

A COMMUNITY APART:

A History of Fremantle Prison, 1898-1991.

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I declare that this thesis is my own account of my research and contains as its main content work which has not previously been submitted for a degree at any tertiary education institution.

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ABSTRACT

Much of the recent historiography of prisons has tended to focus on prison systems rather than on individual prisons. Much of this historiography also links development of prisons with major transformations in Western society. Michel Foucault, for example, sees the emergence of prisons in the mid-eighteenth century as a re-arrangement of the power to punish, a means of adapting to the emerging structures of modernity. David Rothman argues that the penitentiary was developed in North America in the 1820s as a means of ensuring stability, while Michael Ignatieff links the development of prisons in England with the development of capitalism and the search for a new form of social order to cope with this.

A major problem with these approaches is the tendency to accept official versions at face value and to ignore the realities of the day-to-day organization of prisons. More recently, historians have begun to rectify this shortcoming and have started to scrutinize the experiences of prisoners and prison staff, and to explore the prison world from the inside.

This thesis is an exploration of the world of Fremantle Prison in Western Australia, from 1898 until its closure in 1991. The thesis has two major concerns: to distinguish between official rhetoric and reality, and to bring into focus the experiences of inmates and their keepers. In addressing these concerns the thesis unlocks the prison gates and reveals something of the reality of prison life as both inmates and warders contributed to the shaping of the daily prison regime. A central argument is that throughout its existence

Fremantle Prison was insulated from developments occurring across the rest of the Western Australian prison system. The thesis suggests reasons why this was so.

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Abbreviations

AN	Archive Number
B.L.	Battye Library
C.S.O.	Colonial Secretary's Office
OH	Oral History
M.V.& P.	Minutes, Votes and Proceedings of the Western Australian Parliament
W.A.P.O.U.	Western Australian Prison Officers' Union

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Introduction

The prison was not a static institution of the new bourgeois order established by the mid-nineteenth century. The system of punishment changed with the development of alternative repressive agencies. In a broader sense, punishment was responding to the political, cultural and social developments of free society, as well as its own populations. The new punishment was not a monument but a process.¹

In 1995 a group of distinguished scholars collaborated to produce *The Oxford History of the Prison*, a work which, as the editors state in their introduction, would have been impossible 25 years earlier.² Most were pioneers in their field, having developed their research interests only in the 1970s. The editors, Norval Morris and David Rothman, suggest a number of reasons for the growing interest in the history of prisons; the emergence of social history with its emphasis on ordinary people and minorities, the joining of social history and political history in an exploration of how societies and governments maintained social order, and the increasing questioning of the legitimacy of institutions in Europe and the United States throughout the 1960s and 1970s. The latter development, argue Morris and Rothman:

prompted historians to question the heretofore accepted explanation of the rise of the prison, an explanation stating that the rise of the prison, in comparison with the gallows and the whipping post, represented a burgeoning spirit of benevolence and humanitarianism. If the prison had turned into so grim a place, historians asked, why was it invented in the first place?³

¹ Patricia O'Brien, *The Promise of Punishment: Prisons in Nineteenth Century France*, Princeton University Press, Princeton, 1982, p. 12.

² Norval Morris and David J. Rothman, (eds), *The Oxford History of the Prison: The Practise of Punishment in Western Society*, Oxford University Press, Oxford, 1995.

³ *Ibid.*, p. ix.

Not surprisingly the answers were complex, as indeed, says Michel Foucault in his much discussed book, *Discipline and Punish*, is the social function of punishment.⁴ The question which Foucault set out to address was why, towards the middle of the eighteenth century, punishment as a public spectacle of violence against the body was replaced by the emergence of prison as a general form of punishment?

Three social developments occurred after the mid-eighteenth century which, Foucault argues, are crucial to developing an understanding of this transformation. Firstly, there was an increasing tendency for public executions to degenerate into disorderly scenes when increasingly the crowds reacted to what they saw as injustice. Public rituals therefore became ambiguous, a display of sovereign power and a threat to the order of things. Secondly, reformers' pamphlets and tracts emphasised 'humanism' and the rights of man. Thirdly, Foucault describes a shift in the nature of crimes, which became more property oriented and hence more threatening to the established order. This threat to the emerging capitalist economy gave rise to stricter attitudes on the part of the rising middle classes towards law breakers.

It is against this background of political change that the transformation of punishment is analysed. The reform of criminal law is seen as a strategy for the re-arrangement of the power to punish. The existing justice system was seen to be inadequate. What was needed was a more rational system of justice, a uniform penal procedure, punishment carefully measured to meet the crime.

Foucault then moves to the role of political technology in penal development. Disciplinary methods were aimed at the body to render it useful and compliant. Out of these practises there emerged a detailed knowledge of individuals which in turn gave rise to the various sciences. Jeremy Bentham's panopticon, with its individual cells and central inspection tower subjecting inmates to the constant gaze of officials, epitomises, for Foucault, the emerging principles of power and knowledge.⁵

⁴ Michel Foucault, *Discipline and Punish: The Birth Of the Prison*, Penguin, London, 1979.

⁵ *Ibid.*, pp. 200-209.

David Rothman's *The Discovery of the Asylum: Social Order and Disorder in the New Republic*, examines the rise of prisons in North America. Rothman, like Foucault, links the emergence of prisons to social and political shifts. The development of prisons in the 1820s and 1830s, he argues, was a vigorous attempt to promote social stability at a time when the established order of things was under threat.⁶ Similarly, Michael Ignatieff, in his study *A Just Measure of Pain: The Penitentiary in the Industrial Revolution 1750-1850*, links the emergence of prisons with the search for a new form of social order but, more explicitly, with the emergence of capitalism. 'A study of prison discipline', Ignatieff declares, 'necessarily becomes a study, not simply of prisons, but of the moral boundaries of social authority in a society undergoing capitalist transformation'.⁷

These approaches, by analysing broad social patterns and shifts, offer important insights into the history of imprisonment. Prisons are social institutions and it is important to understand what Garland calls 'the detailed linkages and homologies which connect penal power with other areas of governance'.⁸ There remains, however, significant gaps in our understanding of how prisons actually operate. Margaret DeLacey and Janet Saunders, for example, argue that both Foucault and Ignatieff mistake the rhetoric of the State for what actually happened in prisons.⁹ The rhetoric of the State was one thing, actual administrative practice was quite another. There is, moreover, a failure to take seriously the claims of prison reformers. Ignatieff, for example, argues that the ideals of prison reformers served merely to legitimise the 'intensification of carceral power',¹⁰ an argument which has been criticised by Zimring and Hawkins. Their study, *The Scale of*

⁶ David Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic*, Little, Brown & Co., Boston, 1971.

⁷ Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution*, Macmillan Press, London, 1978, p. xii.

⁸ David Garland, *Punishment and Modern Society: A Study in Social Theory*, Clarendon Press, Oxford, p. 131.

⁹ cited in W.J. Forsythe, *Penal Discipline, Reformatory Projects and The English Prison Commission 1895-1939*, University of Exeter, England, 1990, p. 3.

¹⁰ Ignatieff, *A Just Measure of Pain*, p. 212.

Imprisonment, includes an examination of the work of Rothman, Foucault and Ignatieff, and they make the point that this view endows reformers 'with a unity of form and conception that would not have been made by their contemporaries'.¹¹

A similar point is made by W.J. Forsythe in his book, *Penal Discipline, Reformatory Projects and The English Prison System 1895-1939*. Forsythe further argues that attitudes towards the reform of prisoners during this period were diverse and were affected 'by a mixture of differing bodies of discourse'.¹² According to him, in the English prison system of the early twentieth century there was a genuine, rather than merely rhetorical, belief in the individual human worth of prisoners and in the State's obligation to recognise this in the manner in which it administered prisons. Forsythe does not dismiss completely the view that prisons became increasingly concerned with surveillance, discipline and control. Rather, he insists, this view must be set alongside the fact that there was:

a genuine and sustained intention to punish and protect the prisoner according to a framework of legal obligation and a faith that the individual prisoner shares in the universal worth of men and women.¹³

Finally, there is an assumption in these earlier accounts of the history of imprisonment that prisoners are easily manipulated, or, to borrow Erving Goffman's phrase, 'coded and shaped into objects'.¹⁴ A notable feature of the accounts of both Foucault and Rothman is the absence of prison inmates and their reaction to imprisonment.

Patricia O'Brien, in her study, *The Promise of Punishment: Prisons in Nineteenth Century France*, while acknowledging an intellectual debt to earlier social historians and in particular to 'Foucault's brilliant, if elusive, institutional analysis', makes up for this short coming. 'Before we can begin to understand the place of the prison in the social system',

¹¹ Franklin E. Zimring, and Gordon Hawkins, *The Scale of Imprisonment*, University of Chicago, Chicago and London, 1991, p. 55.

¹² Forsythe, *Penal Discipline*, p. 16.

¹³ *Ibid.*, pp. 241-242.

¹⁴ Erving Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*, Penguin, Middlesex, 1968, p. 73.

she argues, 'we must establish empirically how the prison operated and how it was organised'.¹⁵ O'Brien therefore moves beyond the rhetoric of the State and focuses on the actual administrative practices of prisons in nineteenth century France. Prisoners feature strongly in her analysis and she demonstrates that what happened in prisons was a response not only to the political, social and cultural developments of free society but also to the behaviour of prisoners themselves as they adapted to their imprisonment.

The history of the prison system in Australia since convict times has received little attention from scholars. It was not until 1996 that a major study into a state prison system was published. John Ramsland's *With Just But Relentless Discipline*, traces the history of the prison system in New South Wales from its origins in 1797 to the mid 1990s. Like O'Brien, Ramsland explores daily life within prisons, and the impact of prisoners and warders is a major focus of concern. The book explores the conditions under which both groups lived and worked, and places these against 'the changing background of popular penological theories that were applied, albeit imperfectly, to the situation'.¹⁶

Ramsland's account, however, also reflects, as does the title of his book, the ongoing tension which exists in prison systems elsewhere in Western countries, between the desire to reform and the urge to deter, a tension which will shortly be discussed. Despite describing extensively the introduction of various reform measures and efforts to restructure the prison system, particularly in the late 1900s, there is a strong sense of circularity in the events which Ramsland describes. In the late 1970s, for example, following the findings of a Royal Commission into the prison system in New South Wales, sweeping reforms had been introduced. Ten years later, and with a change of government, these reforms were 'substantially revised and a more formal hierarchical structure put in its place that more clearly paralleled that of other government departments. It was, in fact, a process of normalisation and a return to a traditional structure'.¹⁷

¹⁵ O'Brien, *The Promise of Punishment*, p. 8.

¹⁶ John Ramsland, *With Just But relentless Discipline: A History of Corrective Services in New South Wales*, Kangaroo Press, Kenthurst, 1996, p. 6.

¹⁷ *Ibid.*, p. 326.

Mark Finnane's short but thought provoking book, *Punishment in Australian Society*, is very much an Australian story. Finnane is interested in the historical process of punishment as an institution, and while he argues that international developments cannot be ignored, 'there is a local story to tell'.¹⁸ The history of punishment in Australia, for example, is also 'part of a history of dispossession', and so Finnane examines the issue of Aboriginal imprisonment from early European settlement up to the present day. The difficulties in implementing the recommendations of the Royal Commission into Aboriginal Deaths in Custody, are, he argues, 'a lesson in the limits and failures of punishment as a response to offending in its many guises'.¹⁹ Finnane deals with other aspects of the 'local story'. The influence of the convict era is part of this, so, for example, the ticket-of-leave system became the basis for supervising released prisoners not only in Australia but also in England and Wales after 1869.²⁰

The only published history of the Western Australian prison system is J.E. Thomas and Alex Stewart's *Imprisonment in Western Australia: Evolution, Theory and Practice*.²¹ This is a well researched but 'factual' account of developments in the Western Australian prison system since 1829. It contains little in the way of analysis and the authors are for the most part content with presenting a chronology of events. Their study aims to 'collate wide-ranging facts about imprisonment in Western Australia, to set out the most interesting and significant of these and to place developments in a penological context'.²² With these modest aims, the authors offer a useful springboard for other researchers.

Cyril Ayres, a prominent Western Australian Journalist, offers glimpses of life within Fremantle Prison. While his book, *Fremantle Prison: A brief history*, is interesting and

¹⁸ Mark Finnane, *Punishment in Australian Society*, Oxford University Press, Melbourne, 1997, p. xi.

¹⁹ *Ibid.*, p. xi.

²⁰ *Ibid.*, p. 162.

²¹ J.E. Thomas, and Alex Stewart, *Imprisonment in Western Australia: Evolution, Theory and Practice*, University of Western Australia, Nedlands, 1978.

²² *Ibid.*, pp. xiv-xv.

well written, it is short and mainly anecdotal.²³ More substantial is Lynette Stevenson's 1982 unpublished Masters thesis, 'Fremantle Prison in the 1890s', Which includes chapters on prisoners, warders and prison reformers.²⁴ The thrust of her study is an exploration of the ethos of reform during the 1890s which culminated in a Royal Commission into the Western Australian Prison System in 1898. This is a useful contribution to understanding the attitudes of reformers and prison officials at the close of the century. Unfortunately, by restricting the study to the 1890s, Stevenson was unable to explore the full significance of the Royal Commission's findings and recommendations in terms of bringing about change to the system.

This thesis is an exploration of the history of Fremantle Prison, which, from 1886 until its closure in 1991, was the State's major high-security prison. It shares a number of concerns with previous histories. Perhaps the most vexing of these, from a historiographical perspective, is the need to distinguish between official rhetoric and the daily realities of prison life. Official reports are relatively easy to access; annual reports, for example, are included in the records of parliamentary proceedings, as are ministerial comments which are also accessible from the printed press. However, these accounts, as the thesis will demonstrate, ought not to be taken at face value but need to be judged against other accounts, such as those of ex-prisoners and prison warders. Examination of prison records also indicate varying degrees of discrepancy between official reports and actual events. While these sources are often fragmentary, close scrutiny will frequently uncover patterns of events or behaviour which throw new light on official accounts.

A second concern of the thesis is with the people who worked and lived within Fremantle Prison; the prisoners, prison warders and, from the 1960s, professional 'experts'. The realities of prison life for each of these groups cannot be ignored. It is important, for example, to discover how prisoners adapted to their imprisonment, how warders viewed

²³ Cyril Ayres, *Fremantle Prison: A brief history*, Cyril Ayres Freelance, Perth, 1995.

²⁴ Lynette Stevenson, 'Fremantle Prison in the 1890s', Masters Thesis, University of Western Australia, 1983.

their role and the prisoners, and to consider the role of professionals and their impact on life within the prison walls.

While the thesis is concerned to trace changes, it is also concerned with uncovering continuities. Fremantle Prison, for example, underwent few significant structural changes to its physical environment. According to James Semple Kerr in *Fremantle Prison: A Policy for its Conservation*, a policy document commissioned by the Building Management Authority of Western Australia following the closure of the prison, additions for the most part 'were expedient, ephemeral and executed without long-term objectives or much respect for the existing fabric'.²⁵ One question which the thesis sets out to answer is how, if at all, the mostly unchanged physical environment of the prison throughout the twentieth century affected the implementation of reform measures. Change and continuity within the prison regime are traced through an examination of the prisoners, the warders, the professional experts who arrived on the scene in the late 1960s, the work and discipline to which prisoners were subjected and the administrative structure under which the prison operated.

The thesis also traces the impact of penological theories on the daily routine within Fremantle Prison. These theories have changed throughout the twentieth century, yet, it will be argued, there has been an on-going tension between the two main aims of imprisonment; deterrence and rehabilitation. This tension, it will be shown, was particularly present in Fremantle Prison where, as Western Australia's only maximum security prison throughout most of the twentieth century, the emphasis was strongly on custodial care.

Finally, as Finnane has reminded us, although a history of prisons cannot ignore the influence of international ideas and developments, there is also a local story to be told. While considering the importance of events in penal systems overseas, therefore, the thesis also deals with the local. Specifically, the legacy of Fremantle Prison's origins as a convict gaol is considered, as is the incarceration of Aboriginal prisoners.

²⁵ James Semple Kerr, *Fremantle Prison: A Policy for its Conservation*, Building Management Authority of Western Australia, Perth, 1992, p. 3.

One group of people who are not included in this study are female prisoners. There is a sound reason for this omission. In the late 1880s, the north-west corner of the prison was set aside as a women's prison. The area was walled off, a matron was appointed and the female prison, until its closure in 1970, operated under a separate administration. It was, says James Semple Kerr, 'a gaol within a gaol'.²⁶ Between 1898 and 1911, the average number of inmates of the female prison was twenty-eight.²⁷ The female prison, until its closure, continued to be administered separately from the main prison.

The thesis focuses on two periods, 1898 to 1911 and 1968 to 1991. The first period began and ended with Royal Commissions which examined in some detail the workings of Fremantle Prison. The second begins with the introduction of the professional experts into the prison system and ends with the closure of Fremantle Prison in 1991.

A major advantage in this methodology is that it allows for a more in-depth analysis than would be possible using a conventional chronological approach covering the entire life of the prison. It is doubtful, moreover, given the word limit imposed on a Ph.D. thesis, that justice could be done to the topic if an attempt were made to deal with the entire 100 year period between the 1890s and the late twentieth century. The methodology employed here enables comparisons to be made between the late nineteenth century and the late twentieth century. The periods chosen offer windows through which life within the prison can be viewed and through which important changes and continuities can be traced.

The thesis draws on a number of primary sources. Fremantle Prison records tend, particularly in the later period, to be fragmentary and brief. Registers of prisoners, occurrence books and Prison Department files are particularly useful in providing brief though important data, as are the records of the Colonial Secretary's Office. The library of the Ministry of Justice hold useful documents in the form of papers written by psychologists, prisoners and prison officers for internal Prison Department seminars, while the newsletters of the Western Australian Prison Officers' Union have provided an

²⁶ Kerr, *Fremantle Prison*, p. 47.

²⁷ Calculated from statistical returns appended to the Annual Reports for these years.

important insight into the attitudes and beliefs of prison officers. Also invaluable have been the oral history series held in the Batty Library in Perth, comprising manuscripts of oral interviews with prisoners, prison officers and other people intimately connected with Fremantle Prison during the final years of its existence.

The *Minutes, Votes and Proceedings of the Parliament of Western Australia* have been indispensable, containing as they do the annual reports of Fremantle Prison dating back to 1898, the full findings and recommendations of the 1898 Royal Commission and the minutes of its hearings, and also debates surrounding the passing of important prison legislation. Press reports have been another important source, the Western Australian press having at times taken a close interest in the workings of Fremantle Prison. The editor of the *Sunday Times*, for example, played a major role in the setting up of the 1898 Royal Commission and many of the reformers at the turn of the century had close links with the newspaper world and used this to publicise their cause. The *West Australian* in the 1980s, reporting growing numbers of prison disturbances, regularly commented on the poor conditions within the prison and called for its closure.

Two important background issues remain to be discussed in this introduction; the development of penological theories in Britain from the late seventeenth century, and the origins of Fremantle Prison as a convict depot. Early prison legislation in Western Australia, as Thomas and Stewart point out, drew heavily on the English penal system. This system had its origins in the Penitentiary Act of 1779, which authorised the building of government penitentiaries and declared that if criminals:

were ordered to solitary imprisonment, accompanied by well regulated labour and religious instruction, it might be the means under Providence, not only of deterring others from the commission of like crimes, but also of reforming the individuals, and inuring them to habits of industry.²⁸

This statement contains the two central ideas which have dominated penal policy ever since, the idea of prison as a deterrent and the idea of prison as a place of reform. Giles

²⁸ Giles Playfair, *The Punitive Obsession: An Unvarnished History of the English Prison System*, Victor Gollancz, London, p. 14.

Playfair's *The Punitive Obsession: An Unvarnished History of the English Prison System*, describes repeated shifts in emphasis from deterrence to reform over a two hundred year period, and argues persuasively that by their very nature prisons cannot succeed in their dual role.

The reality, however, is more complex than what, at first glance, appears to be a choice between two incompatible aims. Forsythe, for example, describes a transformation of reform theory during the nineteenth century which occurred under the influence of developments in theology, philosophy and science. According to Forsythe, there were by 1820 two main approaches to reform theory: an evangelical approach inspired by the Evangelical movement, and an associationist approach based on late eighteenth century philosophy.²⁹

Evangelicals wished prison to be a 'moral/spiritual forcing house', in which chaplains would 'exhort, instruct and admonish prisoners'.³⁰ Following a report by a Select Committee of the House of Commons in 1820, the model of prison discipline known as the 'separate system', based on this notion of moral reclamation, was introduced. The aim was to isolate prisoners from each other in separate cells. The dual purpose served, it was thought, would be avoidance of contamination through prisoner contact with each other, and the provision of the opportunity for prisoners to meditate on their predicament and recognise the foolishness of their ways. Chaplains and prison staff would instruct prisoners, encourage them to read and teach them a useful trade. In its most extreme form separation was absolute, to the extent that prisoners had to wear masks if moving from one part of the prison to another, thus avoiding even visual contact.

The associationist approach was based on the idea which took root in the eighteenth century, that human attitudes and behaviour were the outcome of experience. The most outspoken proponent of this approach was Jeremy Bentham, who argued that crime was fostered in early life in the absence of parental guidance and by its association with

²⁹ Forsythe, *Penal Discipline*, p. 7.

³⁰ *Ibid.*

pleasure. Prison must therefore eradicate this faulty association by inflicting punishment while at the same time rewarding such virtues as industriousness and obedience. According to Forsythe, this idea of reward and punishment was introduced into the prison system between 1835 and 1855, especially in the management of convicts sentenced to transportation.

In the years following the introduction of the separate system there appears to have been much discrepancy between theory and practice. Elements of the system were fused with other theories to produce what Forsythe calls 'idiosyncratic local arrangements, a mosaic of disciplinary methods drawing in one or more ways from these new theories'.³¹ By the 1890s, the new scientific approach to the study of human behaviour, particularly Social Darwinism, was influencing penal theory and, although the separate system continued to operate, it was much modified.

A leading exponent of the new scientific approach to criminology was Cesare Lombroso. An Italian criminologist, Lombroso argued for a biologically determined theory of deviance. Criminals were biologically inferior and could be identified by their physical features. One outcome of this approach was that increasing types of criminals were described. Some of these were considered to be irredeemable because of perceived hereditary defects. A leading authority on criminology, Professor Ferri, proposed in 1895 that criminals be classified according:

to what type of criminal he belongs, and, as a consequence, what degree of anti-social depravity and readaptability is indicated by his physical and mental qualities, whether he is born criminal, or mad, or an habitual or occasional criminal or a criminal of passion.³²

'In such a scheme', Forsythe comments, 'classical notions of moral responsibility of the offender gave way to the positivist analytical disposals of science'.³³

³¹ Ibid., p. 13.

³² Ibid., pp. 12-13.

³³ Ibid., p. 13.

Meanwhile the evangelical approach was being kept alive through developments in philosophical and political thinking which came to be known as New Liberalism. This body of thought emphasised environmental causation in the development of criminals and the need to rekindle the spiritual and moral energies in order to reform prisoners. By the late nineteenth century, therefore, attitudes towards crime and punishment were a mixture of different theories. The new scientific approach emphasised the need to classify prisoners in order to manage them effectively. For some, such as habitual offenders and 'mental defectives', reformation was considered impossible and long term institutional containment was necessary. For others, such as juveniles and petty criminals, reform remained a possibility and the evangelical approach was kept alive, albeit in a modified version, through the philosophy of New Liberalism.

There remained, however, according to Forsythe, a deep respect for classical notions of punishment. Playfair makes much the same point, arguing that even the most dedicated and optimistic advocates of reform during the nineteenth century, realised that the separate system was extremely punitive. In 1894, the Gladstone Committee, appointed to enquire into the prison system of England and Wales, found that the separate system led to 'moral and mental deterioration'. Nevertheless they did not advocate its abolition for fear, argues Playfair, of destroying its deterrent value. They regarded it as part of the punishment.³⁴

Fremantle Prison had its origins in the convict system, which was introduced into Western Australia relatively late, in 1850. By 1868, when transportation ceased, almost 10,000 convicts had been sent to the colony. Work began on the prison in 1852 under the guidance of Captain Edward Yeamans Walcott Henderson of the Royal Engineers and a company of army mechanics and sappers who were employed as trades instructors and mechanics, the actual work of building the prison being carried out by the convicts. Although partially occupied in 1855, the building was not completed until 1859, having experienced several delays. In 1853, for example, work was delayed while doubts circulated as to whether transportation would continue.³⁵ Further delays were caused in

³⁴ Playfair, *The Punitive Obsession*, p. 159.

³⁵ Alexandra Hasluck, *Unwilling Emigrants*, Oxford University Press Melbourne, 38.

1856, by a whirlwind which caused extensive damage, by a shortage of masons and by the Crimean War which resulted in the recall of the Royal Engineers for war service.³⁶

Henderson's first design for the prison, according to historical archeologist Louise J. Bavin, 'incorporated both the reflective solitude of separate-solitary confinement and the productive hard work of the silent-association system'. The design was based on that of Pentonville Prison, with a central chapel and four radiating wings which allowed for central observation of the corridors. After examining Henderson's plan, however, officials in Britain made modifications 'in favour of a simple linear model applied in Public Works prisons'.³⁷ This proved to be a significant modification. Public Works prisons were designed as prisons from which prisoners could be sent out daily to perform hard labour, returning to their cells in the evenings. Fremantle Prison, this thesis will argue, was thus not designed to operate as a maximum security prison, nor to facilitate the introduction of the separate system, both of which functions it was expected to fulfil in later years.

Following its completion, Fremantle Prison was used for both 'colonial' and 'imperial' prisoners, the latter term signifying convict status. Colonial prisoners were, however, few in number. According to Bavin, following the cessation of transportation in 1868, the number of inmates fell to the point that, by 1884, the colonial administration considered closing Fremantle Prison. The colonial Governor, however, thought that this would be a costly operation and so the prison remained.³⁸

In 1886, responsibility for the Convict Establishment, which included Fremantle Prison and Fremantle Asylum, was handed over to the colonial government. Fremantle Prison, with a mere 75 inmates, became the colony's main prison. Thereafter the number of prisoners held at Fremantle rose steadily. Following the discovery of gold in the early 1890s, there was a dramatic rise in the number of new emigrants into the colony, paralleled

³⁶ Thomas and Stewart, *Imprisonment in Western Australia*, p. 102, and Kerr, *Fremantle Prison*, p. 2.

³⁷ Louise J. Bavin, 'Punishment, Prisons and Reform: Incarceration in Western Australia in the Nineteenth Century', in Charlie Fox, (ed.), *Historical Refractions: Studies in Western Australian History*, vol. xiv, University of Western Australia, Nedlands, 1993, p. 136.

³⁸ *Ibid.*, p. 143.

by an equally dramatic rise in the inmate population of Fremantle Prison which by the 1890s was experiencing severe over crowding. This was to be just one of a number of ongoing problems which the prison experienced during the twentieth century and which will be highlighted throughout this thesis.

The thesis is organised into seven chapters. Chapter 1 begins with a description of the Fremantle Prison riot which took place in 1988. It then proceeds to examine the findings of the official inquiry which was established to investigate the causes of the riot and compares these findings with those of previous official inquiries over the previous 100 years. The chapter highlights some important continuities throughout the twentieth century and suggests reasons for these.

Chapter 2 examines the administrative structure of the prison during the periods 1898-1911 and 1968-1991. The chapter includes a look at significant changes in official penal policy throughout the twentieth century and explores the impact of these changes on the day-to-day life of Fremantle Prison.

The third chapter details characteristics of the inmate population of the prison during the two periods. It argues, among other things, that most inmates did not fit the dangerous stereotype and that the inmate population was diverse. Changes and continuities in the inmate profile between the two periods are emphasised. Aboriginal imprisonment is discussed in some detail.

The inmate sub-culture comes under scrutiny in Chapter 4, and ways in which inmates adapted to and resisted the prison regime are examined. The chapter also deals with the impact of social change on the day-to-day life within Fremantle Prison.

Chapter 5 considers work and discipline within the prison. Examining the daily regime of Fremantle Prison, it argues that attempts at rehabilitation were thwarted by a number of factors, not the least of which were the structural unsuitability of the prison itself and the difficulty in obtaining meaningful work for inmates.

Chapter 6 shifts the focus to the prison officers and examines ways in which they too shaped the day-to-day life of the prison. The chapter highlights the conflict of interest which existed between the custodial role of prison officers and, particularly after the late-

1960s, the rehabilitative ideals of the professional experts. The final chapter continues with the theme of conflict between the twin objectives, punishment and reform. Specifically, it examines the introduction into the Western Australian prison system of professional experts, psychologists, social workers and welfare officers. The chapter explores the impact of this development on Fremantle Prison and concludes that this impact was minimal.

Finally, a major theme throughout the thesis is that the enormous changes which took place within the Western Australian prison system after the late 1960s had little impact on the daily life of Fremantle Prison. The prison remained for most of the twentieth century a community apart, not only from the wider society but also from the rest of the penal system.

1

A Community Apart

With the cessation of employment of prison labour in public, the unfortunates in our gaols became a community apart-the world forgetting, and almost certainly by the world forgot.¹

On the night of 4 January 1988, Noel Coward, an ex-inmate of Fremantle Prison, stood on the roof of a friend's house and watched the prison burn. He found himself filled with 'a deep craving to be in there ... to be running around burning and smashing and letting some anger out. I really, really, wanted to see it just razed to the ground'.² Alas, for Noel, Fremantle Prison withstood the wrath of its inmates for a further three years before being finally closed in 1991 and transformed into a museum.

Had the prison burned down on that hot summer night in 1988 it would no ~~doubt~~ have been seen by some as a fitting start to Fremantle's bi-centennial celebrations, ~~the~~ culmination of years of frustration felt by inmates, staff and officials over the total inadequacies inherent in the very building itself. The McGivern Inquiry, set up to investigate the cause of the riot, reported 'sub-standard and early Victorian conditions' which 'serve to provide a caricature of prison existence'.³ Almost one hundred years earlier, in 1898, a Royal Commission had condemned the structural inadequacies of the

¹ J.M. Drew, *Penological Reform in Western Australia*, p. 11.

² Noel Coward, Oral History interview, OH2230/28, pp. 44-45, B.L.

³ Report of the Inquiry into the Causes of the Riot, Fire and Hostage taking at Fremantle Prison on the 4th and 5th of January 1988 (McGivern Report), B.L.

prison⁴ and in 1911 a second Royal Commission recommended that the site be sold and the revenue used to build a new prison.⁵

This chapter will begin by describing briefly the events of 5 January 1988. It will then examine in some detail the findings and recommendations of the McGivern Inquiry into the causes of the riot. Many of McGivern's findings echoed those of earlier inquiries and reflected comments which had been made from time to time in the press for over 100 years. The first major inquiry into the prison had been in 1898, when a Royal Commission (the Jameson Commission) was established to investigate the penal system of Western Australia. This was followed twelve years later, in 1911, by a second Royal Commission (the Pennefather Commission). In 1972, a third Royal Commission (the Jones Commission) was set up in response to allegations of ill-treatment of Aboriginal inmates of Fremantle Prison. Through an exploration of these reports and comments in the press the chapter will trace important continuities which existed throughout the prison's history and which, independently from official policy, helped shape the prison regime.

— Finally, the chapter will highlight a number of important questions. Why, for example, given that the prison was found in 1898 to be 'in no way structurally adapted to meet the varied purposes which it is now required to serve',⁶ did it continue to exist as the main prison in the Western Australian prison system? Why, despite important changes which took place in the 1970s and 1980s, did successive inquiries report similar defects in regards to the administration and the day to day management of the prison? How was it that a social institution which was clearly recognised as inherently defective continued to exist throughout most of the twentieth century?

The day of the 1988 riot began as any other with the unlocking of the cells at 7 a.m. Even the scuffle which ensued between prison officers and one prisoner, when the officers

⁴ Report of the Commission Appointed to inquire into the Penal System of the Colony 1899, (Jameson Report), in *M.V.&P.*, vol. 1, 1899.

⁵ Royal Commission into the administration and conduct of Fremantle prison and matters incidental thereof 1911, (Pennefather Report), published in the *West Australia*, 10 May 1911, p. 4. (no page numbers exist for the report.)

⁶ Jameson Report, p. 1.

considered that the prisoner was 'too tardy' in vacating his cell, was such a common occurrence that it would not have suggested that anything out of the ordinary was about to happen. The first real hint of trouble came later in the morning when the prisoner was released from the observation cell where he had been confined following his brawl with the officers, and escorted back to the exercise yard of the Main Division. Once there, and with visible marks on his face and neck, he reported to his fellow inmates that he had been bashed by the prison officers. The prisoners, after holding a meeting, requested to see the Superintendent. When this was denied them, they requested that the 'bashed' prisoner be medically examined. This request was granted.⁷

By the afternoon, in the cramped conditions of the exercise yards, the temperature soared to 40⁰ C. During the previous week Perth and Fremantle had experienced an unrelenting heat wave. According to Cyril Ayres, a journalist with the *West Australian*, 'the inescapable heat had turned the exercise yards into ovens, the cells into saunas'.⁸ Unsurprisingly, therefore, tension was mounting among the prisoners.

There was tension too between the officers about how best to control the situation. The Chief Officer decided that the prisoners should remain in the yard rather than return to work, a decision taken 'on the basis that this would help settle the growing tension'.⁹ This decision, the McGivern Report later suggested, may have actually fuelled the tension and provided the ring leaders with the opportunity to sow further discontent.¹⁰

By mid-afternoon, according to McGivern's findings, a plan had been finalised among the prisoners to riot, burn the prison and take hostages, a plan which was put into operation when the prisoners were allowed into the Main Division for their evening meal. Once inside, they attacked the prison officers with hot water, plates, foodstuffs, buckets and makeshift weapons. A number of fires were started which rapidly spread. The

⁷ McGivern Report, pp. 7-9.

⁸ Ayres, *Fremantle Prison*, p. 44.

⁹ McGivern Report, p. 9.

¹⁰ *Ibid.*, p. 23.

prisoners then retreated back outside to the exercise yard, taking with them five officers as hostages.¹¹

So began a 19-hour siege during which the police riot squad surrounded the prison armed with tear gas, an armed riot squad took up position within the prison and a trained police negotiation team carried on a dialogue with the riot leaders. The Fremantle Fire Brigade fought the blaze with difficulty. The main gates of the prison were too small for the fire units to enter so water had to be directed on to the roof from outside the prison. Firemen were further hampered by prisoners hurling rocks and pieces of asbestos roofing.¹²

Meanwhile overhead, commercial television news helicopters hovered, bringing the siege into people's homes, while inside the prison those prisoners not involved in the riot watched it on live television.¹³ On the outside, people lined the streets of Fremantle or sought vantage points from multi-storey buildings in order to watch the drama unfold.¹⁴ The riot had become a public event, a real life drama with Fremantle Prison as the theatre and the people of Western Australia as the audience. Throughout the night the police negotiated with the riot leaders. According to Robert Kucera, the police officer in charge of negotiations, prisoners made three basic demands: direct discussions with the Attorney General, Joseph Berinson; access to television and press media; and an assurance that when the siege was over there would be no reprisals against them.¹⁵

The prisoners were hardly in a winning situation. They held five hostages to be sure, but they themselves remained prisoners, surrounded by heavily armed police and a riot squad. Throughout the following morning, hostages were released one by one, and at 11 a.m. the prisoners surrendered, the only condition granted to them being that there would be no reprisals.¹⁶ There was, however, one important and positive outcome of the riot and

¹¹ This description of the riot is drawn from the McGivern Report, pp. 7-12.

¹² *West Australian*, 5 January 1988, p. 3.

¹³ Robert Kucera, OH2230/2, B.L., p. 39.

¹⁴ *West Australian*, 5 January 1988, p. 3.

¹⁵ Kucera, OH, p. 38.

¹⁶ *West Australian*, 6 January 1988, p. 5.

siege for the prisoners. The drama had been a very public spectacle. Conditions within Fremantle Prison had been brought clearly to public attention in a manner that could not be ignored. When it was over, a media inspection of the prison was allowed. Cyril Ayres, reporting the riot for the *West Australian*, described the scene thus:

The rioters had gone, locked up somewhere in this Victorian prison, and all that remained to remind us of the siege was the smell of burning and the apprehensive faces of warders behind plastic helmets. ... The high-walled exercise yard ... looked like a bear pit in a third rate zoo. The prisoners were lying on the concrete or pacing like caged lions. It was hot and airless and the men's boredom was as tangible as the concrete and wire that formed their horizon.¹⁷

The *West Australian* did not hesitate in attributing blame for the riot to the conditions within the prison. 'FREMANTLE JAIL: RIPE FOR A FULL SCALE RIOT', ran one headline to a report which went to press while the siege was still in progress. Boredom and decades of severe overcrowding had led to 'an explosion waiting to happen', according to the report, which went on to outline a series of warnings issued over many years about the inevitability of serious trouble if Fremantle Prison continued to operate. In 1980, for example, the Western Australian Ombudsman had warned that 'serious trouble will be more than a possibility as long as this archaic prison and its overcrowding persists'.¹⁸

When serious trouble did eventuate on 5 January, it ought to have come as no surprise to the Department of Corrective Services. Three weeks earlier a prisoner had written to the Director of the Department, Ian Hill, warning that a riot was inevitable at Fremantle Prison unless something was done to address the grievances of prisoners. Grievances, the prisoner claimed, included abuse and harassment by some prison officers, unworkable regulations and an unwillingness on the part of the Superintendent and officers to listen to complaints. 'A time bomb is developing', the prisoner warned. Eight weeks after the riot the *West Australian* obtained a copy of the letter, complete with the departmental stamp and date. 'FREO RIOT: JAIL'S CHIEF HAD A WARNING' ran the

¹⁷ Ibid., p. 4.

¹⁸ Ibid., p. 11.

front page headline on 3 March 1988 in a report outlining the contents of the letter. The letter had urged Hill to send a Departmental officer to Fremantle Prison to investigate prisoners' grievances. Instead, the matter was referred back to the prison administration, the very body which was the object of the complaints.¹⁹

— The edition of the *West Australian* on the day after the riot devoted five full pages and an editorial to Fremantle Prison. The prison was, screamed one headline, 'A POLITICAL TINDERBOX'. The report continued, 'Generations of W A [sic] prisoners have sweated out their sentences in crowded and appalling Fremantle jail while politicians have agonised about its continued existence'.²⁰ In its editorial, the paper attacked 'successive W.A. governments':

For reasons of politics, cost and convenience, they ignored repeated warnings that the outdated and hopelessly inadequate institution was ripe for an explosion of violence .. But it is within the forbidding limestone walls of the Fremantle prison that the flaws are most starkly exposed. Condemned by a royal commission in 1898 as 'inadequate', and in 1980 by the W A [sic] Ombudsman as a source of future trouble, the jail has continued to hold up to 600 prisoners in unhygienic conditions and in an atmosphere of idleness and - at times - depravity.²¹

The government wasted no time in establishing an inquiry into the causes of the riot, fire and hostage taking, and the McGivern Report was handed over to the Attorney General on 17 February, some six weeks following the riot.

The report considered possible causes of the riot under four headings; the physical environment, the human environment, the administrative system and prisoner conspiracy. The last of these, which appears to have been based on rumours which circulated within the Department of Corrective Services soon after the riot, was quickly dismissed by McGivern as 'vague and weak'. 'The reasons why this explanation would be attractive to the Department', he concluded, 'are fairly obvious but are unacceptable'.²²

¹⁹ *West Australian*, 3 March 1988, p. 1.

²⁰ *West Australian*, 6 January 1988, p. 11.

²¹ *Ibid.*, p. 10.

²² McGivern Report, p. 22.

Concerning the physical conditions, McGivern described Fremantle Prison as 'sub-standard', with severe overcrowding and small unsewered cells, infested with cockroaches and mice, in which prisoners were 'compelled to eat, sleep and defecate'.²³ Yet despite this and the fact that, as McGivern indeed remarked, the physical inadequacies of the prison were well known, McGivern found that, 'most prisoners [stated] that the physical conditions, though unpleasant, are not a major concern for them and certainly not enough to riot over'. It is possible, of course, that the prospect of a new maximum security prison, construction of which had commenced in 1987, had removed the physical conditions in Fremantle as a major source of grievance among the prisoners. According to McGivern, prisoners generally 'adopted a philosophical stance on the matter', and 'looked forward to the improvements in living conditions which will occur in the new maximum security prison'.²⁴

The most commonly expressed sources of grievance among the prisoners, McGivern found, were the human environment and the administrative system. Of these, the human environment was of greatest concern, in particular 'the selective and punitive attitudes of a few prison officers'.²⁵ Separate confinement and mechanical restraint were too easily resorted to in the handling of prisoners and records pertaining to prisoners undergoing punishment in observation cells were 'not always accurately maintained'.²⁶ Even the incident leading up to the alleged bashing of the prisoner on the morning of the riot and the subsequent negotiations with the prisoners, had not been documented.²⁷ Other concerns raised by prisoners included, 'the lack of concern by prison officers; the insensitivity of the system; poor visiting facilities; the lack of work; limited educational and recreational

²³ Ibid., p. 14.

²⁴ Ibid., p. 15.

²⁵ Ibid., p. 16.

²⁶ Ibid., pp. 48-49.

²⁷ Ibid., p. 27.

facilities and the censoring of mail'.²⁸ In short, McGivern concluded, the picture was of 'an uncaring and unsympathetic system at Fremantle Prison'.²⁹

Turning his attention to the administrative system, McGivern found that the most common complaint related to 'perceived insensitivity and inflexibility'.³⁰ A major concern for prisoners was the inability to have complaints and requests heard. One example, worth citing as it was found by McGivern to have been a significant incident leading up to the riot, concerned a prisoner who, towards the end of 1987, was informed that he was to be transferred to Albany Prison in the state's south west. The prisoner, not wanting the transfer, approached a welfare officer and requested that an appeal be lodged on his behalf. The appeal was not lodged and, on the day before the scheduled transfer, the prisoner approached a second welfare officer. However, as there was no record of the appeal having been lodged, the welfare officer was unable to stop the transfer. On hearing this, the prisoner slashed himself, as a result of which he was kept in Fremantle. Prisoners then staged a sit-out in protest against the treatment of their fellow inmate. The following day the protest was brought to public attention in a report by the *West Australian* alongside a photograph, taken from a high vantage point overlooking the prison, of the prisoners milling around the exercise yards.³¹ The problem, McGivern concluded, had 'stemmed from the system being unable to hear, document and process the prisoner's request'.³² Moreover, when McGivern requested documents relating to the sit-out by prisoners, he discovered that no documentation had been made.³³

Other problems concerning the administration system included inconsistent treatment, lack of confidence that administrative policies would be carried out by middle

²⁸ Ibid., p. 16.

²⁹ Ibid.

³⁰ Ibid., p. 17.

³¹ *West Australian*, 1 January 1988, p. 3.

³² McGivern Report, p. 18.

³³ Ibid., p. 27.

management staff and officers, and a failure to keep prisoners informed about changes to procedures.³⁴ Of particular concern to McGivern was the welfare of long-term prisoners and the lack of facilities to aid in their rehabilitation.³⁵

A long list of recommendations was handed down by McGivern. Despite finding that the physical environment had not been a major grievance among the prisoners at the time of the riot, the sub-standard conditions could not be ignored. Unsewered cells, for example, should be sewerred, cells should be provided with forced air 'or other form of ventilation' and efforts should be made to eradicate 'the plague of cockroaches and insects which infest the divisions'.³⁶

The remaining recommendations related mostly to serious deficiencies in the human environment and the administrative system. McGivern was clearly concerned about the behaviour and attitudes of some prison officers whose presence, he argued, 'does detract from a positive management environment'. Such officers should be identified and dealt with through counselling or, if need be, dismissal.³⁷ Improved selection procedures were needed to ensure the recruitment of properly motivated people into the prison service and existing officers should receive ongoing training in the application of just and humane management of prisoners.³⁸ McGivern was not, however, unsympathetic towards prison officers. The routine and boredom of their daily work were clearly recognised as contributing towards negative attitudes and could be alleviated, McGivern thought, by an expansion of their role. This particular recommendation will be discussed in another chapter when the role of the prison officer is examined in detail.

