contained the last section of the Royal Commission's terms of reference. The notice the Department of Corrective Services had issued to the prisoners made no mention of the first section which stated —

"To inquire into ... the general working of the DCS, its policies, facilities and practices ...".

GROUPS GIVEN LEAVE TO APPEAR

Justice Nagle announced on 10th May, 1976, that the following groups had been granted leave to appear before the Royal Commission:

Council for Civil Liberties

Penal Reform Council

Aboriginal Legal Service

Women Behind Bars

Prisoners Action Group

and both Mr. M. L. (Merv) Rutherford and Mr. I. L. Dodd were given leave to appear for individual prisoners.

² When the psychiatrist, Dr. Bill Lucas, gave evidence before the Royal Commission, he said he had been upset because he believed he had been used when told to examine Collins.

A NEW GOVERNMENT.

The New South Wales Government changed hands in May, 1976, and shortly afterwards the new Premier, Mr. Neville Wran, Q.C., withdrew the Commissions of both Mitchell and Derwent so the Royal Commission was left with one commissioner. Wran said both Mitchell and Derwent would be asked to act as consultants to the Royal Commission. He said it was a cost saving measure. Whilst the sacking of Derwent pleased some people, they were still disturbed he was still a consultant because of his position on the Prisons Advisory Council. Many saw his two roles as a conflict of interest. The services of Professor Radzinowicz were dispensed with.

Wran also withdrew the brief of the Senior Counsel for the Department of Corrective Services, Mr. Porter, as another cost cutting exercise. A futile one, as we'll see, because when the Junior Counsel, Mr. D. Cassidy, failed to perceive a conflict of interest between the Department of Corrective Services and prison superintendents, another Senior Counsel was appointed. Not that we are saying Porter wouldn't have made the same mistake, given the same circumstances, but the point we're making is that another senior counsel had to be appointed at the expense of lost time.

THE NEW DEVIL'S ADVOCATES.

The Chief Secretary in the former Liberal Government, Mr. Peter Coleman, who'd taken over the prison portfolio from Waddy, said of the sacking of Mitchell and Derwent, "Mr. Wran's decision made it clear that the premier was out to destroy the inquiry. It was to have been the first comprehensive inquiry into the prison system and the ideal had been to conduct it properly. That is, why three commissioners were appointed."

It's ironic that a member of the former government would make a statement of this nature only weeks after he was in opposition, because the Labor party when in opposition, had fought long and hard for an inquiry and the Liberal party whilst in government had fought just as hard against holding an inquiry. The roles had now been reversed. And as we'll see this is one of the strange phenomena about prisons: when in government, political parties defend prisons for all their worth and, conversely, when in opposition, attack the government on anything to do with prisons because, it's a fact, prisons can only lose governments votes they can't win any.

THE HEARING OF EVIDENCE.

Before things got under way a legal argument developed over who would appear for the superintendents of gaols. Both the Department of Corrective Services and the Public Service Association's (PSA) counsel argued for the right to appear for them. The Department of Corrective Services won.

The first witness to be heard came from the Department of Corrective Services with the Commissioner for the Department of Corrective Services, Mr. Walter McGeechan, leading off. Very little of a controversial nature was heard until 20th July, 1976., when McGeechan said senior staff in Bathurst Gaol had contributed to the fire and riot of February, 1974, by:—

"...the non-adoption of programs encouraged by the commissioner to alleviate stressful situations in the prison." and further "...that a contributing factor was the inability of senior staff to report accurately and with fidelity to the Department of Corrective Services."

³ This statement has interest for three reasons:—

- (a) that during the committal proceedings and the subsequent trials of the prisoners charged over the destruction of the gaol, both the magistrate and the judges involved confined the hearings and trials to the events between the start of the riot and the surrender of the prisoners at about six o'clock that night. They ruled out evidence of mitigation in the sense of what caused the riot, and here we have the boss of all the prisons saying the senior staff in the prison were partly to blame for what happened because they failed to take action to avert it;
- (b) McGeechan's statement, as we'll see, was instrumental in the superintendents breaking away from the Department of Corrective Services in the Royal Commission and in the Department of Corrective Services' Counsel, Cassidy, getting into the position where he was forced to hand in his brief;
- (c) The Department of Corrective Services' final submission to the Royal Commission contained the following comments:

"One noteworthy feature should be emphasised. Many postfacto complaints have been made about Bathurst gaol, but no immediate provocation for the riots has ever been claimed." This clearly overlooks what McGeechan said on 20th July which suggests there were many factors and one of those factors was senior staff in the prison.

A CASE OF PERJURY?

McGeechan was followed into the witness box by superintendents of three of the State's gaols. One of them was Mr. Jack Nash, then Chief Superintendent of the Long Bay complex and now Director of Establishments. Nash told the Royal Commission he had started his prison career at Grafton Gaol in 1952 and had remained there until 1964. He said that while he was stationed at Grafton he had never seen a prisoner assaulted by a prison officer which seems strange in the light of the admissions later made to the Royal Commission by serving officers at the gaol, and also by a superintendent of Grafton Gaol. The admission made by the Grafton prison officers was handed to the Royal Commission by Mr. Frank McAlary, Q.C. on 1st March, 1977, and it read:—

"For the purpose of your Honour's inquiry, and for that purpose alone, I am instructed by the prison officers, currently serving at Grafton Gaol, to make the following admissions on behalf of each of them:

- (a) That at the date when such officer first commenced service at Grafton gaol, and continually thereafter until 1st May, 1976, the following conditions applied in relation to the control of intractable prisoners at the gaol:
 - (i) That upon admission to the gaol, intractable prisoners were subjected to 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 in 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 33 years and with the apparent approval of six different superintendents."

The superintendent of Grafton gaol from 1970 to 1976, Mr. Eric Frame, said in evidence on 30th March, 1977, that prisoners had been continually assaulted in the gaol on reception and at other times during the 19 years he served inside the prison. Frame worked in Bathurst gaol most of the time Nash was working there.

When Mr. Darcy Dugan gave evidence to the Royal Commission on 21st and 22nd February, 1976, he named Nash as one of the many warders who had assaulted him in the gaol.

BATHURST GAOL OCTOBER, 1970.

News stories broke in October, 1970, about disturbances in three New South Wales Gaols — Goulburn, Bathurst and Long Bay. It wasn't until a few days later when a recently released prisoner from Bathurst Gaol told a talk-back radio audience that prisoners had been assaulted by prison officers in Bathurst following the disturbance. The revelations did not cause much of a stir. The next report of illegal acts by prison

officers came from released conscientious objector to the Vietnam war, Mr. Michael Mattison. Mattison had given to Mr. George Petersen, M.L.A. (Labor, Illawarra) a statutory declaration stating that prisoners had been flogged at the Metropolitan Reception Prison on the weekend of the 18th and 19th October, 1970, following a disturbance by prisoners in the gaol. Petersen handed the declaration to the Minister of Justice, Mr. John Clarkson Maddison, who also held the prisons portfolio.

On 27th November, 1970, another recently released prisoner, Mr. Keith William Clark, this time from Bathurst, made a Statutory Declaration and handed it to Petersen who, in turn, handed it on to Maddison on 4th December. We are going to have a look at Clark's statement because it was the first of many on the "systematic floggings" of prisoners at Bathurst gaol.

"I, the undersigned, KEITH WILLIAM CLARK of Sydney in the State of New South Wales, Labourer, do hereby solemnly and sincerely declare and affirm that:

I was discharged from Bathurst prison on 20th November, 1970, having been an inmate since 10th July, 1968.

At 4.00p.m. on Friday, 17th October, 1970, I was one of approximately 140 prisoners who sat down in the number one yard of the prison.

The organisation was spontaneous and there were no ring-leaders. Four prisoners have been named as ring-leaders, namely, Paul Clancy, John Kelly, Brian Castles and Errol Baker.

These four got on the roof of the shed between one and two yards and were talking to all of us.

It was these four who kept the demonstration orderly and caused us to draw up a list of demands for an improvement to the prison conditions.

The demands were, as far as I can remember:

1. Better food
2. More money
3. Better medical treatment
4. Change of personnel in the barber shop
5. Restoration of the original buy-up list
6. Radio until 11.00 p.m.
7. Lights until 10.00 p.m.
8. Right to sit down in the yards
9. If charged, to front the governor straight away.
10. No acceptance of verbal evidence by officers on charges
11. Jobs for tradesmen.
12. 3 oz tobacco per week
13. Men and boys money to be equal (a boy in prison is any male under 23).

There were, I think, 15 demands, but I can't remember them all.

The warders surrounded the yard but we refused to move. Other prisoners in A and B wings threw blankets down to us and some food. We pushed two prisoners out of the yard, because we thought they may have been informers. We asked the warders to get Mr. Maddison, Mr. McGeechan (Commissioner of Corrective Services), or any newspaper reporter from any Sydney newspaper to come out and talk to us.

Mr. Fern, Chief Warder, and Mr. Medway, Deputy Superintendent, conveyed a message to us about 12.30 a.m. that they had discussed the situation per telephone with Mr. McGeechan and that he would be up on Monday. Brian Castles and Errol Baker were taken to the Superintendent's office to speak to Mr. McGeechan. They told us when they returned to the yard that Mr. McGeechan had promised to come up on Monday, that there would be no reprisals and that he would investigate our grievances.⁴ At this report, we all returned to our cells about 1.00a.m."

"The weekend passed normally, except that Paul Clancy was stabbed by another prisoner on Sunday. This had nothing to do with the sit-down on Friday. On Monday morning, 19th October, when we left our cells at 8.00 a.m., we noticed there were additional armed guards at the windows and on the towers overlooking the prison. Most of these guards appeared to be in civilian clothes. Mr. Fern, the Chief Warder, came around shortly afterwards and told us that three of our demands had been granted. They were: lights until 10.00 p.m., radio until 11.00 p.m. and the right to sit down in the yards after inspection.

Shortly afterwards, it was noticed by some prisoners that riot squad warders had come in the front gate with shields, helmets and batons. One prisoner said he'd noticed a machine gun. During working time there was considerable discussion as to what to do. There was a general decision taken that we would stage a demonstration at 12.00 o'clock. We were very concerned at the riot squad appearing because we thought they would be used to attack us.

We decided we would not repeat the Friday demonstration because if we sat down in the yards, we would get battered.⁵

We therefore decided that we would sit in C wing and barricade ourselves in. Some prisoners suggested we should take hostages but this was opposed by most of the prisoners. I thought that if we did this we could not be sure that one of our number with a hate complex against a particular warder wouldn't harm the hostage no matter how much the rest of us might try to protect the warder.

At 12.00 noon, 100 prisoners went into C wing and barricaded the doors. We told the warder on duty there, Paget, to get out. He was not taken as a hostage as one newspaper has reported. The prisoners took the cell doors off their hinges and put them against the windows as protection from rifle fire. They broke down some of the beds and tables and about fifty armed themselves with pieces of wood and iron bars. They did this so as to defend themselves against the riot squad.

One prisoner named George Meanie was outside C wing, standing just in front, saying to various prisoners, "Are you coming in, or what?" Six or seven warders went to grab him and he struck out and hit Mr. Wilcox on the nose. Mr. Wilcox was later seen wearing a band-aid across his nose. Mr. Paget grabbed Meanie and was just about to hit him when another prisoner, known to me only as "Meggsy" said, "let him go, you big ape, you might be able to hit me but you can't hit him". One warder hit Meanie with a fist from which he got a black eye."

(During the hearing of the Royal Commission, evidence was given that the prisoner Meanie was a very small thin person).

"At this point, the warders all evacuated the pentagon area and went out into the garden and front gate area. The prisoners were then the sole occupants of the nine yards, the cook-house, and the four wings, with the exception of D wing which was occupied by a number of informers, remand prisoners and some first offenders. They had already been locked in by the warders.

When the warders left the pentagon area most of the prisoners left the yards and came into the pentagon area.

A shot was fired from 4 tower at a prisoner climbing over the wall between 8 and 9 yards.

The prisoners were by now all milling around in the pentagon area. This was separated from the garden area by the church and a steel picket fence with sheeted tin across it.

Mr. Medway, the Deputy Superintendent and Mr. Morrow from head office stood behind the fence whilst Mr. Fern climbed up on the catwalk of the church building. He abused the guard who fired the shot from the tower. Mr. Morrow then told the

prisoners to go back to their cells and that there would be no reprisals whatsoever.⁶ Mr. Morrow then said he would give the prisoners an hour and a half to clean up the mess."

"Most of the prisoners went to C wing to clean it up. This took about an hour and a half but, of course, we couldn't repair the broken tables or beds.

About 5.00p.m., we were given tea and locked up in our cells until 7.00a.m. The 7.00a.m. bells had just rung when I heard tea buckets and dixies being moved about in C wing where my cell, which I occupied with five others was located.

The door was opened by warder Paget, he was accompanied by warders, Morgan, McLeod, Wilcox, Douglas, Judd, Draper and two others whose names I don't recall, and a warder known only to me as "Jock".⁷ Mr. Paget told us all to get up against the wall and strip off, which we did. He said to the other warders, "There's too many in here, get 'em out." He then took my brother Robert Clark and Barry Squires. "Jock" smashed Robert's head into the wall of the corridor, hit him twice across the head with the baton, and then dragged, kicked and pushed both of them into an empty cell.

My brother told me later that "Jock" had broken a baton over his head⁸ and had caused Barry severe pain by kicking his coccygeal (sic) bone. Then Mr. Wilcox knocked Barry Squires out with baton blows and stunned Robert who collapsed on the floor. Robert was then kicked on the shoulder."