At an administrative level a number of recommendations were put forward; the formulation of a 'grievance handling procedure' for prisoners, daily access to the

³⁴ Ibid., p. 19.

³⁵ Ibid., p. 20.

³⁶ Ibid., p. 53.

³⁷ Ibid., p. 61.

³⁸ Ibid., pp. 58, 61

Superintendent for prisoners who requested an interview, daily visits by the Superintendent to all cellular and work units and regular briefing and de-briefing sessions between the Superintendent and officers. There was a need also to employ additional trade instructors and to provide prisoners with meaningful work and better educational facilities.³⁹

While in some respects the McGivern report contained few surprises in terms of its findings, in one important respect it was novel. The tenor of the report is encapsulated in McGivern's concluding remarks in which he argued that there had to be:

a commitment on the part of the Department and the administration of the prison, together with the prison officers, to develop an atmosphere in which prisoners believe they are being treated reasonably and fairly. Security and discipline, while essential, cannot operate independently of a commitment to encourage prisoners to develop a sense of self-esteem.⁴⁰

The choice of John McGivern to head the inquiry was significant. McGivern had spent 36 years in the Western Australian prison service, joining in 1950 as a prison officer in Fremantle Prison, becoming Superintendent in 1979 and eventually rising to the position of deputy-Director in the Department of Corrective Services before his retirement in 1986. He was, thus, the first person with both practical experience as a prison officer and an intimate knowledge of the workings of the prison service to lead a government appointed inquiry into Fremantle Prison.⁴¹

The importance attached to prisoner welfare and the credence which was paid to prisoner evidence were therefore not products of naive idealism. These, for McGivern, were pragmatic concerns. 'For a prison to function effectively', he explained in an oral history interview some years after handing down his report:

there has to be a good relationship between the administration and the staff, and the administration and the prisoners - all equally as strong as the other ... it's got to be an on-going dynamic sort of thing that's functioning all the time.⁴²

³⁹ Ibid., pp. 58-64.

⁴⁰ Ibid., p. 65.

⁴¹ John McGivern, OH2230/15, B.L.

⁴² Ibid., p. 61.

This insight distinguished the McGivern inquiry from previous inquiries into the affairs of Fremantle Prison. Moreover, serious consideration of prisoners' evidence led to a clear recognition that ill-treatment of prisoners by officers, albeit relatively few in number, was a fact of prison life and a justifiable source of grievance. Over the years allegations of ill-treatment had been common. In 1980, the prison riot squad was called in after prisoners refused to work in protest against 'unusual and cruel treatment'. On that occasion a number of complaints were forwarded to the Ombudsman by prisoners who had not taken part in the protest but who had nonetheless been punished by having their privileges withdrawn. The Ombudsman, I.M. Evans, after spending several months investigating the complaints, found that in the months leading up to the protest there had been 'tension, dissension and serious discontent' in Fremantle Prison, caused by severe overcrowding, unnecessary harassment of inmates by a few prison officers, a shortage of work for prisoners and a 'general dissatisfaction with the manner in which prisoners ... were dealt with by "prison visitors" who are Justices of the Peace'. Although it is not part of the function of the Ombudsman to make recommendations, Evans' report sounded the following ominous and, it transpired, prophetic warning:

From my own observations and what I have been told by officers and inmates, I suspect that serious trouble in the future will be more than a possibility, so long as this archaic prison and its overcrowding persist.⁴³

Eight years earlier, a series of disturbances in the prison and allegations of ill-treatment of inmates by some prison officers, led to the setting up of a Royal Commission in March 1973, 'to inquire into and report upon certain matters touching Fremantle prison'.⁴⁴ The Jones Report, and the circumstances leading up to it, will be discussed in another chapter. However, it is noteworthy that, in some respects, Jones's findings were

⁴³ Report of the Parliamentary Commissioner for Administrative Investigations, 6 June 1980, p. 7. The report was not published. A copy is held in the Offices of the State Ombudsman, Perth.

⁴⁴ Report of the Royal Commission upon Various Allegations of Assaults on or Brutality to Prisoners in Fremantle Prison and of Discrimination against Aboriginal or Part-Aboriginal Prisoners therein and upon Certain Other Matters touching that Prison, its Inmates and Staff, (Jones Report), B.L.

similar to those of McGivern's 16 years later. Violence in the yards, he observed, 'proceeds from boredom, tension and frustration'. However, he added pessimistically, given the 'old and so cramped' condition of the prison, 'one must frankly admit that perhaps not much can be done'.⁴⁵ Regarding the issue of ill-treatment of prisoners by officers, despite his reluctance to find individual officers guilty, he, like McGivern, was clearly concerned about the behaviour of a small number of officers. In concluding his report, Jones made the following significant statement:

When one asks oneself why ten or so officers out of the whole number on the staff of the prison should be picked out by these inmates as the targets of their accusations, one must wonder what the explanation may be. It would be good, I think, if those officers would ponder that question, and so regulate their behaviour so as to diminish or eliminate the feelings of dislike and hostility which those inmates so obviously feel towards them.⁴⁶

This was a question which could well have been asked by Jameson, in 1898, when he took evidence from a number of prisoners concerning allegations of brutality and ill treatment by warders. Although the same few warders were named by prisoners as the perpetrators the significance of this was overlooked by Jameson and the incidents were not subject to investigation.

Jones, however, did not appear to be overly concerned with prisoner welfare or with a commitment to encouraging prisoners to develop a sense of self-esteem. 'The basic disadvantage that a prisoner suffers', he argued, 'is the deprivation of his liberty; whether he is more, or less, comfortable during his term of imprisonment is of relatively little importance'.⁴⁷ Perhaps Jones had read the findings of the 1898 Jameson Commission, which was not prepared 'to make the prison a comfortable home for the depraved members of society'. On the contrary, the commissioners recommended that 'prison life, consistent with the requirements of ordinary humanity and justice, be made as uncomfortable to the prisoner as possible'.⁴⁸

⁴⁵ Ibid., p. 162.

⁴⁶ Ibid., pp. 163-164.

⁴⁷ Ibid., p. 161.

⁴⁸ Jameson Report, p. 13.

The most glaring link between the findings of the Jameson Commission and later reports, however, concerns the state of the Fremantle Prison building itself. Consider, for example, the following findings:

The Fremantle Gaol is in no way structurally adapted to meet the varied purposes which it is now required to serve. (Jameson Commission, 1898, First Progress Report, p. 1)

I doubt whether it is wise to expend more money in patching up and trying to improve a place the design of which is utterly opposed to modern views ... the best course would be to erect an entirely new penal establishment. (Pennefather Report, 1911)

The prison is so old and so cramped that it is virtually impossible to extend or improve facilities ... not much can be done within the confines of Fremantle Prison as it is, and as perforce it must remain. (Jones Report, 1973, pp. 162-163)

The physical conditions at Fremantle prison are undoubtedly sub-standard and could best be described as early Victorian. (McGivern Report, 1988, p.14)

The mode of ventilation is extremely bad. (Jameson Commission, 1898, First Progress Report, p.1)

A system of forced air, or other form of ventilation to the cells should be considered. (McGivern report, 1988, p.57)

Here is a clear recognition by four separate inquiries, spanning a period of ninety years, that Fremantle Prison, in its very design, was utterly unsuitable for use as a prison. Poor ventilation and unhygienic conditions were frequent sources of complaint presented to the 1898 Commission by prisoners, one of whom invited the commissioners to make their own inspection of a cell. After viewing 'dark cell no. 7', the Commission reported:

The blankets were found to be old, worn and thin. The cell was ventilated from below, draughty, and yet foul smelling. The inmate slept on the kerosened floor, no mattress being provided. The nightsoil bucket had no top.⁴⁹

Terence Maller, who served his first sentence in Fremantle in the 1960s, recalled that his first impression of the prison was of 'everybody screaming at you' and 'the overpowering smell of disinfectant'.⁵⁰ Noel Coward, a prisoner in the 1980s, remembers the lack of sewerage, with two prisoners to a cell, and having to live with the smell.⁵¹

⁴⁹ Jameson Report, Minutes of Evidence, p. 24.

⁵⁰ Terence Maller, OH2230/29, B.L., p. 5.

⁵¹ Coward, OH, p. 17.

By the 1980s, it is obvious that the prison buildings were in an extremely dilapidated condition. In 1989, for example, one prisoner complained that his cell was 'falling apart'. On inspection the cell floor was found to be 'cracked open exposing stone work and fragments'.⁵² Any attempts to introduce reforms were always going to be difficult to implement in what amounted to, in the words of one Superintendent, the 'colonial relic' which was Fremantle Prison.⁵³

The prison's structure, however, can hardly account for other significant continuities which are highlighted in these inquiries and which suggest that, despite significant changes which did take place in the Western Australian prison system over the years, within Fremantle Prison much which remained unchanged. In 1898, for example, the Jameson Report had recommended changes in the procedure for recruiting new warders, arguing that candidates should pass an educational test and that, 'in future no warders should be engaged but such as are competent to teach some handicraft'.⁵⁴ In 1911, the Pennefather Report reiterated the need for educational tests for candidates. Successful candidates should then undergo a twelve month probationary period at the end of which they should be tested in their knowledge of the Prisons Act and other regulations.⁵⁵ Over half a century later, both Jones and McGivern were suggesting changes in the procedures used for recruiting prison officers, the latter emphasising the need to recruit 'properly motivated persons' and recommending that successful candidates serve a twelve month probationary period.⁵⁶

Unrelenting tedium was a continuous feature of prison life in Fremantle Prison. It affected both prison officers and prisoners. Its impact on officers is acknowledged in the reports of both Jameson and McGivern, the former acknowledging 'the extremely tedious

⁵² *Occurrence Book: Observation and Punishment*, WAS 684, Cons.no. 4257, Item 19, 6 January 1989, B.L.

⁵³ Annual Report for 1971-1972, p.11, in *M.V.&P.*, 1973, vol. 5.

⁵⁴ Jameson Report, p. 22.

⁵⁵ Pennefather Report.

⁵⁶ Jones Report, p. 174, McGivern Report, p. 61.

and disagreeable' nature of warders' work.⁵⁷ McGivern recommended a 'time out' system in which officers 'should be exchanged with officers in other metropolitan prisons for a period of 3/4 months [sic]'.⁵⁸ For prisoners, tedium was largely the result of not having work. Many prisoners complained to the Jameson Commission about the shortage of work. 'Want of suitable employment drives a man mad', was the woeful complaint of one prisoner to the commissioners⁵⁹, who commented in their final report that, 'It is inevitable that when men are not kept fully employed, they become demoralised'.⁶⁰ Yet despite the strong emphasis which Jameson and Pennefather placed on the importance of providing work for prisoners lack of work continued to be a problem. Recalling a three week sentence which he served in the 1960s, Terence Maller describes how he 'did absolutely nothing. There was no work, I just sat there and waited for each day to go by until the day came along that I got out. It was as simple as that - I did nothing'.⁶¹ McGivern's recommendation in 1988 that prisoners be supplied with meaningful employment, therefore, sounded somewhat hollow, a forlorn expectation.

Administrative inefficiencies were another concern highlighted by successive inquiries. In 1898, Jameson found that the Superintendent, 'has had forced upon him responsibilities and functions which ordinarily come within the province of a Governor rather than that of a Superintendent'. This problem, thought Jameson, would be overcome if an Inspector of Prisons were to be appointed to act as Governor, thus presumably freeing the Superintendent to carry out his duties in a more efficient manner.⁶² In 1973, Jones found that 'the actual administration of the prison has not been efficient and ... must be improved'. Specifically, he reported, the Superintendent had been 'burdened with merely

⁵⁷ Jameson Report, p. 22.

⁵⁸ McGivern Report, p. 62.

⁵⁹ Jameson Report, Minutes of Evidence, p. 3.

⁶⁰ *Ibid.*, p. 2.

⁶¹ Maller, OH, p. 8.

⁶² Jameson Report, OH, p. 22.

routine duties'.⁶³ As a result the system lacked, said Jones, in a comment which reveals his notion of prisons being run along military lines, 'what Field Marshal Earl Montgomery used to call "a firm grip from the top"'.⁶⁴ Jones therefore recommended the appointment of an additional deputy-Superintendent who would 'leave the Superintendent free to concentrate on his real task, superintending the prison'.⁶⁵

Despite this recommendation, McGivern found in 1988 that the hierarchical structure within the prison was defective and limited the scope of the Superintendent. During the riot and hostage situation, for example:

there was an inadequate and/or unofficial chain of command. Officers were not being directed to perform certain duties, some responsibilities were not being assumed and those actions which did occur often took place on the basis of the individual officer's initiative.⁶⁶

As for the role of the Superintendent, McGivern recommended the appointment of a Deputy-Superintendent, thus leaving the Superintendent free to visit cells and workshops daily and to spend more time with both prisoners and staff.⁶⁷ This was an important recommendation and was linked to McGivern's concern for the administration to develop channels through which prisoners could air grievances relating to 'conditions, routine, recreation visits etc. which are best handled at the prison management level'.⁶⁸

In an oral history interview recorded in 1995, McGivern explained that it had been his opinion that the senior management had kept themselves aloof from personal contact with the prisoners thus contributing to the belief by prisoners 'that no-one would listen to them, they had no way to turn'.⁶⁹

⁶³ Jones Report, p. 171.

⁶⁴ Ibid., p. 172.

⁶⁵ Ibid., p. 175.

⁶⁶ McGivern Report, p. 43.

⁶⁷ Ibid., pp. 63-64.

⁶⁸ Ibid., p. 47.

⁶⁹ McGivern, OH, p.74.

McGivern was not the first to recognise the need to develop channels within the prison through which prisoners could air their grievances. Although they made no recommendations on the matter, the 1898 commissioners heard evidence from prisoners that they were often prevented from presenting complaints by threats of retaliation. One prisoner, for example, had been charged with insubordination for complaining about the food.⁷⁰ Frederick Charles Burleigh Vosper, the editor of the *Sunday Times* and a member of parliament, and who had been instrumental in persuading the government to establish the Jameson Commission, told the commissioners that, 'Everything is done to prevent the possibility of a prisoner preferring a complaint'.⁷¹ During later years channels such as the Office of the State Ombudsman were created and could investigate prisoner grievances. McGivern's concern, however, was that despite these channels many grievances remained unresolved and that these tended to be grievances which should be sorted out internally by the prison management.

A final significant similarity between the inquiries remains to be described. One of the most important findings made by Jameson in 1898 was that the daily business of the prison was regulated in an ad-hoc manner and with out dated rules and regulations. To remedy this, new rules and regulations should be drawn up, 'printed on cardboard and a copy hung up in each cell'.⁷² This recommendation was carried out in 1903. However by 1950, when John McGivern entered Fremantle Prison as a warder, the 1903 rules and regulations had become outdated and at times had to be ignored 'because they were just unworkable'. Moreover prisoners didn't have a copy of the regulations, so they found out by a system of trial and error.⁷³ Although in 1954 new regulations were drawn up, by 1972 prisoners were again complaining that they were never shown any set of rules and wondered if indeed any existed.⁷⁴ The following year, when Jones conducted his inquiry

⁷⁰ Jameson Report, Minutes of Evidence, p. 3.

⁷¹ Ibid., p. 49.

⁷² Jameson Report, p. 24.

⁷³ McGivern, OH, p. 18.

⁷⁴ Prisoners Committee Book, 5 January 1972, WAS 702, Cons. no. 4203, Item 9, B.L.

into the prison, the strong impression conveyed by his report is that there was on occasion, to say the very least, a relaxation of such rules that did exist. The segregation unit, for example, he found to be operating 'without any real sanction of the law ... [and] with its own rules'.⁷⁵ New rules should therefore be drawn up and a simplified version 'printed on cards (and) a card displayed in every cell'.⁷⁶

The pattern which emerges from an examination of the findings of successive inquiries into Fremantle Prison over the ninety year period, is one of an inadequately designed, dilapidated and unhygienic prison which a series of inefficient administrations struggled to manage. The structural inadequacy of the prison was clearly a major stumbling block for attempts at reform and remained a source of continual tension among prisoners and between prisoners and warders. So also was the boredom, experienced by both prisoners and officers alike, from not having sufficient work. A disregard by the administration, from officers up, about the welfare of prisoners continued to be revealed by the inquiries which took place between 1898 and 1988. Finally, rules and regulation continued to lapse when they became no longer appropriate for the times.

Robert Kucera, a Fremantle police officer at the time of a major riot in 1968, later declared, 'I don't think anybody outside the prison would ever know what is dished out inside there in the way of penalties or what went on there'.⁷⁷ This, it appears, was the way the Department of Corrective Services wanted it. In 1987, just months before the riot of 1988, the A.B.C. television current affairs programme *Four Corners* made a documentary on Australian prisons. Titled 'Out of Sight Out of Mind', the four-part series interviewed prison officials and prisoners in prisons across Australia. Fremantle Prison was the only prison to which the documentary team were denied access, drawing the following comment from the editor of the *West Australian*:

⁷⁵ Jones Report, p. 170.

⁷⁶ *Ibid.*, p. 176.

⁷⁷ Kucera, OH, p.13.

The jail stands as a monument to the short sightedness of governments and the lack of direction in their prison policies. To their discredit, authorities have also sought to shield the ugly side of Fremantle Prison from the public. ... Although the exposure might have been embarrassing, it would also have strengthened the case for rapid reform.⁷⁸

In conclusion, a number of issues emerge from this examination of successive inquiries into Fremantle Prison in the period 1898 to 1911. The similarity between many of the findings is at times startling and suggest that throughout the period life within the prison, for both prisoners and warders, changed little.

Previous writers have remarked on the unchanging nature of the Western Australian penal system over extended periods. Writing in 1916, the Colonial Secretary, J.M. Drew, someone who had long been a strong advocate of prison reform, argued that:

The explanation is simple. The public conscience slumbered: Prisoners were in their proper place behind the bars; they merited severe punishment; society must be protected-all the time worn sophistries rose up to justify a do nothing attitude.⁷⁹

Thomas and Stewart, in their history of the Western Australian penal system, describe the years 1920 to 1960 as, 'the most placid in the history of the system'. They continue, 'Stability and ... stagnation were to be the key-notes of prison administration in Western Australia for almost the whole of the ... forty years'.⁸⁰

Important changes did take place, however, particularly after the late 1960s. The penal system was revamped under the new name Department of Corrections, the name itself signifying an emphasis on rehabilitation. Professional staff such as social workers and psychologists were introduced into the service and there was a growing concern, which was reflected in the McGivern Report, about the welfare of prisoners. These developments will be explored in more detail in subsequent chapters. The question which needs to be addressed here is why, despite these changes, did the day to day reality of life within Fremantle Prison change so little?

⁷⁸ *West Australian*, 6 January 1988, p. 10.

⁷⁹ Drew, *Penological Reform*, p. 3.

⁸⁰ Thomas and Stewart, *Imprisonment in Western Australia*, p. 101.

A number of reasons can be suggested. Most obvious was the physical state of the prison. No amount of reformatory measures could have overcome the limitations imposed by the prison's design and ongoing state of decay. It could never have been anything other than an unpleasant and gloomy place and was always going to be a stumbling block for attempts at reform.

But there were other factors at work stifling reform. The *West Australian* editorial following the 1988 riot accurately summed some of these up when it accused successive governments of inaction 'for reasons of politics, cost and convenience'. Prison reform was certainly not a vote winning issue and, given the lack of public concern about prisoner welfare, was not an issue on which governments were willing to spend money. In 1972, the government had asked the Public Works Department to draw up plans for a new maximum security prison to replace Fremantle Prison. It was hoped that the new prison would be completed within three years. A combination of public ignorance and indifference allowed governments to side-step the issue of prison reform and it took another twenty years and five changes of government before Fremantle Prison was replaced.⁸¹

In the wake of the 1988 riot, an irate member of the public wrote to the *West Australian*. Under the heading 'NO SYMPATHY FOR PRISONERS' the letter declared:

Perhaps the unpleasant conditions at Fremantle prison might persuade some potential miscreants to behave themselves like law abiding citizens ... Any rights that prisoners think they have to comforts of 'life on the outside' are a figment of their own imagination and that of some people who have not suffered directly or indirectly from crime.⁸²

The letter writer need not have worried. There was little sympathy for the prisoners. In all, 33 prisoners were charged after the riot, their trial being at the time the biggest in Western Australian legal history and costing over three million dollars. Journalist Cyril Ayres recalls the daily convoy of prisoners and heavily armed escorts snaking its way

⁸¹ *West Australian*, 6 January 1988, p. 11.

⁸² *West Australian*, 8 January 1988, p. 10.

through the streets of Fremantle and Perth to court, where the prisoners appeared behind a specially constructed bullet-proof glass dock, until:

Finally it was all over. Sentences were extended, the glass dock was dismantled - and work continued on the new Casuarina Prison which would replace the grand old lady at Fremantle.⁸³

Drew's 'time-worn sophistries' had stood the test of time. Eighty years on the public conscience still slumbered and, until late in 1991, with the opening of the new maximum security prison at Casuarina, Fremantle Prison remained a community apart.

The isolation of life within the prison was compounded by at least one significant feature of the prison administration. Apart from the brief period between 1911 and 1919, all appointments to senior levels of the administration were, until the mid-1960s, made from within the Western Australian prison service. The significance of this is suggested by Thomas and Stewart, who argue that 'services which adhere to this policy tend to stagnate'.⁸⁴ But there is another danger, namely that the regime within the prison will become entrenched. The discussion of the findings of the McGivern inquiry is strongly suggestive of an entrenched system so that, by the 1960s, when attempts were finally being made to implement significant reforms, there was always going to be resistance from within this isolated community against the intrusion of new people and new ideas.

Finally, while this chapter has argued that Fremantle Prison remained throughout the twentieth century a community apart, with an entrenched regime which stifled attempts at reform, there is no denying the fact that changes were implemented. These will be the subject of another chapter. The purpose here has been to highlight the continuities which survived in spite of these changes and to suggest at least some explanations for their survival. For a more comprehensive understanding of both changes and continuities, however, it is necessary to compare Fremantle Prison as it was at the turn of the century with that of the late twentieth century. It is also necessary to explore developments after

⁸³ Ayres, *Fremantle Prison*, p. 46.

⁸⁴ Thomas and Stewart, *Imprisonment in Western Australia*, p. 165.

the mid 1960s, when there was a renewed emphasis on prisoner welfare and rehabilitation and to examine the reaction of both prisoners and warders to these developments. What was the impact of these developments on the pre-existing prison sub-culture? How did the prison sub-culture affect new developments? These questions will be addressed in subsequent chapters.

2

Policy and Administration

With slight difference only, it may be said that the prison system of 1911 was the same as was in vogue in 1840. The prison was, first and last, a place of correction, or, more correctly speaking, of punishment. ... The example of other countries in penal reform passed Western Australia by.¹

Since this government came into office in 1974 it has actively undertaken a programme to modernise the State's prison system. In 1979 the Department, following a review by the Public Service Board, was reconstructed and placed on a sound administrative footing.²

The assertion by James Drew that, despite the 1898 Royal Commission which had consulted criminologists and penal reformers throughout Europe and North America, interviewed over 200 witnesses including prisoners, and recommended sweeping reforms, no significant changes took place, must be taken seriously. Drew could speak with some authority. He had long been interested in the matter of prison reform and, through his position as editor of the *Geraldton Express*, had been active in campaigning for the setting up of the 1898 Commission.

Despite a brief flurry of reforms which followed the 1911 Commission it is clear that for most of the first half of the twentieth century Fremantle Prison, and the entire Western Australian penal system, remained unchanged. It was only after the new movement

¹ Drew, *Penological Reform*, p. 3.

² Bill Hassell, Chief Secretary, second reading of the 1981 Prisons Act, in *West Australian Parliamentary Debates*, New Series, Vol. 235, 22 September – 4 November 1981, p. 4480,

towards rehabilitation, which sprung up in the late 1960s and which is discussed in a separate chapter, that important administrative and legal changes did occur.

This chapter will examine Fremantle Prison during the two periods 1898-1911 and 1968-1991, focusing on the administrative and legal structures governing the prison. The unchanging nature of these structures over long periods will be discussed, as will the nature of the changes which did take place.

1898-1911

Until 1903 Fremantle Prison continued to be administered under legislation which had been enacted in 1849. The first major Act governing prison administration in Western Australia was the 1849 Ordinance for the Regulation of Goals, Prisons and Houses of Correction.³ Drawing mostly on English experience, the 1849 Act placed all prisons under the care and direction of the Sheriff. The Sheriff was made responsible for the custody of prisoners and for the appointment of keepers. The Governor, with the advice of the Executive Council, was charged with making rules and regulations for the management of prisons. Visiting Justices, appointed by the Governor, were required to make weekly visits and to submit regular reports.

Nineteenth century English penal philosophy was clearly reflected in the Act. Clause 17, for example, stated that, 'to prevent contamination arising from the association of prisoners, any prisoner may by order of the Sheriff or visiting Justice, be separately confined during the whole or any part of his imprisonment.'

Separation was also authorised as punishment, Clause 19 stipulating that the Sheriff or visiting Justice 'may punish...offences by ordering any offender to close confinement in the refractory or solitary cell'. Other provisions of the 1849 Act which reflected the English model of imprisonment were, compulsory attendance at Divine Service, the separation of male from female prisoners 'so as to prevent them from seeing, conversing or holding intercourse with each other', and the instruction of prisoners in reading and writing.

³ 12 Vict. No 7 (1849), An Ordinance for the Regulation of Gaols, Prisons and Houses of Correction in the colony of Western Australia, in *The Statutes of Western Australia*, vol. 1, 1832-1882, pp. 156-163.

In 1850 another Act was passed which was to influence the administration of Fremantle Prison until well into the twentieth century. This was an Act making provision for 'the due Custody and Discipline of Offenders Transported to Western Australia'.⁴ The Act was directly applicable to Fremantle Prison which was built by, and for, the convicts and remained the hub of the Convict Establishment until 1886 when responsibility for the Establishment was transferred from the Imperial to the Colonial government. While the overall responsibility for the Convict Establishment rested with the Comptroller General, the Act stipulated 'that every...Penal settlement or place of confinement shall be under the management of a Superintendent.' The Superintendent was given 'the same powers as are incident to the office of Sheriff or visiting Justice.' Several minor acts and amendments were passed in subsequent years as the need arose, so that by the time the 1903 Act was brought down it replaced no less than sixteen Acts of parliament. Although built as a convict prison, Fremantle Prison held colonial prisoners after 1858.⁵ In that year, the 1849 Act was amended to provide for the separation 'whenever possible' of Colonial from Imperial prisoners, the latter being convicts, and placing the former under the care of the Sheriff.⁶ When, however, Fremantle Prison along with the rest of the Convict Establishment was transferred to the Colonial government in 1886, no new Act was passed. The continued existence of two major Acts regulating administration of the prison was to remain a source of confusion until 1903, an issue which will be discussed shortly.

With the transfer of the Convict Establishment to the colonial authorities overall responsibility for the management of Fremantle Prison passed from the Comptroller General to the Inspector of Prisons. James Roe had been Inspector of Prisons since 1866 and had also held the post of Sheriff since 1877.⁷ Fremantle Prison, by this time being run

⁴ 14 Vict. No 6 (1850), An Ordinance to Provide for the due Custody and Discipline of Offenders Sentenced to Transportation to Western Australia: and of Offenders sentenced there to Transportation, in *The Statutes of Western Australia*, vol. 1, 1832-1882, pp 85-91.

⁵ *Western Australia Blue Book*, 1859, B.L.

⁶ 21st Vict. no.12, 1858, in *The Statutes of Western Australia*, vol.1, 1832-1882, pp. 265-266..

⁷ Rica Erickson,(General Editor), *The Bicentennial Dictionary of Western Australians: pre 1929-1888*, Vol. IV, University of Western Australia, Nedlands, 1988, p. 2663.

by a Gaoler in an apparent breach of the 1850 Act, was again placed under the management of a Superintendent, the Gaoler, Samuel Hope, being appointed to this position.⁸ In 1898, Hope retired and was replaced by William George, who remained in office until his retirement in 1912.⁹

Such was the legal framework within which Fremantle Prison operated in 1898. Annual Reports for the gaols and prisons between 1886 and 1897 gave no indication of any problems regarding the administration of Fremantle Prison. James Roe, as Inspector of Prisons, painted a picture of a prison system operating smoothly. Each year in his annual reports he provided statistics on prison populations, reported on the behaviour of the prisoners, listed the type of work carried out by prisoners and presented estimates of the market value of this work.

In at least one major respect, however, things were not as they should have been. The *Western Australian Blue Books* reveal that the separate system, a central feature of the penal philosophy on which the 1849 Prisons Act was based, was not in operation at Fremantle Prison. The 1886 *Blue Book* reported that 'prisoners are employed in working parties by day and at night sleep in cells and association wards'. Moreover, there was no classification of prisoners 'other than a separation of prisoners awaiting trial, debtors and juveniles' from prisoners already under sentence. Neither was there any provision made for the education of prisoners other than their being allowed to use the prison library.¹⁰

Sections of the press regularly reported problems with the administration at Fremantle Prison. In 1893, the *Inquirer*, calling for prison reform, lamented that 'our present system is most remarkable for its want of a system'. The article continued:

⁸ *Ibid.*, Vol. II, p. 1525.

⁹ Annual Report for 1898, in *M.V.&P.*, 1899, vol. 1; Annual Report for 1912, in *M.V.&P.*, 1913, vol. 2.

¹⁰ *West Australian Blue Book*, 1886.

In the prison at Fremantle,...is one huge corridor in various tiers, where good and bad are lodged and apparently treated alike, the first offender and the hardened criminal are not to be distinguished from one another...There is no system of solitary confinement followed by the different stages of classification of punishment; and no grades and varieties of labour, which will tend to turn the criminal out a better and more useful man.¹¹

The following year a Civil Service Commission reported on the colony's prisons. The commissioners, in the course of their inquiries, visited Fremantle Prison, took evidence from officials there and concluded that the prison organisation was 'on the whole, tolerably complete...the management of the establishment seemed to be carefully and judiciously carried out'.¹² Yet evidence was presented to the Commission that things were not running as smoothly as their findings suggest. Rev. C.G. Nicolay, for example, pointed to the non-residence of the Inspector of Prisons, James Roe, in Fremantle. This, he asserted, resulted in 'a great defect in the management of the prison', and he continued,

Formerly the Prison always had proper control. I mean to say that the man holding the office of Sheriff, while living in Perth, cannot be here when wanted. Say that something happens, and the Superintendent wants to refer to a higher office, he cannot do it, and is thrown back on his own resources, and has to act for himself...he applies to the magistrate...(who) does a great deal of the work which would naturally fall to the Comptroller.¹³

The extent to which Roe, as both Inspector of Prisons and Sheriff, concerned himself with Fremantle Prison was made clear by Superintendent George. While Roe testified that he visited the prison on a weekly basis it was clear that these visits were perfunctory, George commenting that 'of course the Inspector does not see the internal working details of the prison'.¹⁴

The Civil Service Commission's favourable report failed to convince those sections of the press which had been agitating for prison reform. In 1897 *The Inquirer* declared:

¹¹ *Inquirer and Commercial News*, 20 October 1903, p. 18.

¹² First Progress Report of the Civil Service Commission 1894, p. viii, in *M.V.&P.*, 1894, vol. 2.

¹³ *Ibid.*, p. 111.

¹⁴ *Ibid.*, p. 107.

There is probably no institution in the colony which is conducted on such a "hole in the corner" line as the Fremantle Prison...[it] should properly be looked upon as a house of correction...and the aim of those who control it should be to improve as far as possible the moral tone of those who come under their care. This...is the aim in the penal establishments in other countries, but in Western Australia the ideal is too high for the adherents of the old convict regime.¹⁵

A year later both Roe and George were beginning to voice their concerns, perhaps in anticipation of the establishment of the much called for Royal Commission. In their annual reports for the year 1897 both men voiced the same concern. Roe, in his capacity as Inspector of Prisons, recommended a system of classification, and, while he was unclear as to what form this should take, he argued that the main advantage of classification would be to permit increased security. More importantly, he ended his report by recommending 'having the statutes which are now in force ... amended in order to make them more suitable to the altered conditions of the colony and with a view to a new set of regulations being set up.'¹⁶ George echoed the same desire, declaring that the gaol regulations currently in force 'are not now quite suitable or sufficiently comprehensive', and adding, 'I think too, it is a question of serious consideration whether the various Acts ... could not be consolidated and improved by being made more suited to the altered conditions of the colony'.¹⁷

These would appear to be the first admissions by officials that the organisation of the prison was not complete and that significant reforms were required. The common choice of words by both men suggest some collusion in putting forward their recommendations. Possibly there was some anticipation of the pending Royal Commission's findings. In any case it is significant that less than three years previously, before the Civil Service Commission, both men were specifically asked for recommendations which might improve the prison system. Roe had nothing to say concerning Fremantle Prison, while George, although recommending a system of classification, could otherwise only suggest that there

¹⁵ *Inquirer*, 30 July 1997, p. 11.

¹⁶ Annual Report for 1897, p. 6, in *M.v.&P.*, 1898, vol. 1.

¹⁷ *Ibid.*, p. 9.

was a need to increase the number of warders 'in order to carry out the discipline more effectively'.¹⁸ There was no suggestion from either men that gaol regulations were outdated or that more drastic reforms such as new legislation were needed.

The 'tolerably complete' organisation of Fremantle Prison reported by the Civil Service Commission, was not evident to the members of the 1898 Jameson Commission. Handing down a preliminary report in December 1898, the commissioners declared Fremantle Prison to be structurally unsuitable as a prison.¹⁹ The Commission found that no attempt had ever been made to classify inmates and that rules and regulations were 'systematically disregarded by both officers and prisoners.'²⁰

The Jameson Commission's final report, handed down in June 1899, dealt at some length with these and other findings. The structure of Fremantle Prison was considered so unsuitable that the commissioners recommended that the prison should be used as a local gaol only, for prisoners serving two years or less. A separate 'labour establishment' should be constructed elsewhere for long term prisoners. Prisoners at Fremantle could then be classified according to their employment aptitude. The first three months of servitude should be spent in separate cellular confinement during which provision should be made for work, exercise and education. Following this period of separate confinement the prisoner should be placed to work at the class of industry for which he is most suited, returning to his cell for meals. Education should continue to be provided for.²¹

The recommended use of Fremantle Prison as a local gaol for short sentence prisoners was not based solely on its structural defects. A significant feature of the Commission's report was its attempt to arrive at a coherent philosophy around which the prison system, and Fremantle Prison in particular, could be organised. To this end the Commission consulted with criminologists and penal reformers in Europe and North

¹⁸ Civil Service Commission 1894, p. 107.

¹⁹ Jameson Report, p. 1.

²⁰ Ibid., p. 2.

²¹ Ibid., p. 15.

America. These included biological determinists such as Cesare Lombroso and Professor Ferri, who argued that criminals were incurable, as well as criminologists such as Alexandre Lacassagne who argued that the criminal was the product of environmental circumstances and was therefore capable of being reformed. The commissioners arrived at the conclusion that 'the criminal is ... a morbid variety of mankind, physically and morally degenerate'.²² However, their degeneracy was in degree only, therefore some were amenable to reformation. Despite this conclusion, and after examining prison systems elsewhere, the Commission decided that no form of imprisonment had ever been shown to be successful as a reforming influence. In support of this they quoted from the English Prisons Committee of 1895, which had declared, 'Imprisonment not only fails to reform offenders, but in the case of the less hardened criminals, and especially first offenders, it produces a deteriorating effect'. For this reason, the Commission concluded, '[we] prefer short, sharp and severe sentences ... as a means of dealing with all minor offences'.²³ Fremantle Prison would therefore become the place where attempted reform of these criminals would be carried out.

As for administration, the commissioners recommended the separation of the two offices of Sheriff and Inspector of Prisons and the appointment of a Governor at Fremantle Prison. Superintendent George's position, it was thought, had 'been rendered exceedingly difficult and onerous by the absence of rules and regulations for his guidance ... aggravated by the herding together, without classification, of prisoners of every description'.²⁴

The commissioners regretted that 'there are no written rules for the guidance of officers ... the only instructions which the warders receive are of a verbal character and are transmitted by the Superintendent or his immediate assistants'.²⁵ One prisoner had given evidence that there were 'certain regulations posted up but they do not purport to have been

²² Ibid., p. 11.

²³ Ibid., p. 13.

²⁴ Ibid., p. 21.

²⁵ Ibid., p. 22.

approved by the executive council as required, I believe, by the Act. They are signed by the Superintendent'.²⁶ Another prisoner testified that the prisoners were continually punished for breach of rules 'but we do not know what the rules are'.²⁷

George's evidence, perhaps inadvertently, supported these assertions. 'I simply carry out the rules and regulations which existed before my time, as far as is practical', he declared, adding that:

My status is that of Superintendent of the Prison, but that prison is now a gaol. There are really no proper rules at all in either capacity. I have to make the regulations fit the circumstances of the place'.²⁸

Warder Dimcock provided an insight into the position of the warders; 'I take my instructions from the Superintendent daily. There are no written rules for my guidance'.²⁹ Lack of written rules for guidance extended even to the Medical Officer, Dr Hope, who declared, 'My duties ... are defined rather by tradition than by any specific regulations'.³⁰

In sum, the 1898 Jameson Commission supported the assertion made by the *Inquirer* some years previously, that the prison system was 'remarkable for its want of a system'. Although the Commission was established to inquire into the State's penal system, much of its work focused on Fremantle Prison which was the hub of the system. Fremantle Prison was, it found, an organisation operating under outdated legislation and with an absence of written regulations for the guidance of officers and prisoners. Perhaps the most serious defect was a confusion of roles at the most senior levels of administration, with the position of Sheriff and Inspector of Prisons vested in the one individual, James Roe, who resided 20 miles away in Perth, thus leaving much of the responsibilities for the daily management of Fremantle Prison to the Superintendent, William George.

²⁶ Jameson Report, Minutes of Evidence, Q. 55, p. 8.

²⁷ *Ibid.*, Q. 70, p. 9.

²⁸ *Ibid.*, Q. 661, p. 54.

²⁹ *Ibid.*, Q. 735, p. 57.

³⁰ *Ibid.*, Q. 839, p. 64.

It was not until 1902 that the first step was taken to correct these defects. In April of that year, 'Regulations Relating to the Management and Control of the Gaols and Prisoners' were published in the *Government Gazette*.³¹ These clarified the duties of all prison officers, from the Sheriff down to the warders, and laid out clear rules for the conduct of prisoners. The new regulations were significant in another important respect, an official recognition of the role of prisons as places of reform. Regulation 10 stated:

The great object of reclaiming the criminal should always be kept in view by the officers, and they should strive to acquire a moral influence over the prisoners ... they should especially try to raise the prisoners' minds to a proper feeling of moral obligation.³²

Some 18 months later parliament passed the 1903 Prisons Act which, as has been pointed out, remained the principal Act relating to prisons in Western Australia until 1991.³³ The Act was much more extensive than either the 1849 or the 1858 Acts. Introducing the second reading of the Act in the Legislative Council, the Colonial Secretary, Walter Kingsmill began by pointing out that it would result in the repeal of 16 separate Acts while at the same time retaining all their desirable provisions.³⁴

One of the most important features of the new Act was its provision for classification of prisoners, a key recommendation of the Jameson Commission. The Act gave power to the Governor to make regulations for 'the safe custody, classification, separation, diet, instruction, treatment and correction of prisoners'.³⁵ This clause contained the prerequisites for putting into practice the major recommendations of the Jameson Commission, namely classification, separate treatment and instruction of prisoners. Significant was the use of the terms 'treatment' and 'correction', terms which indicate a

³¹ Regulations Relating to the Management and Control of the Gaols and Prisons of Western Australia, in *Government Gazette*, January –March 1902, 28 March 1902, pp. 1225-1238.

³² *Ibid.*, rule 10, p. 1225.

³³ Prisons Act 1903, in *Statutes of Western Australia, 3rd Edward VII, 1903*, pp. 115-136.

³⁴ Second reading of the Prisons Bill, Legislative Council, 28 July 1903, in, *Western Australian Parliamentary Debates*, vol. xxiii, New Series, 16 July-14 October 1903, p. 166.

³⁵ Prisons Act 1903, Part IV, Clause 4.

rejection of the purely biological determinist approach of Lombroso. This was also evident in Kingsmill's introductory speech, during which he declared, 'We must conduct our prisons not only with a view to punish criminals and to deter ... but also to exercise some sort of curative influence.'³⁶

A second important feature of the new Act was its provision for utilising the work of prisoners. One of the findings of the Jameson Commission had been that prisoners were not provided with enough work to keep them occupied and that work which was provided was unproductive and boring. The new Act went some way to alleviating this problem, empowering the Governor to establish penal outstations and to provide gratuities to prisoners 'for approved work under trade instructors or at penal outstations'.³⁷

Thirdly, the Act created a new office, that of Comptroller General of Prisons, who would have statutory powers and would take over that part of the Sheriff's duties which the Sheriff currently carried out in his capacity as Inspector of Prisons.³⁸ The intention here was to allay the confusion which resulted in the dual role of Sheriff and Inspector of Prisons being carried out by the same individual.

It would appear then, that by 1903 considerable change had occurred within the prison system of Western Australia. The *Morning Herald*, in an editorial commenting on the new regulations of 1902, considered that these 'mark a very distinct advance in our penal system ... there is abundant cause for congratulations in the reforms which they provide'.³⁹ Thomas and Stewart, writing in the 1970s, pointed out that the 1903 Prisons Act incorporated many of the changes recommended by the 1898 Jameson Commission. Furthermore, they argue, these changes 'arose from the worldwide general body of

³⁶ Second Reading of the Prisons Bill, 28 July, p. 166.

³⁷ Prisons Act 1903, Part II, Clause 8, and Part IV, Clause 7.

³⁸ *Ibid.*, Part II, Clause 11.

³⁹ *Morning Herald*, 3 April 1902, p. 4.

reformatory experience and policy, and ... were especially effective as attempts to remedy specific defects in the Western Australian system'.⁴⁰

The suggestion, however, that the new regulations and Prisons Act marked a turning point in prison policy and practice does not stand up to scrutiny. Important though the wording of much of the new legislation was, there is little evidence to support the assertion that the legislation in itself was effective in remedying defects associated with Fremantle Prison and its administration. Indeed, a close reading of the Act and an examination of the debates in parliament suggest that the Act was deficient, a point raised by one member during the parliamentary debate, Sir Edward Wittenoom, who declared, 'The Bill is excellent in theory, and it only remains for the administration to be good'.⁴¹ Wittenoom's comment highlights the principal problem with the Act, the fact that much of its provisions were left to regulation. This problem was recognised by the *Morning Herald* in an editorial commenting on the second reading debate in the Legislative Assembly. According to the *Morning Herald*, the Prisons Bill merely affirmed broad principles: 'The result will be that the passage of the Bill will not of necessity be an important step towards prison reform. The real reforms will have to await the framing of regulations.' Indeed the *Morning Herald's* editorial went further, describing the proposed new Act as a feeble reflection of the 1898 Royal Commission's comprehensive report, and adding, 'As a whole the measure is not calculated to excite much enthusiasm'.⁴²

The criticism that the new Act left too much to regulations was clearly justified. The Act, for example, provided the Governor with the power to make regulations for a wide range of prison practices, including classification, separation, instruction, prison labour, remuneration and remission of sentences. These were the very areas on which hoped for reform of the prison system were anchored. By assigning them to the discretion of the Governor the Act was, as the *Morning Herald* charged, a feeble document.

⁴⁰ Thomas and Stewart, *Imprisonment in Western Australia*, p. 78.

⁴¹ Second reading of the Prisons Bill, 29 July 1903, p. 223.

⁴² *Morning Herald*, 3 September 1903, p. 4.

Even the provision for the appointment of a Comptroller General of Prisons, another key recommendation of the Jameson Commission, was of questionable benefit as a reform. One of the problems highlighted by the Jameson Commission had been the absence of an overall head of prisons, and the commissioners had, as has been shown, called for the separation of the two offices of Sheriff and Inspector of Prisons. The new Prisons Act at first glance appears to have dealt with this problem, providing for the appointment of a Comptroller General of Prisons to 'have the care and direction of all prisons, and the custody of all prisoners'. Surprisingly, however, in the final clause of this section of the Act it was stated that 'The office of Comptroller General of Prisoners and the office of Sheriff may, for such time as the Governor thinks fit, be held by the same person'.⁴³ So what appeared at first glance to be the creation of a new office on closer scrutiny turns out to be merely a change of title.

A further problem with the Act concerned its provisions for classification. Classification was recognised by all parties as an essential element of any attempt to reform the prison system. However, while several of the provisions of the Act provided for the introduction of classification of prisoners, the fact was that the Fremantle Prison remained, as the Jameson Commission had reported, in no way structurally adapted to meet this purpose. The Colonial Secretary, Kingsmill, recognised this in his contribution to the debate in the Legislative Council, declaring that in Fremantle Prison, 'a large sum will be needed to render the establishment as up to date and as scientific in principle as I am sure the House desires'.⁴⁴ Once again, the structural unsuitability of Fremantle Prison was recognised as a stumbling block to the introduction of reform measures, and, moreover, continued to be so over the next decade and beyond, as will become clear in later chapters.

One of the problems with the Prisons Act of 1903 was its hurried passage through the parliament. A feature of the James government of 1901-1904 appears to have been its determination to introduce a substantial number of Bills. As the 1904 election loomed

⁴³ Prisons Act 1903, Part II, Clause 14.

⁴⁴ Second reading of the Prisons Bill, 28 July 1903, p. 166.

closer this determination increased so that by late 1903 the *West Australian* complained in an editorial that, 'Bills ... receive less and less attention and it is now possible for the government to run through measures of first rate importance in a fraction of the time they would have required a month ago.'⁴⁵

Certainly the debates in both the Legislative Council and the Assembly give the impression of ill-considered and hurried legislation being passed. The *Morning Herald* observed that members were unprepared for discussion and warned that 'no good will accrue from the hurried acceptance of an ill-considered Bill'.⁴⁶ The member for Mt. Margaret, for example, George Taylor, himself an advocate of prison reform, confessed at the second reading, 'I have not read this Bill, and I am like other members who think Bills are being introduced so rapidly and they are such a volume that it is impossible for members to keep pace with them'.⁴⁷ Not having read the Bill, Taylor nevertheless went on to debate its provisions at some length.

By 1908 calls were again being made for the appointment of another Royal Commission to investigate the whole of the penal system, and particularly Fremantle Prison. *Truth* newspaper was foremost in criticising the administration of Fremantle Prison and ran a sustained campaign calling for prison reform. In August 1908, it declared:

Today, as ten years ago, the old and new offender is in as close companionship as ever. Not only is this so, but, sad to say, the juvenile offender is compelled to mingle with the hardened criminal during every working day...Daily...may be seen...the first offender in close contact with the past master in crime.

This article went on to accuse the prison authorities of systematically breaching the rules and regulations. Prisoners were not paid for work done, rather they were given remission or perhaps extra tobacco, thus cutting down costs for the prison. 'Under the present regime,' the paper concluded, 'the prisoner is discouraged in any attempt to be industrious.'⁴⁸

⁴⁵ *West Australian*, 7 November 1903, p. 6.

⁴⁶ *Morning Herald*, 3 September 1903, p. 4.

⁴⁷ Second reading of the Prisons Bill, 1 September 1903, p. 741.

⁴⁸ *Truth*, 15 August 1908, pp. 2-3.

Between 1903 and 1910 *Truth* ran a sustained campaign of criticism against Fremantle Prison, claiming in the report just mentioned that, 'The very brutality of our system crushes all that is best and noblest in those who find themselves placed in a felon's cell.' However, it added, even if the authorities at Fremantle were 'absolutely the most humane and practical controllers of a penal establishment ... they would still find it impossible to give practical effect to the classification.'⁴⁹

Much of the blame for the alleged inadequacies of the system were placed with the Comptroller General and the Superintendent. In another issue, *Truth* issued a stinging attack on both men. Octavius Burt, the Comptroller General, was a civil servant who did nothing 'beyond formal duties which required no mental strain or responsibility'. Burt's position was viewed as ornamental:

he visits Fremantle once a week for an hour or two, wanders about with Mr George in a bored sort of manner ... and then goes back to Perth with an air of a man engaged in an irksome and disagreeable duty.

The article added the accusation that Burt showed a lamentable ignorance of prison regulations, the result of which was that 'Mr George has control ... and runs the gaol as he pleases'.⁵⁰

A second wave of interest in prison reform occurred after 1911, the outcome of a number of factors. Largely as a result of agitation by Fremantle Prison warders seeking an improvement in working conditions, another Royal Commission was established in 1911. Chaired by Captain C.B. de F. Pennefather, the Comptroller of Prisons in Queensland, the report, as Thomas and Stewart discovered, was not tabled in parliament and has not survived in the archives. It was, however, printed in the *West Australian*.

Like his predecessor in 1898, Pennefather was somewhat ambivalent in his attitude towards the possibility of reforming criminals. J.M. Drew describes his report as that of a disciplinarian rather than a reformer.⁵¹ Pennefather, for example, recommended the

⁴⁹ Ibid.

⁵⁰ *Truth*, 14 November 1908, p. 5.

⁵¹ Drew, *Penological Reform*, p. 2.

introduction of the separate system 'as a deterrent' and 'to prevent contamination'. He also recommended the introduction of indeterminate sentences for habitual offenders.⁵² The significance of the report, however, lay not so much in the reforms which it recommended but in the fact that, once again, the issue of reform was given some prominence in the press and in parliament.

A number of events took place soon after the publication of the Pennefather report. The retirement of both William George as Superintendent of Fremantle Prison, and Octavius Burt, the Comptroller General of Prisons, promised an end to a prison regime which had been shackled by tradition. George had been in the prison service for forty years. Burt, as Comptroller, had taken little interest in prison affairs, delegating much responsibility to his Superintendent. As Thomas and Stewart remark, perhaps too kindly but with some truth, 'The old guard had presumably performed as well as they could, but forty years in one prison was not likely to encourage a superintendent to innovate.'⁵³

The position of Superintendent was given to Hugh Hann, experienced in prison work in England, Sierre Leone and Ceylon. F.D. North, head of the Colonial Secretary's Department, was appointed Comptroller General, the first professional administrator of the Prisons Department. According to Drew, in the years which followed these appointments, 'North ... took a keen interest in the duties, and in him the superintendent has found a willing coadjutor and sympathetic supporter of reform.'⁵⁴

At the end of 1911 Western Australians elected their first Labor government. The appointments of J.M. Drew as Colonial Secretary and Thomas Walker as Attorney General meant that for the first time, as Thomas and Stewart noted, the Superintendent and Comptroller General had the support of a political power with real interest in prison reform, both politicians having long been enthusiastic advocates of reform.⁵⁵

⁵² Pennefather Report.

⁵³ Thomas and Stewart *Imprisonment in Western Australia*, p. 88.

⁵⁴ Drew, *Penological Reform*, p. 5.

⁵⁵ Thomas and Stewart, *Imprisonment in Western Australia*, p. 88.

What followed has been dealt with by Drew, and by Thomas and Stewart and so will only be described briefly. Among the reforms which Hann implemented in Fremantle Prison were the abolition of the separate system (which had been operating in an ad hoc manner anyway), the introduction of games and recreational activities for prisoners, the formation of a prisoner committee and the introduction of monetary assistance for prisoners on their discharge. Hann's philosophy emerges clearly from his annual reports. Prisoner welfare was of real concern to him. In his report for 1912, for example, he commented:

One means of reform is seldom or ever tried in prisons - that is self-respect. It is almost lost sight of in all prison schemes ... All our efforts are thrown away unless we can make them feel that they are not mere brutes and get them to hold their heads up again like men.⁵⁶

The period of reform acclaimed by Drew in 1916 was short lived. 'One of the greatest difficulties facing the enthusiastic prison reformer', comment Thomas and Stewart, 'lies in convincing the wider public.'⁵⁷ Before the end of the year both Drew and Walker were out of office, the voters having elected a new conservative government.

By 1918, public concern was mounting over repeated reports in the press about prison escapes. Concern rose to such a pitch that eventually an inquiry was conducted which laid the blame squarely on the shoulders of the prison management. Hann was suspended and charged with neglect of duty under the Public Service Act. Although exonerated, he resigned due to ill-health. His resignation was followed the following year by the retirement of North. So ended Western Australia's second brief flirtation with prison reform.⁵⁸ Over half a century was to pass before another person with Hann's concern about promoting the welfare and self-esteem of prisoners would be appointed to a senior position within the Western Australian penal system.

⁵⁶ Annual Report for 1911, pp. 27-28, in, *M.V & P*, vol. 2, 1913.

⁵⁷ Thomas and Stewart, *Imprisonment in Western Australia*, p. 95.

⁵⁸ This summary of events surrounding the resignation of Hann and North is based on a more complete account provided by Thomas and Stewart, pp. 96-97.

1968-1991

It was not until the 1960s that attempts to reform the prison system were once again implemented. The changes reflected a range of international ideas about the best methods of dealing with crime. Throughout Europe, Britain and North America the years following the Second World War saw a renewed interest in penal reform. In Europe, according to O'Brien, the new fervour for reform was inspired by the horrors of imprisonment and concentration camps which 'provided the world with a picture of collective punishment that was brutal, unjust and inhumane.' In reaction to this experience, she argues, post-war penal reformers 'devoted unprecedented attention to the legal rights of prisoners'. 'With a new fervour and commitment,' she continues, 'Europeans took up the challenge of fair and humane punishment and the need to reform the institutions that enforced it.'⁵⁹ In North America there was a similar rehabilitative thrust, leading in 1954 to the re-naming of the American Prisons Association as the American Correctional Association. In Britain, according to Tim Newburn, the rehabilitative ideal was at its height from the end of the war until the early 1970s.⁶⁰ This was, moreover, an international development, with the United Nations in 1955 stipulating minimum standards for the treatment of prisoners.⁶¹

Australia was also caught up in these developments. In 1947, according to Ramsland, the Comptroller General of New South Wales, Leslie C.J. Nott, visited Britain and America and was impressed by the trends there towards the training and preparation of prisoners for their release. On his return, Nott set up a framework for the classification, education and training of prisoners, and recruited the services of social workers, psychologists and educationalists.⁶²

⁵⁹ O'Brien, 'The prison on the Continent', in Morris and Rothman, *The Oxford History of the Prison*, p. 218.

⁶⁰ Tim Newburn, *Crime and Criminal Justice Policy*, Longman, 1995, p. 16.

⁶¹ Edgarto Rotman, 'The Failure of Reform', in Morris and Rothman, *The Oxford History of the Prison*, p. 189.

⁶² Ramsland, *With Just but Relentless Discipline*, pp. 299-301.

Developments in Western Australia occurred at a much slower pace. Despite another call, this time by the Chief Secretary in 1945, for a modern institution to replace Fremantle Prison, which he referred to as 'a relic of the past', and a plea by the member for Albany for the setting up of a Royal Commission to inquire into matters of prison reform the political will was not there.⁶³

During the 1960s two important developments took place; the opening of several new institutions and the introduction of two pieces of legislation, the Offenders Probation and Parole Act and the Convicted Inebriates Rehabilitation Act. These developments have been described adequately by Thomas and Stewart and so only need to be briefly outlined here.

One of the problems facing the prisons' administrators after the mid-1950s, was a sharp rise in the numbers of prisoners leading to severe overcrowding of penal institutions. During the 1960s, the Prisons Department took over the Geraldton and Kalgoorlie police gaols, and Bandyup, Karnett, Brunswick Junction and Albany Prisons were opened. In 1970, Bunbury and Woorooloo Prisons were opened and the following year a new prison was established at Byford. Among these, only Albany was a maximum security prison. Karnett and Woorooloo were open prisons and the remainder medium security prisons.

The extended range of prison facilities and the new legislation offered alternatives to custodial imprisonment and provided the framework within which other developments could take place. One result of the increase in the number and types of prisons was the establishment of a classification board, in 1963, and an assessment centre, in 1966, at Fremantle Prison.⁶⁴

New prisons and legislation alone, however, cannot fully account for the developments which took place within the Western Australian penal system throughout the 1970s, the real beginnings of which can be detected after 1966. After forty years of stagnation there had to be a willingness for change at an administrative level. It was only

⁶³ Thomas and Stewart, *Imprisonment in Western Australia*, pp. 115-116.

⁶⁴ *Ibid.*, p. 162.

after the appointment of Colin Wallace Campbell as Comptroller General in 1966, the first senior appointment from outside the Western Australian prison system since 1918, that effective change began to occur.

Campbell's background made his appointment unique. A graduate of the University of Western Australia, majoring in psychology, he had worked in the field of child welfare before being appointed Superintendent of Riverbank, a juvenile offenders' institution administered along rehabilitative lines by the Child Welfare Department.⁶⁵ In a lengthy press interview following his appointment as Comptroller General, Campbell spoke of his personal philosophy on prisons. 'Prison is a place for rehabilitation and re-education,' he argued, 'a place where people can retain their identity and, if necessary, create a new identity'. Campbell believed that too many people were sent to prison and that there should be a move towards treating these people within the community. His liberal ideas, commented the press report, 'are bringing a refreshing change within the prison system among staff as well as inmates'.⁶⁶

One of Campbell's first moves on being appointed Comptroller General was to take over the chairmanship of the classification committee, a move which brought him into direct contact with the inmates at Fremantle Prison. Prior to this, the classification committee processed only prisoners who had been sentenced to periods of twelve months or more. When Campbell arrived on the scene the committee was struggling to cope with an increasing backlog of inmates waiting to be processed. Under his leadership, the committee began meeting weekly, eventually clearing the backlog and processing inmates with sentences of six months.

In his first annual report, Campbell announced the setting up of a prison officers' training school and an assessment centre at Fremantle Prison. The assessment centre, together with the classification committee, Campbell hoped, would be the means whereby prisoners could be provided with training and educational programmes. In the assessment

⁶⁵ *Australian Dictionary of Biography*, vol.13, 1940-1980, pp. 354-355.

⁶⁶ *Weekend News*, Supplement, 11 November 1968, p. 5.

centre, inmates on their admission were put to work under the supervision of officers specially selected for the task, who reported back to the classification committee. The committee then made decisions about prisoners' security rating and aptitudes before recommending their placement. This, Campbell emphasised, 'is only a starting point. Greater activity is expected in the years to come.'⁶⁷ The following year, 540 prisoners had been processed by the assessment centre where they had been interviewed by a medical officer, psychologist, social worker and a welfare officer.⁶⁸

In 1968, Campbell visited New Zealand, America and Europe to study trends in correctional practices in those countries. He was particularly impressed by American efforts to improve methods of classifying and assessing prisoners and placing correctional services on a treatment oriented basis.⁶⁹ He was similarly impressed by the steps taken in New Zealand to reduce the prison population by such things as work release programmes, under which prisoners worked in the community during week days, returning to prison at weekends.⁷⁰ In 1970, he introduced a work release programme under which inmates, for a period of up to three months prior to their release, worked in a normal day job, returning to the prison at night. Provision was made to extend the period of day release for married men in order to allow them to be with their families until 9 p.m. The programme had two aims; the gradual return to the community of inmates who had served long terms of imprisonment and the reduction of recidivism.⁷¹

Campbell's appointment can be seen as marking a turning point in the history of the Western Australian penal system. Until his arrival on the scene, the penal system had remained largely unaffected by penological developments elsewhere, both in Australia and overseas. Under Campbell's administration this was to change. In his annual report for

⁶⁷ Annual Report for 1966-1967, p. 3, in *M.V.&P.*, 1968-69, vol.4.

⁶⁸ Annual Report for 1967-1968, p. 4, in *M.V.&P.*, 1969-70, vol.3.

⁶⁹ Annual Report for 1968-1969, p. 3, in *M.V.&P.*, 1969-70, vol.3.

⁷⁰ *Weekend News*, Supplement, 11 November 1968, p. 6.

⁷¹ Annual Report for 1974-1975, p. 8, in *M.V.&P.*, 1976, vol.4.

1968-1969, he announced that the Prisons Department had been consulting with the Forensic Department of the Mental Health service, the Probation and Parole Service and the University of Western Australia. During the year steps had also been taken to develop community service projects. 'The therapeutic value of this type of activity', Campbell argued, 'is becoming firmly established in offender treatment programmes.'⁷²

Over the next few years expansion of the prison services continued. In 1969, the Forensic Division of the Mental Health Services was transferred to the Prisons Department.⁷³ In the early seventies the Prisons Department underwent restructuring and a significant name change. The organisational structure of the new Department of Corrections was simple. It consisted of three divisions, the Treatment and Training Branch, the Correctional Psychiatric Branch and the Establishments Branch. The Comptroller General became Director of the Department, answerable directly to the government through the Chief Secretary.⁷⁴

The Treatment and Training Branch, which had been established in 1972 and which incorporated the former Forensic Division, consisted of a psychology and research section, a social and welfare work section and a staff training section.⁷⁵ The main activities of the psychology section were development of training programmes for both inmates and staff. The social and welfare work section consisted of trained social workers and welfare officers. The former worked with prisoners and their families during the term of imprisonment and in an after-care capacity. They also participated in assessment of prisoners and in work release programmes. The role of welfare officers was mainly to assist prisoners on their release to find work and accommodation.⁷⁶

⁷² Annual Report for 1968-69, p. 4.

⁷³ Annual Report for 1969-1970, p. 3, in *M.V.&P.*, 1971, vol. 2.

⁷⁴ Annual Report for 1974-1975. See also, Act to amend the Prisons Act, 1903-1969, in, *The Statutes of Western Australia*, 1971, no. 43.

⁷⁵ Annual Report for 1971-1972, p. 4, in *M.V.&P.*, 1973, vol. 5.

⁷⁶ *Ibid.*

A number of programmes were put into operation over the next few years. In 1973 a voluntary tutoring programme for prisoners was initiated, aimed at reducing the rate of illiteracy among prisoners but also to provide social contact. Tutoring was on a one to one basis with tutors from the University of Western Australia and the Western Australian Institute of Technology.⁷⁷ In 1976, a Human Sexuality Group was set up at Fremantle Prison for inmates 'who appear to have difficulties with their sexual functioning and/or limited knowledge in the area of sexual education.'⁷⁸

An emphasis on prison officer training was an important feature of the first years of Campbell's administration. In 1970, officer training was transferred to Woorooloo Prison where a residential college was set up. Probationary officers underwent twelve weeks training, four of which were spent on placement. In addition, promotional courses were started.⁷⁹ The emphasis on officer training stemmed from Campbell's firm conviction 'that the most important single unit in the Department is the Uniformed Officer.'⁸⁰ Accordingly, seminars were begun for senior officers in 1975 and plans were drawn up for the assessment and orientation of inmates to be carried out by uniformed officers within Fremantle Prison.⁸¹

In 1977, Campbell died suddenly. He was replaced by William Kidston who had previously been in charge of the Treatment and Training Branch. In his first annual report, as Acting-Director, Kidston expressed concern about a marked increase in the number of prisoners and 'associated problems.' Predicting a continuation of this trend, he warned, 'it would seem that the Department is likely to be facing an acute accommodation crisis and the possibility of prisoner unrest.' In that year, the average daily number of inmates in

⁷⁷ Annual Report for 1974-1975.

⁷⁸ Annual Report for 1975-1976, p. 8, in, *M.V. & P.*, 1977, vol.2.

⁷⁹ 'Prison Establishments and Facilities', Psychology and Research Section Report, Western Australian Department of Corrections, 1975, Ministry of Justice Library.

⁸⁰ Annual Report for 1971-1972, p. 4.

⁸¹ Annual Report for 1974-1975.

Fremantle Prison was 483.⁸² The following year, with this figure at 542 and the overall prisoner population still rising, Kidston reviewed the Department and reported that:

Events over the past years have shown a need for a re-assessment of the aims and responsibilities of the department. In particular, the concept of paternalistic rehabilitation whereby the Department has been seen as able to reform prisoners in its care is now seen as impossible to achieve with a more realistic approach being for the department to provide the means for rehabilitation but the onus being on the prisoners themselves to take advantage of such opportunities. Accordingly, it would seem appropriate for the name of the department to be changed back to Prisons Department with the primary emphasis being on custody of those in its care.⁸³

This important shift in emphasis, which will be discussed more fully in another chapter, was reflected in 1979 when the Treatment and Training Branch was re-named the Support Services Branch, a change which was undertaken ‘as it was considered the former title ... seemed to imply that the branch was solely or primarily oriented towards the rehabilitation of prisoners’.⁸⁵ The prime role of the Branch, for Kidston, was the provision of essential services in such a manner as to create ‘a proper balance between the custodial aspects of imprisonment and the requirements that the conditions of imprisonment should be in accord with human dignity’.⁸⁶

This was, however, only one aspect of the restructuring which took place under Kidston’s administration. In the early eighties the Department was re-organised into four divisions: Administrative services, Institutions, Prison Industries and Support Services. In addition, four Assistant-Director positions were created to head each division. ‘Having undergone significant structural changes over recent years,’ Kidston declared, ‘the Department is now equipped to meet the demands of the future’.⁸⁷

⁸² Annual Report for 1977-1978, p. 3, in *M.V. & P.*, 1980, vol.2.

⁸³ Annual Report for 1978-1979, p. 4, in *M.V. & P.*, 1980, vol.2.

⁸⁴ Annual Report for 1979-1980, p. 24, in *M.V. & P.*, 1981-82, vol. 3

⁸⁵ Annual Report for 1979-1978, p. 24, in *M.V. & P.*, 1981-1982, vol. 3.

⁸⁶ Annual Report for 1980-1981, p. 2, in *M.V. & P.*, 1981-1982, vol. 3.

⁸⁷ Annual Report for 1982-1983, p. 3, in *M.V. & P.*, 1983-1984, vol. 5.

A significant development in 1981 was the passing of a new Prisons Act. The Prisons Act of 1903 had replaced legislation which had been in place for over half a century. The 1903 Act was to last 77 years, with 11 Amendments, before being replaced by the 1981 Act. Introducing the 1981 Act into parliament, the Chief secretary, Bill Hassell, hoped that it would last as long as the previous Act. If so, he added, 'it will have achieved all that I have set out to ensure that it does achieve.'⁸⁸ So what did Hassell hope to achieve? What circumstances triggered the enactment of new legislation after three quarters of a century? More importantly, how did the 1981 Act impact on Fremantle prison?

To begin with, numerous amendments to the 1903 Prisons Act had resulted in legislation which had become so cumbersome as to be unworkable and so new legislation was once again a necessity. However, other factors were also at work necessitating new legislation.

The enormous expansion of the prison system after the mid-sixties had resulted in the creation of a huge bureaucracy which functioned ever increasingly through Departmental standing orders, administrative instructions and policy manuals, all of which made the 1903 Prisons Act increasingly irrelevant. One of the purposes of the 1981 Act, according to Hassell, was 'to increase legislative responsibility for the Department's activities by incorporating into law' the policies which had been introduced by these means.⁸⁹

The most important feature of the expanded prison system in the early 1970 was the introduction of rehabilitation programmes for inmates and a growing emphasis on inmate welfare, none of which had been legislated for in the 1903 Act. Part IX of the 1981 Act therefore dealt with welfare programmes such as counseling services for inmates and their families, the provision of educational and occupational training programmes and opportunities for leisure and recreational programmes.

The introduction of the 1981 Act may therefore be seen as an attempt by government to update outworn legislation and to reflect changes in thinking about penal policy. If this

⁸⁸ Second reading, 27 October 1981, in *Hansard*, vol. 235, p 4480.

⁸⁹ *Ibid.*, p. 4876.

is what Hassell hoped to achieve then it would appear, at first glance, that he succeeded. The Act, which was passed with very few amendments, was detailed and thorough. While the 1903 Act consisted of seven parts and 17 pages, the 1981 Act had eleven parts and was a bulky 93 pages long. Closer scrutiny, however, suggests that there was more at stake than bringing legislation up to date. Ideology and the desire to assuage public opinion were also key ingredients in the framing of the Act.

The years leading up to the passing of the 1981 Prisons Act had witnessed numerous and unprecedented changes in the Western Australian prison system. Many of these changes mirrored developments in prison systems across the Western world, as prisoners along with other minority groups began to demand civil rights. The emergence of louder voices from within Fremantle Prison as inmates clamoured for improved living conditions and more recognition of human rights and prison officers reacted vehemently to what they perceived to be an emerging dangerous imbalance between their traditional custodial responsibilities and the molycoddling of convicted criminals, had placed crime and punishment firmly on the public agenda. The 1970s had seen mounting public concern with widespread press reports of inmate protests, which had included both peaceful demonstrations and riots. Widely reported too were the protest actions of prison officers who felt strongly that their rights were being undermined. Industrial unrest by officers had become regular occurrences and the Prison Officer's Union was at the forefront of disputes. These developments are the subject of other chapters.

The 1981 Prison Act was an attempt by government to respond to each of these developments and to do so in a manner which would reassure the wider public. As for the opposition, it was concerned that the Act was being passed through parliament with undue haste, only three weeks being set aside for debate. Interestingly, as has been mentioned, this had been a major criticism during the debates leading up to the passing of the 1903 legislation. Nevertheless, opening the debate for the opposition, the shadow Chief Secretary, Mr Parker, made it clear that if attempts to have the debate adjourned in order to 'improve some of its provisions' were unsuccessful, the opposition would support its

second reading.⁹⁰ Parker's parliamentary colleague, Bob Pearce, agreed, informing the house that 'it is not our intention to oppose the Bill, because there are many good things in it.'⁹¹

Public opinion was a major concern for both government and opposition. Parker's position in particular was hardly surprising. Fremantle Prison was in his electorate and he was very aware of the concerns of his electors who 'have had to put up with the presence of the prison since the 1840s.'⁹² Parker referred several times during the debate to the public perception that Fremantle Prison, as a maximum security prison, was in fact not at all secure.

Fremantle Prison, which is in my electorate, at one stage reached the point at which escapes were occurring with great regularity. Before the last election, a number of dangerous prisoners escaped from Fremantle Prison ... I received calls from constituents who were upset by the fact that prisoners were at large and their homes were being invaded by police officers looking for those prisoners.⁹³

So it was that after only three weeks debate the 1981 Prisons Act, heavily weighted towards the management, discipline and safe custody of inmates, was passed. The name change from Department of Corrections to Prison Department was legislated for in the preamble to the new Act, the change being, according to the minister in charge of prisons, Bill Hassell, 'consistent with the basic obligations of the department'.⁹⁴ Parker, while critical of the name change, thought that it had, 'at least the virtue of honesty', because:

⁹⁰ Ibid., 17 November 1981, p. 5700.

⁹¹ Ibid., p. 5716.

⁹² Ibid., p. 5689.

⁹³ Ibid., p. 5769.

⁹⁴ Ibid., P. 4876.

There has never been any significant attempt to impose correction in that sense or to create a corrective atmosphere in any of our prisons. Indeed, if there has been, such efforts have been noticeably unsuccessful.⁹⁵

The 1981 Act came in for severe criticism from a number of quarters. While parliament debated the proposed new Act, the Criminal Lawyers Association sent a list of criticisms to every member of parliament urging changes to no less than 7 separate sections.⁹⁶ The government refused to consider any of the proposed changes on the grounds that they would weaken the Prison Department's authority to maintain discipline and order.⁹⁷

One of the provisions which greatly concerned the Criminal Lawyers' Association was contained in Section 9 of the Act, which removed the right of prisoners to remain silent when charged with a prison offence. This provision also applied to prison officers charged with breaching regulations. In response, the Prison Officers' Union launched a vehement attack on the proposed Act in the press. The officers had another cause for complaint. Clause 13 of the new Act required them to take an oath of allegiance, a requirement which the Union saw as an attempt by the government to remove the right of its members to take industrial action. 'THIS WEEK 900 WESTERN AUSTRALIANS MAY LOSE THEIR BASIC CIVIL RIGHTS', declared the heading to a full-page advertisement placed in the press by the Union. The advertisement accused the government of politicizing the public service and forcing para-military rules on its employees.⁹⁸ Union action won only a minor compromise, an amendment which required only newly appointed officers to take the oath.

⁹⁵ *Ibid.*, p. 5691.

⁹⁶ *West Australian*, 14 November 1981, p. 5.

⁹⁷ *West Australian*, 17 November 1981, p. 37.

⁹⁸ *West Australian*, 16 November 1981, p. 48.

The Prisons Act was roundly condemned by Professor Jayasuriya, head of the Department of Social Work and Administration at the University of Western Australia, for whom:

The entire spirit of the Bill is summed up in the provisions made in Part IX – Welfare Programmes. The meagre provisions of this part does little to safeguard the welfare interests of Prisoners.⁹⁹

Jayasuria was not alone in his criticism. The *Western Mail*, in an editorial headed ‘Arrogance of the Prisons Bill’, believed that there was in the bill ‘a distinct atmosphere of dehumanisation’ and went on to warn ‘that history has proved time and time again that taking away too many human rights, too many of the trappings of humanity, from prisoners, is counter-productive’.¹⁰⁰

In 1983, Ian Hill took over as Director of the Prisons Department and immediately set about another restructuring. One of his first moves was to restructure the four divisions into Custodial Services, Prisoner Services, Industry and Building and Corporate Services. He also established a corporate planning force to plan for long term changes.¹⁰¹ Hill was very much a professional administrator. His annual reports reiterate his perceived need to ‘increase performance’, to increase utilization of the Department’s resources’ and to ‘ensure economy, efficiency and effectiveness’.

Major changes continued to occur throughout the eighties. In 1986, the Prisons Department amalgamated with the Office of Probation and Parole and was re-named the Department of Corrective Services.¹⁰² The following year Hill reported that the welfare section had been abolished and that prison officers were taking over the responsibility for

⁹⁹ Quoted in *Hansard*, vol. 235, p. 5704.

¹⁰⁰ *Western Mail*, 21 November 1981, p. 6.

¹⁰¹ Annual report for 1983–1984, in *M.V.&P.*, 1984–1985, vol. 5.(no page number provided)

¹⁰² Annual Report for 1986–1987, in *M.V.&P.*, 1987, vol. 4.(no page numbers provided)

welfare in all prisons.¹⁰³ One year later, he announced that he had instituted yet another review of Departmental functions, 'in the interest of ensuring economy, efficiency and effectiveness'.¹⁰⁴

The rapid changes, which had begun during the administration of Colin Campbell and continued under his successors, were far reaching for the prison system as a whole. However, while Campbell's annual reports concentrated on the development of initiatives aimed at rehabilitating inmates and providing training for officers, the emphasis of reports by both Kidston and Hill was on the custodial responsibilities of the Department and the need for more efficient management. Despite major changes, discontent and tension continued to simmer within Fremantle Prison throughout the 1980s, culminating in the riot and burning of the prison in 1988. The McGivern Report into the 1988 riot, as described in the previous chapter, attributed that disturbance to major defects in what McGivern termed the human and administrative environments in Fremantle Prison.

It is evident that the entrenched nature of the prison regime thwarted attempts at administrative reforms during the 1980s. In an oral history interview conducted in 1992, McGivern, an ex-Superintendent of Fremantle Prison, commented on this failure:

Because of the length of [Fremantle Prison's] existence it had very entrenched ideas on man management and so on and younger officers ... tended to pick up the worst aspects of prisoner management.¹⁰⁵

Even after a system of unit management had been introduced into the Department in the mid-1980s, according to McGivern, 'at Fremantle Prison things were too rigid and too

¹⁰³ Annual report for 1987-1988, p. 4, in *M.V.&P.*, 1988, vol. 4.

¹⁰⁴ Annual Report for 1988-1989, in *M.V.&P.*, 1989, vol. 3 (no page number provided)

¹⁰⁵ McGivern, OH, p. 73.

set in their ways to introduce a new system'.¹⁰⁶ This is a clear indication that though changes were occurring elsewhere in the Western Australian prison system, Fremantle Prison remained a community apart, a view which is strengthened by one of the findings of a 1984 report on a Prison Officers' Union request to re-open the segregation area of the prison. That report found that, 'there is room for improvement in various relevant aspects of prisoner management at Fremantle Prison, and it is also evident that the Department has failed to foster a satisfactory level of understanding of its current philosophy of imprisonment and prisoner management among its staff'.¹⁰⁷

Finally, the expansion of the prison system and the administrative reforms of the 1980s, through which Hill had created a corporate style bureaucracy, compounded further the isolation of Fremantle Prison from the rest of the prison system. Moreover, after the restructuring too much responsibility was left with prison management which, as McGivern later found, was itself distant from much of the daily activities within the prison. This was in sharp contrast to the organization of the Department when Colin Campbell was Director. Where Campbell made frequent visits to Fremantle Prison and had close contact with staff and inmates there, as the department grew in size and changed in structure, the director and other managers became remote figures, out of touch with the realities of Fremantle Prison life. Once again, Fremantle Prison remained a community apart.

¹⁰⁶ Ibid., p. 78.

¹⁰⁷ P.J. Dunlop, 'Report on W.A.P.O.U. request to re-open segregation at Fremantle Prison', 1984. One of a number of uncatalogued reports for 1983-1987 held in the library of the Ministry of Justice, Perth.

3

The Inmates

In order to understand any community - and each prison is a particular kind of community - it is essential to know who lived in it. Before we can begin to understand the dynamics of prison communities ... we must first take a step towards 'putting faces' on the prison population.¹

Knowing who the prisoners were, argues Patricia O'Brien in her study of nineteenth-century French prisons, will contribute to our understanding of how prisons work. Basic to her argument is the assumption that prisoners 'were not an inert collectivity on whom the new disciplinary regime effected its changes'.²

This chapter will explore the characteristics of the male inmate population of Fremantle Prison during the years 1898 to 1911 and 1968 to 1991. One notion which is rejected at the outset is the idea that prison inmates constitute a homogeneous group whose characteristics can be neatly summed up into a single stereotype. A particularly misleading stereotype is the common assumption that prison inmates are violent and dangerous men from whom society needs to be protected. As will be shown, the vast majority of the inmates of Fremantle Prison, throughout both periods under examination, did not fit this or any other stereotype.

The chapter is a demographic study of the inmate population of Fremantle Prison. It will describe who the prisoners were, in terms of class, race and age, the offences for which they were committed and the sentences which they received. By focusing on these two periods it is possible to uncover both changes and continuities in the demographic features of the inmate population. The chapter will conclude with a discussion of these.

¹ O'Brien, *The Promise of Punishment*, p. 53.

² *Ibid.*, p. 54.

1898-1911

A substantial increase in the number of prisoners committed to Fremantle Prison in the 1890s has been well documented by Lynette Stevenson and Louise Bavin. Stevenson, in her 1983 Masters Thesis 'Fremantle Prison in the 1890s', describes what she terms an 'invasion of criminals' which occurred simultaneously with the nineties' gold rushes and which she attributes to the moral panic which followed the arrival in Western Australia of, 'thousands of unattached males, with real or apparent criminal backgrounds'.³ According to Bavin, in her 1993 study 'Punishment, Prison and Reform: Incarceration in Western Australia in the Nineteenth Century', there was a rapid increase in the population of the prison between 1886 and 1895, particularly of short sentence inmates serving three months or less. The number of long sentence prisoners, those serving upwards of five years, increased only slightly. Besides the impact of the gold rushes, Bavin points out that during this period prisoners were being transferred from Perth Gaol to Fremantle Prison. With the transfer of Fremantle Prison from the Imperial Government to the Colonial authorities in 1886 and the closure of Perth Gaol in 1888, Fremantle Prison became the main prison for the colony.⁴ By 1898, 62 per cent of people committed to prison in Western Australia were being sent to Fremantle Prison.⁵

In 1898 the Jameson Commission reported that the amount of crime in Western Australia was much higher per head of the population than the rest of Australia, which in turn had a higher crime rate than European countries. Quoting statistics from Coghlan's *Seven Colonies of Australasia*, the Commission reported that the number of persons per thousand of the population charged with criminal offences in Western Australia was 111.36. This compared with the next highest, New South Wales with 43.84 persons per thousand charged. While not quoting figures for European countries, the Commission

³ Stevenson, 'Fremantle Prison in the 1890s.', p. 2.

⁴ Bavin, 'Punishment, Prisons and Reform.', p. 144-145.

⁵ Calculated from statistical returns in *Annual Report for 1898*, p. 5, in *M.V.&P.*, 1899, vol. 1.

nevertheless stated confidently that the figures for Western Australia were 'very much greater than ... in Europe', a fact which they thought:

may be partially explained by the fact that the standing armies of Europe employ and put through a course of discipline a class which would otherwise be likely to swell the number of unemployed and vagrant persons.⁶

The commissioners were, of course, overlooking the fact that following the gold rushes there was a disproportionate number of young males in Western Australia. Their explanation is, however, significant for its implicit notion of a 'dangerous class', a point which will be addressed shortly.

One immediate result of the Jameson Commission, as Thomas and Stewart note, was an improvement in the quality of the annual reports.⁷ Statistical returns included in these reports gave details of the number of committals and classifications according to, for example, gender, race, age and types of crime for which prisoners were committed. From these figures it is possible to build a profile of the Fremantle Prison inmate population in the years after 1898. The total number of committals between 1898 and 1911 fluctuated from between 1,047 in 1909 to 1,789 in 1902. The average yearly number of committals was 1,455.

The overwhelming majority of prisoners were men. In 1898, for example, 1,522 people were committed, 89 per cent of whom were male.⁸ Throughout the period 1898 to 1911 the proportion of male prisoners remained over 80 per cent, except in 1910 when it dropped to 79.5 per cent. The majority of these men were between the ages 20 and 39 years. Prisoners in this age group constituted 71.3 per cent of the male inmate population in 1899 while in 1911 the figure was just under 60 percent.⁹

The offences for which people were committed to Fremantle Prison were broadly classified as 'grave' and 'minor'. Grave offences included murder, manslaughter, other

⁶ Jameson Report, p. 10.

⁷ Thomas, and Stewart, *Imprisonment in Western Australia*, pp. 67-68.

⁸ Annual Report for 1898.

crimes involving violence, forgery and uttering, larceny and false pretences. Minor offences ranged from petty larceny to vagrancy and drunkenness. The vast majority of male prisoners in Fremantle Prison, 89.7 per cent in 1898 and 90 per cent in 1911, had been convicted for minor offences. In 1898, over 40 per cent of minor offenders were convicted for disorderly behaviour, drunkenness, using obscene language, vagrancy or indecent behaviour.¹⁰ Charles N., for example, was sentenced to seven days for being drunk and trespassing on a railway line. John McC. got seven days for being drunk on Sunday. John S. received one month for having no visible means of support, while John M. was sentenced to six months for 'being of evil fame'.¹¹

While only around 15 per cent of male committals were specifically charged with drunkenness, it is clear that drunkenness was a significant factor in the crimes with which many men were charged. Certainly for Matthew L., sentenced in 1901 for assaulting a policeman and resisting arrest, drunkenness was considered by the Resident Magistrate in determining his sentence. 'For some time now', reported Magistrate Hungerford:

he has been asking to be dealt with severely, constantly drunk, and when in Court if dealt with leniently winking and smiling at the public. Now that he has got a severe lesson it may completely reform him.¹²

In his annual report for 1905, the Acting-Superintendent of Fremantle Prison, Francis Townsend, called for the establishment of a home for inebriates which would, he thought, 'materially reduce the number of inmates of this prison'. He continued:

the victims of the drink habit are not only those convicted and sent here as drunks but are largely to be found among the vagrants, the disorderly and the petty thieves.¹³

¹⁰ These figures were compiled from statistics in the Annual Report for 1898.

¹¹ Register Local Prisoners, 14 October 1897-14 June 1899, WAS 672, Cons. no. 4173, B.L.

¹¹ Annual Report for 1899, in *M.V. & P.*, 1900, Vol. 1; Annual Report for 1898.

¹² AN 123/2, Acc 968, file no. 1943/01, B.L.

¹³ Annual Report for 1905, p. 20, in *M.V. & P.*, 1906, Vol. 2.

It is evident that the majority of male committals to Fremantle Prison were men of low social class, belonging to what Roger Virtue disparagingly calls 'the corpus of criminals, paupers, deaf mutes, the retarded and other 'degenerates''.¹⁴ The Jameson Commission found in the prison, 'a vast variety of prisoners, including vagrants, lunatics and persons of weak intellect.'¹⁵ According to one press report in 1903:

It was not an uncommon thing up to two years ago to see drunks and men 'ragged' yoked in a cart with malefactors of the vilest description dragging a load through the streets of Fremantle.¹⁶

The Jameson Commission commented on, 'the practice of referring persons of weak mind to the Gaol for observation', a practice which they roundly condemned.¹⁷ The presence of these people in the prison was a concern expressed by several prisoners, one of whom told the Commission that, 'Men come down here committed as vagrants who are paralysed, have lost the use of their limbs, and so on'.¹⁸ In their Final Report, the commissioners recommended that 'lunatics, imbeciles, drunkards, vagrants...(and) diseased persons, should be treated in institutions especially adapted for them, and not in gaol'.¹⁹ These people, however, continued to be sent to Fremantle Prison. In 1903, after Harry F. was sent to Fremantle Prison, the Superintendent of the prison, William George, sent the following memo to the Comptroller of Prisons, Octavius Burt:

Remand prisoner Harry F. was admitted in Fremantle Gaol under warrant, supposed *unsound mind* on the 7th July, and on the morning of the 8th he became very abusive to one of the prison orderlies and struck him while sitting at the table having breakfast. The orderly named Stewart pushed him away. He fell and fractured his jaw.

¹⁴ Roger Virtue, 'Lunacy and Reform in Western Australia 1886-1903', in *Studies in Western Australian History*, Vol. 1, 1977, p. 30.

¹⁵ Jameson Report, p. 1.

¹⁶ *Truth*, 21 November 1903, p. 3.

¹⁷ Jameson Report, p. 4.

¹⁸ *Ibid.*, p. 43.

¹⁹ *Ibid.*, P. 16.

Burt, in response, wrote to the Under Secretary:

If the unjustifiable, and to my mind illegal practice of sending to Gaol persons supposed to be of unsound mind be persisted in there will some day be a fearful tragedy in Fremantle Prison. There are no means for dealing with such cases. I have previously as Under secretary written at some length on this matter.²⁰

Poverty was another major factor in committal and also in recidivism. The Jameson Commission reported that many prisoners were discharged from Fremantle Prison 'in a perfectly destitute condition, and inevitably soon drift into custody again, either as homeless vagrants or as criminals'.²¹ In 1898, 45 per cent of male committals to Fremantle Prison were repeat offenders. Half of these were fourth time or upward offenders.²²

Poverty alone, however, cannot account for the high recidivism rate among these men. The majority of them were, after all, under the age of forty years and presumably able-bodied. Most, as will be discussed shortly, were experienced in some occupation. The dilemma which Richard D. found himself in suggests another explanation.

Richard D. apparently lost his employment after he had been injured by a runaway horse and spent some time in hospital. Destitute and in a filthy condition, he sought shelter at a Police station and was given the option of going to Fremantle Prison or the Old Mens' Depot. He opted for prison, the sentencing Justice recommending that 'the whole term of his sentence for vagrancy should not be enforced if there is any prospect of his obtaining a situation or means of subsistence'. Once inside Fremantle Prison, however, Richard realised that his chances of obtaining employment from there were slim. He was given permission by the Superintendent to apply for a situation with a former employer. 'This I cannot do', Richard wrote to the Inspector of Prisons, James Roe, 'as I do not want any of my old Masters to know that I am here'. Richard then asked to be sent to the Mount Eliza Depot from where he could apply for employment.²³ The stigma attached to having been

²⁰ AN 123/2, Acc 968, folio no. 1875/03, B.L.

²¹ Jameson Report, p. 16.

²² Calculated from statistics in the Annual Report for 1898.

²³ AN 123/2, Acc 968, folio. no. 725/98, B.L.

in prison was clearly another factor in the circumstances leading to re-arrest and imprisonment.