"In the meantime, two warders took out Mick Bowen and Phil (surname not known). Mick told me later that he had been bashed personally by the Superintendent, Mr. Pallot, I noticed a severe bruise on his left side when he came back. ⁹ I don't know what happened to Phil, but I heard a scream in his funny voice."

"George Meanie and I were the only two left in the cell. I was standing on the lavatory, and I heard another warder, O'Donnell, say, "There's one of the ringleaders." Paget said, "Oh, no, not him, he's too small, he'd only be a follower". He then reached over and grabbed him and George Meanie fell to the floor. His head split and blood flowed. I'm not sure whether this was done by the fall or a baton. He was hit in the eye by a baton which blackened his other eye.

Another warder, I can't remember his name, then smashed me in the left kidney with his baton and I fell to the floor. My knee was caught in the toilet bowl and I couldn't get up.

The warders then left us alone in the cell locking the door behind them and I could hear sounds of blows and cries coming from other cells. I thought this was the end of the bashing for us.

The cell door opened five minutes later and Wilcox came in waving the baton around in his hand, with ten other warders. He said to Meanie, "Come out here, you little black bastard, where I can give it to you."

Meanie walked up to him and Wilcox then proceeded to thrash him with the baton. He must have received 30 to 40 blows because his whole body was black with bruises. His left ear was swollen to three times the size of his right ear. He was caught between the bed and the toilet. Wilcox was right in front of him whilst Morgan was on the other side of him also bashing him. Paget got on the bottom bunk so that he could thrash his legs with the baton. At the one time, Wilcox was thrashing him from the front, Morgan from the left and Paget from the right. Eventually he collapsed.

My thrashing started just as Meanie was driven to the back wall. "Jock" came running in frothing at the mouth. He grabbed my arm, pulled me forward, hit me with his baton on the right side of the head, gave me two more blows on the head and hit me again on the back of the head. I then heard him say,

"Fuck, I've broken the baton, give me another one."

He punched me three times in the stomach and ribs. Somebody gave him another baton and he struck me on the head and spine.

At this point I stood up and three of them started to bash me, "Jock" in the front, Morgan on my right and McLeod on my left. Eventually, I was struck on the neck and collapsed."¹⁰

"I was shaking my head in a daze when warder Douglas came into the cell and kicked me on the left leg and left kneecap. He then straightened me up, punched me in the stomach and gave me a rabbit-killer punch on the back of the neck. Douglas then said, "No more, no more, finish." and when I would not straighten up, he gave me a blow to the chin. I sat there dazed and punch drunk. Another warder came in and said, "This cell is a mess, better straighten it up."

A bunch of warders then came in and threw everything out of the cell, including smashing of all the mirrors and all personal effects, including letters and photographs. Barry Squires and I lost our false teeth, which we had placed away for safe keeping. They threw out all soap, toothpaste and shaving cream.

All that was left in the cell was bedding and some clothes — no personal property whatsoever. My brother's correspondence course lessons in mathematics were also thrown out — as I understand they were thrown out throughout the gaol.

The warders brought us breakfast of burgoo about 8.30 a.m. We stayed locked in our cells until the following Monday. I was let out three times in this period, once for a walk and twice for a shower. The other four occupants of the cell did not come back.

Lunch and dinner were brought to us by the warders on Tuesday.

On Wednesday morning about 10.00 a.m., Morgan walked into the cell accompanied by Atkins. He punched me in the kidneys with his baton and said, "Good morning, Clark". He bashed George Meanie twice across the neck and once across the kidney and said, "Remember me, Meanie?" Meanie said, "Yes, sir". Morgan said, "I'll be back before lunch to give you some more. Unfortunately, Mr. Wilcox won't be back for a week but I promised him I'd give you his share."

After dinner, Morgan returned accompanied by Tuck, Plunkett and a warder whose name I don't know.

Morgan said to me, "Out here, Clark", and stood me outside the cell facing the wall. I could see Plunkett and the other warders standing outside the cell, but I couldn't see Tuck or Morgan.

I then heard sounds of blows and cries from George Meanie from inside the cell. I couldn't tell how many times he was struck. I heard Mr. Plunkett saying, "Give it to the mongrel, give it to him".

After a period of time, Morgan and Tuck came out and Morgan half pushed, half threw me back in the cell and locked the door.

I'm not sure whether it was Wednesday afternoon or Thursday morning that Morgan and Mutton came in. Morgan invited Mutton to have a look at Meanie. Mutton said as he was closing the door, "He's in a bad way." Morgan said, "Not half as bad as he's going to be by the time I finish with him."

On Thursday afternoon, Morgan and Tuck came and took Meanie out of the cell and that was the last time I saw him. I believe he was sentenced to 24 days solitary confinement. I was told he was bashed twice more before he was sent to another gaol, '1 but I have no personal knowledge of this.

"On Friday, my brother Robert, returned to the cell and told me of his experiences.

There was no chance to discuss my experience with others until the prison returned to normal on Monday. From general discussions I have had I have the opinion that at least 200 of the prisoners, including a number who took no part in the events on the Friday and the Monday, were bashed by the warders.

Most prisoners were only bashed once but certain warders backed up on the ones they were dirty on. I'm told that there was one warder named Harry Stephens who took no part in it '2 calling his fellow warders animals and mongrels, and locking cells so that warders couldn't get to the prisoners. Unfortunately, he was only a three-striper and didn't work 24 hours a day."

Individual bashings still continued for a fortnight on certain prisoners who were locked in individual cells.

I saw Kenny Gordon on a Saturday two weeks after the first incident unmarked. On Sunday night at the pictures his eyebrow was split, his cheek had skin taken off it and the corner of his mouth was cut. He told me he had been bashed on Saturday night by O'Connell with a torch and baton."

⁴ McGeechan told the Royal Commission he didn't promise to come to Bathurst on the Monday. He did send the Director of Establishments, Mr. Morrow.

Baker told the Royal Commission he was in the Superintendent's office whilst the superintendent, Mr. John Winter Pallot, was on the telephone to McGeechan and Pallot told him that McGeechan said he'd be up on Monday to investigate the prisoners' grievances. Pallot denied in the Royal Commission he had told Baker and Castles there would be no reprisals. This is interesting, because it suggests Pallot was all for reprisals.

⁵ A feature of prisoners' evidence at the Royal Commission was their fear of being bashed by the prison officers.

⁶ Morrow, when he was in the witness box, was vague on this promise of "no reprisals" and was equally vague about a similar promise prisoners claimed he made to them in Bathurst Gaol in October, 1973, during a sit-in. Evidence at the Royal Commission established beyond any reasonable doubt that the promises were made.

⁷ The prison officers name was confirmed during the Royal Commission as Aitken.

⁸ Aitken told the Royal Commission he had broken the baton. (The batons have a steel rod in the centre and are covered with hard rubber; they are about a foot long. Aitken said the rubber came away from the steel after the rubber had split.)

⁹ An ex-senior prison officer at Bathurst, Mr. Maxwell Hanrahan, told the Royal Commission he was the officer in charge of the midnight till morning shift on 20th October, 1970 and he accompanied Pallot and a large number of warders into C wing at about 7.00 a.m.

He said Pallot led a group of prison officers to the cell occupied by Clark and the others and when Bowen came out of the cell, Pallot hit Bowen.

Hanrahan was supported in the Royal Commission by another prison officer, Mr. Raymond Atkins.

Pallot denied he'd struck or assaulted Bowen.

¹⁰ When he gave evidence to the Royal Commission, Warder Aitken ("Jock") told Mr. David Hunt, Q.C. that in many cells he entered he found prisoners were armed with knives and other dangerous implements with which they either assaulted him or tried to assault him. Hunt asked Aitken whether he had charged any of the prisoners over these alleged assaults. Aitken said he had not. He agreed with Hunt that in the context of prisons the allegations he was making were considered to be amongst the most serious and yet he had not charged the prisoners.

The only other evidence to support Aitken about prisoners being armed came from superintendent Pallot who said he'd sent a load of arms the prisoners were alleged to have had to Sydney at the request of the prison boss, McGeechan, some months later.

These arms were shown on "This Day Tonight" by Maddison in the middle of 1971. (See below "Maddison's arsenal.")

¹¹ Evidence was given at the Royal Commission that the other gaol Meanie was sent to was Grafton.

He was sent there for allegedly assaulting Douglas. Douglas was an ex-Grafton warder who was about 6' 3" Meanie stood a little over 5'.

Evidence was given that when Meanie arrived at Grafton, he didn't receive the

usual "reception biff" because his reception committee burst into laughter when they found out whom he was supposed to have assaulted.

He did punch Wilcox in the nose.

¹² Another prison officer said by prisoners at the Royal Commission to have no part in the floggings was Mr. Tony Windsor. Unfortunately, neither warder gave evidence at the Royal Commission.

(It couldn't be said Stephens (The Foot) was a popular prison officer. He was one of the most petty officers in the gaol).

DEPARTMENTAL ENQUIRY?

After receiving Clark's statutory declaration, Maddison handed it on to prison boss McGeechan and ordered him to have the Department's recently appointed legal officer, Mr. E. A. Quin, investigate it.

Quin kicked off his investigation on 8th December, 4 days after Petersen had given it to Maddison. In all his interviews, Quin was accompanied by the Chief Superintendent of the Long Bay complex, Stewart, and the Superintendent of the gaol in which the interview took place. All interviews carried out in Bathurst were carried out in the presence of the gaol's Superintendent, John Winter Pallot.

Even though it's a bit of a jump, we'd better have a look at the admission the Public Service Association's (PSA) senior counsel, Mr. Frank McAlary, Q.C., handed to the Royal Commission on 4th November, 1976:

"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, Mr. John Winter Pallot, and was regarded by officers as representing official policy."

Pallot's presence clearly inhibited those being questioned. However, the investigation, if it can be called that, went on. Quin interviewed nearly all of the prison officers mentioned in Clark's statement who had taken part in the bashings, and, of course, received denials. The prisoner, Michael Bowen, who, Clark said had been personally assaulted by Pallot, was taken down to Long Bay and was questioned by Quin there.

Bowen was reluctant to be questioned. Throughout the transcript of the interview, Bowen kept repeating he didn't want anything to do with it. His position must be seen in the context that he was serving a very long sentence, 18 years, and at the time of the interview he had only served around three (3) years of it. Whilst he kept repeating he didn't want to make any charges, he didn't deny that Pallot had assaulted him, in fact, he did say Pallot had grabbed him by the throat, pushed and shoved him.

THE SILENT WITNESSES.

Two prison officer witnesses (Hanrahan and Atkins) told the Royal Commission they had seen Pallot assault Bowen. But neither of them told Quin of the assault or any other assault for that matter. Had they done so, we can only guess what would have happened. McGeechan in the witness box and Maddison in parliament kept repeating they'd only received denials from prison officers.

One of the denials McGeechan received was from Pallot. McGeechan himself interviewed Pallot in late December. The interview was taped. Here's part of the transcript:—

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

The allegation is, and I notice that it is once removed, i.e., on hearsay, that you "bashed personally" a prisoner in your care and custody, viz, a Michael Bowen. In respect of this allegation is there anything you wish to note by way of record at this time?

PALLOT: No, I did not strike the prisoner.

McGEECHAN: Throughout this declaration (Clark's) there are suggestions of calculated brutality, unwarranted assaults and prolonged victimisations. At any time following the insurrection in October, 1970, other than in the preservation of law and order, was any unnecessary force used in your opinion?

PALLOT: No."

Asked by senior counsel assisting the Royal Commission, David Hunt, Q.C., McGeechan conceded Pallot's interview consisted of a single denial.

On 19th January, 1971, McGeechan handed to Maddison a report of Quin's investigation of Clark's allegations.

McGEECHAN REPORTS TO MADDISON.

McGeechan began his report to Maddison with these remarks:

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

McGeechan included in the report Clark's police and psychiatric record, Bowen's police record and remarks made by the presiding Judge at Bowen's trial. Maddison in parliament used Clark's police and psychiatric records to denigrate him. This must be looked at in the light of another McGeechan paragraph in the report:

"On analysis, it comes to whether the word of law enforcement officers is to take precedence over uncorroborated, probably malific, allegations of people with long criminal histories and demonstrated unreliability as responsible members of society."

McGEECHAN'S RELIABILITY:

On the question of demonstrated unreliability, McGeechan himself doesn't come out very well at all. One of the earliest examples of this came about over the radio programme where ex-Bathurst prisoner, Cornwell, told of being bashed in Bathurst gaol a couple of days before. Cornwell said the other prisoners in his cell had also been bashed. When Cornwell's allegations were brought to Maddison's notice towards the end of October, 1970, he ordered McGeechan to have Cornwell's cellmates medically examined. The gaol doctor, Van Gelderen, examined the prisoners immediately and the results of the examination were sent to McGeechan. Evidence was given to the Royal Commission that McGeechan received the examination results on the day the prisoners were examined, 26th October, which suggests a pretty hasty response. The major interest we have in this series of events is McGeechan's report to Maddison. In December, 1976, McGeechan was cross-examined by Hunt about the report.

HUNT: You say in this report to the Minister that one prisoner had a bruise on the outside of his left thigh, do you see that?

McGEECHAN: Yes.

HUNT: And that is the only injury you relate?

McGEECHAN: Yes.

HUNT: Of course, Dr. Van Gelderen does relate not only on the other side of the left thigh, but he also had a bruise on the left side of his chest, high up. Just below the armpit?

McGEECHAN: Yes.

HUNT: You have made no reference to that in your report to the Minister?

McGEECHAN: No, it is certainly not there.

HUNT: Then you say, "The Medical Officer reports that the prisoner does not recall how he obtained it?"

McGEECHAN: Yes.

HUNT: And of course, Dr. Van Gelderen in his report says, "The prisoner thinks he may have sustained those bruises about the 20th October, 1970?"

McGEECHAN: Yes.

HUNT: That is a fairly vital piece of information that has been omitted, isn't it?

McGEECHAN: Yes.

HUNT: And then you go on to say, "But it is consistent with a minor bump?"

McGEECHAN: Yes.

HUNT: Where did you get that piece of information from?

McGEECHAN: Well, presumably I got it from whoever relayed it to me at Bathurst, or my secretary took it, on what was relayed to her.

HUNT: It is certainly not supported by Dr. Van Gelderen's report, is it?

McGEECHAN: No, Dr. Van Gelderen's report goes further than that. The Royal Commission, Mr. Justice Nagle, jumped in at this point.

NAGLE: Dr. Van Gelderen's report goes further, you say?

McGEECHAN: Dr. Van Gelderen's report goes further than my report to the Minister.

NAGLE: No, but what we are talking about is why you explained that there was a possibility of a bruise on the prisoner as being consistent with a minor bump.

McGEECHAN: As I said, it must have been taken down verbatim by my secretary.

NAGLE: Well, looking back on it now, whoever did it, it was a most misleading statement to make, wasn't it?

McGEECHAN: Yes, sir, it is not fully stated.

HUNT: Not only not fully stated, it is misleadingly stated, I put to you?

McGEECHAN: Yes, it is misleading.

HUNT: Because there were two injuries; there was the specific date given which of course was the vital date in relation to what Mr. Cornwell's allegations were; and there is some comment added which does not find any support at all in Dr. Van Gelderen's report. That is so, isn't it?

McGEECHAN: Yes.

So, here we have evidence of McGeechan keeping evidence out of and including misleading evidence in a written report he made just five days after the floggings started and, incidentally, while, in some cases, they were still going on. We'll never know what McGeechan said to Maddison or what Maddison said to McGeechan with any certainty during this period. We do know that they were in daily contact and that they were connected by a direct telephone.

That they must have had conversations about Van Gelderen's report is evidenced by the speed with which the report reached Sydney. It arrived the same day the examinations were made. There is no fast mail service of that nature from Bathurst. The afternoon plane wouldn't have had the report in McGeechan's office before 7.00 p.m. or 8.00 p.m. that night. It must be assumed the report was rushed to Sydney by car, and we think it's safe to assume Maddison would be vitally concerned with what Dr. Van Gelderen had to say. We know McGeechan's written report was false and misleading, we don't know if his oral report, if there was one, was equally false and misleading.

When Mr. John Palmer gave evidence before the Royal Commission, he said he was one of the prisoners in the cell with Cornwell and when he was called over to see Dr. Van Gelderen he told him there was nothing wrong with him. He said he was still locked in his cell and feared reprisals.

A HEAVY HANDED INVESTIGATION.

The fear of reprisal is ever present in the minds of prisoners in New South Wales. Quin, when questioning prisoners, always mentioned they could be charged with making false statements. McGeechan admitted to Hunt in cross-examination that this was a very "heavy handed" method of questioning.

ANOTHER STATUTORY DECLARATION.

Also in December another ex-prisoner from Bathurst, Mr. Smedley, made a statutory declaration stating that he and other prisoners had been flogged in the gaol on 20th October, 1970. This statement also was handed to Maddison by Petersen and was in turn, handed to McGeechan who sent Quin off on another investigation. McGeechan reported to Maddison on 25th January, 1971 that he didn't recommend any further action on the statement.

CONCERN FROM ANOTHER AREA.

On the 7th December, 1970, four (4) prison psychologists at Long Bay sent the following along to prison boss McGeechan:

"SUBJECT: Disturbing Aspects at Recent Prison Demonstrations

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

If it is the policy of the department to allow such actions to go unchecked, then we wish to go on record as declining to support or to give allegiance to such policy. If, as we believe, the policy of the department does not countenance such methods of re-establishing discipline (if such methods 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 in 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 emphasise 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."

Signed: L.H.Evers
B.A.Clarke
G.N.Trembath
L.E.Matthews

The main thrust of this letter namely the concern for the department to spell out its policy on controlling "recalcitrant" prisoners by force was also the thrust of another group within the prisons about the same time

PRISON OFFICERS' UNION.

In December, 1970, the Long Bay sub-branch of the Union passed the following resolution:

"... that the Department be asked with all urgency* to hand down a written policy as to the stand on the use of force by officers under the direction of senior officers of the Department. The Department I am sure has policies clearly understood by all officers. Further, no force to be used by any officer under direction of senior officers of the Department until the Department does hand down this written policy".*

* Our emphasis.

Implied in "policies clearly understood by all officers" is the suggestion that force is an unwritten policy of the Department. Of course, the threat of "no force to be used by any officers until ..." they got a written policy statement from the Department is, again, an implied admission that force is an unwritten policy of the Department of Corrective Services.

A meeting was held on 2nd February, 1971, between members of the prison officers' union and three of the top men from the department. McGeechan led the department trio and Hanrahan led the union trio. Hanrahan at that time was president of the Prison Officers' Association. The theme of the union was for the department to issue its policy about the use of force. The issue of Bathurst was raised and again Hanrahan failed to say anything about what he had witnessed in Bathurst on the morning of 20th October, 1970 and subsequently.

Senior counsel for the union, McAlary, argued at the Royal Commission that the action of the union in calling on the department to state its policy showed that the union had acted in a responsible manner. One can only ask how this action could be described as responsible especially in the light of the admissions the same union was to make to the Royal Commission some six years later about Bathurst and Grafton. I think we can safely assume that if Hanrahan had then spoken of the things he later told the Royal Commission he'd witnessed in Bathurst then it wouldn't have taken six years for the union to publically state that some of its members had taken part in a "systematic flogging" of some, if not all, prisoners in Bathurst gaol in 1970.

In his written submission to the Royal Commission, McAlary wrote:

"We admit that the failure of the Department, notwithstanding all the publicity which occurred in 1971 in relation to the "Bathurst Batterings", to issue any direction to prison officers disassociating itself from, and condemning the use of force as a retaliatory measure for riots, meant that prison officers would inevitably regard the use of force in such circumstances as an unofficial approved policy of the department."

With due respect to McAlary, this wasn't what the union was after. Their concern was for the Department to say they authorised what happened in Bathurst so the prison officers could argue a Nuremberg defence. They still argued a Nuremberg defence in the Royal Commission in saying what they did at Grafton and Bathurst was the policy of the Department of Corrective Services.

AND MORE REPORTS CAME IN.

As more prisoners came down from Bathurst to Long Bay, the news of the bashings started to spread.

On the 5th February, one of the Long Bay psychologists, Evers, again wrote to McGeechan:

"SUBJECT:

Aftermath of Psychologists letter on disturbing aspects of recent gaol riots:— Prisoners are still coming forward with disturbing stories of events at Bathurst, following recent riots in that institution. Attached is a further account from a prisoner who complains of having been stripped, spread-eagled, baton-whipped, and left for some hours without medical treatment for injuries received from this assault."

The prisoner Evers refers to is Mr. Terrence Morrison who made a statement in similar terms to Clark's. However, this time the statement didn't come through Maddison to McGeechan but, again, Quin was sent into action. He reported back to McGeechan on 10th February and his concluding paragraph read:

"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."

So, here we have it, after a rough investigation of three statements, Clark's, Smedley's and Morrison's, Quin came to the conclusion that prison officers at Bathurst had a case to answer, but there wasn't enough evidence against any one particular officer.

Soon after making this report, Quin was made a Stipendiary Magistrate and had nothing more to do with the Department.

QUESTIONS AND ANSWERS IN PARLIAMENT. 3A In the Legislative Assembly on May 6, 1971, Mr. George Petersen asked a question without notice:

I ask the Minister of Justice whether he informed the House on 3rd November, 1970, that the allegations by Mr. Michael Mattison of violence by prison officers against prisoners in Long Bay gaol on the 18th November were wicked, untrue allegations designed to stimulate disorder, incite unrest and undermine authority. Did the Minister advise this House on 20th October, 1970, that the prison staff at Bathurst Gaol perform their duties splendidly and that much credit is due to them? Has the Minister since received from me three (3) statutory declarations by ex-prisoners of Long Bay and Bathurst gaols? Did the Prison Officers' Association take a deputation to the head of the Minister's department to complain that their members were ordered to brutalize prisoners? When will the Minister revise the present departmental policy of suppressing the facts, and tell the people of this State the truth? Is the Minister now willing to order an immediate open and public inquiry into the facts of what happened in Long Bay, Bathurst and Goulburn gaols in October, 1970, and subsequently?"

Maddison replied:

"I think we have come to recognize that when the honourable member for Illawarra makes a contribution here, it is usually opposed to the forces of authority. This question is yet another instance of irresponsibility on his part. He refers to statutory declarations which he forwarded to me. I say categorically, that on investigation, these statutory declarations contained nothing other than lies and misrepresentations of the actions of the prison staff. In fact, the three declarations, when looked at in toto, defame the whole administration of the prisons system. The declarations have been made recklessly without regard to the truth. The declarants have shown by their records in prison, that they are unable to conform with normal requirements of the institutions. I don't propose to lay bare before this House and before the public the most unsatisfactory and unsavoury records of the declarants whose declarations were forwarded to me by the honourable member.

When these declarations came to hand, they were thoroughly examined by a legal officer of the Department of the Attorney-General and of Justice, a solicitor of some twenty (20) years standing, who took statements from many officers, some prisoners, and psychologists. Wherever there were allegations in the declarations on the administration there was a categorical denial by trusted prison officers of the administration. I am quite satisfied that in the situation that prevailed last year in the three institutions to which the honourable member refers, there was a deliberate provocation by the inmates, who deliberately incited the administration, and I make no apology for the fact that where there is defiance of authority inside the prisons, it will inevitably become necessary to remove by force the people defying the authorities. This will continue to be so.

The situation is that where there is tumult, as there was in these establishments, it becomes necessary to remove people by force if they are not prepared to obey instructions, and to take them back to their cells. It is, I believe, in accordance with the law that those in possession of authority may use force to restore order and no more force than was reasonably necessary was used in any of these institutions on the occasions to which the honourable member has referred. I do not propose to have a public inquiry. The integrity of the legal officer who made the full investigation over a long period of time is beyond question, and I rely on the report he furnished to the administration. This report, which in turn was forwarded to me, gives the lie to the allegations made in the statutory declarations."

CRITERION FOR THE USE OF FORCE.

When Maddison was in the witness box at the Royal Commission he wasn't questioned about his statement that it was in order to use force to get prisoners back in their cells. He implies in his reply to Petersen that the only force that was used was in getting the prisoners back in their cells. This is very misleading for nowhere in any of the material sent to him about what happened in the prisons was there anything about prisoners being forced back into their cells. You will notice there is no mention of prisoners being disarmed by force or any suggestion that the prisoners in Bathurst were armed. It's a point we must keep in mind, because of events soon to come.

McGEECHAN VERSUS MADDISON.

After prisoners had given evidence to the Royal Commission of being flogged by warders in Bathurst Gaol in 1970, McGeechan was recalled to the witness box.

He was questioned by David Hunt, about Quin's report of 10th February, 1971, in which Quin says officers generally in Bathurst have a case to answer. Hunt asked McGeechan if he'd forwarded the report on to Maddison. McGeechan was sure he had passed it on to Maddison. Although McGeechan couldn't produce any covering letter, he was emphatic that Maddison was fully informed about all stages of Quin's investigation.

Maddison when questioned by Hunt said the first he'd seen of the report was when he'd been shown it in his lawyer's office in May, 1977, some six years and three months after it had been made.

Maddison agreed with Hunt that he couldn't have truthfully reported to parliament that Quin's report "... gives the lie to the allegations" had he sighted the report before 6th May, 1971. He did admit he's misled parliament by saying Quin had been a lawyer for twenty years when, in fact, he had only been a solicitor for two.

The questioning of McGeechan and Maddison on the point of Quin's report covered a large number of questions at the Royal Commission and raised one which is impossible to resolve.

There's no doubt McGeechan saw it. There's no doubt that Quin wrote it. This alone, given all the publicity Bathurst received during 1971, makes us wonder why Quin didn't come forward when Maddison told the House Quin said there was no case to answer. Assuming Quin didn't read the newspaper reports about Maddison's answer in Parliament, then can we also assume Quin didn't see or otherwise become aware of the four (4) "This Day Tonight" programmes after the publishing of the *"Bathurst Batterings"* document in June, 1971. (This publication which sought to document the events of October, 1970, was released by a group of Sydney lawyers.) "This Day Tonight" ran a report over four nights from 28th June to 5th July. In the reports, Maddison followed three ex-prisoners, Morrison, Clark and Stewart, a New Zealander. Maddison was interviewed by Gerald Stone who asked him, "As Justice Minister, I wonder what you feel about the statement that justice must not only be done but be seen to be done. Do you feel that justice is seen to be done in this particular instance?" Maddison replied, "I believe it is seen to be done and if I had any doubts about it then there would certainly be a recommendation by me for a Royal Commission, but I need to have something much more substantial by way of evidence than I have got at the moment."

During the Royal Commission, Hunt asked McGeechan wasn't he disturbed by what Maddison had said on the programme about having "any doubts" in the light of Quin's report stating prison officers generally in Bathurst had a case to answer. McGeechan said Maddison was a lawyer and he would be more proficient in this area than he was.

At the same time, the "This Day Tonight" reports were being shown, the newspapers were covering the issue. So we can only ask again, where was Quin when all this was going on. Wouldn't he have got in contact with Maddison and told him his report had in fact raised doubts? It is hard to imagine that Quin wouldn't have been interested in what was going on in the media at this time. It is equally hard to imagine that he wouldn't have asked to see a copy of *"Bathurst Batterings."* If he had read it, he would have been able to read an account of what Maddison said in Parliament on 6th May, 1971 when he said the legal officer of some twenty years standing had said there was no case to answer.