The possibility that Fremantle Prison was a place of refuge for some people is also evident in Richard D.'s story. In a letter to the *West Australian* in 1889, one ex-prisoner described Fremantle Prison as a 'home' for some men, who go out 'when their sentences expire with a fixed determination to return'.²⁴ In 1902, Superintendent George, recommending that the prison precinct should be closed after the hours of darkness, remarked that, 'it is impossible to keep out discharged prisoners and the undesirables who are continually coming within the precincts of the Gaol, especially at night and lying about'.²⁵

There is a fine line to be drawn, of course, between prison as a place of refuge and prison as a total institution in which people, having undergone depersonalization and loss of autonomy become totally dependant on the institution. A clear example of institutionalization of prisoners is cited in the annual report of Superintendent Hann in 1912, in which he refers to 'the class ... pauper ex-convict'. Citing the case of a Chinese prisoner who had served 20 years in Fremantle and whose sentence had already expired seven years ago, Hann declared that, 'though offered work and wages by his fellow countrymen, [he] still refuses on the curious grounds that if he went, who would chop the wood for the prison?'²⁶

An analysis of the occupations of male prisoners based on data recorded in the registers of prisoners, confirms the low social status of the majority. Before describing these, some qualifications need to be made. The registers of prisoners from which the data has been taken are registers of 'Local' prisoners only, other registers having apparently been lost. Local prisoners were those serving sentences of two years or less.²⁷ As around 90 per

²⁴ *West Australian*, 30 September 1889, p. 4.

²⁵ AN 123/2, Acc 968, folio no. 138/2, B.L.

²⁶ Annual Report for 1912, p. 12, in *M.V. & P.*, 1913, vol. 2.

²⁷ Jameson Report, p. 1.

cent of prisoners had been convicted for 'minor' offences and approximately 80 per cent were undergoing sentences of twelve months or less, it is clear that Local prisoners comprised the bulk of the inmate population of Fremantle Prison. The second qualification also concerns the register of prisoners. Prisoners' names are recorded against the year in which they were first committed, so that all prisoners whose names appear for the year 1898, for example, are those who were committed for the first time in that year. The statistics which are derived from these registers therefore relate to first time offenders only.

Thirdly, in regards to the occupational categories themselves, it is not possible to know whether or not men were actually employed in their occupations at the time of their arrest. In other words, the recorded occupation cannot be taken as an accurate indicator of the economic status of criminals at the time of their arrest. In cautioning against such an interpretation of occupational data, O'Brien warns:

It is easy to dismiss the notion of a criminal class, a class apart devoted to a life of crime, when examining this occupational data, but it may not be entirely accurate to do so.²⁸

The fact that many of the men committed to Fremantle Prison on charges of vagrancy were nevertheless ascribed an occupation on their arrival at the prison bears this out. None of the prisoners whose details are recorded in the prison registers, including those charged with vagrancy or imprisoned for 'want of distress', are described as unemployed or as having no occupation.

The occupational profile which does emerge is nevertheless consistent with the picture already drawn from other sources, that of a prison population made up predominantly of men from the lower social classes. In 1898, 44 per cent of first male committals were described as labourers, 11.5 per cent as miners and 15 per cent as tradesmen (painters, carpenters, plumbers, bakers, bootmakers being among the most common trades). Only three to four per cent belonged to professional or highly skilled

²⁸ O'Brien, *The Promise of Punishment*, p. 57.

occupations such as chemist, surveyor and accountant. A similar profile emerges from an examination of the statistics for 1911.²⁹

One final feature of the male population of Fremantle Prison remains to be described. According to the prison records, the majority of male prisoners were unmarried. In 1898, 74.5 per cent of the men who were committed for the first time were described as 'single'. By 1911, single men were still in the majority though the figure had dropped to around 64.5 per cent.³⁰ Once again caution has to be exercised in interpreting these figures which may be based on what the prisoners elected to tell the authorities at the time of their arrest. Nevertheless, it can be safely assumed that regardless of the legal marital status of these men most were not living within marriage.

Not surprisingly, given the relatively minor nature of offences for which so many men were sent to prison, the majority of male prisoners in Fremantle were undergoing short sentences. In 1898, 61 per cent of male prisoners were serving sentences of less than three months, while a further 18 per cent were serving twelve months, i.e. a total of 79 per cent of male inmates were undergoing sentences of twelve months or less.³¹

One of the reasons for the high rate of committals of short sentence prisoners to Fremantle Prison was the practice of sending men down from outlying regions of the State. John H, for example, was sentenced in 1901 to seven days imprisonment at Coolgardie, some 500 kilometres east of Perth, and was transferred to Fremantle Prison, prompting Octavius Burt to request the Under Secretary, 'that the practice of sending short sentence men to Fremantle' be stopped.³² However, there was an inconsistency in Burt's directives. Three years later he was instructing the Clerk of Court to request magistrates to 'commit to Fremantle all prisoners sentenced to 14 days, and not to Perth Police Gaol'.³³ At the same

²⁹ Registers-Local Prisoners (male), WAS 672, Cons. nos. 4173 & 1156, B.L.

³⁰ Ibid.

³¹ Annual Report for 1898.

³² AN 123/2, Acc 968, folio no. 510/01, B.L.

³³ AN 123/2, Acc 968, folio no. 755/04, B.L.

time he was instructing the Commissioner of Police that all prisoners sentenced to six months and upwards be sent to Fremantle.³⁴ In the annual report for the Gaols Department for 1912, Burt's successor, F.D.North, put forward an economic argument for increasing the number of short term prisoners in Fremantle. The years since 1902 had witnessed a gradual reduction in the numbers of persons committed to the prison, so that by 1912 North considered that there was room for 'at least another 200 more prisoners, without addition to the existing staff'. North continued:

A minimum staff is necessary, and if the quota of prisoners falls below the number with which staff can cope, it follows that the cost per head of administration is proportionately increased.

The solution, North went on to argue, would be to close as many regional gaols as possible and transfer all prisoners serving three months and over to Fremantle Prison.³⁵

Concerning prison sentences, the Jameson Commission argued that sentences given by the courts were 'unduly long', a legacy, the commissioners thought, of the convict system. The commissioners' argument for shorter sentences was twofold. Philosophically, they argued that in order to be deterrent sentences should be 'short, sharp and severe'. Economically, short sentences would minimise costs to the taxpayer.³⁶ James Roe, the Inspector of Prisons, held a different view. In an argument against sentences of 7 to 14 days for minor offenders, Roe declared that:

just as these men are clean and getting into working order they are discharged, and then in two or three days time they come in and have to get another wash ... I try to impress on the magistrates the necessity of giving long sentences.³⁷

Three sub-categories of male prisoners remain to be described; Aboriginal men, other non-Europeans (usually described as 'Asiatics') and juveniles. Whilst constituting only a

³⁴ Ibid.

³⁵ Annual Report for 1912, p. 3.

³⁶ Jameson Report, p. 3.

³⁷ Civil Service Commission 1894, p. 97.

relatively small proportion of the male prisoners, these three groups nevertheless were present in sufficient numbers to cause concern from time to time.

The numbers of Aboriginal men committed to Fremantle Prison during the years 1898 to 1911 fluctuated from nine (or 0.6 per cent) in 1898 to 52 (or 5.4 per cent) in 1910. Most of the Aboriginal inmates were undergoing short sentences. Of the nine Aboriginal male committals in 1898, for example, eight were serving three months or less and the other less than one year. Giving evidence before the Jameson Commission, F.C.B. Vosper, who had been instrumental in setting up the Inquiry, described Aboriginal prisoners as a class of criminal who, 'very likely, would in some cases be called a patriot'. He continued:

They are men with the energy and ability to sway and dominate their fellows. Under happier circumstances for them, and in the absence of the whites, ... (they) might turn out to be rulers of their own and surrounding tribes.³⁸

Rottneest Island was the primary prison for Aborigines until at least 1903.³⁹ The committal of Aborigines to Fremantle Prison was actively discouraged by the prison authorities. In 1901, an Aboriginal prisoner named Melinga was sent down to Fremantle Prison from Carnarvon, prompting Superintendent George to request his removal to Rottneest, arguing that 'It is very inconvenient to have aboriginal native prisoners here for more than a few days'.⁴⁰ The following year he wrote to the Resident Magistrate at Northam urging him to 'refrain from sending aboriginal prisoners to this Prison'.⁴¹

Fear of contamination by association with other prisoners was one consideration in the reluctance to have Aboriginal prisoners in Fremantle Prison. When Matthew L., a 'half caste', was committed in 1909, the Protector of Aborigines wrote to the Sheriff requesting

³⁸ Jameson Report, Minutes of Evidence, Q. 622, p. 50.

³⁹ Thomas and Stewart, *Imprisonment in Western Australia*, p. 141.

⁴⁰ AN 123/2, Acc 968, file no.2029/01, B.L.

⁴¹ *Ibid.*, file no.1234/02.

that Matthew be transferred to Rottneest as, 'consorting with the white prisoners at Fremantle would do him great harm'.⁴²

The annual report for Fremantle Prison for 1898 recorded that six men 'of the coloured races' were in Fremantle undergoing penal servitude, and that thirty-three 'Chinese and others' had been committed to the prison during the year.⁴³ Details about these men are sparse, and they received little mention in annual reports or other official documents. Superintendent George thought that they should be kept apart from the other prisoners, 'in a class by themselves'.⁴⁴ This issue had arisen as early as 1894 when, in a hearing of the Civil Service Commission, the Fremantle Prison Medical Officer, Dr Hope, had been asked for his opinion on the mixing of Malays and Chinese with 'ordinary' prisoners. While he did not think it desirable that the two groups should be mixing freely in the prison, Hope argued that the relatively small numbers of Malays and Chinese made separation impractical owing to the expense involved.⁴⁵

The remainder of Hope's evidence before the Commission sheds light on the circumstances under which non-European men were committed to Fremantle Prison. Before detailing this evidence a brief summary of the conditions surrounding the presence in Western Australia of people of non-European origin would be useful.

The presence of these men in the colony was the result of the trade in cheap Chinese labour which took place between Western Australia and Singapore from 1870 to 1897. This trade was an economic strategy aimed at acquiring cheap labour for the pearling and pastoral industries. The importation of Chinese labour into Western Australia during the nineteenth century has been examined by Anne Atkinson in her doctoral thesis 'Chinese Labour and Capital in Western Australia, 1847-1947'.⁴⁶ While importation schemes were

⁴² Ibid., file no. 1943/01.

⁴³ Annual Report for 1898, p. 5.

⁴⁴ Jameson Report, Minutes of Evidence, Q. 678, p. 54.

⁴⁵ Civil Service Commission 1894, p. 104.

⁴⁶ Anne Atkinson, 'Chinese Labour and Capital in Western Australia, 1847-1947', Ph.D. Thesis, Murdoch University, 1991.

both privately and publicly funded, Atkinson describes government involvement as primarily ensuring that 'Chinese labourers entered the colony as "suitable servants" and remained that way'.⁴⁷ A major concern for the colonial government, Atkinson argues, was that the Chinese labourers should not become 'burdens on the state', and to that end it instituted a number of policies and practices, for example compulsory medical examination of labourers before their departure from Singapore. These measures, however, failed to successfully counter deception and fraudulent methods by which some agents enlisted Chinese labourers, with the result that by the 1880s there was an increasing number of Chinese who were either too old or too ill to work. 'Such men', said Atkinson, 'became what the government feared - "burdens on the state" _ requiring admission into colonial government institutions as patients, paupers and prisoners'.⁴⁸

Problems with Chinese labourers also arose when their labour was no longer available, either because they refused to work or because the term of their contract had expired. While it is likely that some continued to work for their employers after the termination of their contracts, others left their place of employment either voluntarily or because they were no longer wanted. The harsh conditions to which these men were subjected becomes evident on consideration of the racially discriminatory social climate which existed in the colony. The Government prevented them from settling on the goldfields, nor were they eligible to apply for fishing, liquor or mining licenses. These were the legal restrictions. To these must be added the racial attitudes which prevailed against non-European 'aliens'. A resolution passed at a conference of Australasian governments in 1881, for example, called on Western Australia to put an end to the trade in Chinese servants, which was considered to be 'highly prejudicial to the best interests of Her Majesty's free and loyal subjects'. The resolution continued:

⁴⁷ Ibid., p. 33.

⁴⁸ Ibid., pp. 48-54.

the objection to the Chinese...is founded on a rational view of the danger to these British communities which might in the course of time flow from a people...whose language, laws, religion and habits of life are alien to those of Her Majesty's subjects in Australia.⁴⁹

Three particular features of the circumstances of many Chinese and non-European men are worth mentioning. First, the inability of many of these men to communicate effectively in English may have been a major factor in their committal. Atkinson notes that for Chinese men, the inability to communicate effectively generated problems which extended well beyond their workplace. Several, for example, were arrested on vagrancy charges simply because they were unable to explain their circumstances.⁵⁰

The second feature arises out of what Atkinson describes as strategies which many Chinese labourers devised to help them survive economically and socially. One of these strategies was opium smoking which, according to Atkinson, some Chinese took up 'to help them endure their situation'.⁵¹ According to Dr Hope, a great many opium smokers were committed to Fremantle Prison 'in a rather wretched condition'.⁵²

A second coping strategy which, according to Atkinson was adopted by some Chinese labourers, was absconding, the punishment for which was usually imprisonment. 'Some Chinese', said Atkinson, 'treated the prison sentence as a means of escape'.⁵³ It is possible, then, that some of these men were among the Chinese who were committed to Fremantle Prison in the 1890s. Dr Hope, in his evidence before the Civil Service Commission, directly linked the trade in cheap Chinese labour with the presence in Fremantle Prison of these men. Every importer of Chinese labour should, he argued, be required to pay 'to send the alien back at the end of his contract'. Of the men committed to Fremantle, Hope

⁴⁹ Colonial Secretary's Office (Inward), Minute Paper 1394, 1881, B.L.

⁵⁰ Atkinson, 'Chinese Labour and Capital', p. 77.

⁵¹ *Ibid.*, p. 79.

⁵² Civil Service Commission 1894, p.104.

⁵³ Anne Atkinson, 'Chinese Labour and Capital', p. 83.

declared that some were sent for vagrancy, some for imbecility and some were 'of the criminal class'. However, said Hope, 'It is very often the mental condition of men which gets them into trouble immediately'.⁵⁴

Juvenile prisoners were dealt with at length by the 1898 Jameson Commission. Exactly how 'juvenile' was defined is unclear. In the annual report for 1898, 16 juvenile committals are recorded. From the report's statistics relating to age it is clear that this figure refers to males under the age of 17 years. In its considerations of 'youthful offenders', however, the Jameson Commission referred to those youths 'whose ages range from 17 to 21 years', of which there were around 12 at the time of the Commission's inquiry.⁵⁵ If this age group is regarded as 'juveniles', then the number of juveniles committed to Fremantle Prison is much larger than at first appears, 81 in 1898 and 76 in 1911. The nature of offences committed by these youths is unclear. However, the commissioners were of the opinion that while in some cases the crime was serious enough to warrant keeping them 'in close confinement', in the majority of cases 'the interests of society would be best served ... by releasing the youths altogether', and placing them under police surveillance.⁵⁶

According to Patricia O'Brien:

The new prison system was founded in the belief that its residents would be the poor, those without work and without a trade. Idleness and depravity lay at the core of poverty.⁵⁷

This was certainly the view of the commissioners in 1898, who listed as the causes of crime, ignorance, poverty, lack of employment, insanitary surroundings, abuse of intoxicants and loss of veneration for the law.⁵⁸ The nineteenth century belief in the innate

⁵⁴ Civil Service Commission 1894, p.104.

⁵⁵ Jameson Report, p. 4.

⁵⁶ Ibid.

⁵⁷ O'Brien, *The Promise of Punishment*, pp. 52-53.

⁵⁸ Jameson Report, p.12.

propensity of the lower classes of society for crime remained uppermost in the minds of the commissioners, however. Quoting Adam Smith, who compared 'men of rank and fortune' with men 'of low condition', they declared that the latter 'has his conduct observed and attended to by nobody, and he is therefore likely to neglect it'.⁵⁹ The criminal, the commissioners believed, 'as it were, belongs to a lower and older social state than that in which he is actually living'.⁶⁰ This, more than mere poverty, was the root cause of crime. Indeed, the commissioners pointed to 'the curious paradox that crime is ... most rife in times of prosperity'.

Fremantle Prison Superintendent Mr George apparently took some comfort from this observation. Reporting a rise in the number of inmates in the prison, in his Annual Report for 1898, he remarked, 'this rise may be taken as an indication of that better times have set in for the colony'. How was this paradox to be explained? Dr Cleland of Adelaide provided the Commissioners with the answer. Declaring that, 'increased admission to the prison is a good index of the prosperity of the masses', he continued:

The crimes of prosperity are crimes of passion and animal indulgence resulting from the unaccustomed handling of increased money. The crimes of adverse times are those resulting from organic degeneracy in the individual, and are an index of the degeneracy in the community. In prosperous times both factors are at work: in adverse times only the latter.⁶¹

What emerges from an examination of the male inmates of Fremantle Prison between 1898 and 1911 is a picture of a prison population comprised of several sub-groups; Australians of European descent, Aboriginals, 'Asiatics', juveniles and 'lunatics.' The vast majority of these people, 80 to 90 per cent, were white Australian or European men, mostly working class, below the age of forty years and serving short sentences for minor offences. Poverty, vagrancy and drunkenness were major factors in their committal. Almost half of the men were repeat offenders.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Jameson Report, p. 11.

1968-1991

There were both similarities and differences between the characteristics of the inmate population of Fremantle Prison in the early years of the twentieth century and that of the later period, 1968 to 1991. Precise comparisons are not always possible owing to the lack of relevant information in the available prison records of the later period. Compounding the problem is the nature of the statistics published in annual reports of this period. From the late 1960s, as described in another chapter, there was a huge expansion of the prison system which entailed the opening up of several regional prisons, so that by 1980 the annual reports contained statistics relating to 15 prisons. Much of the information contained in the statistics referred to the prison system as a whole; it was, presumably, not practical to furnish detailed statistical information for each individual institution. Nevertheless, some statistics were furnished concerning individual institutions and from these it is possible to elicit a profile of the inmate population of Fremantle Prison during the period 1968 to 1991.

One notable difference between the inmate population of the two periods was their numbers. Between 1898 and 1911 the average number of inmates was 301, with a range of 244 to 377.⁶² In 1897, with 379 inmates, the Inspector of Prisons, James Roe, had described Fremantle Prison as 'inconveniently full'.⁶³ At the beginning of the second period under review, in 1968, the average daily number of inmates was 542.⁶⁴ Despite the opening up of other prison facilities, which were quickly filled to their capacities, this figure seldom fell below 400 between the years 1968 and 1981. In 1981, with the opening of Canning Vale Prison, the inmate population of Fremantle Prison fell to around three

⁶² See Annual Reports for these years.

⁶³ Annual Report for 1897, p. 6.

⁶⁴ Annual Report for 1967-1968, p 12.

hundred and thirty.⁶⁵ This was a short lived drop. Within five years annual reports were once again showing significant rises in the number of inmates.

The high number of Fremantle Prison inmates in the later part of the nineteenth century was, of course, partly a result of the rise in Western Australia's population from almost 180,000 people in 1900 to just over 1.1 million 1975.⁶⁶ There was, however, another factor. Western Australia in the 1980s continued to have the highest rate of imprisonment when compared with other Australian states. A government report in 1981 into the high rate of imprisonment in Western Australia found that:

Western Australian courts sentence six times as many persons per capita to imprisonment for non-sexual assault, three times as many for breaking and entering, forty times as many for offensive behaviour, five times as many for property offences relating to motor vehicles, and three times as many for drivers' licence offences.⁶⁷

The report added, 'Aborigines figure prominently in all of the categories just mentioned', a point which will be discussed shortly.

Who were these inmates? Considering the prisoner population throughout Western Australia, Thomas and Stewart found that, after the early 1960s, there was an increase in the number of young offenders and Aborigines. It is not clear how they define 'young offenders' and they do not source their assertion. Statistics available for 1984, however, confirm an increase in the proportion of Fremantle Prison inmates under the age of 19 years. Figure 1 shows a comparison of the age grouping of inmates in the years 1899 and 1984.

⁶⁵ Annual Report for 1981-1982, p. 14, in *M.V. & P.*, 1982, vol.3.

⁶⁶ R.T. Appleyard, 'Western Australia: Economic and Demographic Growth, 1850-1914', in C.T. Stannage, (ed.), *A New history of Western Australia*, University of Western Australia, Nedlands, 1981, p. 220; and R.N. Ghosh, 'Economic Development and Population Growth in Western Australia since 1945', in Stannage, p. 287.

⁶⁷ Report of the Committee of Inquiry into the Rate of Imprisonment in Western Australia, 1981, p. 80, B.L.

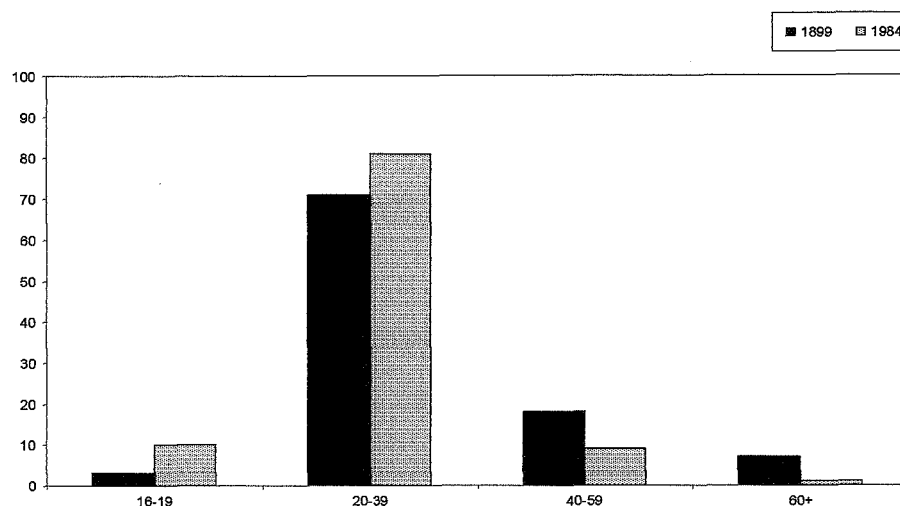


Figure 1. Age grouping of Fremantle Prison inmates 1898 and 1984. Figures are in percentages and are compiled from statistics appended to Annual Reports for these years.

In both years the vast majority of inmates were aged between 20 and 39 years, 71 per cent in 1898 and 81 per cent in 1984. There was a tripling of the proportion of inmates aged between 16 and 19 years, from three per cent in 1898 to 10 per cent in 1984, while the proportion of inmates aged between 40 and 59 years more than halved, from 19 per cent to eight per cent. Inmates aged over 60 years constituted only one per cent of the inmate population in 1984 as compared with seven per cent in 1898. If the inmates aged between 16 and 39 years of age are considered together, the proportion of inmates below the age of 39 years was 91 per cent in 1984, compared with 74 per cent in 1898. There was, in short, an increase of 17 per cent in the number of inmates aged less than 30 years while the proportion of inmates aged 40 years and over decreased by 14 per cent.

Thomas and Stewart's assertion of an increase in the number of Aboriginal prison inmates imprisoned in Western Australia after 1968 is clearly evidenced in relation to the inmates of Fremantle Prison. As has been described, Aboriginal inmates constituted only a very small proportion of the inmates of the prison in the years 1898 to 1911, reaching a

peak in 1910 when they made up 5.4 per cent of the total inmate population. On the night of 30 June 1968, however, there were 79 Aboriginal prisoners in Fremantle, 16 per cent of the total inmate population. By 1977 this figure had increased to over thirty per cent and, by 1982, Aboriginal inmates constituted no less than 45 per cent of the inmate population.⁶⁸

The over-representation of Aboriginal people in the criminal justice system has been examined by Christopher Cunneen and Terry Libesman, who argue that the way in which Aboriginal people are policed provides an important clue as to why so many are taken into custody. The highest over-representation of Aboriginal people in police custody, they argue, 'is in the area of public order offences, where police discretion is the greatest determinant of who will be detained or arrested'.⁶⁹ The annual report of the Western Australian Department of Corrections for 1969-1970 attributed the high level of Aboriginal imprisonment to the prevalence of police arrest rather than summons and the preference of country justices to resort to imprisonment in order to clean up the streets. There was, the report declared, 'in isolated or remote country areas strong local pressure influencing those concerned with the apprehension and sentencing of the Aboriginal'.⁷⁰

Examining the rise in Aboriginal imprisonment in Western Australia during the 1960s, Roderic Broadhurst points to the expansion of mineral exploration and production in the state's North-West during the same period, and he argues that this development, along with the reduced employment capacity for Aboriginal workers in the pastoral industry, had an

⁶⁸ Figures compiled from the Annual Reports for these years.

⁶⁹ Chris Cunneen and Terry Libesman, *Indigenous People and the Law in Australia*, Butterworths, Australia, 1995, p. 60.

⁷⁰ Annual Report for 1969-1970, p. 4.

'unremitting impact on traditional Aboriginal lifestyles that contributes to high Aboriginal imprisonment and recidivism'.⁷¹

The issue of Aboriginality, crime and the justice system in Western Australia is the subject of a study by Quentin Beresford and Paul Omaji.⁷² Although focusing on Aboriginal youth offenders, the study has relevance for an understanding of Aboriginal adult imprisonment, for, as the authors rightly point out, 'the criminalisation of Aboriginal youth feeds directly into the over-representation of adult Aborigines in the prison system'.⁷³ According to a report published in 1991, 65 per cent of young Aboriginal offenders graduate into the adult prison system.⁷⁴

Beresford and Omaji place the problem of the high rate of Aboriginal imprisonment firmly within a historical context of dispossession, cultural genocide and marginalisation of Aboriginal people. Contact with mainstream society has, they argue, shaped the lives of Aboriginal youth 'into an "outsider" group removed from the opportunities of extended education and work force participation. Their relationship to this society is laced with hostility and is often exhibited in retaliatory crimes'.⁷⁵

The marginalisation of Aboriginal people is reflected in significant differences when the profiles of Aboriginal and non-Aboriginal inmates in Fremantle Prison are compared. The following analysis is based on a census of the prison population taken on the 30 June 1980, at which time there were a total of 534 inmates in Fremantle Prison.

⁷¹ Roderic G. Broadhurst, 'Imprisonment of the Aborigine in Western Australia', in Kayleen M. Hazlehurst (ed.), *Ivory Scales: Black Australia and the Law*, New South Wales University Press, 1987, pp.179-180.

⁷² Quentin Beresford, and Paul Omaji, *Rites of Passage: Aboriginal youth, Crime and Justice*, Fremantle Arts Centre Press, Fremantle, 1996.

⁷³ *Ibid.*, p. 16.

⁷⁴ *Ibid.*, p. 92.

⁷⁵ *Ibid.*, p. 17.

Four sets of statistics are available covering occupation, education, marital status and the length of sentence being served. Table 1 shows the occupation of inmates in 1980.

	aboriginal		non-aboriginal		combined	
skilled / semi-skilled manual	9	7%	175	44%	184	34.6%
unskilled manual	82	60%	111	28%	193	36.4%
unknown	42	31%	72	18%	114	21.5%
other	3	2%	37	10%	40	7.5%
total	136	100%	395	100%	531	100%

TABLE 1 Occupational grouping of Fremantle prison inmates on the night of 30 June 1980, based on statistics contained in the Annual Report.

There are a number of significant features in this profile. Just over one-third of all inmates belonged to skilled or semi-skilled manual occupations, while slightly more were classified as unskilled. The grouping together of semi-skilled inmates with those whose occupations were unknown accounts for 58 per cent, or almost two-thirds, of all inmates. If Aboriginal and non-Aboriginal inmates are considered separately a different pattern emerges. Among Aboriginal inmates, the majority, 60 per cent, were classed as unskilled manual workers, compared with only 28 per cent of non-Aboriginal inmates. Moreover, if unskilled Aboriginal inmates are considered together with Aboriginal inmates whose usual occupation was unknown, no less than 91 per cent of Aboriginal inmates were either unskilled or unemployed. By comparison, 46 per cent of non-Aboriginal inmates belonged to this combined category.

Considering skilled or semi-skilled manual workers, while only seven per cent of Aboriginal inmates belonged to this category, the figure for non-Aboriginal inmates was 44 per cent. The profile for non-Aboriginal inmates had therefore changed since the early part

of the century when, as has been shown, only 15 per cent of inmates were classed as skilled tradesmen.

Turning to the educational status of inmates, a similar disparity in the profiles of the Aboriginal and non-Aboriginal inmates is evident. Table 2 shows the educational qualifications of inmates at the 1980 census. The vast majority of Aboriginal inmates, over 84 per cent, had undergone less than three years secondary education. Only one inmate had completed five years and only one had a trade qualification. Lack of education was also high among the non-Aboriginal inmates, although to a lesser degree. Over 40 per cent of non-Aboriginal inmates had completed just three years of secondary education. However, more non-Aboriginal inmates, 26.7 per cent, had completed some form of trade or other qualification.

	aboriginal		non-aboriginal		combined	
under 3 years secondary	115	84.5%	168	42.4%	283	53.4%
3 years secondary	15	11.0%	109	27.5%	124	23.5%
5 years secondary	1	0.8%	25	6.2%	26	4.9%
trade	1	0.8%	41	10.2%	42	8.1%
business or technical	0	0.0%	3	0.7%	3	0.6%
tertiary	0	0.0%	6	1.4%	6	1.2%
other	4	2.9%	43	11.6%	47	8.3%
total	136	100%	395	100%	531	100%

TABLE 2 Educational status of Fremantle prison inmates on the night of 30 June 1980, based on Statistics contained in the Annual report.

Table 3 shows the marital status of inmates and indicates little significant difference between the two groups. If the categories of single, separated, divorced and widowed are considered together, it is clear that the majority of both Aboriginal and non-Aboriginal

inmates were unattached, (75 per cent of Aboriginals and almost 74 per cent of non-Aboriginals). In this respect the profile of inmates during the 1970s and 1980s was similar to that of the inmates at the turn of the century when, as has been shown, around 70 per cent were single.

	aboriginal		non-aboriginal		combined	
single	100	73.6%	251	63.5%	351	66.1%
married / defacto	31	22.8%	101	26.1%	132	24.9%
sep / div / widowed	2	1.5%	41	10.4%	43	8.1%
not known	3	2.1%	2		5	0.9%
total	136	100%	395	100%	531	100%

TABLE 3 Marital status of Fremantle prison inmates on 30 June 1980, based on statistics contained in the Annual Report.

The fourth set of statistics available refer to the length of sentences being served by Fremantle Prison inmates and is set out in table four. The profile is similar for both groups, with over 80 per cent of Aboriginal and non-Aboriginal inmates serving sentences of more than one year. However, more non-Aboriginal inmates were serving five years or over, 32.7 per cent as compared with 22.8 per cent of Aboriginal inmates. At the lower end of the scale, slightly more Aboriginal inmates were serving sentences of less than six months, just over 10 per cent as compared with six per cent of non-Aboriginals.

	aboriginal		non-aboriginal		combined	
trial & remand	0	0.0%	1	0.25%	1	0.2%
under 3 months	4	3.0%	14	3.60%	18	3.4%
3 to 6 months	10	7.4%	9	2.40%	19	3.5%
6 to 12 months	9	6.6%	24	6.00%	33	6.2%
1 to 3 years	43	31.5%	91	23.00%	134	25.2%
3 to 5 years	28	20.6%	84	21.30%	112	21.1%
5 years and over	31	22.8%	129	32.70%	160	30.1%
gov's pleasure	6	4.4%	18	4.60%	24	4.5%
life	4	3.0%	14	3.60%	18	3.4%
death (commuted)	1	0.7%	11	2.80%	12	2.4%
total	136	100.0%	395	100.00%	531	100.0%

TABLE 4 Length of sentences of Fremantle prison inmates on the night of 1980, based on statistics contained June in the Annual Report.

The main significance in the profile becomes clear when the figures are compared with those of the earlier period. In 1898, as has been shown, the vast majority of inmates were serving short sentences, 61 per cent serving less than three months and 79 per cent serving less than twelve months. In 1984, around three per cent of all inmates were serving sentences of three months or less while over 80 per cent were serving sentences of more than 12 months. The reasons for the change are obvious. Two major reforms took place in 1963, the passing of the Offenders Probation and Parole Act⁷⁶ and the Convicted Inebriates Rehabilitation Act⁷⁷, both of which provided alternatives other than imprisonment for minor offenders. Furthermore, with the opening of several new prisons, each with different security ratings, Fremantle Prison by the seventies had become the State's

⁷⁶ 12 Eliz.II no. 23(1963) An Act relating to the release of Offenders on Probation or Parole. in *The Statutes of Western Australia*, 1963, vol.1, pp.129-164.

⁷⁷ 12 Eliz no 63(1963) An Act to make better provision for the rehabilitation of Convicted Inebriates and for incidental and other purposes. in *The Statutes of Western Australia*, 1963, vol.1, pp.536-543.

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maximum security prison. The inappropriateness of this development will be highlighted in subsequent chapters when the structural inadequacies of the prison are discussed. Meanwhile, it is worth pointing out that the use of Fremantle as a maximum security prison ran counter to one of the 1898 Jameson Commission's key recommendations, that Fremantle Prison should be used only for prisoners serving sentences of two years or less.

The statistics relating to the length of sentences being served suggest that inmates during the 1970s and 1980s were serving time for relatively more serious offences than inmates during the first decade of the century. At face value this may appear to confirm the stereotypical perception of Fremantle Prison as full of violent and dangerous criminals from whom society must be protected. As was argued early in this chapter, however, inmates did not constitute a homogeneous group. Length of sentences are also given for crimes which, while considered serious, did not involve the use or threat of violence. So while many inmates were indeed violent men they formed only a minority group.

→ Following a riot at the prison in 1968, Colin Campbell, the Comptroller General of prisons, informed the press that at least 300 Fremantle Prison inmates should have been in open institutions and constituted no threat to the community.⁷⁸ In 1975, Campbell estimated that only 50 inmates of Fremantle Prison required secure confinement.⁷⁹ This represents 12.5 per cent of the average number of inmates for that year. Campbell's statement provoked protest from the Prison Officers' Union, but it is indirectly supported elsewhere. (According to the criminologist Paul Wilson, for example, 80 to 85 per cent of prison inmates Australia wide are serving time for minor offences and 'offer no real threat to society'.⁸⁰ This assertion is supported by crime figures which indicate that violent crimes do indeed constitute a small percentage of crimes committed. In 1967, for example, only 3.5 per cent of crimes for which prisoners were committed to prisons in Western Australia were violent. By the 1980s, crimes were being classified under five

⁷⁸ *West Australian*, 5 June 1968, p. 1.

⁷⁹ *W.A.P.O.U. Newsletter*, November 1975. No page number provided.

⁸⁰ 'Out of Sight Out of Mind', A.B.C. Four Corners Special Report, 14 & 15 October 1987, held in State Film Institute, Alexander Library, Perth.

headings: crimes against the person, against property, against good order, against justice and drug offences. In that year 11.3 per cent of all crimes were crimes against the person, the majority, 57.6 per cent being crimes against property. So while the incidence of violent crimes increased significantly over the period, such crimes remained a relatively small proportion of all crimes committed.

Statistics, however, permit only inferential conclusions to be drawn. Accounts by inmates, prison officers and professional staff who lived and worked in Fremantle Prison during the period under review, provide a much clearer picture of the inmate population of the prison. The picture which emerges is one of a diverse inmate population with its own pecking order and comprising an array of personalities, about which only generalised conclusions can be drawn.

Conclusions which can clearly be drawn include firstly, as the statistics above suggest, Fremantle Prison inmates after the mid-1970s were serving sentences for more serious crimes and, secondly, that an increasing number of these inmates, though not the majority, were indeed violent. Terence Maller, who served his first sentence in Fremantle Prison in the late 1960s and who served subsequent sentences throughout the seventies and eighties, recalls that most of the inmates in the 1960s:

were just average blokes like you meet outside of the pub in the beer garden ... there was no vicious streak in them as I experienced in the seventies and the eighties.⁸¹

Maller likened Fremantle Prison in the late sixties and early seventies to 'a boys' scout camp' when compared to later years.⁸² Another ex-inmate, Rupert Gerritsen, committed to Fremantle in the early 1970s for terrorist activities, remembers:

petty criminals of one sort or another who were not terribly good at running their lives. They were not even very good criminals. So they ended up getting caught all the time.⁸³

⁸¹ Maller, OH, p. 14.

⁸² Ibid., p. 17.

⁸³ Rupert Gerritsen, OH2230/18, p. 10, B.L.

Percy Boyes, a prison psychologist from 1968 to 1978, remembers a prison in which maximum security inmates rubbed shoulders with inmates serving time for drug offences, draft dodging and homosexuality.⁸⁴ Finally, according to Allen Halden, who became a Fremantle Prison officer in 1967 and was superintendent of the prison in 1988, the majority of inmates when he began his career, were 'never considered as "crims"'. Halden remembers these inmates as mainly alcoholics, referred to by officers as 'warbies'.⁸⁵

Evidence from both inmates and staff suggests that there was significant increase in the number of violent prisoners in Fremantle Prison during the later part of the 1970s and the 1980s. The issue of inmate violence will be discussed in some detail in the next chapter when inmate behaviour is explored. Its relevance here is that increased inmate violence coincided with the introduction in the mid to late seventies of drugs into the prison system. Terence Maller remembers the 1970s in Fremantle Prison as the years in which drug offenders were beginning to arrive on the scene as inmates.⁸⁶ According to Robert Kucera, a police officer with close connections to Fremantle Prison, the drug scene of the seventies 'really did change the type of person that was getting involved in offending'.⁸⁷ The impact of this development on the daily life of Fremantle Prison will become clear in the following chapter but it is worth pausing here to reflect on some inherent implications.

Prisons do not exist in a social vacuum. What happens in prisons is a reflection of the social values in the wider community. The nature of what constitutes crime is, to some extent at least, re-defined in each generation. The new category of 'drug offence' which was introduced in the 1970s is a prime example of this, as was the offence of draft dodging referred to in the quote above by the Fremantle Prison psychologist Peter Boyes. Both of

⁸⁴ Percy Boyes, OH2230/20, B.L.

⁸⁵ Allen Halden, OH2239/6, p. 8, B.L.

⁸⁶ Maller, OH, p. 24.

⁸⁷ Kucera, OH, p. 15.

these reflect quite clearly the political and social tensions present in Western Australian society at the time.

There is no doubt that the introduction of the drug culture into Fremantle Prison impacted profoundly on the inmate sub-culture. Again, the extent of this will be a subject explored more fully in the next chapter. But a word of caution should be sounded here. In 1897, Superintendent George complained in his annual report that, 'the character and disposition of a great many of the prisoners is changing completely for the worst'.⁸⁸ Six years later, in 1903, during a parliamentary debate on the proposed new Prisons' Bill, George Randell, member of the Legislative Assembly, detected:

a very different class of prisoners now from those who were imprisoned under the old convict system. Prisoners are far more clever in the practice of their trade now than the old men were.⁸⁹

In 1990, Ronald Morley, who spent two years in Fremantle Prison in the mid-eighties, wrote that:

old hands who have spent a lifetime of coming to prison often remark on how it has all changed over the years ... Nowadays the standards and values within prison have changed in line with the type of prisoner.⁹⁰

The belief that the character of Fremantle Prison inmates was changing for the worst was not therefore new. It parallels, moreover, the often widespread perception in the wider society of deteriorating social values and so it becomes, in times of rapid change, a nostalgia for the imagined certainties of the past.

In conclusion, a number of things can be said about the inmate population of Fremantle Prison based on an examination of the two periods 1898 to 1911 and 1968 to 1991. The most obvious difference is the increase in the Fremantle Prison inmate

⁸⁸ Annual Report for 1897, p. 8.

⁸⁹ *Hansard*, 29 July 1903, p. 222.

⁹⁰ Ronald Morley, *Grey Beard*, Fremantle Arts Centre Press, Fremantle, 1990, p. 203.

population in the later period. In the period 1898-1911, the inmate population peaked at 377. Between 1968 and 1981 the male population seldom fell below 400 and peaked, in 1968 to 542. Overcrowding was, it is clear from these figures alone, a major problem which, it will be argued in a later chapter, seriously impeded any chances of implementing meaningful reform in the prison.

The period 1968-1991 also saw a significant rise in the number of young inmates under the age of nineteen. This, in part at least, was a reflection of the changing culture in the wider community and particularly with the advent of crimes associated with drugs. It is also a reflection of the increasing marginalisation of Aboriginal youths in the community and the over representation of Aboriginal offenders in the prison population. While Aboriginal inmates constituted between five and six per cent of the inmates of Fremantle prison in 1910, by the 1980s this figure had risen to 45 per cent.

Length of sentence being served was another significant difference between the inmate population in the two periods. In 1898, 79 per cent of inmates were serving sentences of twelve months or less. By 1980, 80 per cent were serving sentences of more than twelve months.

This comparative profile of the inmate population of Fremantle Prison highlights a major problem within the prison which was a continuous and increasing impediment to reform. The chronic overcrowding which had been condemned by two Royal Commissions in the first period increased severely during the second period. The problem was compounded by a dramatic increase in the length of sentences being served by inmates. In overcrowded conditions and serving lengthy sentences, it could only be expected that frustrations would build up among inmates. The following chapter will explore the world of the inmates of Fremantle Prison.

4

Adaptation and Resistance

The classical age discovered the body as object and target of power ... [and] methods, which made possible the meticulous control of the operations of the body, which assured the constant subjection of its forces and imposed upon them a relation of docility-utility.¹

The full meaning of the inmate being 'in' or 'on the inside' does not exist apart from the meaning to him of 'getting out' ... In this sense, total institutions do not really look for cultural victory.²

A major problem with Foucault's analysis of punishment in *Discipline and Punish*, as David Garland points out, is his 'reluctance to acknowledge the role of any values other than power and control', a reluctance which Garland rightly argues leads him to ignore 'all the forces which operate to restrain the disciplinary impulse'.³ Foucault speaks of 'docile bodies' which could be 'subjected, used, transformed and improved'.⁴ The notion of prisoners as passive victims of a repressive prison regime has been challenged by a number of historians. A major methodological concern of Patricia O'Brien, in her study of prisons in nineteenth century France, was to 'counteract the absence of the prisoners themselves'

¹ Foucault, *Discipline And Punish*, pp. 136-137.

² Goffman, *Asylums*, p. 23.

³ David Garland, *Punishment and Modern Society: A Study in Social theory*, Clarendon Press, Oxford, 1993, p. 167.

⁴ Foucault, *Discipline and Punish*, p. 136.

from the historiography of imprisonment, and to 'construct the history of the prison from the inside out'. Concluding her examination of inmate cultures, O'Brien argues that:

Inmates were not passive in the new social system of punishment. They brought social roles and patterns of behaviour with them from their lives in free society and these in turn had an important impact on the ways in which prisons operated.⁵

Forsythe, in his history of the English prison system between 1895 and 1939, also deals at some length with the experiences of prisoners. Forsythe's primary concern is to distinguish between official rhetoric and actual practice, official rhetoric he argues, being 'a poor guide to what actually happened in prison'.⁶

Between the high minded aspirations and world view of the new liberalism and the actual experience of the local prisoner there was a gulf. Held in these prisons the inmates watched their surroundings with intense interest, learning the strange ways of the prison from one another in secret forbidden exchanges.⁷

Forsythe describes ways in which prisoners, even in the most strictly managed prisons, found the means to resist the prison regime. In prisons where the silent system operated, for example, the ban on communication between prisoners was never wholly effective. Prisoners 'invented a deaf and dumb alphabet, devised morse code, and used workshop tools to muffle conversation and, in one prison even produced an illicit newspaper'.⁸ Official rhetoric, therefore, such as in annual reports, Forsythe concludes, does not reflect what was actually happening.

This chapter will examine ways in which the inmates of Fremantle Prison reacted to their incarceration. The purpose is twofold. Firstly, following the argument of O'Brien and Forsythe, it is only by knowing what actually happened in the prison that an understanding can be arrived at of the prison as a social institution. The reaction of prisoners to their imprisonment is crucial to such an understanding. Secondly, much of what the free citizens of Western Australia

⁵ O'Brien, *The Promise of Punishment*, p. 107.

⁶ Forsythe, *Penal Discipline*, p. 243.

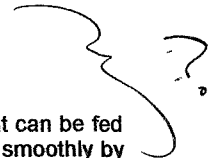
⁷ *Ibid.*, p. 102.

⁸ *Ibid.*, p. 103.

perceived about prison life was based on press reports of prisoner behaviour; reports of escapes, floggings and riots, for example. In describing prisoner behaviour a number of sources will be used, including official reports, personal testimony of prisoners and newspaper reports.

In his classic study of institutional life, Erving Goffman describes a 'self mortification' process through which inmates on admission 'begin a series of self abasements, degradations, humiliation, and profanations of self. The process typically involves finger printing, photographing, being assigned a number, stripping of all personal possessions and being garbed in institutional clothes. 'Thus being squared away', Goffman continues:

the new arrival allows himself to be shaped and coded into an object that can be fed into the administrative machinery of the establishment, to be worked on smoothly by routine operations.⁹



An important contribution to understanding prisoner adaptation and resistance to prison life has been made by Eddy Withnell. As a long-term inmate of Fremantle Prison, Withnell studied for a university degree and published two papers on what he termed 'the criminal's existential world'. In the first of these, Withnell analyses 'the temporal reality of the criminal's world', and describes two distinct phases through which the new inmate passes. To begin with, he argues, the new inmate adheres to the familiar time dimension based on 'outside time', measured in day, weeks and months and linked to 'the chronological events which bring meaning to free social life'. During this phase the inmate experiences the tedium of the prison routine, relieved only by weekly visits and the daily mail call. Slowly, however says Withnell, a slow dislocation of time starts to occur:

It begins with the new crim he encounters at work or in the gymnasium or in the yard, and the realization that they are not the vacant faces of deviant criminals, but the faces of fellow thinking human beings. In direct proportion to this recognition, and contributing to it a great deal, his visits become fewer because everything he was and is, is a criminal. The cut is complete, his anchor to the outside world has torn loose, he is all alone in the world. Whereas once the visit provided the new crim with the intensity to affirm his self worth, it is the rot which takes its now vacated place.

⁹ Goffman, *Asylums*, p. 26.

When the new inmate loses contact with the temporal reality of outside time, his new unit of time becomes located in rorts, 'the time he takes to assert his self worth and determine his own existence in an environment that denies him those choices'.¹⁰

In his second paper Withnell turns his attention to the spatial dimensions of the prison and how these determine patterns of socialization within the inmate world. Withnell describes the cell as 'a cocoon of revitalising reflections', a 'slot' which becomes the inmate's personal space. The yards are divided into territorial claims, the sheds for example, being divided into high, middle and low status areas, each falling under the control of 'withs', a term borrowed from Goffman who defined a 'with' as 'a party of more than one whose members are perceived to be "together"'. 'Cut off from family and loved ones', says Withnell, the new inmate 'must inevitably come to share a with'.

Withnell's most penetrating insights are provided when he turns to describing the parade area and the staff offices. 'When a crim is called onto parade he participates in a ritual, an act demanded by his keepers who believe it will teach him 'discipline', but which teaches him something vital to an integration of himself as a whole'. The parade, according to Withnell, allows the inmate to identify the prison officer as the oppressor. During parade:

The crim studies every aspect of the circus from the subliminal corner of his unmoving eye. He gleans an incredibly accurate profile of his keepers, computing their traits, storing and recalling it whenever he needs to manipulate them.

In the staff offices, face to face with the professional experts,

The crim realizes that if he is to get anywhere with the specialist, he will have to practice the same modes of defence he does with the screws: give them what they want. Having admitted his 'guilt', stopped 'resisting', the crim finds the specialist wants to reward him in the same way as the screws and everyone else in the prison does – rorting is tacitly condoned, whether it be a cup of coffee, a book or a favourable report.¹¹

Withnell's analysis suggests that there is much more happening than inmates being 'shaped and coded into objects', Alan Atkinson, in his study of convict protest, argues that, 'no

¹⁰ Eddy Withnell, 'Doing Time: The Temporal reality of the Criminal's Existential World', in *Australian Journal of Cultural Studies*, May 1983, pp.80-91.

¹¹ Eddy Withnell, 'Stone Walls... The Spatial determinations of the Criminal's existential world', in *Australian Journal of Cultural Studies*, 2:2, 1984, pp.61-90.

amount of oppression can make men and women give up all loss of precedent, all feeling for those agreed and established forms which structure dialogue and social relations'.¹² Indeed, Goffman himself goes on to describe ways in which inmates adapt to institutional life, although these lines of adaptation, for him, tend to be passive.

1898-1911

The starting point for an examination of prisoner behaviour in Fremantle Prison in the years between 1898 and 1911 is the 1898 Jameson Commission which took the unusual step of inviting any prisoner who so wished to give evidence, 'whether relating to personal grounds of complaint or to suggestions for the welfare of prisoners'.¹³ In all, 171 prisoners gave evidence.

The preliminary work of the Commission, therefore, consisted in initiating a dialogue which clearly recognised that prisoners had rights, including the right to a minimum standard of welfare and the right to complain if this standard was not upheld. Broadly, complaints brought before the Commission by prisoners fell into two categories; appeals against perceived unfair judicial treatment, and complaints about conditions within the prison.

The second progress report of the Commission was devoted in its entirety to dealing with complaints in the first category. Seventeen cases were reported on, some because of the apparently undue severity of their sentences and others because of serious doubt as to guilt. Regarding the latter there appears to have been a recognition that some prisoners in Fremantle may indeed have been innocent. When asked by the Commission if there were innocent men imprisoned in Fremantle Prison, Superintendent George replied, 'Well, of course ... and in some cases they seem to have been told by the police that they know they are innocent'.¹⁴ However, while a prisoner had a right to petition, this could only be done after he had served a quarter of his sentence. The official reason for this is suggested in one case on which the Commission

¹² Alan Atkinson, 'Four Patterns of Convict Protest', in Penny Russell and Richard White(eds.), *Pastiche 1. Reflections on 19th Century Australia*, N.S.W. 1994, p. 65.

¹³ Jameson Report, p. 1.

¹⁴ Jameson Report, Minutes of Evidence, Q. 666, p. 54.

reported. Prisoner 10525 had been sentenced to five years for robbery. After taking evidence from this prisoner and arriving at the conclusion that there was considerable doubt as to the man's guilt, the Commission recommended his case to the Colonial Secretary for consideration. The Attorney General, however, refused to recommend his release on the curious grounds that to do so 'would undermine the discipline of the Gaol'.¹⁵

Prisoners complained to the Commission about a range of other matters. The most common complaints concerned medical treatment, poor sanitation, poor food, mode of discharge, scale of remission and the absence of written rules and regulations.

The absence of written rules and regulations for the guidance of warders and prisoners was a major concern to prisoners, and to the commissioners when they handed down their final report. The absence of written rules affected not only prisoners but officials. Several warders described how they received their instructions on a daily basis from the Superintendent, while George himself gave evidence that, 'There are really no proper rules at all ... I have to make the regulations fit the circumstances of the place'.¹⁶ Dr Hope, the medical officer, declared that his role was determined not so much by written rules as by tradition.¹⁷ Rules and regulations had been drawn up during the convict era but were, in the words of the commissioners, framed 'to meet conditions which no longer existed at Fremantle Prison'.¹⁸ Moreover, the commission found that even these were systematically disregarded by both officers and prisoners, for the simple reason that they were totally inappropriate for conditions in the 1890s. This, as will become clear in the following chapters, was a continuing problem in Fremantle Prison. While new regulations were passed from time to time, they were quickly allowed to lapse.

Complaints put forward by the prisoners were therefore based, not so much on perceived breach of specific rules and regulations but on appeals to convention or to prison regimes elsewhere. Prisoner 10486, for example, complained that 'rules are never read to the prisoners'

¹⁵ Jameson Report, p. 6.

¹⁶ Jameson Report, Minutes of Evidence, Q. 661, p. 54.

¹⁷ Ibid., Q. 939, pp. 64.

¹⁸ Jameson Report, p. 2.

adding that, 'this is always done ... in Pentridge and Darlington'.¹⁹ Number 10524, complaining of medical treatment and the 'inhumane' Dr Hope, compared Fremantle Prison with the system at Pentridge where rules were read to prisoners on their admission, a copy given to each prisoner and every prisoner on admission was examined by the Medical Officer.²⁰

The invitation to prisoners to present evidence to the Commission was in itself a radical gesture and implied a recognition by the commissioners that prisoners had some rights, not least of which was the right to complain. This was not something with which everyone agreed 'You have no civil rights', Superintendent George was alleged to have told one prisoner.²¹ Despite his belief that there were innocent men imprisoned in Fremantle Prison, George sent a memo to the Inspector of Prisons, Octavius Burt, requesting that prisoners who had grievances relating to remission or who had been refused permission to petition their innocence not be allowed to be heard before the Commission. Fortunately for the prisoners, George's request came too late; they had already presented their cases to the Commission.²² George, who would no doubt have agreed with one prisoner who told the Commission, 'I am only a prisoner and must do as I am told', also thought that the Commission had attached 'extraordinary value' to prisoners' evidence, which he called 'exparte allegations'. 'The prisoners', he went on, 'had every opportunity of conspiracy, to repeat each others statements. I have no hesitation in stating that their evidence is not true'.²³

George need not have worried. In its final submission, the Commission summed up prisoner evidence under 6 headings. Of these, they decided that the only general complaint with any substance was that verbal instructions had taken the place of written rules.²⁴

¹⁹ Jameson Report, Minutes of Evidence, Q. 40, p. 7.

²⁰ Ibid., Q. 106, p. 11.

²¹ *Truth*, 23 May 1908, p. 3.

²² AN 123/2, Acc 968, file no. 629/98, B.L.

²³ Ibid., file no. 414/99, points 2 and 29.

²⁴ Jameson Report, p. 23.

Prisoner protest, however, did not begin and end with the Commission. Prisoners developed a variety of means of protesting and of communicating their grievances to the outside world. Indeed, it was largely through this means that the Commission was set up. F.C.B Vosper, who had, having through his roles as editor of the *Sunday Times* and M.L.A. for Coolgardie come to be recognised as a prison reformist and 'friend of the prisoners', described to the commissioners how prisoners, on their discharge, often visited him to provide him with information about happenings within the prison walls. Prisoners also managed through several means to smuggle correspondence out of the prison. Vosper claimed that certain prison officers, 'in league with the prisoners', did the smuggling. Some correspondence was also smuggled out by prisoners who were part of a gang of prisoners employed to work in the Fremantle Asylum grounds. Members of another gang employed at an outside quarry acted as couriers of letters and parcels which were hidden under stones. Contraband articles were smuggled in and out of the prison in the soles of boots, for example, which were hollowed out in the prison workshop to make secret compartments. Vosper also described a two-way communication system established by means of stones being thrown over the wall with letters and sometimes parcels attached to them. In short, said Vosper, 'Nothing transpires inside or outside of the gaol the news of which cannot be readily transferred'.²⁵

Newspapers were banned within the prison but were nevertheless smuggled in. Thomas Cameron was found to have two copies of the *Daily News* in his possession and was sentenced to three days bread and water. Edward Butler was charged with having a copy of *Truth* and was cautioned, it being his first offence. Samuel Campbell was caught 'fishing', by means of a line dropped from an upper storey. Contraband materials such as newspapers could by this means be transferred from one section of the prison to another. The line was weighted by the heel of his boot which he had wrenched off, thus causing him to also be charged with destroying government property.²⁶

²⁵ Jameson Report, Q. 605, pp. 48-49.

²⁶ *Truth*, 3 September 1904, p. 4.

A memo from George to the Inspector of Prisons, Octavius Burt, confirms much of Vosper's evidence. According to George, pencils and papers were easily smuggled into the prison by prisoners employed in work outside the prison. Discharged prisoners were known to have left parcels under stones in the nearby quarry which were later picked up by prisoners working there. Some of these had been found by warders.²⁷

This two way communication continued long after the practice of sending prisoners outside for work had ceased. Bert Leighton, an ex-prisoner who, in 1906, wrote a series on articles on Fremantle Prison for *Sporting Life*, suggested that 'the principal and safest way of smuggling was through the warders.' When George vowed that he would stamp out this practice, Leighton claimed, a prisoner replied, 'you can't. Any of your blooming warders will take a letter out for me for half a dollar'.²⁸

In 1908, *Truth* newspaper claimed that 'there was quite an elaborate system of "mulga wires" in active operation' between the inmates of the prison and the outside world.²⁹ That newspaper, in the years between 1903 and 1910, regularly published reports on Fremantle Prison, many of which were apparently based on information received from prisoners, ex-prisoners and warders. One article went so far as to claim that letters were smuggled out by a visiting solicitor.³⁰

Legitimate avenues did exist through which prisoners could air their grievances. Much of what already existed in practise was incorporated into the new rules and regulations which were finally drawn up in 1902. Prisoners could request to see the visiting Justice who was required to visit the prison at least once a week 'to hear and determine all cases awaiting adjudication and hear complaints of prisoners'.³¹ Rule 155 stated that a prisoner must obey all instructions even 'though he may feel himself aggrieved', in which case he was entitled 'to make complaint to the

²⁷ AN 123/2, Acc 968, file no. 346/98, B.L.

²⁸ *Sporting Life*, 24 March 1906.

²⁹ *Truth*, 25 April 1908, p. 2.

³⁰ *Truth*, 11 July 1908, p. 2.

³¹ Regulations Relating to the Management and Control of the Gaols and Prisons of Western Australia, in *Government Gazette*, 28 March 1902, P. 1225, rule 6.

Gaoler', and 'request to have his name entered in the book kept for that purpose'.³² A prisoner wishing to see the visiting Justice, Sheriff or Medical Officer was required to apply to the warder under whose immediate charge he was, to have his name entered in the book kept for that purpose.³³

While these regulations suggest a recognition by officials of prisoner rights, the final sentence of Rule 177 posed a serious warning. 'Prisoners are warned against making frivolous or groundless complaints, as for so doing they are liable to punishment'.³⁴ This warning, in effect, limited the prisoners in the exercise of their rights, some complaining to the Commission that they were reluctant to complain for fear of being punished. Prisoner 10524 gave evidence that he had been 'severely punished for complaining of the food',³⁵ while several others told of being charged with insubordination for the same thing. Another prisoner told the Commission, 'personally, I have never complained; it is not policy'.³⁶ A kitchen hand, for complaining about the quality of the meat, had his tobacco allowance withdrawn.³⁷ Vosper, acting on information he received from an ex-warder, told the Commission of an incident when several men complained about the food but were prevented from pressing their grievances by the threat of a flogging. 'Everything is done', Vosper argued, 'to prevent the possibility of a prisoner preferring a complaint'.³⁸

Complaints
Prisoners

Regulation 177 applied also to those prisoners putting in a request to see the Medical Officer. They ran the risk of being charged with malingering. Dr Hope told the Commission that he 'occasionally reported men for lingering ... for the purpose of escaping work'.³⁹ Such reports

³² Ibid., rule 155, p. 1231.

³³ Ibid., rule 177, p. 1233.

³⁴ Ibid.

³⁵ Jameson Report, Minutes of Evidence, Q. 103, p.11.

³⁶ Ibid., Q. 53, p. 8.

³⁷ Ibid., Q. 37, p. 28.

³⁸ Ibid., Q. 605a, p. 49.

³⁹ Ibid., Q. 847, p. 65.

were, however, more frequent than Dr Hope cared to admit. In September 1898, for example, Prisoner J. Montgomery was reported for malingering, as was Prisoner Loughlan who was also charged with insolence.⁴⁰ Prisoner Price complained of back pain for which he was treated, but as he was considered nevertheless fit for work he was reported for malingering. Prisoner Mohammed complained that he was suffering from diarrhoea but, as he could produce no evidence, he was reported for malingering.⁴¹

The problem, as Dr Hope saw it, was that he could not 'accept off-hand the prisoners' own statement as to his alleged malady'. If there were no obvious symptoms and the prisoner's complaint could not be verified by warders, then a report of malingering was likely to be made. For one prisoner this practice was fatal. According to the evidence of two inmates, prisoner McColl had complained to Dr Hope of being unwell, was reported for malingering and died shortly afterwards.⁴² Dr Hope, in his evidence, did not deny this account, but told the Commission that, 'It was from the first a case the diagnosis of which presented some difficulties ... it was a cardiac infection'.⁴³ Another prisoner, number 3208, told the Commission that he suffered from an internal fistula but that Dr Hope had told him there was no such thing and put him to hard work. Dr Jameson, the chairman of the Commission and himself a medical doctor, examined this prisoner and confirmed both the diagnosis of fistula and the prisoner's unfitness for hard work.⁴⁴

Given the readiness on the part of the Medical Officer to arrive at a diagnosis of malingering, it is difficult to ascertain to what extent, if any, some prisoners did attempt to feign illness in order to escape hard work or gain some other benefit. Certainly the chances of succeeding appear to have been slim and so it is unlikely that this was a common practice.

⁴⁰ Medical Journal, WAS 701, Cons. no. 1156, Item 25B, 27 September 1898, B.L.

⁴¹ Ibid., 1 November 1898.

⁴² Jameson Report, Minutes of Evidence, Q. 61, pp. 8; Q. 382, P. 29.

⁴³ Ibid., Q. 846, p. 65.

⁴⁴ Ibid., Q. 496, p. 39.

One further officially recognised means of registering complaint was the practice known as 'backing the wall'. It is unclear when and how this practise began, but mention of prisoners 'backing the wall' occurred well before 1898 and continued for many years after the introduction of written rules and regulations, although it is not mentioned in these. 'Backing the wall' was the custom according to which any prisoner having a complaint to make, fell out of the ranks at muster times and went to the front of the prison where he stood, with back to the wall, to await the arrival of a warder who would interview him.

* In 1898, the *West Australian*, under the headline 'MUTINY AT FREMANTLE GAOL', reported the case of 65 prisoners who 'backed the wall' and refused to work until a prisoner in the punishment cell, whom they considered had been unfairly treated, was released.⁴⁵ According to the press report, trouble had been brewing among the prisoners since a number of them had been subpoenaed to give evidence on behalf of Vosper who had been taken to court on a libel action charge brought against him by Messrs Faddy and Knight, the contractors for the supply of food to the prison. 'Since then', the report went on, 'a feeling has ... got abroad amongst the prisoners that the superintendent has got a "set" on them'.

When one of these prisoners, Charles Street, was sent to the punishment block on a charge of insubordination and refusing to work, 65 prisoners, believing that he was being made a scapegoat, 'backed the wall', and refused to work until he was released. The 'mutiny' continued into the afternoon, at which time Street was brought before the visiting Justice, admitted the charge and apologised for his behaviour. Although he declared at the hearing that he believed that George was prejudiced against him because he gave evidence in support of Vosper, George recommended to the justice that he be let off with a caution. The 65 'mutineers' were not so fortunate. Among these, seven, identified as ringleaders, were sentenced to 14 days solitary confinement, the first three days on bread and water. Another eight were given lighter sentences and the remaining 48 were given cautions.⁴⁶ In passing sentence, the press report continued, the

⁴⁵ *West Australian*, 30 December 1898, p. 5.

⁴⁶ AN 9678, Acc 123/2, folio no. 5, 1899, B.L.

Magistrate told the men that, as prisoners, they had no right to strike 'simply because they thought an injustice was being done to one of their companions'.⁴⁷

Prisoners did, however, continue to react to perceived injustices against one of their number. In 1907, *Truth* newspaper, under the sub-heading 'The Prisoners Buck Manfully against Barbarous Blood-letting', reported that 40 prisoners had 'backed the wall' in protest against the flogging of a prisoner named James Walsh, whom they believed was physically too weak to undergo this punishment. There were grounds for their fears, Walsh having three months earlier been declared unfit by the acting-Medical Officer, Dr White, because of a hernia. Dr Hope, however, re-examined Walsh, had him fitted with a truss and declared him fit to undergo his punishment of ten lashes.⁴⁸ The practice when a prisoner was to be flogged was for the other prisoners to be put on parade to watch the punishment. During the parade on this occasion, 40 of the prisoners fell out of rank and 'backed the wall'. They then proceeded to plead the case for Walsh, asking that Dr White be called to examine him. Their request was refused, George allegedly declaring that it was no concern of the prisoners. The prisoners returned to the ranks and the punishment proceeded. According to *Truth*:

There was no subversion of discipline. There was merely a privileged protest on behalf of a fellow prisoner whom it was proposed to cut up with the murderous cat-o'-nine tails, in direct defiance of every humane instinct, and in obvious opposition to the opinion expressed by a medical man of Dr White's experience.⁴⁹

This was not the view of visiting Justice Fairburn when he sentenced the protesters to solitary confinement on bread and water, a sentence which drew severe criticism from some sections of the press, including the *Daily News*. 'It is simply a scandal', the paper argued, 'that men should be kept on bread and water for daring to harbour in their souls an amount of humanity'. Citing medical opinion on the high risk of flogging a prisoner who was suffering from a hernia, the *Daily News* concluded that, 'the officials arrayed themselves on the side of

⁴⁷ *West Australian*, 30 December 1898, p. 5.

⁴⁸ AN 9678, Acc 123/2, folio no. 574/07, B.L.

⁴⁹ *Truth*, 3 March 1907, p. 8.

brutality, and the prisoners on the side of humanity'.⁵⁰ For George, however, the issue was simply one of 'maintaining good order and Discipline [sic]'. 'I trust that this conduct will be put down with a firm hand', he wrote to the Comptroller of Prisons, 'When prisoners will have the impudence to complain, what should be done and what not'. Three months in solitary confinement, George suggested, was what should be done.⁵¹

While this was a protest in which prisoners, in the words of the *Truth* journalist, 'used every means consistent with prison discipline', not all protests were so peaceful. A riot in 1902, during which police reinforcements were called in, involved 30 prisoners. The trouble started when prisoners complained that the morning gruel was too thin. The next morning a delegation of two walked into the Principal Warder's office and demanded an interview with 'the super'. George was sent for but before he arrived the prisoners headed for the cookhouse where they proceeded to throw the food around and overturned pots and trays of bread. According to the *West Australian*, 'for 8 or 10 minutes high rebellion reigned among the rioters [who] told the warders they would be d....d before going to their cells without seeing the super'. On the arrival of George the riot apparently ended as abruptly as it had started. George lined the rioters up, heard their complaints and ordered them to their cells. Later that day they were brought before the visiting justice and the ringleaders were sentenced to one month solitary confinement in irons with three-quarter rations. In an interview with the *West Australian* following the riot, George dismissed the notion that the quality of the food was the real reason for the disturbance, blaming it instead on the publication in some sections of the press of prisoners' letters, and adding, 'discipline is absolutely necessary in an institution of this character. In my opinion, the prisoners are altogether too well treated'.⁵²

→ 'Backing the wall' typically involved several prisoners and appears to have had an element of premeditation or organisation. In terms of being collective efforts, often considered by prison officials as being orchestrated by the same few experienced or hardened prisoners, these protests

⁵⁰ *Daily News*, 23 February 1907, p. 10.

⁵¹ AN 9678, Acc 123/2, folio no. 574/07, B.L.

⁵² *West Australian*, 22 August 1902, p. 6.

were seen as a major threat to prison discipline. Besides these, however, were the actions of individual prisoners, ranging from outright refusal to accept discipline, or violent attacks on fellow prisoners or warders, to less serious actions such as complaining through the official channels about conditions.

In July 1903, William Holloway was reported for insolence to Principal Warder Rodgers. When sentenced to one day close confinement he immediately struck a second warder before being locked in the cells. Some time later, during a routine inspection of the cells, he attacked a third warder, giving him a bloody nose. This time the warder retaliated, striking Holloway several times. According to the report of the incident, Holloway then, 'became quiet and has been ever since'. For his actions, Holloway was sentenced to 28 days solitary confinement, seven with bread and water.⁵³

One inmate, a long-term prisoner, resorted to both peaceful and violent tactics. Peter Gomez, a Nicaraguan, well known to the Western Australian public through press reports of prison disturbances, was first committed to Fremantle Prison in 1897 under a sentence of six months for larceny. He served a further two sentences of two years each before being sentenced to five years for theft in 1902.⁵⁴ Letters and petitions written by him suggest that he was an intelligent and educated person. A journalist who met and spoke with him judged him to be, 'a particularly level headed gentleman'.⁵⁵

Gomez was obviously aware of the official channels through which prisoners were supposed to air their grievances and he was not slow to use these. Early in 1900 he made a verbal complaint to the Sheriff about the conduct of the prison photographer who, he claimed, had shown a photograph of himself to his new employer after his last discharge from prison. This action, Gomez claimed, had resulted in his employer firing him. On being told by the Sheriff to put his complaint in writing, Gomez produced a well written and detailed letter which he forwarded to the Sheriff. In it, he asserted that on his previous discharge from the prison,

⁵³ AN 123/2, Acc 968, folio no.1955/03, B.L.

⁵⁴ *Ibid.*, folio no. 334/9.

⁵⁵ *Truth*, 27 August 1904, p. 4.

warders had pointed him out to the police. This was a common complaint amongst ex-prisoners and so was likely to be true. Statements were obtained from the photographer and the employer, who both denied the accusations, and so the complaint was dismissed.⁵⁶ Gomez was, after all, only a prisoner and so had no credibility.

Other written complaints by Gomez were also dismissed. In 1901, he wrote to the Roman Catholic chaplain requesting him to support his application for remission in order that he might return to Nicaragua. Nothing came of this request. In 1904, he wrote to John Horgan, solicitor, asking if he could take proceedings against the *Western Mail* which had published his photograph. He was refused permission by the prison officials to send the letter.⁵⁷

In February the same year he wrote to the Chilean Consulate in Sydney asking for information about his Godfather. In reply, the Consul informed him that, 'your Godfather, Don Frances Zelago, died some years ago and ... his brother, General Don Santos Zelago, does not know you personally'. However, the Consul went on, 'the Government of Nicaragua interests itself for you', and so he, the Consul, would make inquiries with Fremantle Prison and make dispositions to the Nicaraguan Government based on the result of these. On being presented with Gomez's prison record, however, and discovering that he was dealing with 'an inveterate rogue', the Consul lost interest in Gomez, recommending that 'no further trouble be taken with this sorry specimen of Nicaraguan nationality'.⁵⁸

An inveterate rogue Gomez may have been, but this was not the whole story. Gomez's other problem, in the eyes of European Western Australians, was his colour. This, in some quarters at least, made him less than human. The same journalist who described him as 'a particularly level headed gentleman', also thought that he had 'the facial essentials of the truest simian type'. His 'vener of European civilization,' merely hid 'his barbaric instincts'. The journalist went on:

⁵⁶ AN 123/2, Acc 968, folio no. 216/100, B.L.

⁵⁷ *Ibid.*, folio no. 334/09.

⁵⁸ *Ibid.*

[he is] at all times liable to fly off the handle if anyone runs counter to his desires. All the coloured prisoners betray this tendency. They object to any 'monkeying' on the part of fellow prisoners, and may be confidently expected to run amok if unduly interfered with.⁵⁹

Appearing before the 1898 Jameson Commission, Gomez had complained about the aggravating conduct of fellow prisoners. 'I lose my temper', he said, 'when insulted and called names by other prisoners. This has got me into trouble more than once'.⁶⁰ It certainly got him into trouble in March 1904 when a fellow prisoner began mocking him by, according to the warder on duty, imitating his laugh. In retaliation Gomez fought him, managing to bite off part of the man's nose before the pair were finally separated. Gomez was sentenced to one month in solitary with seven days bread and water.⁶¹

Gomez stands out among the inmates of Fremantle Prison as one of several who refused to buckle under pressure. According to the Jameson Commission:

troublesome prisoners are ordinarily those who retain some vestiges of will power and of individuality, and the exercise of those qualities is tolerably certain to bring them into conflict with the prison authorities.⁶²

Such a prisoner was Gomez. Sometimes compliant, sometimes violently rebellious, he refused to be merely Prisoner Number 10525. He remained Peter Gomez, Nicaraguan national.

Other prisoners reacted with similar stubbornness. Even the unfortunate Walsh, following his 10 lashes, turned angrily to the flagellator and declared, 'You fucking bastard. I'll see you outside for this'.⁶³ After Robert Davis had received nine strokes of the cat o' nine in 1904, 'he again faced officials [and] resumed his air of cynical bravado. He held himself erect and, curtly refusing a glass of water, started back to his cell before the warders had been able to place a wet

⁵⁹ *Truth*, 27 August 1904, p. 4.

⁶⁰ Jameson Report, Minutes of Evidence, Q. 232, p. 19.

⁶¹ AN 123/2, Acc 968, folio no. 334/09, B.L.

⁶² Jameson Report, p. 13.

⁶³ AN 123/2, Acc 968, folio no. 594/07, B.L.

towel across his shoulders'. One witness declared, 'The exhibition almost shook my faith in the efficacy of flogging as a means of punishment'.⁶⁴

The ultimate form of defiance was escape. The annual report for 1905 claimed that there had been only 10 escapes in 30 years, involving 15 prisoners.⁶⁵ How these figures were calculated is unclear, but they are obviously grossly inaccurate and point to the danger of relying solely on official reports. There were certainly more escapes than ten. In the eight years between 1897 and 1905, there were at least 11 escapes involving 8 prisoners. Nevertheless, according to the Royal Commission:

To the Gaol officials, and to those accustomed to dealing with prisoners, the offence of escaping from Gaol presents itself as one of special enormity, and as one, therefore, calling for exceptionally severe punishment.⁶⁶

However, the Commissioners added, this was a view which they did not share:

The desire to regain liberty is a perfectly natural one and is generally possessed most keenly by the best class of prisoners, i.e., to the men of whom the greatest hopes may be entertained that they will, when reformed, prove the most energetic and useful citizens.⁶⁷

Even George did not consider escape as 'an offence of special enormity' except when it entailed violence.⁶⁸

Not all escapes were as cheekily carried out as the one by Donald McPherson, who, while working outside the prison in the local quarry, calmly downed tools, informed the warden 'I'm off boss', and walked away. 'I called on him to stop', reported Warden Jarvis, perhaps rather sheepishly, 'but he took no notice of me'. In his report to the Inspector of Prisons, Superintendent George declared:

⁶⁴ *Truth*, 15 October 1904, p. 4.

⁶⁵ Annual Report for 1905.

⁶⁶ Jameson Report, p. 3.

⁶⁷ *Ibid.*

⁶⁸ AN 123/2, Acc 968, folio no. 2280/04, B.L.

it is impossible for warders to prevent men escaping from them in this way ... if the officer was armed it would be dangerous to fire ... as the general public are continuously about in the street'.⁶⁹

➤ When Thomas James made a dash for freedom while marching to work with the quarry gang, he was not so lucky. James made the mistake of jumping over the fence of a cricket oval. From there he had no cover and, no members of the public being around, two warning shots were fired at him by the armed guard escort. James took shelter in a shed, but his freedom lasted only ten minutes, after which time he realised the hopelessness of his situation and gave himself up. Despite George's previous opinion that escape was not a serious offence, James was placed in irons for six months.⁷⁰ Concerning his escape, James later told the commissioners that, 'The weather was hot and the water dirty. I was tired of life, and would have just as soon been shot as not.'⁷¹

➤ Other escapes were not so spontaneous. When John Higgens escaped in 1905 by climbing through the roof of a workshop and scaling the perimeter wall, he had clearly planned his escape. Once through the roof Higgens changed into a suit of civilian clothes which had been planted in readiness. To scale the wall he used a length of rope attached to an iron hook, possibly purpose made in the blacksmith shop where he was employed.⁷²

In summary thus far, the inmates of Fremantle Prison, far from passively accepting the prison regime and allowing themselves to be 'shaped and coded into objects', reacted in a variety of ways to their imprisonment. They protested collectively and individually when they believed that their rights as prisoners or as human beings were being violated. To be sure, many - perhaps most - did buckle down and accept their punishment, determined to serve their sentences as quickly as possible in order to regain their freedom. But even for some of these men this was no passive acceptance, rather it was a conscious and rational decision. 'I made up my mind to obey

⁶⁹ Ibid., folio no. 265/98.

⁷⁰ Ibid., folio no. 252/98.

⁷¹ Jameson Report, Minutes of Evidence, Q. 18, p. 4.

⁷² ANN 123/2, Acc 968, folio no. 3283/05, B.L. See also reports of Higgens' escape in the *West Australian*, 1 December 1905, p. 5, and the *Daily News*, 30 November 1905, p. 8.

all orders, good or bad, and try and keep out of all trouble', one prisoner told the Jameson Commission.⁷³

Defining protest as, 'any confrontation with authority involving, or implying, some assertion of general principle', Alan Atkinson distinguishes four categories of protest among convicts in colonial New South Wales. First, physical or verbal attack, which reflects a fundamental rejection of authority. Secondly, appeal to authority based on the convicts' perception of denial of their rights. Thirdly, withdrawal of labour, either as a form of protest or as a means of bargaining. Finally, what Atkinson termed 'compensatory retribution', in which the convicts used their own code of punishment on their masters in retribution for a perceived act of injustice. Importantly, for Atkinson's argument, these final three categories were the most widespread and implied 'some acceptance of the forms by which the convict was bound, and a belief that they had some rights'.⁷⁴

In the protests thus far considered among the prisoners of Fremantle Prison, Atkinson's four types are easily discernible. These, however, are not discrete types; there is considerable overlap between them. When Holloway made three successive attacks on warders, for example, he was not only rejecting their authority, he was also exacting what Atkinson terms 'compensatory retribution'. Similarly, when Walsh turned to the flagellator following his flogging and threatened 'to see him outside', this was both an act of defiance and a potential act of compensatory retribution. The point being made is that while it is useful to be able to distinguish between categories of protest, a more fruitful approach would be one which attempts to uncover patterns. Indeed, Atkinson avoids treating his categories as typical, and though he speaks of types, it is significant that he uses the word 'pattern' in his title.

The pattern of prisoner protest which emerges thus far is one which includes rejection of authority, appeals against perceived injustices, attempts at bargaining and compensatory retribution. A fifth element emerges if the definition of 'protest' is broadened to include actions which, while not being openly confrontational, are nonetheless oppositional. When Prisoner

⁷³ Jameson Report, Minutes of Evidence, Q. 580, p. 45.

⁷⁴ Alan Atkinson, 'Four Patterns of Convict Protest', p. 66.

Bath, working in the tailors' shop, made a mandolin with cotton thread as strings and played it in the water closet, he was engaging in an individual - and innovative - form of oppositional practice.⁷⁵ The smuggling of newspapers and other contraband articles by prisoners is an example of collective oppositional practice. While 'Backing the wall' was clearly confrontational, the term itself was part of the language of the institution, a language which formed part of a distinct prison subculture.

Language is, of course, a powerful weapon of resistance. The use of slang, for example, is a means of establishing a certain cohesion between social groups. There was a well developed slang language among the prisoners in Fremantle Prison. The prison itself, for instance, was referred to as 'Butterfly Hall'.⁷⁶ Patricia O'Brien argues that prison slang contributed to communal cohesiveness in prisons and may have developed:

from the need for a sense of autonomy in the depersonalizing institution, or a desire to escape detection, or at least a need for an alternative structure through which such elements as group identification, status and rights could be defined.⁷⁷

Slang, O'Brien also argues, may have been a way inmates resisted the institution and established a common form of consciousness among themselves.

These practices, in short, were part of an inmate sub-culture which helped to structure prisoner protest. The inmates of Fremantle Prison, far from being passive victims of the prison regime, exercised some degree of choice in complying with or resisting that regime. The prison regime was shaped by prisoner behaviour as well as official policy. Prisoner behaviour was also structured by broader social values which the prisoners brought into the prison, assumptions about legal and human rights, for example. As social conditions changed throughout the twentieth century, so too did prisoner behaviour.

⁷⁵ AN 123/2, Acc 968, folio no. 1052/08, B.L.

⁷⁶ *Truth*, 18 April 1908, p. 2.

⁷⁷ O'Brien, *The Promise of punishment*, p. 79.

1968-1991

In some ways the reaction of Fremantle Prison inmates to their imprisonment during the latter part of the century mirrored that of the inmates at the turn of the century. Prisoners were still being brought before the Superintendent charged with petty offences such as refusing to obey orders, disorderly behaviour or, in one case, 'wilful damage to one copy of "People" valued at \$1.70, being the property of the State of Western Australia'.⁷⁸ More serious charges were heard before the visiting Justice or a stipendiary Magistrate. The most significant feature to emerge from an examination of the records is the relatively low proportion of Aboriginal inmates who were charged with prison offences. In 1982, for example, Aboriginal inmates constituted over 40 per cent of the inmate population, but only 25 per cent of those brought before the Superintendent, 26 per cent of those brought before the Magistrate and 17 per cent of those brought before the visiting Justice.⁷⁹ The reason for this is unclear. However, in a review of prisoners in the punishment cells in 1984, R. Midford, a clinical psychologist, suggested that the lower rate of Aboriginal inmates undergoing punishment may have been a result of a higher degree of peer support among Aboriginal prisoners.⁸⁰

The social revolution of the 1960s and 70s impacted on Fremantle Prison in a number of ways. Prisoner protest became louder and more frequent as inmates demanded what they saw as basic rights. Mass sit-outs by prisoners replaced the practice of 'backing the wall'. Riots occurred with more frequency. Illicit drugs and alcoholic home-brews took their place alongside tobacco as jail currency. Escapes continued, but often with more cunning and sophisticated planning as escapees sought to overcome increased surveillance and tighter security.

At an individual level inmates adopted a variety of strategies to cope with their imprisonment. When Ronald Morley began his nine year sentence for bank robbery in 1984 he

⁷⁸ *Superintendent's Register, 20 April 1988-29 December 1988*, WAS 747, Cons. no. 4329, Item 8, 21 September 1988, B.L.

⁷⁹ *Disposition of Charges, 1 July 1981-31 December 1990*, WAS 749, Cons. no. 4314, Item 1, B.L.

⁸⁰ R. Midford, 'Observation Cell Survey, June-August 1984', p. 4, AN 26, Library Services Branch, Ministry of Justice.

soon developed a comradeship with a small group of fellow inmates who were clearly intent on serving their sentences quietly and who supported each other in adapting to the prison routine. Writing about his experience as a Fremantle Prison inmate, Morley later expressed his gratitude for 'the support and gruff kindness that I received from some of the other prisoners'.⁸¹ Nevertheless he experienced moments of great despondency. Here he describes his feelings on his first night in his cell:

Sitting on the bottom bunk I lit a cigarette and gloomily reflected on the day's events. I then thought of Liz and wondered what she would be doing at that moment. A feeling of utter desolation swept over me, a mixture of utter remorse, sadness, nostalgia and despair. I broke down and wept bitterly ... Come on-snap out of it!, I eventually muttered to myself. Get yourself busy and your mind occupied before you succumb to self-pity.⁸²

Later, at work in the tailors' shop, he again found himself thinking of his wife and family and his predicament as a prisoner. 'Get cracking boy before you start to crack, I told myself, picking up a selection of scrap material to practice on'.⁸³ Morley survived by sheer determination and by keeping himself mentally and physically active. He began a 5-year correspondence course to qualify as a real estate agent and obtained a study pass to enable him to stay in his cell at weekends whenever he wished, thus providing him with an avenue of escape from the monotony of the prison yard.⁸⁴

While Morley found solace in the company of fellow inmates, others tried to withdraw psychologically from the prison environment. James Tilbury escaped from the realities of prison life by making matchstick models. That way, he declared, 'I can block off from the politics of the prison'.⁸⁵ This form of resistance was also an important coping mechanism. Noel Coward

⁸¹ Morley, *Greybeard*, p. 152.

⁸² *Ibid.*, p. 145.

⁸³ *Ibid.*, p. 164.

⁸⁴ *Ibid.*, p. 174.

⁸⁵ James Tilbury, OH2230/5, p.14, B.L.

reacted to prison life by withdrawing from contact with fellow inmates. 'You literally live your life in your head in institutions', he remarked. 'You create your own fantasies, you make your plans for the future, you plan robberies, you live in your head'.⁸⁶ Noel found himself unnerved by prison life, fearful of both inmates and officers. Two things in particular unnerved him; the silence of the night, 'that's broken periodically by someone going a bit crazy',⁸⁷ and:

[the] staring that goes on ... The prison officers stand at the gate and they stare around. The prisoners sit at the walls and they stare around. The guy in the tower looks down and in your cell you look up, and there's an eye at your door.⁸⁸

'Inspection functions ceaselessly', argues Foucault in his discussion of panopticism. 'The gaze alert is everywhere'.⁸⁹ The major effect of the gaze, he argues, is to induce in the inmate 'a state of consciousness and permanent visibility that assures the automatic functioning of power'.⁹⁰

For the inmates of Fremantle Prison there was no escape from the stare of the officers, though some did try. At two hourly intervals prisoners were disturbed by the sound of the metal judas hole cover being opened and the light switched on as officers carried out their routine body count. In April 1988, Rodney U. was brought before the Superintendent charged that he had, 'committed an act of misconduct subversive of the order and good government of the prison' by covering the judas hole of his cell door. He was let off with a caution.⁹¹ Not so fortunate was Peter H. who, in November of the same year lost three days' gratuities for the same offence.⁹² When Ronald Morley, on his first night in his cell, rearranged the position of his bunk so as to

⁸⁶ Coward, OH, p. 67.

⁸⁷ Ibid., p. 20.

⁸⁸ Ibid., p. 23.

⁸⁹ Foucault, *Discipline and Punish*, p. 195.

⁹⁰ Ibid., p. 201.

⁹¹ Superintendent's Register, 20 April 1988-29 December 1988, entry for 4 May 1988, B.L.

⁹² Ibid., 24 November 1988.

provide more room, he raised the ire of the officer on duty who was unable to see him through the judas hole.⁹³

A common reaction to the effects of imprisonment, according to Noel Coward, was self mutilation, 'for various reasons, to get to the hospital, to get sympathy, [or] just because you hate your own damned body'.⁹⁴ In his case self mutilation took the form of tattooing, for which offence he would have been liable to a sentence of solitary confinement. Other prisoners took more drastic actions. In 1984, in response to a number of suicides, the section of the prison known as the New Division, (quite a misnomer, the Division having been opened in 1907), was designated a placement area for 'emotionally disturbed and vulnerable' prisoners. A review of the operation of the Division carried out in 1987, at which time 60 prisoners were being held there, reported that 20 per cent of the inmates had at some time attempted suicide.⁹⁵ In the 18 months between mid 1987 and December 1988, 44 incidents of suicidal behaviour were recorded in the Occurrence Book for the observation and punishment cells. Twelve of these were actual suicide attempts, mostly the slashing of wrists or attempts at hanging.⁹⁶ Typical of the entries in the occurrence book were the following:

23 August 1987	Prisoner J. stated he was losing it, reported to medic
	Prisoner N. moved to observation (suicidal)
25 August 1987	Prisoner N. off hinge still
18 September 1987	Prisoner B. to Fremantle hospital for treatment & returned (self inflicted injury to arm)
	placed in restraining belt
10:10 p.m.	checked, appears to have freed one arm
10:30 p.m.	given injection by medic
10:35 p.m.	

⁹³ Morley, *Greybeard*, pp. 148-149.

⁹⁴ Coward, OH, p. 67.

⁹⁵ Ian Brown, *A Preliminary Study of Prisoners in New Division, Fremantle; Being a report on the placement of prisoners in New Division*, AN 55, Library Services Branch, Ministry of Justice.

⁹⁶ Occurrence Book: Observation and Punishment, June 1987-January 1989, WAS 684, Cons. no. 4257, Item 19, B.L.

A Departmental memorandum in April 1989 reported that incidents of self inflicted injuries among prison inmates were on the increase, particularly at Fremantle. 'Razor cutting of arms and attempted hanging or choking by means of a makeshift noose were the predominant means', the memorandum concluded.⁹⁷

Self-mutilation and threats of suicide are, of course, acts of desperation. However, they are also coping strategies, means of manipulating the system. Consider the following entry in the occurrence book in December 1988:

On Friday 2 December 1988 I was on duty in the New Division. At approximately 14.25 hours I checked prisoner G. in observation cell AN11. He requested to be put back in his solitary cell. He was informed that he could not be put back in solitary as he had been ill that morning. He stated he would cut himself if he could not be put back to the solitary cell. He had in his possession a razor blade. He refused to give me the blade.⁹⁸

Prisoner G. won the argument and was placed back in solitary after first handing over the blade. Why would a prisoner prefer solitary confinement to an observation cell which allowed at least limited contact with fellow prisoners through the wire mesh doors of the cell? According to the psychologist who later interviewed him, 'He apparently feels supported by the limited dialogue he has with fellow countrymen from Laverton, through the window of the punishment cell'.⁹⁹

Gambling and the use of illicit drugs provided inmates with other avenues for coping with imprisonment. Terence Maller remembers that gambling was widespread, particularly at weekends when bets were made on the racing with Champion Ruby tobacco as the currency.