THE PUBLIC SERVICE BOARD.

Working within the Department of Corrective Services at this time was Public Service Board Inspector, Whybrew, whose job it was to see that the Department conducted its affairs in a "proper manner". McGeechan in evidence said, Whybrew and the Public Service Board were kept informed of what was going on in regard to Quin's investigations and both would have been aware of Quin's February 10 report.

Mr. Bill Fisher, Q.C., senior Counsel for the Department of Corrective Services, asked McGeechan in December, 1976, "Did you discuss with the Board the question of an inquiry?" McGeechan answered, "The discussion took the base that I had suggested to the Minister, that the easiest way to handle it from an administration standpoint was to come to an inquiry. A member of the Board * replied that he took the same view, and the way to handle the problem was there be a Section 9, I think he said, inquiry, a low-profile inquiry to tidy it up but he had been denied it, or that the Minister had not agreed, I think was the word he used."

* It appears the member of the Board, McGeechan is talking about, is the Board's current chairman, Sir Harold Dickenson.

The Prisoners Action Group, through its counsel, Mr. Rod Madgwick, made a call to have Dickenson called to give evidence before the inquiry but the call was denied by Commissioner Nagle. However, the Public Service Board did put in a written submission to the Royal Commission which contained this interesting paragraph:

"Without the acquiescence of the responsible Minister, a Public Service Board inquiry in terms of Section 9 of the Act, would be an exercise in futility. Apart from division 3 of the regulations made under the Prisons Act, 1952, there would also be

no way in which the Board could insist on its being accommodated for the purpose within the prison. If the Board sought to conduct the inquiry away from the prison, there would likewise be no way in which it could have any prisoner brought outside the prison for the purpose, except with the Minister's authority. (See S.29 of the Prisons Act.)"

This seems to lend credence to McGeechan's statement that the Minister alone put the veto on any inquiry.

McGeechan also said the Public Service Board and Maddison were both furnished in July, 1971, with all documents relating to Quin's investigations. Maddison claimed in the Royal Commission that Quin's February 10 report wasn't amongst the bundle of papers he received. We can only guess if it was amongst the papers the Public Service Board received. We firmly believe the public has a right to know if it is in the papers held by the Public Service Board.

We call upon the Royal Commissioner, Justice Nagle, to subpoena all papers held by the Public Service Board concerning the events in Bathurst Gaol in October, 1970.

MADDISON'S ARSENAL.

The media dropped the issue when Maddison appeared on television with an assortment of weapons supposedly taken from prisoners by force on 20th October, 1970 in Bathurst gaol.

When the superintendent of Bathurst Gaol, Pallot, was in the witness box at the Royal Commission, he said McGeechan had asked him to send all the weapons confiscated from prisoners during the sit-in to be sent to Sydney. Pallot said he got the request in July, 1971 (approximately nine months after the event and shortly after the release of "Bathurst Battering".) He said he sent a truck load down. It's of interest to note at this time that not one solitary prisoner in Bathurst Gaol was ever charged with being armed during the disturbance whereas some were charged with minor offences. However, Maddison appeared on the television with his arsenal and said the force which was used in Bathurst was only as much force as was necessary to disarm the prisoners, and the media, with few exception dropped off. The cover-up had worked, even when the Department's own slight investigation had revealed there was a case to answer.

McGEECHAN HAS THE LAST SAY.

A "Summary Appreciation" of the *Bathurst Battering* was furnished to Maddison (and we assume the Public Service Board) late in July, 1971, over McGeechan's signature. In it he accuses the six prisoners whose statements appear in the *Bathurst Battering* document of conspiracy, that they all got together at one time or another and concocted the story. Nowhere in his "appreciation" does he mention Quin's conclusion. However, he did use a paragraph out of Quin's report to seek to discredit one of the prisoners, Morrison, but it was taken entirely out of context. Similarly he used sections of Hanrahan's answer to Quin where Hanrahan said his "whole statement was lies" without any mention of the fact that Hanrahan withdrew the statement.

As McGeechan said to David Hunt, "If you can't trust your senior officers, the whole system has broken down." Using McGeechan's own words, in the right context, our system of justice for prisoners broke down when the senior man in the Department of Corrective Services, along with the rest of the department, couldn't be trusted.

THE NEXT ONE WILL BE A BLOODY BEAUTY.

When it became obvious there would be no public inquiry, it was generally accepted in the gaols that Bathurst would erupt again. This feeling was also felt by some people outside. In an Address in Reply speech on the 22nd August, 1977, Mr. George Petersen, M.L.A., said:-

"It appears to me most unlikely that a riot similar to the one that occurred at Bathurst on 19 October, 1970, will ever again erupt quietly. Every person who has been in New South Wales prisons in the last two or three years knows what happened at Bathurst in October, 1970. *Next time will be a beauty.* I want to tell the House that the Minister has done enormous damage to his image by covering up the crimes of his establishment. *Time is running short.* Prison reform is not a do-gooders' movement. It is a demand for freedom that must be met by men of good will on behalf of their fellow-men and on behalf of themselves."

TIME BEGINS TO RUN OUT.

In October, 1973, prisoners in Bathurst gaol staged another sit-in, this time demanding that a prisoner who had been wrongly dismissed from his job be re-instated. Although the request for reinstatement was the cause of the sit-in, unrest inside the gaol had been building up throughout 1973.

Starting in about May at least 6 stop-work meetings had been held by prisoners. After these meetings suspected ringleaders had been shanghaied out of the gaol. All told, in the later months of 1973, approximately 75 prisoners had been shanghaied from the gaol. We can only assume that the thinking behind the shanghaies was that if you took away the leaders the unrest would stop. That it didn't stop but in fact increased up until the gaol was destroyed early the following year, proves that the reason for the unrest in Bathurst wasn't confined to supposed troublemakers amongst the prisoners.

A BIT ABOUT THE GAOL ITSELF.

The Department of Corrective Services in its written final submission to the Royal Commission had this to say about the gaol:

"The gaol was built in 1889 at a cost of 100,00 pounds. The architectural design of the gaol by an architect Mr. Haviland, was developed by him in Pennsylvania *in the early 19th Century* and reflected the prevailing penological philosophy of those times. *It is not suited to the requirements of a modern institution.* The architectural features were designed to enforce contemplation of the *prisoners under severe conditions.* Religion was its focal point with the concept of the chapel in the centre. The system was known as the "Auburn System" which operated on an *implied fear of punishment.* The essential discipline was manifested by *repression and labour and fear.*"

The Director of Establishments for the Department, Morrow was questioned about Bathurst at the Royal Commission by David Hunt.

HUNT: You, of course, have described Bathurst as "hardly moving with the times"?

MORROW: That is quite so.

HUNT: And that if a Superintendent of 70 or 80 years ago had come back he would not notice any difference?

MORROW: That was merely my way of suggesting there had been no change in Bathurst?

HUNT: And that would include, would it not, no change in the attitude between prisoners and prison officers?

MORROW: Yes, that is consistent with all prisons.

AND SOMETHING ABOUT THE STAFF.

Later on we'll go more fully into Morrow's point about the staff in all prisons being behind the times. For the moment we'll stick with Bathurst. Again the Department of Corrective Services had something to say about its staff at Bathurst:

"The prison officers from the Superintendent, Mr. Pallot, down were almost entirely recruited from the Bathurst district with strong family and economic ties to the District. Many families had served for generations at the gaol and the narrow and traditional assessment of their role was adopted by prison officers with a resulting resistance to necessary change. One example of insular approach and limited horizons is provided by the then superintendent, Mr. Pallot who had commenced his service in 1940 at the Bathurst gaol as a new recruit and had never left it until his retirement in January, 1977 as Superintendent."

THE BOSS OF BATHURST GAOL.

According to the Department he was a narrow minded man of limited horizons. To the prisoners he represented all that was Bathurst gaol — a man the prisoners couldn't talk to, couldn't understand and one who couldn't understand their problems. When Pallot was in the witness box at the Royal Commission he was questioned about a new rule book that had been issued in recent years. Pallot said the new book confused him. He rather dramatically grabbed hold of the old rule book he'd been asked to identify, held it high in the air and cried, "Give me the old book any time!".

Pallot told the Royal Commission that apart from passing the chief prison officer's course he hadn't studied anything else to do with prisons in his 37 years of service with the Department of Corrective Services.

That Pallot was unfit for his job will be, no doubt, one of the findings of the Royal Commission. The most disturbing thing is that the Department admitted that he was unfit and yet did nothing to remove him.

The Department of Corrective Service's Senior Counsel, Bill Fisher, Q.C., in his final address to the Royal Commission said:

"I am dealing with the criticism that he (McGeechan) should have removed Pallot I am making the proposition that you cannot shift him side ways". The Royal Commissioner, Mr. Justice Nagle, answered —

"You can if there are exceptional circumstances."

FISHER: There have never been such circumstances, in so far as this man would not be represented as a man who had compassionate grounds or anything like this.

NAGLE: The exceptional grounds are not confined to compassionate grounds. The Department and the Public Service Board thought and included in the final ...

FISHER: But the whole of the evidence is that it is there, it is a face saving thing and it just is not operated.

NAGLE: But you cannot sit down and leave a situation developing as dangerous as the one in Bathurst.

FISHER: You say you cannot have it. Then what do you do, that is the point I am getting at.

NAGLE: The people should have known what they were doing and if the public, through their elected representatives, want to say, "No, we will take no action" then the alternative is to run the risk of what indeed happened, \$10,000,000 worth of damage or whatever it was. I am not underestimating the difficulty, but you cannot just sit back and say that because it is a difficult situation, it cannot be corrected and that nothing can be done to correct it."

PRISONERS TRY TO CORRECT THE SITUATION.

Prisoners in Bathurst throughout the last half of 1973, tried to take the heat out of the gaol. On 5th August, prisoners met with Pallot and tried to explain something of the tension within the gaol. It was like "trying to talk sense to your mother-in-law" was how one prisoner described it. Another on leaving the meeting said, "How the hell do explain the trouble to the trouble itself."

Apart from the fact that the prison officers in charge of the gaol were the same ones that had flogged them unmercifully some three years before, one of the major causes of unrest within the gaol was the Department's own public relations handouts telling of the changes that were happening inside the gaols. To the prisoners inside Bathurst, it appeared things were happening everywhere else but inside Bathurst. Whilst evidence before the Royal Commission showed this wasn't the case, the prisoners in Bathurst were not aware of the peripheral nature of the so-called reforms they were hearing about.

Because they couldn't talk to Pallot, the prisoners tried to get straight through to McGeechan.

PRISONERS' LETTER TO MCGEECHAN.

In the delegation of prisoners that met with Pallot in August the "boys" were not represented. (A boy at Bathurst was any male under the age of twenty-three (23) years.) In early September, the boys started to talk about direct action. Whilst the men had it bad in Bathurst, the boys had it a lot worse. They were subjected to the highest form of petty discipline both in their wing (C wing) and at their jobs, if they could be called that. Most boys worked either in the bookbinders or in the cardboard manufacturing shop. However, in both shops, most workers could finish their allotted tasks in two days and so 60% of their time would be taken up with idleness.

The prison officer in charge of C wing, was renowned for being a petty tyrant. In the Royal Commission, McAlary tried to portray Milton as a strict disciplinarian. Evidence before the Royal Commission showed that he was more than that.

When the boys started to talk of direct action, a group of prisoners sent a letter to McGeechan stating they didn't believe Pallot fully appreciated the mood of the prisoners. The following week a few heavies from the Department of Corrective Services head office arrived in the gaol and interviewed some twenty odd prisoners. A few cosmetic changes were made: Bathurst prisoners were told they would be eligible for work release (up until that time not one prisoner from Bathurst had been sent directly to Silverwater for work release) and some time later McGeechan issued a directive stating that buy-ups in all gaols would be uniform.

PRISONERS' COMMITTEE.

One of the blokes from the Department of Corrective Services who arrived was the Superintendent of Parramatta Gaol, Bush. His contribution was to set up a prisoners' committee. However, part of the committee was made up of the activity officers in the gaol, McAuley and Howgego. Two men whom the prisoners had little respect for. The committee was ineffective from the start and died a natural death within a matter of weeks.

THE OCTOBER 1973 SIT-IN.

In late October, a prisoner, Thompson, was wrongly sacked from the carpenters' workshop by Pallot for allegedly throwing a piece of water pipe at a prison officer on 4 tower. Thompson didn't throw the pipe and the evidence is that Pallot knew this. However, he told Thompson he wouldn't get his job back until he told Pallot who had thrown the pipe. An unacceptable request. The rest of the carpenters refused to do any work until such time as Thompson was reinstated. Pallot refused to talk to the men.

The next Monday, the men prisoners in the gaol staged a sit-down strike in 1 and 2 yards. They asked for the carpenters to be reinstated and that someone come to the gaol to hear their complaints.

MORROW RETURNS TO BATHURST.

The man McGeechan sent to Bathurst was the Director of Establishments, Morrow, the man who, along with Pallot, had told the prisoners in 1970 that if they returned to their cells there would be no reprisals. We know about the reprisals. The prisoners refused to deal with either Pallot or Morrow. They asked to see someone from the Council for Civil Liberties or someone from the media or a parole officer, Halpin, or an education officer, Finnerty. Both Halpin and Finnerty were at the gaol at the time but neither spoke to the prisoners. After being told someone would be in Bathurst to see and speak to them in the morning, the prisoners returned to their cells shortly after midnight.

THE COUNCIL FOR CIVIL LIBERTIES.

The prisoners were not released from their cells on the Tuesday morning. Just after lunch messages travelled through the gaol telephone — the sewerage system. (The trick here is to pump the water out of the toilet bowl and talk into the pan.) The messages said the Council for Civil Liberties were in the gaol and were talking to the prisoners. The Council for Civil Liberties spoke to the men from the carpenters' shop and a couple of other selected prisoners. As soon as the men from the carpenters' had seen the Council for Civil Liberties they were shanghaied out of gaol. About half went to the notorious circle at Parramatta Gaol and the other half to the front special yards at the Metropolitan Reception Prison. The prisoners received no feedback from the Council of Civil Liberties visit, and as far as the prisoners in Bathurst were concerned, it was a non-event.

ANOTHER TRY TO GET SOMEONE TO TALK TO.

When the prisoners were released from their cells on Thursday, after spending nearly three full days being locked up, two prisoners went to see Morrow and again asked to have someone whom the prisoners trusted come to the gaol and talk to them. Again, Pallot was present when the prisoners spoke to Morrow.

When Morrow returned to McGeechan he reported that the trouble in Bathurst was not over by a long shot.

PALLOT INCOMPETENT.

When the sit-in was going on some very senior men from the Department of Corrective Services were in the gaol as members of the "riot squad". When they returned to Sydney they made reports on their observations of Bathurst gaol. The senior men, Messrs. Metters, Quamby and Osborne reported that:

- 1) There was no organisation in the gaol.
- 2) Pallot was taking things too lightly.
- 3) The situation in the gaol was not under control.
- 4) No leadership in the gaol.
- 5) There was nothing set down in the gaol the prisoners could rely on.
- 6) Pallot was not giving McGeechan the full picture.

- 7) The problems in the gaol could be solved by Pallot making the right decisions.
- 8) Prison officers did not know what was going on in the gaol.
- 9) Prisoners were being told in the gaol that there would be no shanghaies and there would be trouble when there were shanghaies. (The prisoners knew of the shanghaies following the sit-in the moment they were released on the Thursday morning. Over thirty prisoners were shanghaied).
- 10) Pallot was un-cooperative.

NO ACTION BY MCGEECHAN.

Hunt questioned McGeechan at the Royal Commission about the above report.

When Hunt asked him if he found the report alarming, McGeechan said he didn't act on the report because he was aware of the rivalry between the custodial division (Pallot's mob) and the Establishment's division of which Metters, Quamby and Osborne were members.

Incredible as it may seem, things were allowed to go on in Bathurst as they had been. No further action was taken by McGeechan where Pallot was concerned.

TENSIONS INSIDE THE GAOL INCREASE.

Following the sit-in tensions increased considerably. The warders became more restrictive in their dealings with the prisoners. There were more cell searches. Cells were left in disarray after the searches. Movement around the gaol became more difficult. The pass system was rigidly enforced. Weight-lifting was banned.

TALK OF THE NEXT RIOT.

Both prisoners and warders started to speak openly of the next riot. The warders said the next one wouldn't last more than a few minutes because of the new equipment and the new gases they had. The prisoners said they wouldn't be conned into going back into the cells again. It was agreed by both groups a riot was inevitable.

THREE INTO THE BACK-SPECIAL YARDS.

In November, three prisoners, Newman, McHannigan and Stevens were placed in the back-special yards for supposedly threatening chief prison officer Mutton. The three prisoners had had a heated discussion with Mutton over the banning of weight-lifting.

The whole incident took on an exaggerated importance simply because Pallot and Mutton over-reacted. Before the rest of the gaol was let out of the cells, both morning and afternoon, Newman, McHannigan and Stevens were individually escorted by up to six warders to the back special yards. The whole exercise used to take over 15 minutes, every other prisoner in the gaol had to spend another 30 minutes or so in his cell each day the men were kept in the back special yards. The prisoners saw it as a farce and it made heroes of the three men.

THE PRISONERS OF BATHURST.

It's time to look at who the prisoners in Bathurst were at the time. The Department of Corrective Services in its final written submission to the Royal Commission had this to say: "The population contained a hard core of professional and incorrigible prisoners". A nice sweeping statement the Department of Corrective Services did not in any way prove. The prisoner population was made up of second-time prisoners — with either one, two or three previous convictions. Those with three or more convictions invariably went to Parramatta. This meant the average age of the Bathurst prisoner was less than the prisoners of all other maximum security gaols. Because Bathurst lacked any rehabilitative facilities it was considered to be the dump — the gaol where the

blokes who had come through the reformatory system and who had little or no education were sent. One would think then that special people would be needed to help this type of prisoner to find a niche in the outside world.

(We would add that such a measure could not, of course be a cure-all but could be the minimum expectation from a Department which purported to be concerned about prisoners.)

However, as we have seen, the reverse was the case. Pallot and his mob were steeped in the tradition of the eighteenth and nineteenth century custodial model described by their boss McGeechan.

PRISONERS IN BATHURST CAN'T HAVE WHAT OTHER PRISONERS HAVE.

The Bathurst prisoner made up a minority group within the N.S.W. Prison system.

(Again, we stress that bringing Bathurst into line with other institutions is not the answer. We simply point to patent problems which the Department was ignoring.)

In its final submission the Department of Corrective Services said: "They (Bathurst prisoners) were aware of the element of change introduced into minimum security institutions and considered that, at least in part, the officers at Bathurst gaol were preventing the introduction of these changes at that establishment". The document goes on to say "This was a situation which had been permitted to develop at Bathurst over a period of decades and one which was inherent in the very nature of the institution." "The Department's efforts to effect changes at Bathurst gaol since the late 1960's have been detailed in evidence before the Royal Commission. However, the Department has long been aware that the problems existing at Bathurst gaol were "root problems" and could not be solved over a short period of say, five or six years. The *Department's preferred solution was to close the gaol* but this was not possible in the circumstances". Accordingly, the Department says, it was placed in the impossible position of having to mediate between two completely opposed factions, i.e., the officers and the inmates. Notwithstanding these difficulties, the Department says it attempted "to the extent possible to introduce new philosophies and programmes into Bathurst gaol in the face of its totally unsatisfactory architectural design and the active resistance of the local officers."

As you can see using their own words the Department of Corrective Services saw their role as mediators between the officers and the prisoners as an impossible one and were thwarted in their "attempt" to introduce new "philosophies and programmes" into the gaol and as they couldn't close the gaol down, as they wished to do, they didn't do anything and let a gaol that had been explosive for years go its own way. The only group who tried conciliation during the period was the prisoners. Not one conciliatory initiative was kicked off by the Department of Corrective Services or Pallot or his staff during the lead up to the destruction of the gaol. In fact, as we'll see, Pallot resisted prisoner initiatives and drove the wedge of alienation deeper.

UNION ACTIVITY.

While all this was going on the union sub-branch were having many lunch-time meetings that invariably ran overtime resulting in the prisoners being kept anything up to an hour extra in their cells. This, of course, didn't help officer/prisoner relations. These meetings were a weekly event during the period November/December/January.

HALEY BASHED BY MUTTON.

On December 3, a prisoner, Mr. Terence Haley, was working normally in the gaol's library when three senior prison officers, principal prison officer Chandler, chief prison officer Mutton and senior prison officer Stevens entered the library and searched Haley. The prison officers alleged they found a message on Haley written on cigarette papers

mentioning an escape. Haley denied he had the message on him. The prison officers claimed the message came from one of the men in the back special yards, Wayne Newman.

Haley was taken by Chandler, Mutton and Stevens to B wing where he was placed in a pound cell. On entering the wing, Mutton told wing officer Paget to send the sweepers out of the wing and to lock the wing. After doing this, Paget went down to the pound cell.

In the pound cell Mutton told Haley to remove his shoes and then Mutton started to flog Haley. When Haley fell to the floor, Mutton kicked him in the ribs. Chandler, the senior officer, told Mutton to stop and the prison officers left the cell, locking it behind them.

After lunch, Paget went down to see Haley and found him still lying on the floor. Paget called the male nurse from the gaol's hospital, McAndrews, to come over and examine Haley. McAndrews ordered that Haley be placed in his own cell where McAndrews taped Haley's ribs. The next day Haley was escorted to Pallot's office by Chandler. Haley complained to Pallot that he'd been assaulted by Mutton. Pallot told him to take his shirt off. Haley refused saying he would only remove his shirt if McAndrews was present. McAndrews was called. Haley removed his shirt, Pallot said he could see no bruises and Haley was returned to his cell. Of course, Haley's ribs were still taped.

Haley appeared before the local visiting justice, Mr. Rice, S.M., and was sentenced to 10 days cellular confinement (pound) for having the message in his possession. Haley complained to Rice that Mutton had assaulted him. Rice told Haley to put his complaint in writing.

When he came out of the pound, Haley saw the gaol's doctor, Doust, who ordered an X-ray. Haley made a Statutory Declaration about the assault by Mutton. Doust in evidence before the Royal Commission said in his opinion Haley had two fractured ribs.

A day or so later Haley was again taken before magistrate Rice and was charged with making a false statement under Section 23(f) of the Prisons Act. Rice, S.M., the man who told him to put his complaint in writing, found Haley guilty and gave him another three days in the pound cell. Rice refused Haley's request to bring medical evidence to the hearing and also refused Haley's request to call any witnesses.

In February Haley was again X-rayed, this time at Parramatta gaol. The X-ray showed fractures to Haley's 7th and 8th ribs. The treatment Haley received from Rice, Pallot, Chandler, Mutton, Stevens and Paget really upset the gaol.

PALLOT ORDERS MORE RESTRICTIONS.

Also in December, Pallot issued a directive stating that no more than six photographs, six letters or six books would be allowed. He also ordered that no gaol-made frames would be allowed in the cells. Wing officer Milton of C wing (the boys' wing) took this order literally and went from cell to cell in C wing accompanied by other prison officers and ripped photographs and gaol-made cardboard frames, destroyed personal letters, books and made messes of the cells in general. Pallot's orders were not carried out so rigidly in other wings, but the orders were partly carried out nonetheless.

THREE RELEASED FROM THE BACK SPECIAL YARDS.

Just before Xmas, the prison officers held a meeting and voted 25 to 16 to release Newman, McHannigan and Stevens from the back special yards. So much for the alleged escape attempt plan supposedly found on Haley and the threat to do Mutton physical harm.

THE BOYS ARE REALLY UPSET.

As we know, the boys had had nothing to do with the demonstrations that had taken place in the gaol throughout 1973. However, since Milton had raced through C wing on his Pallot-directed destruction spree, the boys had started to talk about a sit-in. They planned for this sit-in to take place on the 15th of January, 1974, hoping it would result in having their grievances heard. The men said they would support the boys.

THE BOYS SIT IN.

About 2.30 p.m. on the 15th, Mutton escorted Newman to Pallot's office. Pallot told Newman that if there was any demonstration in the gaol he would be sent to Grafton. Newman told Pallot he had no control over what other prisoners did and he found Pallot's threat to be unfair. Newman was taken to his cell by Mutton and locked in.

News of Pallot's threat to Newman soon spread through the men's section of the gaol and the men decided to call the demonstration off. The news that the sit-in was off reached every prisoner in the gaol except 37 boys who mustered in 5 yard.

When Milton called for the boys in 5 yard to muster, they refused. Prisoner Bruce, a sweeper in C wing, told the Royal Commission he heard Milton order the boys to fall in and he heard the boys refuse. He said the boys then told Milton of their complaints. They mentioned food, too many searches, the destruction of their personal property (photos, letters, etc.) and the loss of sporting privileges following the men's October sit-in.

Another prisoner, Mr. Harold Smith, told the Royal Commission he was looking out the window of his cell and heard Pallot say to the boys, "If you go back to your cells no one will be locked up and we'll talk about your grievances".

In his final written submission to the Royal Commission the Public Solicitor who appeared for most of the prisoners who gave evidence before it wrote:

"Prisoner Fred Harling attributes the sit-in to conditions in the gaol, particularly the loss of organised sport. There was some confusion as to whether or not the men were going to join in and then Mutton made a promise that if they went to their cells immediately, the gaol would carry on as normal and no one would be charged. Harling said that Pallot confirmed this in person. The following night he said Milton and Pallot came to his cell and told him he was on bail, meaning thereby that he was going to be charged."

"Prisoner Bruce said the whole middle landing was kept in their cells except for one prisoner and before they were locked up everything was taken out of their cells such as bedding, bed, cupboard, table, chairs, mats, etc., and put on the wire grill across the centre of the wing. All that was left in a cell was the toilet and the sink. Food and tobacco was taken out of the cells and the officers went along disconnecting the wirelasses from outside of the cells."

Thirty seven prisoners were charged before Rice, S.M. with refusing an order. They appeared before Rice in batches of six and seven.

The Public Solicitor continued:

"Harling wanted to call Pallot and Mutton before the magistrate. Harling told Rice of the promises made. Rice said he was only there to do what was before him and having gained from Harling the knowledge that he did refuse to go to his cell he simply said "Well that is all there is to it, you're sentenced to three days."

"Pallot's explanation for his part of the breaking of the promise is that he simply spoke quietly to Mutton and told him that this was not the way to go about it. Pallot admits speaking to the prisoners and asking for a spokesman. He said he received no answers and that the prisoners were quiet and did not offer any abuse."

"The prisoners were aware that any protest by them would lead to a tightening up of conditions, that any promises made to them under any circumstances would be valueless. The situation in Bathurst gaol was simply that a prisoner could not take the word of any senior officers and were uncertain as to the role of the junior prison officers but had a strong and reasonably based suspicion that they would also break their word if the mood and circumstances suited them."

"Phillip Wilson, in dealing with the January sit-in added the information that prison officer Doorey told one of the prisoners that a meeting had been held with Pallot and the prison officers had told Pallot that if sports were given back to the prisoners, the officers would go on strike."