By the end of the day we were overrun with tobacco which was then taken out of the prison by an officer and sold at a tobacconist and the prison officer got part and we got part which we invested at the T.A.B.¹⁰⁰

⁹⁷ Departmental Memoranda, WAS 790, Cons. no. 4643, Item 1, 10 April 1989, B.L.

⁹⁸ Occurrence Book, Observation and Punishment., 2 December 1988.

⁹⁹ Ibid.

¹⁰⁰ Maller, OH, p. 36.

According to Terence, as much as 40 packets of tobacco went from the prison each week under this scheme. He also remembers a transistor radio being smuggled into the prison in the 1960s, dismantled during the day and hidden before being reassembled in the evenings to listen to the trots. 'So there were constant schemes you were dreaming up to get around the system, ... mainly to keep your mind active and to alleviate boredom'.¹⁰¹

Throughout the seventies and eighties the use of drugs by inmates became widespread. According to one prisoner, by 1983 the use of heroin was widespread. 'You just could not avoid during the course of a day seeing someone shoot up somewhere', Terence Maller recalled.¹⁰² Ronald Morley witnessed just that and provides the following account:

On that weekend after my family visit I sat talking with Ray and another new acquaintance named John when I happened to glance in the direction of the nearest toilet and noticed three pairs of feet showing through the twenty five centimetre gap between the bottom of the door and the ground. I gave Ray a nudge. 'What the hell are they up to?'

He glanced over and replied, 'Someone's getting a fix'.

'You mean heroin?'. I was horrified.

He nodded and John added, 'That's nothing unusual, there's plenty of it if you've got the money.'

.. as time went on I could see for myself that all drugs, including heroin-which was called 'snow' or 'smack'-were widely used.¹⁰³

By the mid eighties the Prisons Department had enlisted the assistance of the C.I.B. and the Customs Service in its effort to control the problem.¹⁰⁴ As in the broader community, however, the drug scene continued to flourish. In a memorandum to his deputy-Directors in August 1985, Ian Hill, the Director of the Department of Corrections, expressed his concern about the 'small but steady rise in the number of prisoners committed for drug offences and the increase in prison offences relating to drugs'.¹⁰⁵

¹⁰¹ Ibid., pp. 37-38.

¹⁰² Ibid., p. 51.

¹⁰³ Morley, *Greybeard*, pp. 170-171.

¹⁰⁴ *Annual Report for 1984-1985*, in *M.V.&P.*, 1985, Vol. 4. (no page numbers provided)

¹⁰⁵ Departmental Memoranda : 1980-1989, 29 August 1985, WAS 790, Cons. no. 4643, Item 1, B.L.

A variety of means were used to smuggle drugs into Fremantle Prison. Hash, in the form of pellets, was passed from visitors to inmates when kissing goodbye, the pellets swallowed and later recovered from faeces.¹⁰⁶ Cannabis was sometimes thrown over the prison walls and retrieved by an inmate.¹⁰⁷ Morley's friend John, claimed that bent prison officers were the main suppliers of heroin, and, although no officer was ever apparently directly implicated in the practice, this version is corroborated by other prisoners.¹⁰⁸

Evidence from other parts of Australia indicates the use of quite elaborate methods for smuggling drugs into prisons. In 1980 the Australian Federal Police alerted the Western Australian Department of Corrective Services about one scheme involving library books. Under the scheme an outsider would borrow a book from his or her local library, making sure that only one copy of the book existed. The drug would be concealed in the book and information on the title of the book conveyed to a prisoner. The prisoner would then put in a request to borrow the book on inter-library loan, thereby gaining access to the drug.¹⁰⁹ There is no evidence that this method was ever used at Fremantle Prison but it is an indication of the extent to which prisoners could go in order to gain access to drugs and, as in the broader community, the difficulty in preventing drug use by determined users.

There were, of course, other substances to which Fremantle Prison inmates had recourse; glue used in the woodwork shop, paint thinner used in the paint shop, even window cleaning solutions mixed with vinegar to produce alcohol. These were all utilised by prisoners as a means of getting a fix.¹¹⁰ Moreover, there was little that the prison authorities could do to prevent determined and innovative prisoners finding ways of manufacturing alcohol, as the following extract from the prison records suggest:

¹⁰⁶ Maller, OH, p. 50.

¹⁰⁷ Security Management File, 30 December 1985.

¹⁰⁸ see, for example, Maller, OH, p. 52.

¹⁰⁹ Security Management File, 25 January 1980.

¹¹⁰ Departmental Memoranda, 7 January 1985.

29 March 1984	Brew and carton of glue found in No.3 yard
4 April 1984	Brew found in no.2 division
25 April 1984	Brew found in no.2 division
26 April 1984	Two brews and tattooing instruments found in no. 2 division
7 May 1984	Brew found no.1 yard
4 May 1984	Equipment for brew found in no. 2 yard
8 May 1984	Equipment for brew found in no. 3 yard
9 May 1984	Equipment for brew found in no. 2 yard
13 May 1984	Equipment for brew found in no. 2 yard
14 May 1984	Equipment for brew found in no. 2 yard ¹¹¹

Home brews and drugs were not the only contraband articles concealed in various places by prisoners. In 1979, the Director of the Prisons Department, Bill Kidston, told a newspaper reporter that officers 'regularly uncover hidden knives, knuckledusters, iron bars and drugs in Fremantle jail'. Searches carried out by highly trained officers using metal detectors were, he said a daily part of prison life.¹¹² A search carried out over a two week period in 1986 uncovered the following items; 25 litres of home brew, 40 hand made knives and steel spikes, 20 hand made keys and templates, a four- metre ladder which had been welded in the workshop and buried in the yard, hypodermic needles, heroin and cannabis, hand made fake business cards and civilian clothes.¹¹³

The existence of contraband articles could come to the authorities' attention as a result of random raids by officers, by a prisoner being obviously under the influence of drugs or alcohol or through information passed on by other prisoners. In February 1984, the security officer of the prison received three anonymous notes from a prisoner pointing to the existence of home brews in the prison. The first of these stated simply, 'W.'s brew in saw bench at back, B's brew in flour in cell', the second, 'more in cistern in toilet 3 division', and the third, written in crayon and signed 'anonymous sender', suggested that the security officer 'have a look in the loo in A.B'.¹¹⁴

¹¹¹ Security Management File, 5 March 1984.

¹¹² *Sunday Independent*, 5 August 1975, p. 5.

¹¹³ *West Australian*, 20 November 1986, p. 3.

¹¹⁴ Security Management File, WAS 743, Cons. 4646, Item 1, 1978-1988, 22 February 1994; 29 February 1994.

It was the rare prisoner, however, who would have been brave or foolish enough to grass on his fellow inmates. Evidence from inmates and officers alike bear witness to the high level of retributive violence among inmates. A major difference between the prison regime in the 70s and 80s and that of earlier years was the absence of officers from the yards. Following major disturbances in the yards in the late sixties, which will be described shortly, officers were withdrawn from yard duty and took up positions behind iron grille gates from where they could observe prisoners.¹¹⁵ With direct contact between officers and inmates removed, the inmates gained more control over yard politics. According to Terence Maller, much of the discipline in the yards:

was discipline imposed by the prisoners on prisoners. You've a couple of hundred blokes and they're left to their own devices, so a natural human thing is for a pecking order to evolve out of it.¹¹⁶

Ronald Morley remembers fights in the yards as commonplace. In one incident an inmate was badly beaten up after pinching another's matches:

'All that for a box of matches?', I exclaimed in horror. Callously indifferent to it all, Laurie and Dimmi had resumed their game of backgammon and it was Ray who answered me. 'It doesn't take much; values are different in prison. It wasn't just the box of matches, it's just the fact that it was something that was his, and the other pinched it! Someone could get killed over a cigarette paper and a riot could start over something as trivial'.¹¹⁷

Morley's description of the yard in which he spent much of his time is worth recording at length because of its portrayal of the prison life and the inmate culture.

Some of these would be the natural heavies, prisoners who could look after themselves and did not have to prove anything and basically they were pretty reasonable blokes. Then, of course, there were The days slowly and endlessly merged into each other with the routine becoming an unthinkable habit. When one was not at work one sat or walked in the yard until it was time to be locked away for the fifteen or so hours. Even when in the yards the inmates seemed to develop set habits and their own voluntary routine. They chose to sit in what had become their favourite spot, always walked the same area at the same time each day, played their various games at set times and had their showers at about the same time. Even the various groups had their own spot and their own group routine. All the self-styled 'heavies' would

¹¹⁵ Halden, OH, p.12.

¹¹⁶ Maller, OH, p. 16.

¹¹⁷ Morley, *Greybeard*, p. 157.

commandeer the area on the left-hand side of the yard between the sewage inlets and the end of the shelter closest to the block. Here they would sit in a circle and talk or walk up and down in a group. the hangers-on, those who liked to be heavies but did not have the guts to tackle anyone who might beat them and who would subsequently pick their mark. These types went out of their way to look like a heavy.¹¹⁸

Morley describes four groups of inmates; the 'heavies', tribal Aboriginals 'who were very quiet and kept to themselves', non-tribal Aboriginals 'who were just the opposite', and 'the remainder'. In total there were around 140 inmates confined to the yard in which Morley was held, a yard measuring around 25 metres wide and 45 metres long. Some inmates did manage to make their individual mark. Morley remembers 'old Bob', an ex-digger, who could keep his fellow inmates 'intrigued for hours with the yarns he told'.¹¹⁹ Terence Maller remembers Syd S. the rat catcher, whose cell used to 'stink to high heaven. He had cats everywhere'.¹²⁰

Other individuals, by dint of ingenuity and cunning, were extremely successful at manipulating the system to their own ends. One dramatic sequence of events was described in the 1972 Jones Report into Fremantle Prison. The two main protagonists, William Cobalt and Owen Hooper, had served several sentences in Fremantle Prison, accumulating between them over twenty years. In late 1971, when the story begins, Hooper had just begun his latest sentence and Cobalt was nearing the end of a five year stretch. The two had known each other well from previous sentences and were good friends. Hooper, described as 'a striking personality ... highly intelligent, and of an apparent engaging frankness', was a radio technician by training and clearly very skilled. Both men were employed at radio, television and electrical repair and maintenance work throughout the prison.

One of the innovations which had been introduced after the appointment of Colin Campbell was the installation in each cell, and in the exercise yards, of speakers through which prisoners could listen to the radio or have special music requests played from a makeshift studio within the main prison block. Two inmates, William Cobalt and David Birnie, were responsible for

¹¹⁸ Ibid., p. 180.

¹¹⁹ Ibid., p. 181.

¹²⁰ Maller, OH, p. 57.

collecting requests and acting as disc-jockeys. They shared a double cell, known as the radio cell, half of which was used as a studio. The adjoining cell was occupied by Hooper.

In late 1971, Hooper and Cobalt were assigned to the prison hospital to relocate the telephones. The hospital telephone system was separate from that of the main prison. While engaged in the work they hit on the idea of tapping into the hospital telephone line and running a line from the hospital to the radio cell. Having accomplished this they constructed a dialing mechanism out of various bits and pieces including an old alarm clock, and completed their handiwork by installing an 'on-off' switch which could throw the hospital line out and their own in. They were able to do this in the early evening when, for about an hour, there was no-one on duty in the hospital office. Frequent use was made of the telephone. Hooper rang various people, including old school friends, a newspaper columnist and on one occasion his mother, asking for a recipe for scrambled eggs! Not content with having installed a telephone he then constructed an inter-communications device connecting his cell with the radio cell.

In early 1972, there were signs of discontent among the inmates concerning the playing of musical requests over the radio system. The perception was that one influential inmate, John Cohen, was pressurising the disc jockeys into playing certain music and that most of the requests being played were for Cohen and his mates. So a power struggle began which culminated in Cohen taking over from Birnie as disc jockey. Later, Hooper and Cobalt discovered that Cohen was organising a sit-out by prisoners and informed an officer. Shortly after, they successfully sabotaged a second planned sit-out. According to Jones, 'Then the heat really came on'. Threats were made against Hooper and Cobalt. After Cobalt was physically assaulted by Cohen, they later told the Jones Inquiry, they decided that the situation was so intolerable that they should escape.¹²¹ Their successful escape is a remarkable story in itself.

During a previous term in Fremantle, Hooper had been involved along with other inmates in the tracking of weather observation balloons operated by the French Meteorological Department. He now applied for, and obtained, permission to resume this work. Together with Cobalt he constructed a receiving set which was capable of monitoring weather satellite signals and which

¹²¹ Jones Report, pp. 81-85.

would enable him to furnish the French government with reports. Remarkably, the two then persuaded the prison authorities that in order to successfully monitor the satellites they would need a cell well away from the radio cell, and so they were shifted to a cell in the New Division, from which, along with a third inmate, Stanley Stone, they began monitoring the weather satellites. The entire manoeuvre, the Jones Inquiry concluded, was an important part of their escape plan, New Division building being much closer to the prison walls.

Once in their new cell, Hooper and Cobalt ran a line across from the radio cell and also installed radio communication between the two cells. The pair retained possession of the 'on-off' switch and so remained in control. Incredible as it may seem, there were now two cells in the prison with their own telephones and connected by an intercom.

The next problem was how to effect their escape. This took several days planning and work. Attached by screws to the ceiling of their new cell was a bank of fluorescent lights. By attaching a hinge to one end of the bank they were able to raise and lower the lights much like a trapdoor. With the lights lowered they cut a hole in the ceiling of the cell which gave them access to the roof of the building. When not working on their escape the lights could be raised to cover the hole.

On July 7th, 1972, at around 4 o'clock in the morning, the two inmates, along with Stone, climbed out on the roof armed with lengths of wire, some cable and a home-made field telephone, and made their way to the northern extremity of the building. From there they were a mere twelve feet from the prison wall. The cable was attached to the wire so as to make a running loop and a large hook was connected to the wire. One problem remained; there was no way of getting across the wire without attracting the attention of the duty officer in the tower. Undaunted, Hooper telephoned the officer using his field telephone, pretending to be the gate officer, reported suspicious activity in another part of the prison and instructed the tower officer to keep a watch on it. With the officer's attention diverted, the trio made good their escape. It had been, as Jones remarked, 'a spectacular enterprise'.

The entire saga is a clear example of how determined prisoners could manipulate the prison system to their own end. Hooper, the brains behind the events described, brought with him into the prison a range of skills and personal characteristics which enabled him not just to survive but

Big escape story

to turn the system to his own advantage. Significantly, much of what he accomplished does not appear to have been part of an escape plan. The telephone set up in the radio cell and in his new cell after his transfer, for example, did not figure in his escape; nor did the intercom systems which he constructed. In his report on the escape, Commissioner Jones thought that it was simply 'a project which appealed to Hooper and satisfied his need for adventure and stimulation'.¹²² Jones did not believe their version that they were frightened by other inmates following the power play over the radio system. While this is a possibility, it does not explain Cobalt's motive for escaping. He had, after all, only months to go before he would be released officially.

The story did not end there. The ingenuity which they had drawn on to effect their getaway appears to have abandoned them when it came to remaining free. All three were recaptured soon after, by which time they had indeed incurred the wrath of their fellow inmates. According to Jones:

After Hooper, Cobalt and Stone escaped there was considerable animosity in the prison towards them. The other inmates felt that having abused the trust that had been placed in them by the officers they had left all the rest of the inmates holding the bag. The inmates felt that as a result existing privileges and concessions would be drastically curtailed.¹²³

Cohen was claimed by one prisoner to have remarked that, 'if they come back here they're dead'.¹²⁴ Accordingly, the three were sent to different and separate prisons. 'Fremantle, one supposes', Jones concluded, 'will see them no more'.¹²⁵

Escapes were, however, usually celebrated by prisoners. Some were well planned others seemingly spontaneous. Robert Kucera, a police officer attached to the prison, recalled one prisoner, 'an extremely strong and powerful man', who ate pins and metal objects in order to be taken to Fremantle hospital. There he snapped the handcuffs by which he was attached to his

¹²² Ibid., p. 92.

¹²³ Ibid., p. 97.

¹²⁴ Ibid., p. 98.

¹²⁵ Ibid.

bed, struck the officer guarding him and escaped.¹²⁶ Kucera remembers another prisoner who leapt into the rubbish truck and smashed his way through the gate to freedom.¹²⁷ The excitement which could be stirred up among the inmates following an escape is well described by Morley:

'Dimitri's gone walkabout', someone whispered in my ear, 'just watch the fun and games when they find out'. ...The first announcement of Dimi's escape was featured on the 6 o'clock news and a spontaneous roar of gleeful jubilation swept through the prison accompanied by the pounding clatter of the steel doors being struck with whatever objects came to hand. The lift in morale the following day was quite remarkable and was no doubt caused by the inmates' universal acclaim that the system had been beaten.¹²⁸

Collective protest figured prominently in prisoner behaviour during the seventies and eighties, and in forms which mirrored the new forms of protest which were developing in the broader community. Sit outs by prisoners occurred frequently after 1968. Common grievances were poor food, poor medical facilities and the behaviour of a minority of officers. Sometimes sit outs would end up in rioting. In 1968, there was a riot at the prison, the first since 1929. The disturbance began on 4 June when, after lunch, the prisoners staged a sit down strike in protest against having been given, they claimed, contaminated meat. As the afternoon wore on prisoner demands increased. They wanted single cells, sweets with every meal and the removal of certain warders. By the evening tempers were becoming frayed and the prisoners increasingly agitated. The prison authorities saw a danger of their escaping from the exercise yards and running amok throughout the prison. For three hours, according to a press report the following morning, there was sporadic gunfire as officers fired warning shots into the yards in an effort to persuade the prisoners to return to their cells. One hundred police were called in as reinforcements and the army was put on alert. Eventually the prisoners capitulated and returned indoors, but not before three had been injured by shrapnel as bullets bounced off yard walls.¹²⁹

¹²⁶ Kucera, OH, p. 28.

¹²⁷ Ibid., p.31.

¹²⁸ Morley, *Greybeard*, pp. 189-190.

¹²⁹ *West Australian*, 5 June 1968, pp. 1-2.

None of the prisoners' demands were met but the incident did succeed in bringing to public attention conditions within the prison. An editorial in the *West Australian* the next day called for a full inquiry into the prison and, pre-empting the possible findings of such an inquiry, remarked, 'it would find overcrowding and the inadequacies of living and rehabilitation conditions as major influences'.¹³⁰

The issue of rioting by prisoners has been discussed in another chapter and so need not be dwelt upon at length here. It is clear, however, that protest in the form of sit outs and riots became a regular feature of Fremantle Prison during the last twenty years of its operation. 'It was', said Colin Campbell after one sit out by prisoners in 1972, 'a sign of the times, more a protest about the right to protest'.¹³¹ There was, of course, some truth in this. In the wider society the protest movement was at its height and in prisons throughout the Western world inmates were protesting strongly about their living conditions. On Christmas Eve 1966 there had been a major riot in Queensland's Boggo Road gaol, the first major disturbance in an Australian prison in recent times. A major riot at Attica prison in the U.S.A. in 1973 received world-wide news coverage and raised concerns for Fremantle Prison officers whose union issued a warning to officers to be 'vigilant and maintain forethought'.¹³² The following year, in New South Wales, prisoners rioted in Bathurst gaol burning it to the ground.¹³³

Campbell's 'protesting about the right to protest' remark was, perhaps, a more significant comment than he realised. One of the arguments of this chapter has been that prisoners bring into prison a set of assumptions about their rights and that when these rights are denied them they will protest in a number of ways. Prisoners, although shut away physically from society, are nevertheless products of society and remain, even as prisoners, members of society. The forms of protest which prisoners adopt will reflect, to some extent at least, wider social values and

¹³⁰ *West Australian*, 6 June 1968, p. 6.

¹³¹ *West Australian*, 10 August 1972.

¹³² *W.A.P.O.U. Newsletter*, December 1973, pp. 8-9.

¹³³ 'Out of Sight Out of Mind', A.B.C. 1987.

beliefs. The development of mass protest by Fremantle inmates during the seventies merely paralleled developments in the broader community.

Thus far the characteristics of the Fremantle inmate population has been examined and something of the life of inmates within the prison regime has been explored. One important aspect of prison life remains to be described in detail. While inmates spent long lonely hours in the isolation of their cells, and a considerable amount of time sitting about in exercise yards, prison work was another reality of their grim existence. It is an examination of this feature of prison life which is the topic of the next chapter.

5

Work and Discipline

The prison is like a rather disciplined barracks, a strict school, a dark workshop.¹

Crime is decreased by:-
(1) Healthy Environment
(2) Education
(3) Industry
(4) Punitive repression²

Borrowing a phrase from the nineteenth century French writer Baltard, Foucault describes prisons as 'complete and austere institutions' which 'assume responsibility for all aspects of the individual, his physical training, his aptitude to work, his everyday conduct, his moral attitude, his state of mind'.³ The previous chapter on prisoners has argued that Foucault's conclusion stems from an over reliance on official rhetoric and a failure to consider the actual experiences of prison inmates, and that complete control over inmates was never a reality in Fremantle Prison.

This chapter will examine the daily regime within Fremantle Prison during the years 1898 to 1911 and 1969 to 1991. A major focus will be on the work carried out by prisoners. Work, particularly during the earlier period, was the main feature around which the life of the prison revolved. It was, moreover, central to ideas about prison reform and prisoner rehabilitation. The chapter will argue that attempts to impose a strict and disciplined regime which would be both deterrent and rehabilitative were thwarted by a

¹ Foucault, *Discipline and Punish*, p. 233.

² Jameson Report, p. 12.

³ Foucault, *Discipline and Punish*, p. 235.

number of factors; the structural inadequacies of Fremantle Prison, a reluctance on the part of governments to adequately fund reform, a shortage of meaningful work for prisoners and finally, as the previous chapter has shown, by the actions of prisoners themselves.

1898-1911

A revealing glimpse of the daily routine within Fremantle Prison around the turn of the century is provided in an account by an ex-prisoner, published in the *West Australian* in 1889. The account describes how prisoners spent up to 14 hours a day in sparsely furnished cells 'about 8ft. 6 ins. long and 4ft. wide'. (The cells were actually smaller than this, measuring only 7ft. by 4 ft.⁴)

Every man is required to keep his cell in apple pie order, and indeed each cell is a picture of cleanliness. The bed clothes are neatly folded over the hammock, the floors are polished like glass, so are also the pewter utensils, and the walls are whitewashed every month or so.

As for the daily routine:

The men rise in Winter at 6a.m., in Summer at 5a.m., breakfast half an hour later, and turn to work at 7.30a.m. in Winter and 6.30a.m. in Summer, when they are mustered and counted on parade. They dine at noon and commence work again at 1p.m. in Winter and 2p.m. in Summer, they knock off work at 5p.m. in Winter and an hour later in Summer, when they retire to their cells for the night.⁵

The descriptions are indeed suggestive of a prison regime centred around military orderliness, discipline and control. The very design of the prison still resembles that of a military barracks - not surprisingly, its chief architect having been Captain Henderson of the Royal Engineers. However, a closer scrutiny reveals a somewhat different picture. Behind the facade of cleanliness and discipline, for example, the 1898 Jameson Commission found an unhealthy prison environment, 'much behind the hygienic requirements of the present day'.⁶ This despite the fact that annual reports throughout the

⁴ Kerr, *Fremantle Prison*, p. 37.

⁵ *West Australian*, 30 September 1889, p. 4.

⁶ Jameson Report, p. 1.

1890s had consistently described sanitary conditions in the prison as ranging from satisfactory to exceedingly good.

To Bert Leighton, who spent three years as an inmate of Fremantle Prison in the early 1900s, the 'long whitewashed lanes of cells' with their 'extensive array of little black doors' resembled 'so many gloomy pigeon holes - the pigeons being goal birds'. The cells themselves were ventilated, Leighton wrote, by cracks under the doors and above the windows, so that:

the foul air generated at night, causes such a stench that I have heard a warder declare it needed "a heart like a lion" to open the cell doors of [sic] a summer morning.⁷

Three years before Leighton was placed in these cells, members of the Jameson Commission had visited the prison and were struck by the poor ventilation and small size of the cells. The air space in the cells, the Commission reported, was one-third of that in Pentridge and Wormwood Scrubs, 'too limited under any circumstances for the health of the prisoners'. The mode of ventilation was extremely poor. 'A strong upward draught from the floor makes itself constantly and very unpleasantly felt, and naturally produces injurious effects upon the health of the prisoners'.⁸ The prison itself, as already mentioned, was described by the commissioners as structurally inadequate to meet its purposes, the most important of which were the separation and classification of prisoners.⁹

Even before the Jameson Commission was established, concern about absence of classification was being expressed in annual reports by both the Inspector of Prisons, James Roe, and the Superintendent of Fremantle Prison, William George. In his report for the year 1897 Roe declared that, 'without some kind of classification, discipline is impossible'. However, 'extensive and expensive alterations and additions' would be required to the prison, he thought, before a system of classification could be

⁷ *Sporting Life*, 27 January 1906, p. 1.

⁸ *Jameson Report*, p. 1.

⁹ *Ibid.*

implemented'.¹⁰ George had expressed similar views before the Civil Service Commission in 1894 and in his first report as Superintendent in 1897, and reiterated them in his evidence to the Jameson Commission some months later.

The state of Fremantle Prison was, of course, public knowledge, and the Commission's findings should have come as no surprise. Commenting on conditions within Fremantle Prison in 1897, the *Inquirer and Commercial News* described it as a prison 'ages behind the times ... a disgrace to any community'.¹¹ Regressive it certainly was in relation to prisons elsewhere, both in Australia and overseas. James Semple Kerr, in his examination of Australian prisons, *Out of Sight Out of Mind*, makes the point that the twin aims of classification and separation of prisoners were major considerations in the design and construction of nineteenth century prisons. Darlinghurst Gaol, for example, in its design in 1836, 'was the most developed early classification system in the colonies', while the Port Arthur Prison was specifically designed so as to facilitate the strict separation of prisoners.¹²

Not so Fremantle Prison, which had been constructed primarily as a convict depot. Convicts had already completed the first part of their sentence in English prisons under the separate system before being transported to Western Australia. On their arrival in the colony they were employed largely on public works, only returning to their prison cells at night. The cells were therefore never intended to house prisoners for long periods of time, nor was the prison designed as a penitentiary in which classification and separation of prisoners could be carried out.

The significance of the convict legacy was not altogether lost on Superintendent George. In his first annual report, for 1897, and in advance of similar findings by the Commission, George argued that both the building and the existing gaol regulations were outdated relics of the convict era. What was required before any system of separation and

¹⁰ Annual Report for 1897, p. 6.

¹¹ *Inquirer and Commercial News*, 30 July 1897, p. 11.

¹² James Semple Kerr, *Out of Sight, Out of Mind: Australia's places of confinement, 1788-1988*, Sydney, 1988, p. 155.

classification could be carried out, he ventured to suggest, was a new prison to be built elsewhere, 'according to the latest modern ideas', and a new, 'full and complete set of rules as to punishments, diet and separate treatment'.¹³

George, however, was no progressive liberal reformer; his prime concerns throughout his time as Superintendent were the safe custody of the inmates and the maintenance of discipline. Among his first initiatives upon taking up his position in 1897 were the raising of the prison walls by several feet, the posting of armed guards to work parties and a request for an increased number of armed guards, moves which Thomas and Stewart see as clear evidence that George intended to introduce a more repressive regime.¹⁴ Further evidence of this was suggested in his suggestion to the Commission that prisoners should wear masks when undergoing separate treatment, a practice which had long since been abandoned in Britain.¹⁵

Six weeks after George wrote his report, F.C.B. Vosper, member of the Legislative Assembly for Coolgardie, introduced a motion into parliament proposing the setting up of a Royal Commission to inquire into the penal system of the colony.¹⁶ The motion read:

That a Royal Commission be appointed ... to inquire into the condition of the penal system of Western Australia, and to report to this house upon the method now in vogue for the punishment of criminals, the classification of the same, the sanitary condition of Fremantle Gaol and other places of detention, as well as all contracts for the supplies of food and other materials; also the manner in which convicts are employed both inside and outside of places of detention ... the conduct and management of Fremantle Gaol.¹⁷

Vosper's motion was successful and the Commission, which handed down its final report in June 1899, recommended sweeping changes. Fremantle Prison, the

¹³ Annual Report for 1897, p. 9.

¹⁴ Thomas, and Stewart, *Imprisonment in Western Australia*, p. 49.

¹⁵ Jameson Report, Q. 649, p. 53.

¹⁶ For a good summary of Vosper's speech and the ensuing debate, see Thomas and Stewart, *Imprisonment in Western Australia*, pp. 48-52.

¹⁷ *Hansard*, 6 July 1898, vol.12, p. 302.

Commissioners declared, should be used as a local prison for prisoners serving two years or less, and a separate 'labour prison' should be established for prisoners sentenced to penal servitude.¹⁸ Penal servitude was introduced by the British parliament in 1853, as a result of the decline in transportation. Serious offenders and habitual criminals were usually sentenced to penal servitude, serving the first nine months of their sentence in cellular separation before being transferred to a labour prison.¹⁹ Within Fremantle prisoners should be classified according to their 'physical and mental aptitude for the various kinds of work which [they] may, under the actual conditions of our colony, be most conveniently called upon to do.' Certain categories of people should be excluded from the prison, namely, first offenders, juveniles, lunatics, imbeciles, drunkards and vagrants. By thus reducing the number of prisoners, the Commissioners argued, the complete separation of inmates from each other could be achieved.²⁰

The origins of the separate system of prison management in Britain lay in a report of a select committee of the House of Commons in 1832, which had recommended that prisoners be placed in solitary cells and provided with employment. Giles Playfair, in his history of the English prison system, suggests that the introduction of the separate system 'owed something to American inspiration', following a visit by a Home Office delegate to the Eastern Penitentiary in Philadelphia.²¹ According to David Rothman, the State of Pennsylvania, under the influence of Jacksonian reformers in the 1820s, introduced a system into Philadelphia prison under which prisoners were confined to their cells for the entire length of their imprisonment, working, eating and sleeping in solitary confinement'.²²

¹⁸ Jameson Report, p. 15.

¹⁹ Playfair, *The Punitive Obsession*, p. 66; Forsythe, *Penal Discipline*, p. 61.

²⁰ Jameson Report, 1898, p. 16.

²¹ Playfair, *The Punitive Obsession*, p. 28.

²² David Rothman, 'Perfecting the Prison', in Morris and Rothman, *The Oxford History of the Prison*, p.117.

Variations of the separate system were implemented in Britain during the nineteenth century. Its most severe form, carried out in Pentonville, is well described by Playfair:

... Pentonville prisoners were supposed to be so "rigidly kept apart" that it would be impossible for them to as much as to recognise each other by sight when they left the institution. Each of them took his daily exercise alone in one or other of the small, bricked off airing yards provided. In the chapel, which was used for schoolroom classes as well as services, each of them was placed in a separate stall, so that he could neither see nor speak to his neighbours. And if he was let out of his cell for any other reason - he might be one of a party detailed to work the water pumps in the early mornings - he was required to mask his face by pulling down the peak of his cap over it.²³

Central to the introduction of this regime was the desire for the spiritual and moral reclamation of prisoners. 'It was intended,' says Forsythe, 'that prisoners so isolated would be forced in upon themselves and that they would hear at last the voices of conscience and religion'. Prisoners would receive education and religious instruction in their cells, so that, 'there would be created a humble repentant thirst for atonement'.²⁴

Throughout the next few decades the separate system in Britain underwent many modifications. Nevertheless, under the leadership of Sir Edmund Du Cane, who chaired both the Convict Directorate and the Prison Commission throughout the last quarter of the century, a severe regime was maintained. Du Cane transformed the separate system. Under him, says Forsythe, 'The separate cell was no longer to be the vehicle of spiritual growth but an instrument of penalty'.²⁵

The mounting criticism of Du Cane's regime, which culminated in the Gladstone Committee of inquiry in 1895, has been well chronicled by Forsythe and need not be detailed here. Suffice to say that the Gladstone Committee, whose report was consulted by the 1898 commissioners in Western Australia, emphasised the reformatory role of prisons and recommended a more relaxed system of separation to allow for prisoners to associate for work and education.²⁶

²³ Playfair, *The Punitive Obsession*, p. 60.

²⁴ Forsyth, *Penal Discipline*, p. 8.

²⁵ *Ibid.*, p. 20.

²⁶ *Ibid.*, p. 27.

Under the reforms recommended by the Jameson Commission, the first part of imprisonment would be 'strictly on the separate system', with 'no communication whatsoever' with fellow inmates. Prisoners would be instructed in an appropriate trade while in their cells and 'under competent instructors'. To facilitate this it would be necessary, the commissioners thought, to create bigger cells by knocking down the dividing walls of alternate cells.²⁷

The final report discussed the proposed separate system in some detail. Prisoners would be under the separate system for the first three months of their sentence. Provision would be made 'for work, exercise (two hours daily), and education (by reading)'. On completion of the term of separation, prisoners under sentence of more than two years would be transferred to a labour prison. Those serving two years or less would be placed to work, in association with other prisoners, 'in the class of work for which he is most fitted', returning to the cells for meals. Finally, 'Besides instruction from the schoolmaster and liberty to read good literature ... he may attend occasional lectures given by the staff and others on such subjects as thrift, temperance, etc'.²⁸

While many of these recommendations suggest an emphasis on reforming the criminal, it would be wrong to assume that reformation was the main thrust of the commissioners' thinking. In fact they were quite sceptical on the matter of reforming criminals, declaring, 'we cannot regard any form of imprisonment as having been shown to be particularly successful as a reforming influence'.²⁹ Of two things, however, the Commission was certain. First, Western Australia as a young colony could not afford the cost involved in adopting reformatory methods such as were employed elsewhere.³⁰ Secondly, prison should be punitive and made as uncomfortable as possible for the

²⁷ Jameson Report, pp. 1-2.

²⁸ *Ibid.*, p. 15.

²⁹ *Ibid.*, p. 13.

³⁰ *Ibid.*, p. 11.

prisoner, consistent 'with requirements of ordinary humanity and of justice'.³¹ In recommending the introduction of a separate system the commissioners dealt neatly with both of these problems. The effect of the system they were recommending, they argued, would be to 'increase the severity of the punishment inflicted'. For this reason shorter sentences - 'short, sharp, severe and effective' - should be given, thus decreasing the cost to the tax payer of the maintenance of prisoners.³²

A number of factors were to hamper attempts over the ensuing decade to implement the Commission's recommendations. Major problems were the structural inadequacies of the prison building itself, difficulties in obtaining work for prisoners and concern about costs.

During 1899 the Main Division of the prison was divided into four wards, facilitating a rudimentary classification system and enabling the separation of long sentence prisoners from short term and remand prisoners. A number of cells were enlarged by knocking down dividing walls.³³ The annual report for 1900 provides a fine illustration of the danger in taking official documents at face value. In his report for that year the Inspector of Prisons, James Roe, reported that a start had been made on the building of new workshops which he expected would be completed in mid-1902. 'The concentration of all prison labour within the walls will then be possible', he added, 'and will be found to be an immense help in maintaining prison discipline'.³⁴ The annual report of Superintendent George, however, which was appended to Roe's report, complained of the 'considerable delay' in the building of the new workshops because of the failure of the Public Works Department to deliver the necessary material.³⁵ Nevertheless in 1901 new workshops were finally

³¹ *Ibid.*, p. 13.

³² *Ibid.*, pp. 2-3.

³³ Annual Report for 1899, p. 7.

³⁴ Annual Report for 1900, p. 7, in *M.V.&P.*, 1901-1902, vol. 2.

³⁵ *Ibid.*, p. 13.

completed for boot making and tailoring, and George reported that separate confinement had been introduced.³⁶

In 1901 work began on the erection of the proposed labour prison in Hamel. This was completed the following year but quickly experienced difficulties and was closed within five years, 'owing', George reported, 'to there not being sufficient work.'³⁷ The failure of Hamel was a major set back in attempts to implement reforms. The Commission's recommendation for a separate labour camp had been crucial for the implementation of its main recommendations, the classification and separation of prisoners. In 1909, Superintendent George, explaining the relatively high cost of maintaining prisoners in Fremantle Prison, compared with prisons in other states and in England, argued that this was due to 'all classes of prisoners being located in one gaol'.³⁸

Throughout the first decade of the new century developments continued to occur, albeit in a rather ad hoc manner. In 1902, a schoolmaster was appointed for juvenile prisoners who, despite the Commission's recommendation, continued to be sent to Fremantle.³⁹ In 1904 a printing shop was opened and in 1908 a new cellular division was added to the prison, enabling the implementation of a more comprehensive classification system. Wing "A" of the new division was allocated to first offenders under sentence of six months and upward, while wing "B" was used for prisoners undergoing separate treatment. Adjacent to the new division was built a series of thirty exercise yards radiating from a central observation post. Known as 'the cage', this edifice was used for prisoners undergoing separate treatment.⁴⁰

These additions facilitated the introduction of a more efficient system of classification by allowing the old cellular building to be divided into four divisions: division one for

³⁶ Thomas and Stewart, *Imprisonment in Western Australia*, pp. 69-70.

³⁷ Annual Report for 1907, p. 21, in *M.V.&P.*, 1908-1909, vol. 1.

³⁸ Annual Report for 1909, p. 26, in *M.V.&P.*, 1910-1911, vol. 2.

³⁹ Thomas and Stewart, *Imprisonment in Western Australia*, p. 71.

⁴⁰ Annual report for 1898, p. 23, and Drew, *Penological Reform*, pp. 5-6.

remand, trial and juvenile prisoners and debtors, division two for 'short sentence first offenders, petty thieves, drunks and vagrants'; division three for 'long sentence and habitual criminals'; and division four for 'cooks, bakers cleaners and orderlies'. Exercise yards were also divided so as to keep each class separate.⁴¹

While annual reports suggest that significant developments were taking place within Fremantle Prison throughout the decade, some important questions need to be addressed. What, for example, was the effect of these developments on the prison regime? How did they impact on the daily lives of the inmates? What form of separation was implemented and how successful was it?

One of the first developments following the Commission's report, as already described, was the separation of the main cellular block of the prison into four divisions, thus making possible, Superintendent George reported, the separation of long term from short term prisoners and the restriction of 'remands, debtors, and other classes of prisoners ... to their own wards'.⁴² The completion of the new division in 1908, enabling a more comprehensive system of classification and separation, suggests that, in regards to these recommendations at least, the Jameson Commission's report was successfully implemented.

Certainly by 1903, when Bert Leighton commenced his five year sentence, a separate system was in operation within the prison.⁴³ It was, however, a very different system from that proposed by the Jameson Commission with its emphasis on the provision of work, exercise and education. The system in Fremantle Prison was vividly described by Leighton:

"Separate treatment" means that out of 24 hours, each man has 2 hours exercise, pacing drearily round and round a yard, in strict silence, with some 40 or 50 other unfortunates, all at equal distance apart ... For the other 22 hours he is shut up in his cell, the victim of his own bitter thoughts ... It is solitary confinement slightly modified ... The intention of it, no doubt, is to impress the prisoner with the enormity of his offence against society, and thus

⁴¹ Annual Report for 1908, p. 23, in *M.V.&P.*, 1909, vol. 1.

⁴² Annual Report for 1899, p. 12.

⁴³ *Sporting Life*, 13 January 1906, p. 1.

bring about his reform. But ... the solitude and the hopeless monotony, with nothing to think of but the years of suffering, degradation, and disgrace ahead, produce nervous irritation, approaching in many cases to frenzy, and, instead of softening the man, it brings out all the evil there is in him ... In some cases it deadens all sensibility, so that a man becomes indifferent to what happens, and would just as soon become a habitual criminal as not.⁴⁴

By this account, the separate system which was introduced into Fremantle Prison resembled, albeit in a milder form, that which had been adopted in English prisons under Du Cane and which the 1895 Gladstone Committee had condemned as leading to 'moral and mental deterioration'.⁴⁵ That this should have occurred was due to at least three things.

The separate system proposed by the Jameson Commission was aimed at punishment, deterrence and reform. The commissioners' scepticism on the effectiveness of reform of prisoners reflected a lack of agreement among penal theorists on just how to balance these three very different aims. Playfair points out that, though clearly critical of the separate system, the Gladstone Committee had refrained from recommending its abolition 'only from fear of destroying the deterrent value of the discipline'.⁴⁶ In Fremantle, deterrence and discipline were at the forefront of the Superintendent's thinking. When reporting, in 1901, that separate confinement had finally been implemented in the prison, George described it not as a reformatory measure but as 'a wholesome deterrent'.⁴⁷

A second reason for the form which the separate system took in Fremantle Prison was the difficulty experienced by prison officials in finding suitable work for prisoners, a difficulty which George described in 1904 as 'daily growing more real and acute'.⁴⁸ When Bert Leighton underwent his term of separation no work of any kind was provided.⁴⁹ The problem continued. One of the findings of the 1911 Commission was that 'at present there

⁴⁴ *Sporting Life*, 3 February 1906, p. 1.

⁴⁵ Playfair, *The Punitive Obsession*, p. 159.

⁴⁶ *Ibid.*

⁴⁷ cited in Thomas and Stewart, *Imprisonment in Western Australia*, p. 70.

⁴⁸ Annual Report for 1904, p. 19, in *M.V.&P.*, 1905.

⁴⁹ *Sporting Life*, 3 February 1903, p. 1.

is not sufficient work for prisoners undergoing separate treatment'.⁵⁰ The shortage of employment for prisoners was a problem which, as will become clear, was to vex prison administrators throughout the life of the prison.

Thirdly, and most importantly, in its investigations into Fremantle Prison, the 1911 Pennefather Commission found a prison whose very structure:

does not appeal to one as being adapted to the application of modern prison principles in regard to administration or the supervision and classification of prisoners, although no doubt it serves the purposes for which ... it was originally designed, i.e. as a barracks.

The commissioners went further, doubting whether structural improvements could ever improve the prison, 'the design of which is utterly opposed to modern views'. Even the enlarged cells, because of defective ventilation, were more uncomfortable than some of the old cells. Nothing short of an entirely new penal establishment, the commissioners thought, could remedy the situation.⁵¹ The structural inadequacies of Fremantle Prison was a problem which would echo throughout the twentieth century.

In the final analysis then, it is evident from the findings of both Commissioners, Jameson in 1898 and Pennefather in 1911, that any attempts to introduce classification and separation of prisoners in line with contemporary penal practices were doomed to failure because of the utter inadequacies of the prison structure itself. By 1911, even the crude form of separation which had been introduced into the prison in 1901, had collapsed, the Pennefather Commission finding that:

The very prisoners (first offenders) who should be made to feel that prison life is not the pleasant one that some people outside think it is, escape separate cellular treatment and are allowed to associate in their occupations with the very worst characters.⁵²

⁵⁰ Pennefather Report.

⁵¹ Ibid.

⁵² Ibid.

Central to the Jameson Commission's proposals for reform of the prison system was the provision of work which prisoners could carry out, under instruction, in the separate confinement of their cells and, subsequently, in workshops in association with other prisoners. While the availability of suitable work in both instances was a problem throughout the period 1898-1911, work remained the central organising factor in the daily life of the prison. The nature of this work, and its perceived value, needs to be examined in some detail.

In a recent study of nineteenth century European prisons, Patricia O'Brien describes a shift in thinking which took place in English prisons in mid-century. In the early part of the century, she argues, work was part of the punishment of imprisonment, was largely unproductive and was aimed at keeping prisoners occupied. By the 1850s, however, penal reformers and administrators were considering the rehabilitative value of productive prison work.⁵³ Sean McConville, however, emphasises the continuing punitive nature of work in English prisons under Du Cane's regime in the second half of the nineteenth century. According to McConville, Lord Carnarvon, who led a Lords Select Committee in 1863, had called for prison work 'that quickened the breath and opened the pores', a demand which was later embodied in the 1865 English Prisons Act which listed, as examples of suitable work, the treadmill and the crank.⁵⁴ Elements of both approaches to prison work were evident in Fremantle Prison in the years 1898-1911.