The thirty-seven boys involved had all received three days in the pound from magistrate Rice.

After months of trying to get their grievances aired the prisoners of Bathurst turned their minds to the destruction of the gaol itself as their only means.

THE GAOL HAS TO BE DESTROYED.

The prisoners now started to talk about destroying the gaol. At first it was just put forward as a possibility. As January started to draw to a close it became a probability.

PALLOT WARNED THE GAOL IS TO BE BURNT.

The Royal Commission was told three people told Pallot the gaol was going to be set on fire over the week-end of 2/3 February, 1974. The three people to tell Pallot were education officer, Higgins, engineer Morgan and prison officer Plumkett.

Ex-prison officer Hanrahan told the Royal Commission that he was in charge of the pictures on the Saturday and was told by principal prison officer Chandler to keep his eyes open as they were expecting trouble.

Fire Officer Weekes of Bathurst told the Royal Commission that he was not told by anybody about a probable fire at the gaol on the weekend of 2/3. Pallot told the Royal Commission he didn't roster any extra men for the weekend.

Nothing happened on the Saturday.

THE FIRST FIRE BOMB.

Sunday morning ran along normally. On Sunday afternoon the boys filed into the chapel to see a movie — Women in Love. Just after the second reel started, a voice cried out, "Stand up". All the boys stood up and a fire bomb was thrown in the general area where the prison officers were sitting. The fire was quickly extinguished. A chair was also thrown in the darkness towards officer Milton. The lights came on in the chapel and the boys were ordered to return to their yards. They did so in orderly fashion.

EVERYTHING SEEMED NORMAL

A prisoner, Mr. Paul Simpson, told the Royal Commission:

"I was playing tennis in 1 yard. I saw the boys and some men filing out of the chapel and I thought the projector had broken down as it had done often before. The boys crossed the circle and went to their yards and everything seemed normal. Prison officer Farmer who was in charge of sporting activities on that day came up to the gate of 1 yard and called out, "Righto you boys, sports gear up".

"I was in charge of the sports gear in the yard and I passed the tennis balls and tennis bats through to Farmer. I then unhooked the tennis net and rolled it up and carried it back to the gate. He wouldn't open the gate a he told me to throw it over the fence. On the top of the fence was barbed wire and the top part of it got caught in the barbed wire and we couldn't shake it loose and Farmer told us to leave it there."

NO ATTEMPT TO DEFUSE THE SITUATION.

Up until this time it was still possible to stop the prisoners rioting. But nothing was done. Most prisoners who gave evidence to the Royal Commission supported Simpson's evidence that the gaol appeared to be normal when the boys returned to the yards.

A PRISONER IS BASHED.

Officers Milton, O'Donnell and Mason went from yard to yard calling out for prisoner 346 shortly after the boys returned to the yards. Prisoner 346 was Mr. William Kennedy, one of the prisoners who'd been to the pictures. Kennedy told the Royal Commission that when he heard his number called out he didn't answer. He said he just sat in the yard. When the warders continued to call his number, he said he eventually went to the gate. He was taken out of the yard by the three warders, escorted into C wing and then to his cell where the warders started to bash him.

SOUNDS OF THE BASHING HEARD IN THE YARDS.

Mr. Raymond Briar told the Royal Commission, "When I came out of the pictures I went to 5 yard where I played a guitar and talked with other prisoners. Shortly afterwards I saw some officers, including Milton and O'Donnell, come to our yard and call out a number. I saw Billy Kennedy walk towards the front of the yard. He was then taken into C wing by the officers. Shortly afterwards I heard screaming from the direction of C wing and recognised Kennedy's voice."

Again we have evidence of normality until Kennedy was taken to C wing.

Another prisoner told the Royal Commission he was in 1 yard — the furthest yard from C wing — "...and I heard prisoners singing out "they're bashing Kennedy." "

The evidence at the Royal Commission was pretty conclusive that the bashing of Kennedy triggered off the prisoners. They started to move towards the gates of the yards and abused the warders for bashing Kennedy.

Mr. William Baldry told the Royal Commission, "I was walking around 1 yard when I heard some shouting and yelling. I saw prison officer Milton come out of C wing and the shouting got louder. Milton was rolling his sleeves down and he shouted out, "Come on you weak bastards, riot"."

OFFICERS LEAVE THE INSIDE OF THE GAOL.

It's generally agreed by all that when Milton, O'Donnell and Mason left C wing Milton called out as reported by Baldry and it was then that the officers left the inside of the gaol, leaving it in control of the prisoners. The prisoners, whilst they were noisy because of what had just happened to Kennedy, were still locked in the yards when the officers left the circle.

THE RIOT AND THE FIRES BEGIN.

Briar told the Royal Commission, "The officers left the circle between D wing and the chapel. Next I saw prisoners running on to the circle and someone broke the lock off our gate. After a while I left the yard. The chapel at this stage was burning. I went to 1 yard where I saw many other prisoners stacking their gear. Others were eating as I was. I got the food from a mate in the yard. After a while I went into the kitchen and grabbed some food which I took back to 1 yard. The kitchen was already on fire before I reached it. As I reached 1 yard I heard gunshots and saw shots being fired by officers on top of the visiting boxes near the front gate between the chapel and A wing. I rushed into 1 yard for shelter. I saw A wing on fire and boilerhouse and the laundry were also burning."

THE SHOOTING OF THE PRISONERS.

The first official press releases stated the only shots to be fired during the riot were fired to prevent prisoners from escaping. The releases said the prisoners tried to blow holes in the outer walls of the prison. No evidence of this nature was presented by the Department of Corrective Services to the Royal Commission.

At least twenty prisoners were shot during the afternoon of the 3rd February, five of them seriously. Who ordered the shooting? Who shot whom and why? We'll probably never know. Nor will we know just how many shots were fired on that afternoon. The shooting went on for three hours or more.

A summary of the shooting is contained in the final written submission to the Royal Commission by the Public Solicitor:

"It is our submission that an important aspect of the general working of the Department of Corrective Services is illustrated by the use of firearms by officers during the 3rd February 1974, riot at Bathurst gaol.

The evidence concerning the use of firearms by prison officers during the riot is found in a number of sources, including evidence before the Royal Commission, together with evidence of the Bathurst trials. The evidence we will be referring to is as follows:

The evidence of police officers during the Bathurst trials, particularly the evidence of Detective Inspector Birnie

- (b) The evidence of prison officers during the Bathurst trials
- (c) The evidence on prisoners during the trials
- (d) The evidence of prisoners and ex-prisoners during the Royal Commission.
- (e) The evidence of prison officers during the Royal Commission.
- (f) The evidence of Dr. Kenneth Doust during the Royal Commission.

"The most comprehensive evidence given by the police during the trials occurred during the first trial in the evidence of Detective Inspector Birnie, the police officer in charge of the investigation:

"He said that 32 revolver shots were fired, 28 shot gun cartridges and 68 .22 bullets fired." (The figures Birnie gave at the first trial could be multiplied by ten as we'll see, the firing went on for nearly three hours and on Birnie's figures one shot would've been fired every three minutes. Evidence from prisoners, prison officers and independent witnesses was that the firing was continuous. that it is likely there were ten shots every 3 minutes throughout the afternoon with the firing being heavy at some per and light at others).

"Birnie stated that there were four prisoners shot with rifle bullets, 16 shot with shot gun pellets and two doubtfuls."

"He said there was no other source of information available to him to establish the number of shots that were fired other than statements from prison officers."

As we can see Birnie didn't try all that hard to find out much shooting there was. According to his evidence he didn't ask police who were there for most of the afternoon, nor did he try to question the hundreds of people who were outside the gaol.

SERIOUS INJURIES.

The gaol's medical officer, Doust, came to the gaol three times during the afternoon. He said the most seriously injured prisoner was Dennis Bugg (now a paraplegic). It is indisputable that Bugg was shot when he was on the circle. He wasn't trying to escape. He wasn't destroying property when he was shot. He wasn't setting fire to anything.

Birnie told the first Bathurst trial the three fragments of bullets recovered from Bugg were so mutilated it was impossible to recognise any rifling marks.

Another prisoner seriously shot when he was on the circle was Mr. R. Connors. He said he was pushed out of 1 yard by other prisoners into the circle where he was shot. Birnie said the bullet recovered from Connor's liver could have been fired by either a prison officer named Drury or by another officer (un-named) shooting from 23 tower.

However, you didn't have to be out in the open to be shot. One prisoner told of his being shot inside B wing:

"I left my cell and as I turned to go down the stairs I was hit very hard behind the ear. I sat on the floor and felt for any damage. I realised I'd been shot through the window at the end of the wing."

He wasn't the only one.

The same prisoner described the shooting in the yards:

"Suddenly two screws with rifles appeared on the wall behind the store overlooking 1 and 2 yards. There was sudden panic as the men realised the screws were going to fire into the yards. We scattered in all directions as the screws aimed and fired. I took cover behind a bucket of water, and I was then covered by about 6 other prisoners. They soon crawled off when they realised the screws could still see them. There was a sudden rush from the yards. In the rush from the yards Connors was hit bad and dropped to the ground. Some prisoners stayed with Connors and the rest of us went into B wing to escape the rifle fire."

THE PRISON OFFICERS HAD RIOTED.

Prison boss McGeechan told the Royal Commission he'd ordered Pallot that no shooting was to take place unless lives were endangered or prisoners were trying to escape. David Hunt asked Pallot if he passed McGeechan's message onto the prison officers. Pallot said he didn't because they wouldn't have taken any notice of the order and would've kept on firing. So the boss of the gaol tells us that the warders were out of his control, which makes two groups rioting at the same time.

SHOOT THE PRISONERS.

Dr. Doust told the Royal Commission he ran into Milton when he entered the gaol. He said Milton was very agitated and shouted out, "Let's shoot the bastards". A host of prisoners told the Royal Commission that after they had surrendered an agitated Pallot was crying out for his officers to shoot the bastards also.

A prisoner Mr. von Falkenhausen told the Royal Commission of carrying the seriously injured prisoner Dennis Bugg to the front of the gaol for medical attention: he said he and Bill Harrison took Bugg to 9 post and along the way he could see armed officers on 4, 21 and 23 towers and also on top of the main gate. He said the officers were firing at them as they moved along 9 post even though they were carrying a make-shift white flag. He said he was hit in the leg by shotgun pellets as he went towards 23 tower. He said as he arrived at 23 tower he heard officer Gunning say, "You watch me get this bastard, I'll blow his head off". von Falkenhausen said he looked up and saw officer Paget knock Gunning's gun away from him. Gunning in the witness box denied he made the statement but he didn't call Paget to back him up.

PRISON OFFICERS HAD NO GUN TRAINING.

Why more prisoners were not seriously shot or even killed must be a miracle. One reason could be that they were pretty rotten shots. Officer Carter said he was on 23 tower and one shot from 4 tower passed between his legs. Officer Seaman said he was in 4 tower and he fired between 25 and 30 shots (a quarter of the shots police state were fired during the afternoon) at the southern wall of A wing. He gave this evidence during the trials. He admitted he had little experience with guns and had no idea of the effects of bullets hitting a brick wall. Many other prison officers gave similar evidence during the trials.

BISHOP SHOT WHILE TRYING TO SURRENDER.

The eighty prisoners sheltering from the gunfire in B wing decided to attempt to surrender. It was getting on towards 6.00 p.m. A prisoner who was in B wing describes the events:

"A flag was made from a broom and a sheet. This was waved outside the door, and the screws agreed to speak to Wally Bishop. He left the wing, and we heard several shots. He ran back into the wing and we saw he had several wounds. He was either a brave man or a lunatic as he said he'd try again. He did, with the same result, he was shot at again."

Detective Inspector Birnie was asked during the trials if he had tried to find out who had shot Birnie while he was carrying the white flag. Birnie said it was an impossible task under the circumstances. Asked if he had questioned the prison officers about the shooting of Bishop, he said no. He said "we took it as far as we could, it was impossible to trace the person responsible."

The prisoner continues his story,

"Everyone sat around just wondering what to do. We didn't have to wait long. Mutton came to the wing and a surrender was neated. Mutton said, "If you go quietly to the back special yards, there will be no reprisals."

Another prisoner said, "As we came out of the yard Pallot yelled out "Shoot the bastards"."

And another prisoner said, "I heard prison officer Mutton say, "Stop the shooting, there's been enough shooting today." William Baldry takes up the story, "Hughie Carson came in and said, "What are we doing? Are we going to go out or what?" I said, "We're not going out to be fucken shot", Hughie Carson said, "Mutton has stopped the shooting." Someone said, "We'll get flogged." Hughie went out of the wing and then I heard Mutton say, "Come out in groups of eight with your hands on your heads." There was some discussion in the wing then some prisoners walked out and I followed them."

"When I walked into the yard, I saw a number of men lined up facing the wall of B wing emptying their pockets onto the ground. I kept walking down the middle of the yard and said to the men, "Face the front, you're men not animals." Mutton was standing by and he said, "Go into the back yard No. 74". There was a group of prisoners walking in front of me with their hands on their heads. I caught up with them, put my hands on my head and walked around to the back yard where we were locked up."

THREAT OF REPRISALS.

Soon after being locked in the back special yards the men started to wonder what was going to happen to them. Officer Atkins (the Angry Ant) came to the front of the yards and according to the prisoners said, "There are two of youse dead already. You've had your turn, and now it's our turn and a few more of you are going to die too."

The prisoners told the Royal Commission the officers rattled the bars with long wooden batons that looked like baseball bats and taunted them saying, "You've had your fun, It's our turn now."

There were eighty prisoners in the back special yards and the rest of the prisoners in the gaol were in the front special yards. One prisoner, Carson, was alone in the first of the back special yards and the rest of those in the back special yards were in three yards.

Baldry told the Royal Commission, "Everything was quiet for a while. After a few hours some lights were erected in the tower and turned on. The officers had drink bottles and cans in their hands and sandwiches. They were holding them out and saying things like, "How's this fellas, look".

"Mutton came back about this time and said to me that there are some cells in B wing that we could use and he wanted us to back into them. I told him I felt safer in the yards. Wally Bishop said something to him and he walked away."

GHOST OF THE 1970 FLOGGINGS.

The prominent fear in the men's minds was that they would soon be flogged as they were in 1970.

Baldry continued, "I had earlier grabbed an iron pipe off the wall." (The evidence is pretty conclusive that Baldry was the only prisoner armed with anything.)

"Prisoners in the next yard were saying that they didn't know what to do. I started to dig a hole in the wall of the yard and when it was partly through, I handed the pipe through the hole and told the prisoners in the other yard to work on the hole from the other side. This was done and we got through the hole into the next yard."

(The prisoners were obviously getting worried at this time about their physical safety and no doubt, felt they would be safer if they were all together).

"Then we made a hole into the next yard in the same way and most of the prisoners ended up in the same yard. Some prisoners were going from yard to yard. I started to make a hole into the next yard to get Hughie Carson out. When I got it to about the size of his face, he said, "Don't worry about me, I'll be all right." He said someone from Head Office was coming to see us."

ASSISTANT COMMISSIONER BARRIER'S ROLE.

The most senior man present in the gaol at this time was Assistant Commissioner Mr. Barry Barrier. He had arrived from Sydney about the time the men were placed in the back special yards. He was constantly on the telephone to his boss McGeechan in Sydney. One of the first questions McGeechan asked Barrier was the state of the prison superintendent, Pallot. He asked Barrier if Pallot was rational. McGeechan told the Royal Commission he believed Pallot wasn't rational. Asked by David Hunt if this meant that Pallot was irrational at the time, McGeechan replied that it meant Pallot wasn't rational but didn't mean he was irrational. You may think it means the same thing, as we do, but anybody who heard McGeechan in the witness box knows he has a way of interpreting words that are at odds with the Oxford or any other dictionary.

However, the real point is that a very senior man was in the gaol when Mutton told Carson that somebody from Head Office would be up to talk to the men. Barrier told the Royal Commission he didn't go near the back special yards whilst the prisoners were there. Pallot said the same thing.

McGEECHAN GIVES ORDERS.

McGeechan told the Royal Commission he had ordered Pallot, after the prisoners had been put into the back special yards, to keep them. "Jack, throughout the night I am going to make some arrangements to move some people but before we move them, Jack, I want them dispirited, Jack. I want them dejected. I want them tired and I want them fretful. I want them to lose interest in this." McGeechan told the Royal Commission he didn't tell Pallot or Barrier how he expected them to go about making the prisoners dispirited, dejected, tired, fretful and to lose interest in the proceedings. The prisoners told the Royal Commission how the prison officers made them feel the way McGeechan wanted them to feel.

PRISONERS ARE TEAR GASSED.

Baldry continued, "I felt pretty tired by now and I sat down. I could see Officer Smith fixing some type of mechanism on the tower and a tear gas bomb landed in the yard."

"Then, more tear gas came in. I think there were four more altogether. Men were trying to get to the tap and screaming to be let out. Someone called out, "come out now you bastards" and we started to come out of the yards. I heard someone shout out, "here comes Baldry" and I heard screams and curses. As I came out an officer played a hose on me. There were three officers on my right hand side. One of them was Robinson. He was all dressed up in a helmet and was carrying a shield and a baton. He pointed with the baton and said "That way, Baldry." I went around the corner and saw all of these officers. An officer leant out of the tower walkway at the morgue end and said, "Drop that iron bar, Baldry". I looked up at him and he said, "Drop that iron bar Baldry, or I'll shoot you". I then dropped the iron bar.

THE PRISONERS ARE FLOGGED.

"Just as I dropped the iron bar Officer Atkins came at me and swung at me with his baton. The baton missed my face but struck me on the ear. Then about eight officers all hit me at once. Officer Hubbard punched me in the face and nearly knocked me out. I fell to the ground and some officer stamped on my hand."

"Mr. Mutton grabbed hold of my tee-shirt and pulled me to my feet and said 'leave that man alone'. He pushed me against the wall just north of 6 tower and to hands on the wall over my head."

"A short while later, I felt batons hitting me again and I got punched in the jaw and was knocked down. While I was down officer Hubbard hit me hard several times on the lower part of my left leg and another officer said, "Don't mark him around the face". Mr. Mutton came over and picked me up again and said, "I told you to leave him alone" and he went away leaving me standing against the wall".

"Mr. Metters then came over and said, "He has surrendered leave him alone". I am not sure what happened next, but then they really started to hit me. I felt I was getting hit on every side of my body. Mr. Metters was trying to run me away from the batons but they kept hitting me. He got me over to the fence between 7 and 8 yards and I hit my head on a tap".

"There was a van nearby and someone threw me in the van. There was no seat and I just fell on the floor. There was a prisoner in there who looks a lot like me, Bosco Saric, and he was bleeding from the head pretty badly. Wally Bishop was in the van also."

CONFLICTING MEDICAL REPORTS.

Bathurst gaol doctor, Doust, reported on Saric's condition:

"...had three lacerations to the scalp and a large number of lineal weals on the back of his body, on the shoulders and the back of the upper arms. The contusions to the scalp were on the side and back of the scalp. I noted thirty blows. He had lineal marks on both sides of his body."

Just after Saric was examined by Doust he was taken to the Circle at Parramatta Gaol. The following day he was examined by a Dr. Mutton who reported: "He had no complaints. He was given Tetanus Booster injection."

We can understand why Saric didn't make any complaints; what we can't understand is why Dr. Mutton didn't note the injuries to Saric's scalp. All the prisoners from Bathurst examined by Mutton at Parramatta were given Tetanus Booster injections, so that if they were not injured, why were they given the tetanus shots?

THE GAUNTLET.

Baldry was given individual treatment when he came out of the back special yards as he was looked upon as a ringleader. The rest of the prisoners had to pass through a gauntlet of baton wielding prison officers where they received injuries similar to Saric's.

Mr. R. W. Briar told the Royal Commission:

"Sometime late at night tear gas was fired from 6 tower into the yards. Quite a few landed in my yard. At this stage no officer had asked us to come out of the yards. I was blinded by the gas and I felt like I was choking. My eyes, nose, mouth and skin felt like they were burning. A hose was then turned on us. This had the effect of making it worse and my eyes hurt more as water got into them. Smoke was everywhere. After some time the gates of my yard were opened and the prisoners ran out. As soon as I came out of the yard, I was hit across the shoulders, back and arms by screws with baseball bats. I was told to run around the corner of the special yards, which I did as I was being beaten."

Around the corner in 17 post, I was grabbed by officer McAuley and shoved against the side wall of the gaol opposite the back special yards. He told me to lie down facing the wall and take off my shoes, which I did. I saw other prisoners doing the same. A few officers came up to me and beat me with their batons on the back

of my feet, the back of my legs, my buttocks and then moved up the line of prisoners doing the same to them. The blows were heavy and painful. The prisoners were screaming. The officers were wearing riot gear.

After the prisoner next to me had gone, I was told to get up and follow a prisoner who was running between two parallel lines of screws down 17 post. As I did so I was hit all over my head, back, legs and knees until I had gone through the gauntlet. I am not sure how long the gauntlet was, but it seemed like an eternity running through before I reached the end.

As I came out of the gauntlet I was taken to a group of officers standing on 1 post (the front of the gaol) and one of them told me to run towards the main gate, which I did.

I got to the gate leading to the garden area where I was told by a screw to line up and face the front gate, which I did near other prisoners.

I was then handcuffed to John Dunks by a screw from Kirconnell (sic). We were then told to strip by screws and I did. I was then searched as were my clothes. I saw screws throwaway prisoners' personal belongings including clothes, tobacco, photographs, matches, combs and other things. Whilst we were standing there naked, a group of screws were going up and down the line beating us. I was hit with a baseball bat on the shoulders and across the bridge of the nose. We were then told to get dressed in the remnants of our clothes, which I did. I put on my trousers and what was left of my jacket. Whilst standing there I saw about half a dozen screws flogging Billy Baldry with their batons. He was on his knees and naked near officers' mess. They were screaming at him, "Put shit on us you bastard". He was covering up.

We were then told to get on the van, which I did. I was still handcuffed to John Dunk. Prior to getting on the van, I saw a screw rip off a medallion from Dunk's neck. On the van I saw many bleeding prisoners and some were crying. We were driven outside the gaol gates where we remained parked for about 30 minutes and then driven to the Metropolitan Reception Centre at Long Bay."

We will return to Briar and his trip to Metropolitan Reception Centre shortly.

THE PRISONERS IN THE FRONT SPECIAL YARDS.

There were 270 prisoners in Bathurst gaol on the Sunday. One hundred and fifty of them were held in the front special yards. The prisoners in the front special yards had either surrendered earlier in the day or had been in the front of the gaol when the fire started. Around 3.00 a.m. Monday morning, the Reverend Brand went around to see them. He told the Royal Commission he spoke to a prisoner named McHannigan and that McHannigan was unmarked at that time. McHannigan went to Parramatta gaol on Monday, 4th, and was examined by Dr. Mutton who reported McHannigan had "bruising around both eyes. Subconjunctival haematoma in both eyes. Nose congested. For x-ray of nose and both maxilla. Bruise over right side of backwelt."

Brand also said:

"I returned to the gaol at about 8.00 a.m. on the Monday morning and walked around to the front yards. There appeared to be something like twenty prisoners left in the yards and I spoke to them. They made remarks to me such as, quote: "Well, we are glad to see you, padre, because we are afraid." I asked them, "what are you afraid of?" and a number of them said words to the effect, "we believe we are going to get a hiding or a bashing". I said to them, "Look, there's going to be no more bashings, so don't worry about it". Later I spoke to Mr. Barrier and also to Mr. Metters. I conveyed to them what the prisoners in the yards had told me. Mr. Pallot was present but again taking little part in the conversations. Mr. Metters said words to this effect, "as far as I am concerned, there won't be any violence during the loading of the prisoners on to the buses, but I can't guarantee it if any of the Bathurst staff are used." He then said to Mr. Pallot, "Get rid of your Bathurst fellows and there'll be no problems".

MORE BASHINGS AT THE METROPOLITAN RECEPTION CENTRE.

Briar continues with the evidence he gave to the Royal Commission:

"We got to the Metropolitan Reception Centre early in the morning. The van was parked inside the gate. We were taken out two at a time. A screw grabbed Dunks and I by the handcuffs and dragged us towards the pig pens. On the way, groups of screws were standing at different points and hit us hard with their batons. When we got to our pig pen the gate was already open. I didn't know where I was going and the screw who had me by the handcuffs shouldered me hard and I hit the gate with the side of my head. He then told us to stand against the wall with our hands over our heads. We did so and there were other prisoners doing the same thing. When we were told to put our hands over our heads, I saw one prisoner shaking and he shit himself. After about 30 minutes someone came along and took off our handcuffs and we returned to the wall and put our hands over our heads. We stayed in this position for a couple of hours."

We were then told to take our hands down by a screw and walk up and down the yard non-stop. Later a screw called out my name and I was told to run to the wing. On the way, I was hit by three groups of screws standing in different spots. Inside the wing door, I picked up a dixie and a mug of tea and was told by a screw "run on the double to the top landing", I did this and another screw told me which cell to go into. I spilt a lot of the meal and most of the tea.

I had to pick up my meals this way for the next couple of days until I was transferred to Maitland gaol. I saw other prisoners doing the same. Many tripped and I saw officers laughing when this happened. During the night there was kicking on my and other cell doors and it was impossible to sleep. On about the second day there, a screw came and asked us who wanted to see a doctor. I was dubious about having anything to do with the department, its screws or its doctors after my treatment at Bathurst and I didn't answer him."

QUESTIONS IN PARLIAMENT ABOUT THE METROPOLITAN RECEPTION CENTRE.

On the 28th February, Mr. George Petersen, M.L.A., reported to parliament:

"A recently released prisoner, formerly in Number 12 wing at Long Bay, said that he had to pass No. 12 wing to get back to his place of employment. On three consecutive days, 4th, 5th and 6th February, he saw about twelve prisoners being flogged back to the wing from the yards. To cries of "run, you bastards, run", the prisoners were running back one at a time at intervals of five to ten seconds, some limping and one with a leg in plaster hopping. They were forced to run the gauntlet of about six prison officers along the catwalk, being bashed with truncheons as they did so."

The then Minister of Justice, Mr. John Maddison, replied to Petersen's allegations by saying that he, Petersen, was "quite paranoid about these matters".

THE PROMISE OF A ROYAL COMMISSION.

As we saw earlier, the then Premier, Sir Robert Askin, promised a Royal Commission. Mr. Petersen wrote in December, 1974:

"The reaction of the New South Wales Government to the riot was peculiar. The daily papers of the 6th February, 1974 contained a statement by the Premier, Sir Robert Askin, in these terms.

"The information available so far showed a Royal Commission was necessary to find out the circumstances of the riot and its underlying causes."

But something happened to change the Government's priorities. On the 19th February, Mr. Maddison issued a press statement advising that the Royal Commission would be deferred until all criminal charges against prisoners had been heard and that 20 policemen had been assigned to investigate the riot.

On 21st February, the Labor Member for Georges River, Mr. Frank Walker, M.L.A., unsuccessfully moved in State Parliament for a Royal Commission to investigate the Department of Corrective Services. During the debate, Mr. Maddison said:

"The Government made an announcement that it is going to have a Royal Commission into Bathurst Gaol."