The legacy of the Fremantle Prison's origins as a convict depot was perhaps nowhere more obvious than in relation to the work performed by prisoners. The Convict Establishment had been created in the first place to answer the need in the colony for labour. Convicts were employed largely on public works, a practice which continued long after Fremantle Prison ceased to be a Convict Establishment and became a local prison in 1886. In 1899, work carried out by prisoners in Fremantle, according to the annual report for that year, was as follows:

⁵³ Patricia O'Brien, 'The Prison on the Continent', in Morris and Rothman, *The Oxford History of the Prison*, p. 204.

⁵⁴ Sean McConville, 'The Victorian Prison: England, 1865-1965', in Morris and Rothman, *The Oxford History of the Prison*, pp. 146-147.

...stone breaking, pumping water, making and enlarging drives for town water supply, making iron and woodwork for Harbour department, mats for Railway Department, and alterations and sub-divisions at Fremantle prison: some prisoners are employed cleaning the prison, attending to the sick, and in making clothes for Rottneest and other prisons.⁵⁵

The annual report for 1900 listed work done by prisoners under two headings, productive and non-productive.⁵⁶ Productive work was remunerative work done for other government departments, such as building, road work, fencing and pumping water. Unproductive work was work done for the Gaols Department and was therefore non-remunerative, though as Superintendent George pointed out in his report for 1904, it did represent a saving as 'it otherwise would have to be performed by free men'.⁵⁷ Such work included tailoring, boot making, general repairs and domestic duties. It is evident, however, that only a minority of prisoners were employed in the latter category. In 1902, for example, a daily average of 35 prisoners were employed in workshops and 30 in domestic work. In that year there was a daily average of 279 inmates in Fremantle Prison.⁵⁸

This situation changed significantly over the next few years as increasing numbers of prisoners were put to work inside the prison, mostly in workshops where they were instructed in a variety of trades. This change was driven by a number of factors, one of which was the emphasis on the rehabilitative role of prison work following the 1898 Commission.

The Commission had condemned the lack of suitable work for prisoners, which it considered to be 'one of the greatest evils in Fremantle Prison'.⁵⁹ All work, it recommended, should be carried out within the prison and should be aimed at catering for

⁵⁵ Annual Report for 1899, p. 9.

⁵⁶ Annual Report for 1900, p. 14.

⁵⁷ Annual Report for 1904, p. 18.

⁵⁸ Annual Report for 1902, in *M.V.&P.*, 1903.

⁵⁹ Jameson Report, p. 2.

the needs of both the prison and other government departments. Moreover, it should be directed at providing prisoners with skills, so that on their discharge they could find proper employment and become useful members of society.

Rehabilitation of prisoners was not the only consideration however, in the shift from outside employment to employment within the prison. James Roe, the Inspector of prisons in 1897, was of the opinion that:

the time has arrived when the prisoners should be employed within the walls of the gaol, not only with a view to preventing communication with the public, but ...[as] a means of putting a stop to the escapes which occasionally occur.⁶⁰

In his report for the same year, Superintendent George echoed the same call, but, with characteristic concern, he thought that outside work should cease 'in the interest of prison discipline'. George's plea, however, also reflected changing public sensibilities, when he added,

the sentiments of the people of the country in respect to outside employment of prisoners, and the circumstances of the country itself, have very much changed during the past ten years.⁶¹

One of the circumstances to which George may have been referring was the rapid growth in trade unionism. According to Ian Vanden Driesen, in his examination of the evolution of the trades union movement in Western Australia, the movement rapidly made its presence felt at the turn of the century. Labour shortage was no longer a problem for the colony, which, following the gold rushes of the 1890s, had experienced a sharp rise in population and economic growth. By 1897, boilermakers, bakers, painters, tailors, bookbinders and hairdressers had all been unionised.⁶² In such circumstances, the visible employment of prisoners on public works was seen as a threat to free labour. *A Morning*

⁶⁰ Annual Report for 1897, p. 6.

⁶¹ Ibid., p. 8.

⁶² I.H. Vanden Driesen, 'The Evolution of the Trade Union Movement in Western Australia', in Stannage (ed.), *A New History of Western Australia*, pp. 352-380.

Herald article on Fremantle Prison in 1908 commented on 'the prejudice against, and opposition to, the products of prison labour', which 'closely restrict the area of output, and in these circumstances it is a matter of some difficulty keeping the men employed at all'.⁶³ Three incidents illustrate the point.

One industry which was successfully carried out in Fremantle Prison was mat making. In May 1904, Octavius Burt, the Inspector of Prisons, approached the Under Treasurer, A.S. Elliot, requesting permission to supply government departments with mats. Elliot referred the matter to the Tenders Board, one of whose functions was to advise the government on all proposed purchases. The problem with Burt's proposal, as the Tenders Board saw it, was that Burt wished to charge a different price for the mats than that asked on the open market. 'This', the Board considered, 'would be competing with outside business in a manner which in all states is highly objectionable to by both merchants and Labor'. The Board was not completely intransigent, however. If Burt agreed to sell the mats at the same price as that which they fetched on the open market, then they would agree to the transaction.

There followed a series of acrimonious exchanges between Burt and the chairmen of the Board, Thomas Lovegrove. Lovegrove had made his position clear; competition with the open market was unacceptable. Burt continued to argue his case. The prison mats were of a superior quality to those produced commercially and which were, in any case, not manufactured locally but imported from other states. 'Why should the Government buy outside when its own Department can supply its requirements?', he asked in a memo to the Premier. On this occasion Burt got his way, winning the support of the Premier. Passing on the Premier's decision to the Colonial Treasurer, Under Treasurer Elliot explained:

The prisoners have to be maintained whether the mats are made or not, and charging Departments with this extra sum as expenditure and crediting revenue is only a book entry, no cash passes and therefore the mats virtually cost the Government nothing.⁶⁴

⁶³ *Morning Herald*, 20 June 1908, p.11.

⁶⁴ AN 123/2, Acc 968, file no. 1860/04, B.L.

However, not all decisions on the matter of prison work went Burt's way. In May 1904, while the above matter was still in dispute, the Premier, Walter James, sent the following memo to the Colonial Secretary, George Taylor:

I am informed that prisoners in Fremantle are working on a street of the municipality and doing municipal work. Is this so? ... this work should not be done.

The work in question had actually been approved by the previous Colonial Secretary, George Randell, three years earlier and had continued intermittently ever since. On this occasion, however, Taylor refused to sanction its continuation and, despite pleas from Burt, the work was discontinued.⁶⁵

Four years later, in 1908, the Colonial Secretary wrote to the Minister for Works suggesting that prisoners be employed in stone dressing. After consulting with the Under Secretary for Public Works and the Chief Architect, however, the idea was rejected, the latter considering that such employment would create 'a rather serious problem, as stonemasons in Perth ... have great difficulty in obtaining continuous employment'.⁶⁶

It was not only competition with free labour which restricted employment opportunities for prisoners. When the possibility of employing prisoners in the manufacture of brushware was raised, this was seen as a threat to work of a similar kind being carried out by the Institute and Industrial School for the Blind. The Honorary Secretary of the Institute, James Battye, objected strongly to the suggestion, declaring that the Institute 'earnestly deprecates such action on the part of the prison authorities, especially as the choice of industries possible to the limited capacities of blind people is so restricted'.⁶⁷

One other consideration added to the difficulty in finding work for prisoners. While those in immediate charge of Fremantle Prison made every effort to obtain suitable work, senior government officials had their own set of priorities. The Colonial Secretary,

⁶⁵ AN 123/2, Acc 968, file no. 2612/04, folios 4-26.

⁶⁶ Ibid., file no. 801/08, folio 28.

⁶⁷ Ibid., folio 19-20.

for example, was worried that ex-prisoners might, on their release, 'hang around the towns and cities'. In considering the question of employment for prisoners, he was 'particularly desirous of employing them in such trades as blacksmithing, carpentry, saddlery and even boot making', adding that, 'if they have a smattering of these trades they will be better fitted to find employment in the country'.⁶⁸

These restrictions continued to hamper attempts at finding work for prisoners. Radical solutions were suggested. In 1908, the Under Treasurer suggested taking the market gardening industry out of the hands of the Chinese and passing this work on to prisoners. Such a step, he argued, 'would disarm the criticisms of workers, ... because it would tend to the displacement of the coloured race'.⁶⁹ The idea was not taken up, but it does reflect the degree of concern felt about the shortage of work for prisoners.

The upshot of all this was that, although an increasing number of industries were carried out in the prison, including mat making, tailoring, carpentry, printing and blacksmithing, insufficient supply of work meant that relatively few prisoners were employed in these occupations. In 1908, for example, a *Morning Herald* reporter visited the prison and found 20 men employed in tailoring, 15 in boot making, 12 in mat making. Of these, only half were occupied at one time.

Failure to find suitable work meant also that prisoners continued to be employed in unproductive work, much of it outside the prison. In 1905, Acting-Superintendent Francis Townsend reported that surplus labour meant that prisoners had to be employed at unprofitable work on the outside quarry next to the public hospital.⁷⁰ The *Morning Herald's* reporter found in 1908 that:

In order to prevent some of the prisoners from wasting away from ennui, they are marched out of the gaol to the grounds of the public hospital, where they are employed in the full glare of publicity.

⁶⁸ *Ibid.*, folio 38.

⁶⁹ *Ibid.*, file no. 330/08, folio 5.

⁷⁰ *Annual Report for 1905*, p.18.

'The humiliation of the prisoner', he added, 'is not part of the reformatory idea'.⁷¹ Things had not changed much in the ten years since Superintendent George informed the Jameson Commission that there was insufficient work within the prison walls and that 60 or 70 men had to be employed in pump work which could be done by a dozen men.⁷²

Although by 1911 outside work by prisoners had virtually ceased, insufficient work within the prison remained a problem. The number of industries being carried out had, however, increased substantially and the Pennefather Commission was hopeful that before long sufficient work would be available to enable separate treatment to be properly implemented with prisoners serving the first two months of their sentence being supplied with work in their cells apart from other prisoners.⁷³

In summary thus far, the 1898 Jameson Commission had put forward a number of recommendations aimed at bringing Fremantle Prison up to date with current penal theories and practices. Primary among these recommendations was the classification of prisoners, their separation for the initial three months of their sentences and the provision of employment and training in trades so as to enable them to be fitted to find employment when their term of imprisonment was complete.

While it is clear that some steps were taken to implement the Commission's recommendations, the findings of the 1911 Pennefather Commission suggest that little had changed. A range of factors account for this. In the first place, despite the extensive additions and alterations which were carried out during the early years of the new century, the structural inadequacies of the prison remained a stumbling block. The construction of the old building, Pennefather reported, 'does not appeal to one as being adapted to the application of modern prison principles in regard to administration or the supervision and classification of prisoners'. Even the much acclaimed new wing, opened in 1907, was defective. No amount of 'patching up and trying to improve the place' would make any

⁷¹ *Morning Herald*, 20 June 1908, p. 11.

⁷² Jameson Report, Minutes of Evidence, Q. 693, p. 35.

⁷³ Pennefather Report.

difference. What was required, the Commissioners concluded, was a new prison to be built on another site.⁷⁴ For the second time in 12 years, Fremantle Prison was condemned as utterly unsuitable as a penal establishment.

The unsuitability of the prison's structure was a major cause of the failure to implement a proper system of classification and separation. Prisoners under separate treatment had to work in association with other prisoners. The problem was compounded by the closing of Hamel labour prison in 1907, which resulted in long term prisoners once again being held in Fremantle. Its closure, occurring just a few months before the opening of the new wing, offset the advantages which were expected to be gained from the new addition.

The attitude of Superintendent George must also be taken into account when considering the failure of classification and separation. Separate treatment was intended to be reformatory. Its implementation, however, was left to George, a keen disciplinarian who saw separation as a deterrent rather than as an attempt to reform prisoners. George's main concerns were clearly the safeguard of the prisoners and the maintenance of discipline. He said so himself on numerous occasions.

George's attitude towards work also influenced the type of work to which prisoners were put. Work may have been at times aimed at rehabilitation, but it was also a matter of prison discipline. Better to have 60 or 70 men employed at unproductive and monotonous work such as turning the pump or breaking stones in the quarry, than to have them idle.

Influences from outside the prison also hampered employment opportunities for prisoners and dictated the type of industries which could be carried out within the prison. Work was restricted by fear of competition with free labour, by increased public concern linked with fears about possible escapes and by a desire in some quarters to provide work which would encourage discharged prisoners to go to the country.

⁷⁴ Ibid.

1968-1991

Almost seventy years after the 1898 Commission handed down its report recommending the introduction of a system of classification for inmates of Fremantle Prison, the cessation of outside work parties and the provision of work aimed at rehabilitation of prisoners, Colin Campbell submitted his first annual report as Comptroller General. In it he announced the setting up of an Assessment Centre and Classification Committee which, he hoped, would 'be the means of establishing training and re-educational programmes for inmates that has been lacking in the past'⁷⁵.

The following year, 1967, he reported that outside work parties were being sent daily from Fremantle Prison to prepare the site for the new womens' prison and that work had commenced on extending the workshops at Fremantle. He added, 'It is considered essential that industries which will teach inmates a useful trade should be commenced'.⁷⁶ Clearly little had changed in respect of the cornerstones of earlier proposals for prison reform, i.e. a satisfactory system of classification and the provision of meaningful work within the prison. But what of the years following Campbell's appointment? Under Campbell's direction, the late sixties and seventies promised to herald in a new age of prison reform in Western Australia. In this new age, how did Fremantle Prison fare?

Shortly after taking up the post of Comptroller General of Prisons in 1965, Campbell embarked on an overseas tour, visiting prisons in North America, Britain and Europe. On his return he submitted a report in which he outlined his plans for the Western Australian prison system. Campbell was impressed by the emphasis which the countries he visited were placing on the provision of vocational training and productive employment for prisoners, and by work release programmes which had been successfully introduced into many prisons. He announced his intention to implement five major reforms into the Western Australian prison system; work release programmes, post release and work release

⁷⁵ Annual Report for 1966-1967, p. 3.

⁷⁶ Annual Report for 1967-1968, p. 3.

hostels, the establishment of a Remand and Assessment Unit, the provision of vocational training and 'gainful employment' and a policy of a maximum of 250 inmates in correctional institutions.⁷⁷

The rehabilitative thrust of Campbell's philosophy was clear in these proposals, as was his belief that offenders should be provided with the opportunity to reintegrate themselves into the community. It is also clear, however, that while a significant measure of success was achieved in implementing the reforms throughout the prison system as a whole, their impact on Fremantle Prison was minimal, for at least three reasons.

Firstly, the structure of the prison which, as has already been shown, was inadequate for anything other than a purely custodial policy. Secondly, and related to this, Fremantle Prison's status as the State's maximum security prison, as argued in a previous chapter, resulted in a strong emphasis being placed on security. So, for example, when new inmates were assessed to determine the type of work to which they should be put, their security rating rather than their aptitude for particular work was the prime consideration. According to Peter Dunlop, a prison psychologist during the 1970s, the bootmaking, tailoring and printing workshops at the front of the prison were considered more secure than others, so inmates who were considered high security risks were assigned to work at those trades.⁷⁸ There were other restrictions; no community work, for example, was carried out at the prison for security reasons.⁷⁹

Thirdly, as the prison system expanded, reforms and resources tended to be concentrated on the new institutions. Work release programmes, for instance, are clearly more suited to low security and open prisons. The opening of Canning Vale medium security prison in 1981 resulted in a major reduction in the work available for Fremantle inmates in the metals and carpentry trades and in arts and crafts. Fremantle Prison laundry, which catered for all prisons, was closed and laundry facilities were transferred to Canning

⁷⁷ Annual Report for 1968-1969, p. 4.

⁷⁸ Dunlop, OH, p. 17.

⁷⁹ Annual Report for 1980-81, p; 18.

Vale thus reducing further the work available for Fremantle inmates.⁸⁰ Up to 100 inmates, 'the detained party' in prison jargon, now spent their days in the prison exercise yards due to lack of available work.⁸¹ The following year the Director of Corrective Services, Ian Hill, reported that, 'because of duplication in workshops this prison cannot project any major plans for the carpentry and metal shops'.⁸²

In short, little of Campbell's five points plan impacted significantly on the day to day life within Fremantle Prison. The maximum figure of 250 inmates was never a realistic target for Fremantle. Even the opening of Canning Vale prison could only reduce the inmate population to 299. Figures are not available on the number of Fremantle inmates involved in the work release programme. However, in the twelve months between 30 June 1983 and 1 July 1984, only 93 prisoners were on the programme, representing just under six per cent of the average daily muster for all prisons.⁸³ It is safe to assume, therefore, that relatively few Fremantle inmates took part in the scheme. Vocational training and educational courses were commenced at Fremantle but these too were available to only a small number of inmates. In 1976 only six inmates were undergoing apprenticeship training, four at boot making and one each at printing and metal work.⁸⁴ In 1980, seventeen inmates of the prison were undergoing apprenticeships and a further twenty-four were being trained in sheet metal and steel fabrication work.⁸⁵ Less than five per cent of inmates were involved in full time educational courses.

The type of work available for inmates differed little from that which was available to inmates at the turn of the century. There were workshops for boot making, tailoring, carpentry, metal work and printing. Inmates were also employed in the laundry, kitchen,

⁸⁰ Ibid.

⁸¹ *W.A.P.O.U. Newsletter*, October 1981, letter from prison office, no page numbers.

⁸² Annual Report for 1981-1982, p. 14.

⁸³ Annual Report for 1983-84, p. 68.

⁸⁴ Annual Report for 1976-1977, p. 24.

⁸⁵ Annual Report for 1980-1981, p. 18.

garden, library and at general cleaning duties.⁸⁶ Hopes for meaningful employment for inmates were thwarted by the prison's structure, traditions and security rating. As a psychologist, Peter Dunlop experienced:

a lot of frustration by what was just physically possible in a prison; like the industries in the prison were fairly traditional prison industries. They were one step above bag making.⁸⁷

Rubert Gerritson, an inmate in the early 1970s, remembers being taught skills that 'were totally inappropriate to life in the outside world',⁸⁸ words similar to those used in an 1976 report on minimum standards for prisoners which described prisoners spending their days 'in jobs that do not exist in the normal world', jobs such as making paper bags, tailoring and heaping wood.⁸⁹

In 1984, 60 per cent of Fremantle inmates were reported as being employed in full time work, mostly in the workshops. A further 30 per cent were employed part time while 10 per cent were unemployed 'due to being under protection or refusing to work'.⁹⁰ The reality behind these statistics, however, needs to be questioned. In his report for 1982 to 1983, almost a century after the 1898 Royal Commission had argued for the need to provide productive work for Fremantle prisoners, the prison's Superintendent remarked that, 'workshops are, in the main, used as a management option rather than production', and he added that, 'the need for this will be the determining factor on the level of workshop production'.⁹¹ Despite the 1970s emphasis on work as rehabilitation aimed at helping inmates to reintegrate themselves into the community on their release, work in Fremantle

⁸⁶ Annual Report for 1976-77, p. 24, in, *M.V. & P.*, 1978, vol. 4.

⁸⁷ Dunlop, OH, p.11.

⁸⁸ Gerritson, OH, p. 23.

⁸⁹ Prisoners' Minimum Standards and Requirements', a report prepared by the prisoners' committee, Fremantle prison, 1976, in *Research and Information Series*, No. 10, Western Australian Department of Corrections, Perth, May 1976, p. 3, B.L.

⁹⁰ Annual Report for 1983-1984, p. 10.

⁹¹ Annual Report for 1982-1983, p. 16.

Prison remained, as it had been in the 1890s and early 1900s, a matter of discipline. Twice each day inmates were paraded under the watchful eyes of the prison officers, divided into work parties and marched to their respective work areas. Eddy Withnell, a long term inmate in the early 1980s, describes splendidly the scene as inmates were placed on parade:

Every morning and afternoon the crim awaits the parades. He is called, not by name but by work detail, a single party at a time, enters into the gloom, the cold catacombs of a cell block's heart, shuffles numbly up to the regimented line painted sharply across crooked cobbles, a symbol of desperate order imposed on a warped base, no longer hearing the mindless orders bellowed out from some screw's knotted gut: 'get behind the line, toes up to the line-but not on the line'. When the parade muster is counted, checked, ticked off, 'rubbed down', (frisked), 'filed off' (given the order to turn and march off), he will step out of perpetual shade and walk, ever so briefly, across an area cut and slashed with squares of lawn and open sky, fresh air and cleanliness, then plunge back into concrete, enter into the workshops and his various spatial claims.

Thus, Withnell argues, 'when the crim is called onto parade he participates in a ritual, an act demanded by his keepers who believe it will teach him "discipline"'.⁹²

Withnell's paper, published while he was studying for a university degree and still an inmate of Fremantle Prison, explores what he terms 'the spatial determinations of the inmate's existential world'. His analysis of 'how the spatial reality of the criminal's environment determines patterns of socialisation and communication within his existential world' has a strong bearing on the central theme of this thesis, that inmates were not inert and passive victims of the prison regime, who could be shaped and coded into objects on which official policies could impose discipline or rehabilitation as the case may be. So the ritual described by Withnell is the prelude to a very different set of relationships which begins to operate between the keepers and the kept once the inmate arrives at the workshop and 'his various spatial claims'. Once in the workshop, the trade instructor has two priorities, to maximise production and to reduce 'the number of rorts of stealing going on in his shop'. The inmate, on the other hand, argues Withnell, also has two priorities, 'making his job and work bench into a fixed claim, an egocentric preserve where he can exercise all sorts of creative license and retain all sorts of extra possessions not otherwise permitted

⁹² Eddy Withnell, 'Stone Walls: The spatial determinations of the criminal's existential world', in *Journal of Cultural studies*, 2.2, 1984, pp. 61-89, p. 80.

within the prison system' and 'maximising the number of rorts without bringing himself or the instructor "undone"'. Thus, within the workshops both the instructor and the inmate move about 'within a situational territory that respects the finer nuances of individual preserves'.⁹³

Robert Morley, dubbed 'Greybeard' by the press after staging a series of bank hold-ups in Perth in 1983, served part of his sentence in Fremantle Prison where he was assigned to the tailors' shop. His memoirs of this episode in his life provides a glimpse of the rorts which, according to Withnell, inmates sought to maximise. On his first day in the workshop, Morley was teamed up with another inmate who was instructed to show him how to use the sewing machine:

Thomo was obviously well experienced in the art of machining ...
 'Just watch what I am doing and you will soon get the hang of it. I can't stop and explain it to you 'cause I've got too many to finish.'
 'Why, what is the quota?' I asked.
 He grinned. 'Fuck the quota! I'm doing private jobs'-as if that statement answered everything.
 'Private jobs?'
 'Yeah, tailor-made clothes for some of the boys', he answered as he surreptitiously took a sheet of paper from his pocket and checked on some measurements. 'Thirty-one inch leg', he muttered as he ran the tape-measure along the trouser leg, made a chalk mark, cut through with the scissors and with a flourish stitched the seam.⁹⁴

Inmates were able to rort the system in more sinister ways. There were several incidents during the seventies and eighties in which inmates were found to be in possession of keys, knives and even make-shift guns.⁹⁵ Inmate access to various tools of trade was, understandably, a cause of concern to the officers. Tools could too easily become weapons. When officer Neale discovered an inmate from the metal workshop in possession of a metal scribe he confiscated it on the grounds that it was a weapon, this despite protest from the workshop instructor who argued that the scribe was a necessary tool for the work which the inmate was carrying out.⁹⁶ The prison officers' concerns about

⁹³ Ibid., pp. 84-85.

⁹⁴ Robert Morley, *Greybeard*, p. 160.

⁹⁵ see, for example, *Sunday Independent*, 12 August 1979; *West Australian*, 23 August 1986, p. 14.

⁹⁶ Security Management File: 1978-1988, 9 October 1981, B.L.

security in the workshops were understandable. Although it is difficult to arrive at a precise figure it is evident that some of the escapes from Fremantle were made from workshops - one reason for this would have been the placement of the workshops close to the prison walls. However, emphasis on security did present unavoidable restrictions which could only have acted as a counter force to efforts to provide inmates with useful work in a rehabilitative environment.

Emphasis on security also interfered with the running of educational programmes. Some of the difficulties encountered in running an educational programme in a maximum security prison have been well described by Maureen Steadman who was employed as an Education Officer at Fremantle Prison in the mid-1980s. Steadman recalls, for example, the disruption which resulted from the regular crisis which occurred within the prison, such as escape attempts or disturbances in one of the workshops. The procedure following such disturbances was to return all inmates to their cells:

so you'd be in the middle of a reasonably productive day and there'd be an incident in the bootshop and everyone would go back to their cells ... the students were always really hostile and difficult to settle back to work after such things because they really resented the disturbance.⁹⁷

On one occasion the education centre was closed down for four days while the centre was thoroughly searched following the escape of an inmate through the roof. So the emphasis on security, necessary for a high security prison, was clearly a major impediment to the successful implementation of educational programmes.⁹⁸ The number of inmates attending the education centre fluctuated in response to fluctuations in the prison routine. 'Sometimes they'd come, sometimes they wouldn't', Steadman remembers:

and you'd wait and wait and wonder. Some days two people would arrive for your literacy class and you wouldn't know where the rest were and they'd drift over in dribs and drabs. During the course of the day you'd be running a class and someone would be called up to a visit and another person's lawyer would arrive. It was all terribly disjointed and difficult.⁹⁹

⁹⁷ Margaret Steadman, OH2230/19, p. 7, B.L.

⁹⁸ Ibid., p. 7.

⁹⁹ Ibid., p. 6.

There were other impediments connected with the structure and the high security function of Fremantle Prison. The education centre was housed in what had been the women's prison, an old structure with small cramped cells which were used for classrooms and as offices. An art school and a library were located in larger rooms. 'It was all', says Steadman, 'crumbling and grotty'.¹⁰⁰

The prison bureaucracy was another impediment to the work of the education centre. Steadman remembers having to fill out 'endless forms' and spending 'a lot of time ... in my day queuing for signatures from the appropriate chief officer and assistant superintendent because without that stamp and signature, nothing was a valid document'. Inmates had to fill out forms requesting permission to attend the education centre, the final class list had to be approved by officers before classes could get underway, and, after commencing on a course, forms had to be completed and approval obtained before students were allowed access to educational materials such as paints and compasses, which could be considered a security risk.¹⁰¹ Steadman found herself, in short, constantly faced with reminders that the prime function of Fremantle Prison was, as it always had been, custodial. Her role as education officer was secondary to this. One incident in particular illustrates the point. 'I was walking across the parade ground with a student', Steadman recounts:

and we were talking about his studies and he was doing mature-aged matric and I was talking to him about what his options were if he was successful in matriculating ... we were just ambling across the parade ground at the end of the day and an officer on the wall with a rifle shouted at us and told us that we were not to walk across together. I was berated for doing this and he was disciplined, and I went out to my car and cried. I was just so shaken by the fact that we were just having this ordinary human conversation and being challenged by a man with a gun on the wall. It was horrifying.¹⁰²

¹⁰⁰ Ibid., p. 10.

¹⁰¹ Ibid., p. 8.

¹⁰² Ibid., p. 19.

Despite these difficulties the education centre did achieve a significant measure of success, albeit with a relatively small number of inmates. The work produced by inmates in the arts school, for example, led to a major art exhibition in His Majesty's Theatre in Perth which was followed by subsequent exhibitions through the eighties. The arts programme, according to Steadman:

performed a really incredibly useful management function because it absorbed prisoners who really put their heart and soul into their art work and it gave them an avenue of freedom that meant that they were far less trouble to the system.¹⁰³

Other major successes were the publication of three children's story books, written and illustrated by inmates enrolled in the literacy programme, and the recording and broadcasting on local radio of a number of songs written by Aboriginal inmates. But even these successes took place against a background of resistance from prison officials whose prime concern was security. The arts programme in particular was viewed with hostility by the prison administration who, says Steadman, saw the arts school as 'a den of iniquity, you know, potential drugs and time wasting, like it wasn't really work'.¹⁰⁴

A number of conclusions can be arrived at regarding the place of work and discipline in Fremantle Prison during the periods 1898 to 1911 and 1965 to 1991. Despite the 1898 Commission's recommendations on the importance of providing meaningful work for inmates which would assist them to integrate back into the outside world on their release, the type of work carried out by inmates changed little over the intervening years until the new era of prison reform in the 1970s. This new era of reform, however, had minimal impact on Fremantle Prison which continued to function much as it had done since the turn of the century. Some inmates did undergo successful apprenticeship training, but they were relatively few in number. The inappropriate design of the prison, its structural inadequacies and dilapidated condition continued to thwart efforts at reform. The prison was structurally unsuitable either as a maximum security institution or as a place where

¹⁰³ Ibid., p.11.

¹⁰⁴ Ibid., p. 9.

rehabilitation programmes could be successfully carried out. The emphasis on security ran counter to rehabilitative measures and work continued to be, as always, a matter of discipline.

Despite the establishment of a classification and assessment centre in the early years of the later period, classification and separation of inmates continued to be a problem. While the design of the prison did facilitate the separation of the various categories of inmates by placing them in different cellular divisions, in the workshops inmates mixed freely with those from other divisions, just as they had at the turn of the century.

A measure of success was achieved in education of inmates, but like the apprenticeship courses, relatively few inmates benefited from these courses. The efforts of the education centre were impeded by the prison's maximum security rating, the prison administration, the inflexible daily routine and resistance from officers who, as the warders in earlier years had done, saw the sole function of prison as purely custodial and any other attempted function as a threat to discipline and security.

Finally, despite the relatively unchanging nature of prison life throughout the two periods, Fremantle Prison was not a total institution imposing its own internal regime of discipline on a hapless inmate population. Inmates resisted the imposition of work as discipline, utilised the system to their own ends and played a significant role in shaping the daily regime. But what of the other inmates of the prison, _ officers and professional staff? They too were an integral part of the institutional life of Fremantle prison. It is to a consideration of their role and experiences that the following two chapters will turn.

6

The Prison Officers

Every public officer should first obey the order given him, and then make report of objections. Otherwise all discipline will be at an end and chaos and muddle will follow.¹

The first responsibility of those in charge of Fremantle Prison, Superintendent George declared in an interview with the *Morning Herald*, in 1908, was the safeguarding of the prisoners. However, the newspaper commented, 'there is something more subtly protective than bolts and bars, and that something is discipline'.²

The notion of discipline implies both a dominating class and a class that is dominated. As the examination of prisoner behaviour has shown, however, this is an oversimplification. There were varying degrees to which prisoners allowed themselves to be dominated. Prisoner resistance was structured by a number of factors, including a prison sub-culture and the influence of broader social values which they brought with them into the prison. The study of prisoner behaviour thus revealed a prison regime which was shaped by prisoner behaviour as well as official policy.

This chapter will explore the impact of prison officers on the regime within Fremantle Prison. At first glance this may appear to be obvious; the officers' role was to maintain discipline among the prisoners and to prevent escape. This was certainly the ideal. The reality, however, was more complex. Officers were expected to maintain

¹ Superintendent George in memo to Comptroller General Burt, 30 January 1905, AN 123/2, Acc 968, file no. 444/05, B.L.

² *Morning Herald*, 17 June 1908, p. 2.

discipline but were also subjected to discipline. They were both dominating and dominated. Just as prisoners reacted to situations in which they felt that they were being unfairly treated, so too did officers. Furthermore, the prison officers' daily lives were spent in the enclosed world of the prison and in close proximity to prisoners. Officers too were contributors to the prison sub-culture and hence were instrumental in shaping the daily regime of the prison.

The chapter will first examine the prison officers during the years 1898 to 1911 before moving on to describe the modern officers of the 1970s and 1980s. Specifically it will consider who the officers were, their official duties, their working conditions and their relationship with the prisoners. A basic premise of the chapter is that officers, like prisoners, brought with them into Fremantle Prison attitudes and values from the outside community which influenced the manner in which they carried out their official duties. Officers' perceptions of their role were, moreover, often at odds with official policies. Under such circumstances they at times fiercely resisted attempts to implement new policies and, in so doing, played a significant part in thwarting prison reform and in shaping the daily regime of the prison.

Before proceeding any further, it is necessary to say something about the designation 'prison officer'. Around the turn of the century the term most frequently applied to uniformed staff was 'warder'. However, by the end of the first decade of the century the term 'officer' was being increasingly applied, in, for example, the 1911 Royal Commission and in annual reports. By the 1970s, the term 'warder' had more or less fallen into disuse. For convenience, the early part of the chapter will refer to prison warders, the term most commonly applied during the period 1898 to 1911. The term 'prison officer' will be used in the discussion on uniformed staff in the 1970s and 1980s.

Prison warders have been very much neglected in the historiography of prisons, although J.E. Thomas has made a significant contribution in his book *The English Prison Officer since 1850: a study in conflict*. Thomas emphasises the paramilitary structure within which warders operated, a legacy he argues, of the convict system. With the passing of the Prisons Act in 1877 and the establishment of a Prison Commission,

responsibility for prison administration in England was transferred to the central government. The first commissioners were all men with military backgrounds who encouraged the appointment of ex-soldiers as prison warders.

However, according to Thomas, the paramilitary staffing structure was more than an accident of history. In the debates leading up to the passing of the 1877 Act, prison reformists argued against the imposition of military discipline into prisons. William Tallack, for example, a leading reformist, Chairman of the Howard League and a strong advocate of rehabilitation of prisoners, argued that military discipline was 'inappropriate to prison work'. Du Cane, on the other hand, as first Chairman of the new Prison Commission, favoured a paramilitary staffing structure and the employment of ex-soldiers, arguing that:

[their] habits of order and discipline, of rendering and enforcing strict obedience and their aptitude in dealing with large bodies of men, are unquestionably very valuable qualities for the office.³

In his Convict Report for the year 1874, Du Cane argued that:

There is perhaps no department of the public service on which the efficiency more entirely depends on the maintenance of a high tone and discipline among the staff, and a constant and effective supervision by the superiors, or on which neglect in those points is more certain to defeat the whole object sought after, or lead to a grave class of evil.⁴

The paramilitary staffing structure was therefore seen as an essential component of the disciplinary regime within which English prisons were expected to operate.

1898-1911

Within Fremantle Prison in 1898 there was a multi-tiered hierarchy consisting of a Superintendent, a Chief Warder, three Principal Warders, five Senior Warders, 25 warders

³ J.E. Thomas, *The English Prison Officer since 1850: a study in conflict*, Routledge & Kegan Paul, London 1972, p. 49.

⁴ *Ibid.*, pp. 68-69.

and 26 temporary-warders. Principal and Senior Warders were classified as Disciplinary Officers 2nd Class while warders were classified as Disciplinary Officers 3rd Class.⁵ This structure represented a clear chain of command with ultimate responsibility for day to day prison management and discipline resting with the Superintendent.

The paramilitary structure in Fremantle Prison was reflected in two other important ways; the wearing of uniforms and the practice of parading prisoners for inspection. On entering the prison service warders were issued with a winter and a summer uniform. The winter uniform consisted of a blue tunic with a military pattern, gilt or white metal buttons and a shoulder strap to which was attached a badge bearing the letter 'W', blue trousers with a military pattern; a blue vest with gilt or white metal buttons and a blue cloth peaked cap with a brass crown, chin strap and cover. In the summer a white American Drill tunic was worn, with blue collars and cuffs and a badge of rank. White American Drill trousers with blue piping and a white helmet completed the summer uniform. Senior Warders wore similar uniforms but with some modifications, such as gold bands on their caps, to denote their superior rank.⁶

A description by an ex-prisoner, Bert Leighton, of the weekly Church parade conveys vividly the military atmosphere within the prison:

The Principal and Chief Warders are resplendent in gloss and gold lace, ... the men form up three long lines and prepare themselves for the inspection. A warder is in charge of each rank, and having given the order 'Eyes Right dress!' ... he proceeds along the rank, gently pulling up this man, pushing that one back, till the row is straight ... then he looks each man over, and personally fixes a collar or button here and there. The hat must be turned up all round and adjusted with mathematic precision, the top button only of the coat must be fastened, the necktie must be worn in a specific fashion ... Then a Principal Warder ... comes down the much inspected rank, and makes his observations ... the order 'Parade Stand at ease!' is shouted in semi military aggressiveness ... to Mr George is conveyed the information that the parade is ready. A stern 'Attention!' brings the men up to rigidity once again. Then down the line struts the Super.

⁵ *Western Australian Blue Books* 1898, B.L.

⁶ *Government Gazette*, W.A., 28 March 1902, p. 1238.

'The "Super"', Leighton added, 'is obsequiously followed by the Chief Warder. It is the psychological moment of the week'.⁷

Uniforms and parades are of course mere outward manifestations of the ideal of military discipline. As such they reveal little of what was actually happening from day to day within the prison. How, for example, did warders respond to discipline imposed on them by their superior officers? How did they respond to their working conditions? How did they impose discipline on prisoners?

If annual reports are to be believed, discipline among the warders was high. Between 1898 and 1911, the conduct of the warders was described in the Superintendent's reports as being of a high standard, with only minor breaches of conduct. An examination of the files of the Prison Department, however, suggests a different state of affairs, with widespread discontent among the officers about pay and working conditions, and concerns by senior prison officials over attempts by warders to join the Civil Service Association. In addition, there were disputes over living quarters, quarrels between warders and numerous breaches of discipline. These matters received extensive press coverage and comment in parliament and culminated in the setting up of the Pennefather Commission in 1911 to inquire into the administration and conduct of Fremantle Prison.

Despite the clear chain of command implicit in the staffing structure, a major problem identified by the 1898 Jameson Commission, as discussed in Chapter 1, was the absence of written rules and regulations for the guidance of officers. 'There are no regulations beyond tradition as to practice handed on by predecessors,' Warder James Proud stated before the Commission, while temporary-Warder Searle declared that, 'There is a code here, but you cannot go hard and fast by it'.⁸ Such uncertainty, lasting at least until 1902 when a set of rules and regulations was finally laid down, could hardly have been conducive to the smooth running of the prison and the maintenance of a high standard of discipline among the warders.

⁷ *Sporting Life*, 7 April 1906, p. 1.

⁸ Jameson Report, Minutes of Evidence, Q. 791, p. 60; Q. 804, p. 62.

A further impediment to the smooth running of Fremantle Prison was the high turn over of warders and the heavy reliance on temporary warders. Although the total number of 3rd class warders at the close of 1898 was 25, no less than 27 appointments had been made during that year. Several men left the service within months of their appointment. Of the 26 temporary-warders, 22 had been appointed in 1898.⁹ Moreover, most of the new appointees had no previous experience of prison work.

The consequences of these features, the absence of written rules and regulations and the high turnover of warders, was twofold. Firstly, the majority of 3rd class warders, those with immediate charge of prisoners, were inexperienced and had little knowledge of either official prison policies or the traditions upon which the unwritten rules and regulations were based. Secondly, and stemming from this, there tended to be a concentration of power among the senior ranks of the warders who had, in most cases, many years experience in the prison service and therefore first hand knowledge of tradition. Commenting on the people in control of Fremantle Prison in 1897, the *Inquirer and Commercial News* spoke of them as 'adherents of the old convict *Regime* [sic]', who 'will not entertain for a moment anything like a progressive movement'.¹⁰

The Superintendent throughout most of the period 1898 to 1911 was William Andrew George. The son of an Enrolled Pensioner who came to Western Australia as a guard on a convict ship, George joined the prison service as a warder in 1874.¹¹ He rose through the ranks to become Principal Warder in 1885, Chief Warder in 1892 and finally Superintendent in 1897.¹² He remained as Superintendent until his retirement in 1910. Described in his obituary as 'a keen disciplinarian',¹³ George's autocratic style of

⁹ *Western Australian Blue Books* 1898.

¹⁰ *Inquirer and Commercial News*, 30 July 1897, p. 11.

¹¹ F.H. Broomhall, *The Veterans: A History of the Enrolled Pensioner Force in Western Australia, 1850-1880*, Hesperian Press, 1989, Appendix B109.

¹² Civil Service Commission 1894, p. 106.

¹³ *West Australian*, 8 February 1912, p. 5.

management throughout the period attracted a great deal of comment in the press, in parliament and during the 1898 Jameson Commission.

Second in command to George was Francis J. Townsend. He had joined the prison service in 1876.¹⁴ Although not classed as a Disciplinary Officer, his role being that of chief clerk and storekeeper, Townsend took over as Acting-Superintendent in George's six month absence in 1905, his place as chief clerk being taken by his son.¹⁵ The three Principal Warders throughout the period 1898-1911, William Webster, Ben Hodges and George Dymock, had entered the service in 1884, 1882 and 1890 respectively.¹⁶ Of these senior officials therefore, all but one were products of the convict system whose traditions formed the basis for the rules and regulations by which Fremantle Prison operated from day to day.

Of the warders themselves, most were married men with families, for whom living quarters were provided.¹⁷ The Jameson Commission reported that 'a considerable proportion' were skilled tradesmen.¹⁸ It is clear also that a considerable number were unskilled. Of 19 warders, 3rd Class, who gave evidence to the Commission, only 8 were recorded as having a trade. An application form for the position of warder in 1899 stated the following requirements; exceptional moral character, under or about 40 years of age, not less than 5 feet 6 inches in height, ability to read and write, active, intelligent and of good temper. Neither previous experience nor the possession of a trade were mentioned.¹⁹

The most important duty of warders was obedience to their superior officers. 'Disobedience is the most unpardonable offence in the Government Service',

¹⁴ Jameson Report, Minutes of Evidence, Q. 924, p. 70.

¹⁵ *Truth*, 12 August 1905, p. 1.

¹⁶ Jameson Report, Minutes of Evidence, Q 797; p. 61; Q. 737, p. 58; Q. 798, p. 61.

¹⁷ AN 123/2, Acc 968, file no. 581/98, B.L.

¹⁸ Jameson Report, p. 22.

¹⁹ AN 123/2, Acc 968, file no. 1333/2, B.L.

Superintendent George wrote in a memo to the Inspector of Prisons in 1899.²⁰ Unquestioning obedience was required for two reasons; it was seen as essential for the maintenance of discipline within the prison but it was also seen as part of another aspect of warders' duties, first stipulated in the 1902 rules and regulations, that of setting a good example to prisoners. Regulation 9, for example, stated:

Good temper and good example on the part of the officer will have great influence in preventing the frequent recurrence of offences, and the necessity for punishments. It is the duty of all officers to treat the prisoners with kindness and humanity, ... being firm at the same time in maintaining order and discipline.²¹

A number of forces operated to ensure discipline among warders; the para-military staffing structure, the wearing of uniforms, parades of inspection, the demand for total obedience to superior officers and, after 1902, statutory penalties for misconduct which could be imposed by the Superintendent. Other factors also came into play, such as the fact that most of the warders were married men with families living in prison quarters. The rules and regulations which were framed in 1902 included a set of conditions relating to living quarters which these men and their families had to meet. Thus, if a man breached the disciplinary rules and regulations relating to either his duties or his living quarters he risked not only the loss of his employment but also loss of home.

So much for the ideal, but it is clear that at times this ideal was far from the reality. While minor breaches of regulations might be expected often there were serious break downs in discipline and, at times too, serious wrangling between warders. One such dispute between warders continued for seven months and only ended when one of the culprits was dismissed from the service.

In April 1898 Warder Jarvis, a married man living in the warders' quarters with his family, wrote to Superintendent George reporting the wife of warder Merton, his neighbour, for making slanderous statements about Mrs Jarvis and the children. Merton denied the charge and there matters rested until mid-November when Jarvis submitted a

²⁰ AN 123/2, Acc 968, file no. 463/99, 13 May 1899.

²¹ *Government Gazette*, 28 March 1902, p. 1225.

second report, this time accusing Mrs Merton and her children of throwing stones and swearing at his children. After repeated complaints by Jarvis, George decided to remove both families to different quarters. Merton, however, refused to comply, a refusal which caused George to recommend his dismissal. His refusal to carry out an order was, George declared, 'the most unpardonable offence' and he added, 'In the interest of the service all orders must be obeyed.' Merton's refusal to move quarters, even when threatened with dismissal, however, was based on his absolute denial of any wrongdoing on the part of himself or his family. He disobeyed because of what was for him a matter of principle.²²

Perceived matters of principle were the cause of other disputes and refusals by warders to obey orders. Sometimes warders acted alone, at other times collectively. Warder Lovell was dismissed from the service after refusing to go on night duty at short notice. Lovell had just completed several shifts with only short breaks. When, shortly after returning home late from an outing with his wife and small children, he received an order at his quarters at 10:25 p.m. to be on duty at midnight, he refused. 'I was in no mood to be trodden in the dust any further', he wrote to the Comptroller General, adding:

If you are the gentleman I have every reason to believe you are and will condescend to give this statement the consideration it deserves, I am positively sure I shall be reinstated without a stain on my character.