To an interjector who said, "When?", he replied,

"When the charges are disposed of relating to criminality at Bathurst."

It was soon clear that the Government's decision to defer the Royal Commission was designed for the express purpose of covering up the facts. In reply to a question by me concerning the number of prisoners shot and otherwise injured during the riot, the Minister replied, on 1st April:

"As the matter contained will fall within the terms of reference of the announced Royal Commission, it is not considered to be appropriate to enter a reply to this question."

(We can see how Maddison's answer effectively kept the lid on what happened at Bathurst and the MRC).

MAGISTRATES HEARINGS.

Petersen continued:

"The committal hearings of the "rioters" proved to be embarrassing to the administration. Forty six prisoners were charged. The Government reluctantly granted legal aid after complaints from the Council for Civil Liberties. The prisoners were divided into four batches. The first batch hearing commenced in Sydney on 18th June.

The fourth batch was completed early in November, 1974. Three prisoners were found unfit to plead. Four pleaded guilty and received sentences of twelve (12) months to two (2) years. Four were acquitted and 35 were committed for trial on charges of riot with intent to damage or riot with intent to destroy.

There were some sensations during the magistrates' hearings. On 29th May, 1974, sixteen members of the Bar Association issued a statement complaining that the defendants were being held in Parramatta and Long Bay gaols under conditions of reduced rations, restricted exercise, interrupted sleep and 19 hours solitary confinement a day. Despite several applications for improvement by lawyers in succeeding months, these conditions continued until the 19th August when ten prisoners staged a sit-down strike in Court. The authorities then returned them to normal gaol routine — a tribute to the efficiency of direct action as compared with respectful legal representation. An ironic postscript was a declaration by Mr. Justice Taylor on the 4th September, that what the authorities ceased doing on 20th August, was in order."

MADDISON'S JUSTICE.

Again, George Petersen:

"How Mr. Maddison, the Minister for Justice, interprets justice was particularly illustrated on 23rd July, 1974, when a subpoena was issued on the Commissioner for Corrective Services (Mr. McGeechan) to produce all reports by prison officers Milton, O'Donnell and Mason touching prisoner William Joseph Kennedy. The Department's barrister, produced a certificate claiming Crown Privilege signed by Mr. Maddison stating:

"These reports were made by the respective officers at the express request of the Commissioner and upon the Commissioner's express undertaking to these officers that they would not be used against them in any way or disclosed in any criminal court proceeding."

AN OUTRAGEOUS CLAIM OF CROWN PRIVILEGE.

McGeechan said in the witness box before the Royal Commission that he gave no such undertaking to Milton, to Mason or O'Donnell, so Maddison based his claim on a lie. Of course, the magistrate granted privilege. Mr. Justice Nagle wouldn't allow counsel to cross-examine Maddison at the Royal Commission about his claim of Crown Privilege.

MAGISTRATE RULES OUT EVIDENCE OF ASSAULT.

Mr. Petersen continued,

"Dr. Kenneth Doust gave evidence on 29th August. Dr. Doust's evidence revealed that the only injuries for which he had treated prisoners immediately after the riot from about 5.30 p.m. was for gunshot wounds. However, he had been called to the gaol to treat prisoners for physical injuries in the early hours of the next morning and that these injuries were consistent with beatings by wooden batons from two to four hours before he saw the prisoners.

On the same day, well known Civil Liberties Lawyer, Mr. Jim Staples (now Mr. Justice Staples) walked out of the case when the magistrate (Mr. Berman, S.M.) refused to allow him to question Dr. Doust fully on injuries sustained by Mr. Kennedy. (Staples' major purpose was to prove that Kennedy's confession to the police was untrue because he feared another beating if he told the truth)."

(All prisoners questioned by the police were told the statements they were asked to make were for the purpose of a Royal Commission. The statements were used against them in the trials. The police weren't called before the Royal Commission to explain their conduct).

"Mr. Berman's response was to report Mr. Staples to the Bar Council. The first anybody knew about this was when Mr. Maddison reported to Parliament on 12th October that Mr. Staples withdrew from the case in a petulant and arrogant manner. Attached to the report to the Bar Council was a court transcript record which somebody had falsified and which gave a false impression of Mr. Staples' action.

I questioned Mr. Maddison in State Parliament on 12th November regarding this false transcript and asked him to apologise to Mr. Staples and to investigate who had falsified it. He replied only that he would not apologise to Mr. Staples. On the 4th December, the Bar Council unanimously absolved Mr. Staples from any charge of professional misconduct.

In the meantime, the National Times of 28th October contained an amazing statement made to an interviewer that the first Mr. Maddison knew of the bashings at Bathurst was when he read the reports of the evidence of Dr. Doust in the National Times of 21st October."

WHAT BASHINGS?

"On 13th November, Mr. Maddison finally answered two questions I had placed on the business paper seven weeks previously. The questions and answers were as follows:—

- 1) Have recent magistrate's hearings in connection with charges arising out of the Bathurst prison riots disclosed evidence that a number of prisoners were beaten by prison officers after the riot had been subdued?
- 2) If so, does he intend to initiate prosecutions against the officers named in the evidence?

ANSWER:

- 1) No.
- 2) In any case, Ministers of the Crown do not initiate prosecutions. The intention has been announced to establish a Royal Commission to inquire into events occurring at Bathurst on 3rd and 4th February, 1974, and to explore whether related events arising after or before that date require that criminal charges be laid against any person or persons".

MADDISON STOPPED THE POLICE INVESTIGATING ASSAULTS.

Maddison's answer to the first question is an amazing one when we look at the events of that year in retrospect. For instance, on 11th September, 1974, Inspector Birnie wrote a letter to the Police Commissioner, Mr. Hanson, who forwarded it on to Maddison. Birnie's letter read in part:

"...Records were made in the course of questioning each of the prisoners interviewed in regard to the happenings at the Bathurst gaol on 3rd February, 1974, and any comments made by the prisoners in respect of conditions in gaol or any complaints made by them alleging assaults or other ill-treatment were recorded in these documents.

It is estimated that 46 complaints of assault have been made, ranging from what was described as "a thump in the ear" to a common outcry of batons similar to baseball bats, which caused serious bruising and, in some cases, fractured limbs.

In a recent hearing of evidence at the Central Court of Petty Sessions, in connection to charges referred to in this submission, Dr. Kenneth Doust, the Superintendent of the Bathurst District Hospital, Government Medical Officer for the Bathurst District, and visiting surgeon for the Bathurst prison was called as witness for the defence.

The evidence given by Doust, together with notes produced by him, which set out details of matters he had recorded whilst attending the Bathurst gaol on 3rd and 4th February, 1974, has given some weight to the complaints of assaults made by prisoners..."

The existence of the letter was disclosed when Birnie was being cross-examined in one of the Bathurst trials on 4th August, 1974. Birnie told the Court he had been told to stop investigating the allegations of assault for these were matters for the Royal Commission.

Surely the police should have gone on with the investigation when they had evidence of serious crimes having been committed.

In the New South Wales Parliament on 13th August, 1975, the Deputy Opposition Leader, Mr. Jack Ferguson said that Maddison might have been guilty of criminal offences in instructing police not to go ahead with their investigation of allegations of prisoners being assaulted by prison officers.

That same night, Maddison issued a statement:

"In September, 1974, I received advice from the Commissioner of Police that Inspector Birnie, in the course of his investigations into the Bathurst Gaol riots, had obtained statements from prisoners alleging assaults by prison officers.

The Commissioner of Police then sought from me as to what action should be taken in regard to these matters.

I indicated that these allegations should be further investigated by the Royal Commission which I advocated as a necessary measure as soon as the current charges against prisoners were disposed of.

I never suggested, said or intended that allegations by prisoners that they were assaulted should not be investigated."

The next day the Leader of the Opposition, Mr. Neville Wran, asked Maddison in a question without notice:

1. "Whether he had informed the news media last night that in September, 1974, he received advice from the Commissioner of Police that Inspector Birnie in the course of his investigations into the Bathurst gaol riots had obtained statements from certain prisoners alleging assaults by prison officers?"
2. "Did he, on 23rd October, 1974, inform the National Times that the first he knew of evidence that prisoners may have been beaten was when he read Dr. Doust's evidence in the 21st October edition of the National Times?"
3. "Why did the Attorney-General make the misleading statement of 23rd October when on his own admission, he had received Inspector Birnie's report the previous month?"

Maddison, in reply, said, he'd made the statement to the media and then argued that the whole thing should be seen in the context of the trials of Bathurst prisoners that was taking place at the time.

Surely if that was the case, then the proper thing would have been for Maddison to say nothing.

However, he went on and told the House:

"That report (Birnie's) deals with allegations of assault that are not in any way related to the charges that have been brought against the prisoners of the gaol itself and the destruction of the gaol."

This effectively negates the first part of his argument. He continued,

"In his report, Mr. Birnie was not saying that there were allegations of assault during the upheaval, riot or fire."

Nobody said there were.

But he continued,

"These have to be regarded as two separate incidents, one early in the day and another much later in the day after order had been restored and the prison authorities were removing prisoners from the gaol into vehicles to dissipate them and to distribute them amongst other institutions in the State of New South Wales.

There is no inconsistency between what it has been claimed I said to the National Times and what I said last night in answer to the question put by the Deputy Leader of the Opposition to the Premier yesterday."

We are afraid that Maddison is the only one that thinks there is no inconsistency in his answers and, of course, Mr. Justice Nagle wouldn't allow any questions on the subject when Maddison was in the witness box.

LABOR GOVERNMENT NOT INTERESTED IN PRISONERS' COMPLAINTS.

Mr. Justice Nagle told the Royal Commission in October, 1976, he was going to sample the prisoners' evidence because he had received over 700 complaints from many prisoners and he wouldn't have the time to hear them all.

"I have come to the conclusion that it would be impracticable to examine each and every complaint that has been made and still properly investigate the major issues raised in my terms of reference."

In an attempt to alleviate the prisoners' complaints, Mr. Justice Nagle recommended to the State Government that he should have a temporary assistant appointed to investigate and hear individual complaints because "The procedures of a Royal Commission are inappropriate to examine individual complaints. For such matters, its procedures are far too cumbersome and too expensive."

He said he didn't want the person appointed to come from the Public Service, the Department of Corrective Services or the magistracy because,

"It is clear from evidence...that there exists a considerable mistrust by prisoners and some members of the public in inquiries" by the above bodies.

He said in making the recommendations he was not deprecating the importance of individual complaints,

"Indeed, I accept that complaints which may in isolation appear to be inconsequential 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 prisoners' grievances."

He argued why the Ombudsman wasn't the person to assist him:

"Firstly, because I think it is important that the person who carries out the investigation be given power to enforce certain of the decisions he reaches... Secondly, following decisions 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 J. 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 the officers of the Public Service would be in public. The Ombudsman doesn't 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 appointed."

WRAN KNOCKS NAGLE BACK.

The present N.S.W. Government knocked back Nagle's recommendation. In doing so the Premier, Mr. Neville Wran, Q.C., said that the Ombudsman would handle the complaints and if the Ombudsman, after investigating the complaints, felt that any public authority — including public servants — had been guilty of misconduct, and may warrant dismissal, removal or punishment, he would report his opinion to the relevant Minister, to the head of the public authority and to the Public Service Board if a public servant was involved.

It would appear that Wran ignored Nagle's fourth point in arguing that the Ombudsman was unsuitable because the Department itself was doing the investigating not the Ombudsman. That departmental inquiries in the past have not produced the facts as we have learnt them to be in evidence before the Royal Commission is manifest.

BACK TO SQUARE ONE

Wran effectively told over seven hundred prisoners that he's not interested in their complaints. So again, the prisoners in New South Wales gaols are in the position of having no one whom they can trust to hear their grievances. They told the Royal Commission that they had no faith in the Ombudsman because he only referred their complaints to the Department of Corrective Services, precisely the difficulty perceived by Mr. Justice Nagle.

AND THE FUTURE

It is expected that the Royal Commission will adopt an ostrich-like posture to the fundamental question of abolition of prisons and fail to confront and deal with the extensive arguments put to it by the PAG. At best the retort will be "It's all too utopian" and "The community won't tolerate it".

It is further expected that the report will contain a series of recommendations liberalising certain conditions for prisoners. But beware of cosmetic changes, mere window dressing. And remember who is still in control as far as the day to day administration of their conditions is concerned — the Department of Corrective Services!

We anticipate that a few individual prison officers will be picked off — reprimanded, transferred, dismissed or even prosecuted. This classic tactic — the so-called "bad apple" theory — usually convinces quite a few people that the Ship of State (or in this case, the Cutter of Corrective Services) will be sound and healthy after the purge. It is the perpetuation of prisons which will continue to generate all the evils.

But query whether even the minor changes recommended by the commission will be met by anything other than an enormous yawn by the State Government — a government which blithely ignores Mr. Justice Nagle's recommendations as to the investigation of prisoner grievances, a government which considered the building of a second "Katingal" at Silverwater while the Royal Commission was still sitting, a government which made a budget allocation for rebuilding Bathurst gaol before the Royal Commission's report had been delivered.

The public are entitled to be very sceptical indeed about the prospects of even luke-warm recommendations being implemented. As far as the reality for prisoners is concerned, the termination of the proceedings of the Royal Commission, will renew fears that it is back to business as usual. At least while the Royal Commission was sitting it operated, at least psychologically, as a protective umbrella and prisoners could convey their grievances to it, even if there was no time to deal with them!

Now, the prospects are grim. The warning lights have been on for a very long time. If our predictions as to the government's intentions are correct, we fear that the agonised frustrations of the prisoners will lead yet again to violence and the whole expensive exercise of the Royal Commission will have been in vain.