Comptroller General was not the understanding gentleman Lovell believed him to be, however, and he was not reinstated.²³

In January 1905, ten of the eleven warders living in No.3 block of quarters refused to carry out orders to clean the cess pit and drains in their quarters.²⁴ This particular block of quarters was in a poor sanitary condition. One of Warder Pascoe's children had already contracted diphtheria and, according to a press report, five other cases had been diagnosed

²² AN 123/2, Acc 968, file no. 463/99, B.L.

²³ AN 123/2, Acc 968, file no. 18/06, folios 30-33.

²⁴ AN 123/2, Acc 968, file no. 444/05, folio nos. 1-24.

in this block²⁵ Previously the work of cleaning the pits and drain was carried out by the Fremantle Council but disagreement had arisen as to whose responsibility the task should be, the quarters being situated on government property.²⁶ Of one thing the warders were certain; it was not their responsibility. 'I did not join the service to be a scavenger, I refuse to do it', Warder Carroll was reported as saying, while the aptly named Warder Proud declared, 'I could not do that class of work. My stomach would not allow me'.²⁷ To begin with the warders stood firm and supported each other. Warder Pascoe stated that he was not prepared to go against the other men, while Warder Wilson vowed that he was prepared to lose his billet if that was the price he had to pay for standing by his fellow men.²⁸

Eventually four of the warders relented. Carroll, obviously after some reflection, decided that he could not put his 'Family's Health, and Bread and Butter, In Jeopardy to Please the other Warders', suggesting that he had too much to lose by continuing not to obey the order and also that there may have been some pressure placed on him by his colleagues to stand firm.²⁹ Nevertheless five of the men did stand their ground, gaining the support of the Labor member of the legislative assembly for Fremantle, Edward Needham.

Matters came to a climax when the Colonial Secretary, George Taylor, at the request of Needham, paid a visit to the quarters.³⁰ After inspecting the pits Taylor called on the warders to comply with the order to clean them.³¹ This came as something of a surprise to Needham who had previously been assured by Taylor that the job was the responsibility

²⁵ *Ibid.*, folio 14; *Truth*, 18 March 1905, p. 5.

²⁶ AN 123/2, Acc 968, file no. 463/99, folios 33- 35, B.L.

²⁷ *Ibid.*, folio 5-6.

²⁸ *Ibid.*, folios 2 and 8.

²⁹ *Ibid.*, folio 2.

³⁰ *Truth*, 18 March 1905, p. 4.

³¹ AN 123/2, Acc 968, file no. 463/99, folio 29.

of the Fremantle Council.³² Needham continued to argue the warders' case with Taylor, but to no avail. Taylor's position was made clear in his written report of his visit of inspection in which he declared that, 'officers should realise that discipline must be recognised'.³³

As for the warders, the supposed ringleader, Wilson, was fined and transferred to sentry duty, the most unpopular duty for warders.³⁴ A few weeks later he was reported for dropping his rifle while on guard duty. His defence was that he had slipped and fallen, but this was rejected by Superintendent George who recommended to the Comptroller of Prisons, Octavius Burt, that he be dismissed. In passing on this recommendation Burt informed the Under Secretary:

He is the man who headed the officers in refusing to clean out an open drain at their quarters ... His wife is an objectionable person in quarters ...and the prison is well rid of both of them.³⁵

These disputes illustrate clearly the point made earlier that on matters of perceived principle warders were not prepared to obey orders unquestioningly. When circumstances arose which contravened what they believed were their rights, they protested. Moreover, this was an industrial dispute over conditions of service, the first it would appear within the prison service. With the local member of parliament on their side, the warders took collective action and supported each other. Their solidarity was short lived, however, and when four of the warders decided to obey the order tension among the families ran high, with accusations of blacklegging and other forms of abuse being hurled between them.³⁶

This was not an isolated incident. Among the findings of the Jameson Commission was that warders experienced dissatisfaction over low pay and spent long hours on duties

³² Ibid., folio 32.

³³ Ibid., folio 29.

³⁴ Ibid., folio 23; *Truth*, 18 March 1905, p. 5.

³⁵ AN 23/2, Acc 968, file no. 373/05, folios 1-10.

³⁶ Ibid., folio 1.

which were 'extremely tedious and disagreeable'.³⁷ Some warders gave evidence that they worked ten and a half hours a day, seven days a week. Fourteen days holiday was allowed, though it was not always granted. Warder Paterson testified to having had only 21 days holiday in four years.³⁸

The long hours of duty were a major source of discontent among the warders. Those on guard duty worked around three shifts, or reliefs; a day relief from 7:30 a.m. til 5:30 p.m., an evening relief from 5:30 p.m. til midnight and a night relief from midnight til 7:30 a.m. Warders on the evening relief, however, retired to the guard house at midnight, to remain on call until 7:30 a.m., at which time they returned to their quarters. They then had to be back at 12 noon to relieve the day warder for lunch. Warders on night relief came on at 7.30 p.m. and went to the guard house until taking up their positions at midnight. In one of a series of articles on Fremantle Prison in 1908, the *Morning Herald* described the hours worked by warders on guard duty and commented:

the hours are badly arranged, breaking their periods for recreation and sleep so they become absolutely worn out. The interrupted rest consequent upon being required to sleep part of their time in the prison guard room, and return to the prison to relieve the day guard is extremely irksome.³⁹

Discontent over working conditions came to a head briefly in late 1904 when the warders approached the Civil Service Association. The Association's organiser, C.A. Munt, contacted Superintendent George and received permission to hold a meeting with the warders. The meeting took place in the guard room where, much to the surprise of the warders, George turned up. After Munt had addressed the men on the benefits of joining the Association, George spoke, warning them against such a move. According to a press report, 'The awe inspiring manner in which Gaoler George dropped his words of warnings silenced every man in the room'.⁴⁰

³⁷ Jameson Report, p. 22.

³⁸ Jameson Report, Minutes of Evidence, Q. 761, p. 59.

³⁹ *Morning Herald*, 23 June 1908, p. 7.

⁴⁰ *Truth*, 15 July 1905, p. 2.

The discontent continued to simmer. In August 1905 a motion was placed before the Legislative Assembly that the hours of the warders at Fremantle Prison be reduced to eight hours a day.⁴¹ The motion was rejected but the question of warders' working conditions continued to be raised in the Assembly over the next five years.

In February 1910, 19 warders signed a petition which they sent to the Superintendent. George's response to the 18 demands in the petition, which included the demand for an eight hour day and the setting up of a board of inquiry to investigate their working conditions, was to reject them all. Over the following few months the petition was caught up in the bureaucracy of the public service, passing from the warders to the Colonial Secretary to the Inspector of Prisons, then back again to the Colonial Secretary. Finally, after nine months and following pressure from the local member of parliament, William Murphy, the Colonial Secretary agreed to convene a board of inquiry. Meanwhile pressure was being placed on the government by some members of parliament who were pressing for a full scale Royal Commission to inquire into the management of the prison. When the Premier finally announced the setting up of a Royal Commission, the warders abandoned their action and the Board of Inquiry was dismantled before its investigations were begun.⁴²

The Pennefather Report is discussed at some length by Thomas and Stewart who argue that the Commissioner, Captain Pennefather, gave 'the impression that he felt the staff needed stricter discipline'.⁴³ Pennefather recommended, for example, the introduction of drill and fire-arms training for all warders. On the question of the eight hour day, he considered that this was impossible unless more staff were recruited. However, he said, already there were too many warders. As to their living quarters, after making a personal inspection he was highly critical of the condition of two blocks:

⁴¹ Thomas and Stewart, *Imprisonment in Western Australia*, p. 79.

⁴² AN 123/2, Acc 968, file no. 426/10, folios 1-82.

⁴³ Thomas and Stewart, *Imprisonment in Western Australia*, p. 86.

there are six cottages enclosed in one undivided yard, the sanitary arrangements being open to view and in common use by men, women, boys and girls. There is practically no privacy or decency ... in one or two instances there are the husband and wife with families of six or seven children, ranging from infants up to people of both sexes up to the ages of 18 and 19 years, all dwelling in one house with only two bedrooms; this speaks for itself.⁴⁴

Although warders may have been somewhat disappointed by the outcome of the Commission, two important events took place soon after which turned out to be to their advantage. The first was the retirement of George, due to ill health, in 1910.⁴⁵ He was replaced by Hugh Hann, a widely experienced official with first hand experience of prison reform in England.⁴⁶ The second event was the resignation of Burt as Sheriff and Inspector of Prisons⁴⁷, and the appointment of Western Australia's first Comptroller General of Prisons, F.D. North, the prison's first professional administrator.⁴⁸ According to Thomas and Stewart, 'Times had changed a great deal ... But nothing could be done until the pillars of the old system went and outsiders were brought in.'⁴⁹ By the end of 1912 the eight hour system had been introduced, an appeals board had been established to hear warder grievances and a Warders' Union was given official recognition.⁵⁰ Times had indeed changed.

What of the actual role of warders and their relationship with the prisoners? One of the recommendations of the Jameson Commission was that only men who were competent to teach a trade or handicraft should be employed as warders.⁵¹ Implicit in this

⁴⁴ Pennefather Report.

⁴⁵ Annual Report for 1910, p. 3, in *M.V. & P.*, 1911, vol. 2.

⁴⁶ Supplementary report of the Deputy Comptroller General of Prisons to June 1912, p. 5, in *M.V. & P.*, vol. 2, 1913.

⁴⁷ *Ibid.*

⁴⁸ Annual Report for 1912, p. 3.

⁴⁹ Thomas and Stewart, *Imprisonment in Western Australia*, p. 86.

⁵⁰ Supplementary report of the Deputy Comptroller General of Prisons to June 1912, p. 5.

⁵¹ Jameson Report, p. 22.

recommendation was the belief that warders had a role to play in the rehabilitation of prisoners. While a number of warders were skilled tradesmen, most of the work being carried out in the prison was not aimed at rehabilitation but was part of the prisoners' punishment, most prisoners having been sentenced to hard labour. In these activities the warders acted as overseers rather than instructors. Only in two work areas, mat making and tailoring, was instruction given to prisoners. During the first years of the new century workshops were built, more trades were carried out and an increasing number of warder/instructors were employed.⁵²

Throughout the period 1898 to 1911 therefore, the role of the warders was fourfold; to guard against escape, to maintain discipline among the prisoners, to oversee their work and to instruct prisoners in various trades. With the drawing up of the new rules and regulations in 1902, warders' responsibilities were made more explicit. To some extent these written rules reflected practices before 1902, but they also were a reflection of the latest approach to prison management being taken in Britain and an indication of the beginnings of recognition of more up to date practices in Fremantle Prison. Rule 10, for example, stated that:

The great object of reclaiming the criminal should always be kept in view by officers, and they should strive to acquire a moral influence over the prisoners ... They should especially try to raise the prisoner's mind to a proper feeling of moral obligation.⁵³

The warders' relationship with the prisoners was, however, to be distant and formal. Rule 15 stipulated that, 'No officer shall unnecessarily converse with a prisoner, nor allow any familiarity on the part of a prisoner towards himself.' When in charge of work parties, warders were exhorted to ensure that prisoners worked industriously and were orderly, being 'careful to observe the character, habits and industry of prisoners and report on these.'⁵⁴ The relevance of such lofty ideals, however, is questionable when the realities

⁵² See Annual Reports for these years.

⁵³ *Government Gazette*, 28 March 1902, p. 1225.

⁵⁴ *Government Gazette*, 28 March 1902, p. 1226.

of prison life are considered. The sheer tedium of the daily routine, for both warders and prisoners, the lack of meaningful work for prisoners, uncertainty about the role of warders employed as trade instructors, and the close daily contact between warders and prisoners, these, rather than written rules and regulations, were the decisive factors in determining the manner in which warders carried out their duties.

The following time table of duty illustrates the unchanging nature of the daily routine for six days a week.

6:30a.m.	Prison opens and men let into yard
7:00a.m.	Breakfast
7:30a.m.	Church
7:55a.m.	Parade for work
11:40a.m.	Parade for dinner
1:00p.m.	Prisoners let into yard
1:15p.m.	Parade for work
4:40p.m.	Parade for tea (taken in cells)
7:30p.m.	Cells locked and lights out
8:00p.m.	Night officers command 'silence' ⁵⁵

The routine on Sunday differed in that no mustering was carried out and, instead of parading for work, the prisoners and warders paraded for church, attendance at which was compulsory. Bert Leighton called the church parade, 'this solemn burlesque ... the most impressively ridiculous of the whole grotesque gaol mummery.' Sunday, for Leighton, was an idle and useless day, and his description of the exercise yard in which the prisoners were herded, conveys vividly the sense of tedium shared by both prisoners and warders:

⁵⁵ Superintendent's Order Book, WAS 693, Cons. no. 4190, 30 April 1898.

The yard is a naked gravelled rectangle, shut in on three sides by high drab walls, and on the fourth by the sombre, sad coloured prison itself. A large galvanised roof, supported by wooden posts, over a concrete flooring, occupied the middle of the yard, and, in this shed, a couple of warders pace monotonously to and fro. ...There is nothing else, the place is bare... not as much as a brick to sit on ... The men do nothing but idly chatter and curse and swear and grumble ... the men, all in grotesque prison dress, are squatting or lying on the bare ground.⁵⁶

Not that boredom was alleviated during the rest of the week when prisoners were put to work. As shown in a previous chapter, much of the work to which prisoners were put was repetitive and unproductive, and, as the majority of prisoners had been sentenced to hard labour, it was part of their punishment rather than a means of rehabilitation.

The work done in the prison pump yard illustrates the monotony involved in much prison work. In 1898 up to seventy prisoners were employed in the pump yard turning a crank to raise water for the town of Fremantle.⁵⁷ Several prisoners complained to the Royal Commission about the monotony of this work. The commissioners found that each man spent only a few minutes every hour turning the crank, 'the rest of the time being filled up by playing draughts, or by engagement in other forms of recreation'.⁵⁸ In 1906, when Fremantle town no longer depended on water pumped from the prison, the pump gang was still operating in the prison. Bert Leighton described how, overlooked by a warder and an armed guard, up to twenty men were marched daily to the pump yard to laboriously pump water 'that no-one wants or uses'. For Leighton, the worst feature was not 'the mere monotony of turning a useless handle' but the fact that 'when four of the gang are turning the pump, the others, some sixteen, are idle, and have absolutely nothing to do'.⁵⁹

⁵⁶ *Sporting Life*, 7 April 1906, p. 1.

⁵⁷ Jameson Report, Minutes of Evidence, Q. 693, p. 55.

⁵⁸ Jameson Report, p.2

⁵⁹ *Sporting Life*, 24 February 1906, p. 1.

For the warders who oversaw this futile activity, and who shared with prisoners the tedium of it all, being forbidden to converse unnecessarily even with each other, the high minded exhortation to ensure that prisoners worked industriously and to 'observe the character, habits and industry of prisoners', must have been quite meaningless.

Warders did find ways to relieve the tedium of their duties. Graffiti was drawn on the walls of the guard rooms.⁶⁰ Warder Cecil, on guard duty, was discovered by the Principal Warder, 'under the shelter shed resting his arms as though asleep'. Later, on the same shift, he was spotted 'amusing himself with something in the surface drain'. Poor Cecil tried other ways to alleviate his boredom. When caught reading a book he was fined two shillings. Undeterred, he continued to have reports filed against him for various acts of neglect of duty, on one occasion declaring in a brief note to the Superintendent, 'I do not know why I am reported, but whatever Principal Warder Dymock says will probably be true'. Surprisingly, Cecil appears to have kept his position.⁶¹

Although forbidden to converse unnecessarily with prisoners or each other, it is clear that this was a rule frequently broken by warders. Warders Hardies and Lovell, for example, were reported for talking while on guard duty, found guilty and cautioned.⁶² Some time afterwards, Lovell was reported for a similar offence and fined two shillings and sixpence.⁶³ Warder Williamson, the officer in charge of the tailor workshop, was frequently spoken to by his superiors for talking with prisoners 'in a very familiar way', though his defence was that he was merely instructing the men. Eventually, after several cautions and having 'lost the confidence of his superiors', he was forced to resign.⁶⁴

The case of Warder Williamson is of particular interest. Williamson had been appointed as trade instructor in the tailor shop in 1903. Prior to that, the position had

⁶⁰ Superintendents Order Book, WAS 693, Cons. no. 4190, 14 June 1907.

⁶¹ AN 123/2, Acc 968, file no. 263/06, no folio numbers.

⁶² AN 123/3, Acc 968, file no. 18/06, folios 5-7.

⁶³ *Ibid.*, folios 10-14.

⁶⁴ AN 123/2, Acc 968, file no. 1052/08, folios 1-8.

been held by George Fitzgerald, who had been appointed in April 1902 and resigned eight months later, stating in his letter of resignation that he had joined the service as trade instructor but was nevertheless classed as warder/instructor, a combination of duties which he believed was impossible.⁶⁵ The position of trade instructor in the tailor shop from January 1904 to August 1905 was held by Angus McLeod. On resigning from the position, McLeod wrote a letter to the *West Australian* appealing for assistance from the public for a prisoner who was about to be discharged and needed work. 'On his behalf,' McLeod wrote, 'and incidentally on behalf of many others circumstanced similarly, I ask can any of your readers find employment for him.'⁶⁶ Unimpressed by this breach of regulations, the Comptroller General nevertheless declined to take action as McLeod had already resigned.⁶⁷

Williamson was appointed to a position, therefore, in which others before him had experienced a seemingly irreconcilable conflict between the role of warder, with its emphasis on guarding prisoners, and that of trade instructor, with its emphasis on rehabilitation. This conflict, which led ultimately to Williamson's downfall, will be discussed further in the next chapter. It would appear that what concerned Williamson's superiors most was the nature of his relationship with the prisoners under him. Superintendent George had spoken to him frequently about being too familiar with prisoners, by which he meant engaging in unnecessary conversation with them. This is an early example of a conflict which reached a peak in the 1970s. It was, in effect, a conflict between two incompatible aims, custody and rehabilitation.

While they may have been forbidden to converse with prisoners unnecessarily or to allow familiarity between themselves and prisoners, the reality of daily prison life, the close physical contact within the confined space of the prison and the long hours of boredom shared by both groups of men, made such rules difficult, if not impossible, to

⁶⁵ AN 123/2, Acc 968, file no. 476/02 3 April 1902 and 2 December 1902.

⁶⁶ *West Australian*, 5 September 1905, p. 3.

⁶⁷ AN 123/2, Acc 968, file no. 202/04.

carry out. Evidence before the Jameson Commission concerning the relationship between warders and prisoners was mixed. Prisoner 3475 found the warders to be 'a very humane set of men', adding 'They have always treated me well'.⁶⁸ Another told the commissioners that 'the warders have treated me considerately'.⁶⁹ These statements, not surprisingly perhaps, were offset by many more which were highly critical of the conduct of warders. 'The warders are recruited from a highly undesirable class of men', declared one prisoner, while another complained that 'the warders delight in provocation'.⁷⁰

While such grumblings might be expected by prisoners against those in authority over them, the evidence before the Commission does strongly suggest that incidents of ill-treatment by warders did occur. Warders were cited by several prisoners for ill-treating lunatic prisoners, sometimes by teasing and provoking, on other occasions by physically assaulting them. One prisoner recalled two such incidents:

I saw warder Hodges, when warder McLaren was present, give a galvanic battery to some prisoners, and tell them to apply it to an imbecile called Zepner[sic], who was brutally treated by the prisoners, whilst the warders looked on and laughed. This occurred on September 25th. Issacs, a coloured lunatic, was driven crazy with flogging. He is now in the asylum. Warder Pond struck Issacs with a bunch of keys and cut his head open.⁷¹

This evidence was corroborated by other prisoners. The warders, however, were not cross-examined about these allegations. Concerning the case of the 'lunatic' Hepner, Dr Hope gave evidence that the battery treatment had indeed been ordered by him. 'I am not surprised that the prisoners should have thought it was applied by the warders as a sort of punishment', he told the commissioners. 'As a fact they generally look on the battery not as a remedial agent but as a punishment, and so strong is their dislike to it that I do not insist upon it except where its use seems to be imperatively needed'.⁷² It did not seem to

⁶⁸ Jameson Report, Minutes of Evidence, Q. 327, p. 26.

⁶⁹ Ibid., Q. 399, p. 31.

⁷⁰ Ibid., Q. 66, p. 9; Q. 487, p.38.

⁷¹ Ibid., Q. 320, p. 25.

⁷² Ibid., Q. 848, p. 38.

occur to Dr Hope that he should at least have supervised the 'treatment' rather than leave it to warders, and, in this instance at least, other prisoners.

Thus far a number of themes have emerged from this examination of the role of the warders in Fremantle Prison between the years 1898 and 1911. Officially they were the instruments through which the prison would impose discipline and order on the prisoners. They too were required to be disciplined and to obey orders without question. The reality, however, was different. When warders perceived that an injustice was being done to one or more of their number, they bucked the system, resisted discipline and threatened, in the eyes of their superiors, the entire discipline of the prison.

Lovell's appeal to the gentlemanly virtues of Comptroller General Burt was an indication of the social values which he brought with him to his job as warder. His declaration that he was no longer 'in the mood to be trodden into the dust', indicates changing social values and he could well have been speaking for all warders. Without their compliance the strict discipline sought after by officials was never going to be a reality.

1968-1991

By the early 1970s significant changes had taken place in the circumstances of the prison officers in Fremantle Prison. Despite these changes, the prison officer of the 1970s and 1980s had much in common with his predecessor in the early years of the twentieth century. According to Trevor Williams, in his 1974 doctoral thesis, 'Custody and Conflict', Western Australian prison officers in the 1970s came predominantly from lower income groups, most had left school by 16 years of age and most were manual workers or tradesmen. A significant minority had military backgrounds.⁷³

⁷³ Trevor A. Williams, 'Custody and Conflict: An organisational study of role problems and related attitudes among Prison Officers in Western Australia', Ph.D. thesis. University of Western Australia, 1974, p. 132.

The nature of the prison officers' work had not changed. Like prison warders in the early years of the century, the prison officer in the 1970s experienced the frustrations of having to perform routine and monotonous duties. One officer, for example, in 1976, described his eight hour shift on 'gun duty' as 'a trip into insanity and disillusion'.⁷⁴ Finally, of course, the modern Fremantle Prison officer shared with his forerunners the same dismal environment of the prison itself.

There was, however, one significant difference between the prison warder of the first decade of the century and his counterpart 50 years later, namely the latter's representation by a strong and active trade union. Through the Western Australian Prison Officers Union (W.A.P.O.U.), prison officers of the 1960s, like most Australian workers, were better paid and experienced much improved terms of employment than workers of half a century before. In his study, which will be described more fully later, Williams found that the desire for economic security was a strong motivating force for men joining the prison service.⁷⁵ When John Neale joined the prison service in 1970 after emigrating from England, he did so 'to get the right wage for a mortgage'. 'I simply didn't have the interest to go out and look for another job, having got this one', he recalled, adding, 'Its a fairly secure job and it pays well'.⁷⁶ By 1973, the president of the union was able to boast that prison officers in Western Australia were receiving one of the best deals in sick leave and medical benefits in the State.⁷⁷

The strength of the W.A.P.O.U. stemmed in part from its status as an autonomous trade union. Its autonomy allowed Union officials to make direct approaches to government in cases of dispute. In this, the Union differed significantly from prison officers' unions in other states. While prison officers in Western Australia were employed under the Prisons Act, officers elsewhere came under the jurisdiction of the Public

⁷⁴ *W.A.P.O.U. Newsletter*, October-November 1976, p. 15.

⁷⁵ Trevor A. Williams, 'Custody and conflict', p. 132.

⁷⁶ John Neale, OH2230/1, B.L.

⁷⁷ *W.A.P.O.U. Newsletter*, March 1973.

Servants Act.⁷⁸ The most important difference resulting from this distinction was that prison officers in Western Australia had the power to take industrial action, a power which they availed themselves of for the first time in 1975.

In that year the Union applied for a 15 per cent pay increase for officers.⁷⁹ On Thursday 6 November the secretary of the W.A.P.O.U., Clive Brown, addressed a meeting of Fremantle Prison officers at which he called on members throughout the State to commence a 24 hour strike.⁸⁰ Later that day another meeting of Union members was called at which officers voted to extend the strike over the weekend.⁸¹ During the weekend negotiations between the parties continued, culminating in an agreement by the Public Service Board to reconsider the claim, at which point the Union called off the strike.

The strike, although short lived, pointed very clearly to the crucial role of officers within the prison system and their ability, if they so chose, to make the system unworkable. The timing of the strike was, moreover, perfect, coming as it did during the very period in which professional personnel were being increasingly employed in the prison system and, almost by implication, the traditional custodial role of prison officers was being questioned. In Fremantle Prison, the State's only maximum security prison, police were called in to perform guard duty, while six Departmental officers, including the Director, Colin Campbell, and the Superintendent, Jim O'Driscoll, organised the feeding and supervision of the prison's 400 inmates.⁸² By the end of the weekend the strain on these men, and on police resources, was enormous and the return to work by the prison officers was a welcome relief. The Union had made a strong point.

⁷⁸ *Ibid.*, February 1974, p. 17.

⁷⁹ *West Australian*, 6 November 1975, p. 1.

⁸⁰ *Daily News*, 6 November 1975, p. 1.

⁸¹ *Daily News*, 7 November 1975, p. 2.

⁸² *West Australian*, 7 November 1975, p. 1.

The W.A.P.O.U. did not confine its agenda to fighting for better pay and conditions. From the mid 1960s prison officers, through their Union, began lobbying in pursuit of quite clear cut objectives which were at times in direct conflict with official policy. In the face of the expansion of the penal system in the 1970s, and the introduction of professional 'experts', much of the Union's efforts began to be directed against what it saw as an encroachment on the prison officers' traditional custodial role, the mollycoddling of prisoners and a relaxation of security. The Union was, moreover, extremely influential in the framing of a number of policies. The extent of its influence had been discernible by the mid-1960s when, after strong lobbying, a Bill was introduced into the legislative assembly by the Chief Secretary, Ross Hutchinson, re-introducing cumulative sentences for prisoners who committed offences while in prison. In the debate leading up to the passing of the Bill, Hutchinson informed the assembly that, 'the Bill has been presented, in the main, because of the strong representations made to me by the Gaol Officers Union', a remark which led one member to ask, 'Will you always do what the Gaol Officers' union wants?'⁸³ The answer on this occasion was yes. William Willessee, Member for North in the Legislative Council, while having strong reservations about the Bill, gave his 'reluctant support ... conscious of the fact that the Union wanted it'.⁸⁴

Another early victory for the W.A.P.O.U. resulted from its opposition to induction and promotional courses for officers. Prior to the introduction of these courses, new recruits did not undergo any training and promotion was by seniority. The W.A.P.O.U. did not oppose training courses in principle; on the contrary it had been pushing for the introduction of training courses since 1963 and official union policy supported promotion by examination.⁸⁵ Among the rank and file of the membership, however, opinion was divided.

⁸³ *Hansard*, 17 September 1964, vol 1, pp. 1040-1041.

⁸⁴ *Ibid.*, vol.2, p. 1200.

⁸⁵ *W.A.P.O.U. Newsletter*, November, 1973, p. 12; December 1973, p. 8.

Union opposition against induction and promotion courses was directed against the content of the courses and their perceived lack of relevance to the daily realities of prison officers' duties. In 1973 the Union placed a total ban on members attending in-service training as a result of which in-service courses were abolished. The Union gained representation on the Board of Studies and a series of residential courses were set up to replace the in-service programmes.⁸⁶

The dispute over training programmes demonstrates clearly the influence which the W.A.P.O.U. was able to exert in matters of policy once the changes which were begun in the late 1960s got under way. Innovations were one thing, but without the support of those responsible for the implementation of new policies they could never succeed. As one prison officer remarked, with an interesting choice of words, 'Any proposed new idea must have the wilful cooperation of all those involved in its operation.'⁸⁷

The debate among prison officers was conducted through the W.A.P.O.U. *Newsletter*, a monthly journal begun in March 1973 to provide officers with a forum for discussion. Contributions to the *Newsletter* indicate a significant level of disagreement among the prison officers about the merits of training programmes, a disagreement which appears to have been largely between older officers and relatively new recruits, the latter being referred to disparagingly at times as 'Superscrews'.⁸⁸ 'Promotions without exams', declared one officer, 'appears to me to be the means by which die-hards are trying to maintain their positions and status in a rapidly changing technocratic world'.⁸⁹ The debate over examinations for promotion carried on after the settlement between the Union and the Department early in 1973. In July 1973, a general meeting was called at the Perth Trades Hall, during which a motion was passed to hold a referendum 'as to whether or not Union policy should be changed in matters of Promotions without Examinations[sic]'.⁸⁹

⁸⁶ *W.A.P.O.U. Newsletter*, April 1973, (no page numbers), and January 1974, p. 16.

⁸⁷ *W.A.P.O.U. Newsletter*, 'An Opinion', April 1973. (no page numbers)

⁸⁸ see, for example, 'The Dilemma of the Superscrew', in *W.A.P.O.U. Newsletter*, May 1973. (no page numbers)

⁸⁹ *W.A.P.O.U. Newsletter*, Letter by I.B. McChesney, November 1973, p. 4.

When the referendum was held, the proposal was defeated, with officers voting 202 to 171 against the proposal. The margin of the victory for the Union, with just over 50 per cent of members voting for the continuation of existing policy as against 44 per cent voting for a change, indicates the extent of the division which existed among the officers.

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A survey of the *Newsletter* throughout the seventies and eighties clearly indicates that the greatest concern for the Union in those years was the impact of new ideas concerning treatment of prisoners and the introduction of professional 'experts', particularly on the regime within Fremantle Prison. Although the paper carried some letters expressing support for the rehabilitative ideal and the work of psychologists, the overall tenor of the views expressed was strongly antagonistic, an antagonism based in part on the perceived threat to security and prison discipline.⁹¹

Prison officers were not the only ones concerned about a relaxation of prison security and discipline. In June 1971, the escape of three prisoners from Fremantle Prison and two from the recently opened Bunbury Rehabilitation Centre, all described as 'dangerous', received front page coverage in the Perth press.⁹² Although the escapees were recaptured after a day, the escapes highlighted concerns about security at Fremantle, the maximum security prison, and about the policy of sending 'dangerous' prisoners to a rehabilitation centre rather than to a maximum security prison. Following an inquiry into the escapes from Fremantle, three prison officers were suspended from duty, as a result of which their Fremantle colleagues held a stop work meeting. In a press statement the Union expressed anger that three of its members were being charged with neglect and concern over 'the decline in security at the Fremantle Prison over the past eighteen months to two years'. The statement went on to attribute the decline to 'the relaxed attitude of the administration, the breakdown of training programmes for officers' and 'the serious

⁹⁰ *W.A.P.O.U. Newsletter*, December 1973, p. 8.

⁹¹ See for example, G. Cannon, 'Understanding the Change', calling for officers to be more open minded, in *W.A.P.O.U. Newsletter*, May 1973, p. 14.

⁹² *West Australian*, 5 June 1971, p. 1.

shortage of uniformed staff.⁹³ The dispute over the accused officers was quickly settled, though it is not clear whether or not the charges were dropped. The outcome of the Bunbury escapes, however, was clear. Within two weeks the Department announced what the *West Australian* called, a 'radical change in policy'. No prisoners with violent records would in future be sent to Bunbury. Announcing the policy change, the Director, Colin Campbell, was clearly unhappy. 'It was', he said, 'morally wrong...[but] this is what public opinion has forced us to do'.⁹⁴

Campbell's moral argument highlights an important aspect of the conflict between prison officers and the new policies of the 1970s. The conflict is well expressed by Williams:

The conflict between the values and beliefs expressed by Prison officers and those held by non-custodial staff may be regarded as a practical manifestation of a conflict of values within society itself. Humanitarian ethics undoubtedly are valid and powerful social values, but so are those values associated with the demand for social order and protection of the community.⁹⁵

The conflict was, of course, as old as the prison system itself. As Randall McGowen points out, in his study of English prisons, public debate over the role of prisons in nineteenth century England 'increasingly centred on the following dilemma: was too much being done to the convict, or was too much being done for the convict?' The essayist, Sydney Smith, feared that prison was no longer a deterrent and that prison life was 'better than life on the other side of the wall, or so very little worse, that nobody will have any fear to encounter it'. It was, moreover, as McGowen argues, also a conflict between different beliefs concerning the nature of the criminal. While on the one hand reformers appealed to humanitarian sentiments and argued for the essential goodness of

⁹³ Ibid.

⁹⁴ *West Australian*, 26 January 1971, p. 1.

⁹⁵ Williams, 'Custody and Conflict', 1974, p. 177.

prisoners to justify their arguments, they were opposed by disciplinarians who saw criminals as 'clever, immoral and hypocritical'.⁹⁶

These were the very issues at stake in Western Australia after the late 1960s. In understanding the prison officers' position, however, two different sources of the conflict must be considered, one ideological, the other, the nature of the officers' work.

At an ideological level the conflict was stark. Official policy during the 1970s was centred around the ideal of rehabilitation. For Campbell, who, as Director of the Department of Corrections, spearheaded the introduction of new policies, the prime function of prison was to rehabilitate and re-educate prisoners.⁹⁷ Under this philosophy prisoner welfare assumed prime importance and the traditional role of prison, that of ensuring the safe custody of inmates, took second place, a fact which Campbell clearly recognised in his Annual Report for 1970-1971 in which he remarked, 'the greater the emphasis on security, the less chance of reforming prisoners before release'.⁹⁸

For prison officers, on the other hand, the most important function of prison, and the prime responsibility of officers, was the safeguarding of the public from law breakers. John Neale saw his prime responsibility as ensuring 'that the prisoners remain where they are supposed to be, behind the walls, and to do what they are told'.⁹⁹ Prison should, moreover, act as a deterrent, a belief which found wide spread community support, expressed, for example, in the letter to the *Daily News* which declared, 'The law should never bend to meet the demands of do-gooders. ... prison should be a horrible place to which nobody would ever want to return'.¹⁰⁰ A strong retributive element in this thinking was well exemplified by the *Daily News* columnist Bill Lang, who, after doing a tour of Fremantle Prison, reported cynically:

⁹⁶ Randall McGowen, 'The Well Ordered Prison: England, 1780-1865, in Morris and Rothman, *The Oxford History of the Prison*, pp. 97-98.

⁹⁷ *Weekend News*, Supplement, 11 November 1968, p. 5.

⁹⁸ Annual Report for 1970-1971, p. 3, in *M.V.&P.*, 1972, vol. 4.

⁹⁹ Neale, OH, p.26

¹⁰⁰ *Daily News*, 10 December 1979, p. 27.

I can't see why people are going off their faces about the accommodation at Fremantle Gaol ... It's excellent ... Three star ... We dropped in at the gallows. No view but a nice split level. Incidentally, this place will have to be used more frequently if we are to take advantage of overseas findings. Deep down, we all have a healthy gut instinct that by indulging killers you endanger society. Nothing wrong with the death cell. Small and snug ... the window is not huge. It affords a good glimpse of the sky, a reminder of what has been forsaken.¹⁰¹

If this appears to be an extreme example, it was sufficiently close to the thinking of prison officers as to be worth reprinting in the *Union Newsletter* alongside the comment, 'It's comforting to know that Bill has the same views as most of the staff'.¹⁰² Bill Lang's views were, of course, not new. William Taylor, a warder in the 1890s, considered that Fremantle Prison was 'more like a big boarding house than prison'. The prisoners, he told the Jameson Commission, were 'too well treated and too well fed'.¹⁰³

Extracts from four letters to the W.A.P.O.U. *Newsletter* neatly sum up the views of the majority of officers. 'When I meet someone for the first time and they ask me what my job is' wrote one officer:

the usual comment is 'I hope you're giving these crims a hard time'. What a joke! I am not advocating running prisons like concentration camps, but surely the public have a right to expect that people who have nothing but contempt for community standards should not be pampered and mollycoddled while in prison, as they are at present.¹⁰⁴

Another officer wrote:

For as long as we have a Prisons Department dominated by Liberal[sic] thinking academics and psychologists who appear to have an over riding desire to pamper and mollycoddle the law breakers of the State, we will continue to have a high prison population.¹⁰⁵

¹⁰¹ *Daily News*, 16 December 1976.

¹⁰² *W.A.P.O.U. Newsletter*, January 1977, p. 3.

¹⁰³ Jameson Report, Minutes of Evidence, Q. 920

¹⁰⁴ *W.A.P.O.U. Newsletter*, March 1983, p. 13.

¹⁰⁵ *W.A.P.O.U. Newsletter*, May 1983, p. 4.

Yet another wrote scathingly:

I believe our academically inspired social architects by their theories and policies have weakened rather than strengthened the will and resourcefulness of a great many people - they have removed the spine and inserted a wishbone.¹⁰⁶

Finally, one letter, published in the *W.A.P.O.U. Newsletter* under the heading 'What exactly IS going on?', complained of, 'The insidious encroachment of "professional" people into the Prison service [which] becomes ever more apparent'. The officer continued:

the role of psychologists, for instance ... needs thorough investigation particularly in view of the attempts of some of their number to take over the role of the Prison Administrators. If it is important that we have 'professionals' sprinkled throughout the Department we are entitled to know just where the sea meets the shore. When the lapping tide rises beyond the high water mark it is time to raise the level before it becomes an onrushing one and sweeps over us.¹⁰⁷

As the last of these examples suggests, there was more at stake than positions of ideology. Prison officers were also concerned about the threat to their role which the new policies posed. To understand this aspect of the fears of prison officers it is necessary to examine their function within the prison system in more detail.

In a paper presented to a conference convened in 1977 to mark the bicentennial of the Howard League for Penal Reform, J.E. Thomas argued that much of the discontent among prison officers over the introduction of therapeutic models of imprisonment is a legacy of the para-military structure of prison services. This structure, he argued, is consonant with control and deterrence and incompatible with the therapeutic environment. Attempts to introduce training or 'treatment' of prisoners, therefore, 'results in uncertainty about the para-military structure which nevertheless remains the linchpin.' Parallel with the rise of uncertainty are improved conditions for prisoners which in turn increases the uncertainty and resentment felt by officers. 'There is a general feeling that

¹⁰⁶ *W.A.P.O.U. Newsletter*, May 1975, pp. 14-15.

¹⁰⁷ *W.A.P.O.U. Newsletter*, September 1974, p. 8.

they are no longer in control and if they lose control they will be held to ridicule by the community.'¹⁰⁸

The study by Trevor Williams, briefly mentioned already, also focuses on the prison officers' role in determining their attitudes towards rehabilitation. Reporting on his study in a journal article, Williams contends that to attribute prison officers' attitudes to ideology is superficial. The real explanation, he argues, is to be found in the tasks which officers are called upon to fulfil, the problems which they encounter in task performance and the psychological defence mechanisms which they develop in order to deal with these problems.¹⁰⁹

Williams's dismissal of ideology as an important factor in shaping prison officers' attitudes is questionable and the contention that attitudes and beliefs of prison officers are governed primarily by unconscious psychological defence mechanisms is a dubious proposition. As Williams himself admits, 'such beliefs also derive from attitudes towards crime and offenders which prevail in the wider community, and which prison officers may bring with them into the prison'.¹¹⁰ Nevertheless, his study, conducted in Western Australia with the cooperation of the Department of Corrections and the W.A.P.O.U., does provide valuable insights into the attitudes of prison officers.

Williams's research data, based on time spent working with prison officers, semi-structured interviews and questionnaires, elicited three commonly observed attitudes among prison officers in Western Australia; reliance on disciplinary authority, negative stereotyping of inmates and antagonism towards non-custodial staff. These attitudes, he found, were directly related to the primary custodial role of officers and the conflict which resulted from this.

¹⁰⁸ J.E. Thomas, 'A Good Man for Gaoler? Crisis, Discontent and the Prison Staff', in John Freeman (ed.), *Prisons Past and Future: In commemoration of John Howard's THE STATE OF THE PRISONS*, Heinemann, London, 1978, pp. 53-64.

¹⁰⁹ Trevor A. Williams, 'Custody and Conflict: An Organizational Study of Prison Officers' Roles and Attitudes', in *Australian and New Zealand Journal of Criminology*, (16), 1983, pp. 44-55.

¹¹⁰ *Ibid.*, p. 46.

Briefly, Williams's theoretical position, which his research supported, was as follows. The para-military structure of prisons support officers' attempts to control prisoners. It provides them with legal authority and superior status. However, officers have no moral authority over prisoners, 'since the latter are unlikely to be committed to the organizational task of confining them in custody'.¹¹¹ This forces officers to work independently from the official hierarchy and to develop informal relations with prisoners. Under such strained conditions, officers are likely to develop psychological defences, one of which is the creation of negative stereotyping of prisoners. The introduction of non-custodial staff into the prison system, with their more sympathetic and positive beliefs about prisoners, challenges these defence mechanisms, hence the resentment felt by prison officers towards these people.

The most significant aspect of Williams's research, in regards to Fremantle Prison, is the direct connection he demonstrates between custody and conflict, and in particular the finding that 'the less severe the conditions of custodial confinement, the lower are the levels of officer-inmate conflict and the less hostile prison officers are towards non-custodial staff'.¹¹² This in itself is hardly surprising, but what is significant is the finding, reported in his doctoral thesis, that within Fremantle Prison 'old guard' suspicion of and resentment towards non-custodial staff was relatively high, as was the tendency to develop negative stereotypes of inmates. This tendency, Williams suggests, may reflect the environment of Fremantle Prison and the prison officers' perceptions that they are guarding the most difficult and dangerous prisoners.¹¹³

The suggestion that there existed significantly more conflict within Fremantle Prison and that prison officers there were relatively isolated when compared with their colleagues, finds further confirmation through a survey of the W.A.P.O.U. *Newsletter*. Numerous letters and articles point to the fact that, even within the Union, Fremantle

¹¹¹ Ibid.

¹¹² Ibid., p. 54.

¹¹³ Williams, 'Custody and Conflict', 1974, p. 144 ; p. 210.

officers constituted a distinct faction, often attracting the resentment of officers elsewhere. Comments about the Fremantle branch of the Union were at times quite scathing. 'Fremantle Branch serves no useful purpose whatsoever', wrote one officer, while another referred to Fremantle officers as 'dead wood'.¹¹⁴ According to one union member, 'Fremantle branch is composed of cliques and factions, splinter groups which appear to be always trying to pull one another down'.¹¹⁵ But the Fremantle branch was also considered to be powerful. R.M. Donovan, a prison officer in Broome, complained of the 'massive voting power of the Fremantle Branch', while others referred to the branch as 'Big Brother'.¹¹⁶

That the Fremantle branch of the W.A.P.O.U. was extremely powerful is unquestionable. Its power stemmed in part from the status of Fremantle as the State's maximum security prison and also from its ability to bring the prison to a standstill through strike action, as was shown in 1975.

The implications of this for the implementation of the new policies in the 1970s was enormous, for as one officer declared:

the administration does not seem to realise that, before you can begin to operate a system of treatment, based on enlightened ideas, you must ensure that the officers who are to carry out the programme are in sympathy with it.¹¹⁷

His point was well demonstrated in 1979, when what amounted to a mutiny of prison officers took place in Fremantle Prison.

The mutiny took place during a period when tension was running particularly high in the prison, contributing factors being extreme overcrowding and adverse press coverage which centred around concerns over security. John McGivern remembers

¹¹⁴ *W.A.P.O.U. Newsletter*, undated edition, 1973, pp.15 and 22.

¹¹⁵ *Ibid.*

¹¹⁶ *W.A.P.O.U. Newsletter*, July 1974, p. 5; September 1974, p. 12.

¹¹⁷ *W.A.P.O.U. Newsletter*, April 1973 (no page numbers)

another contributing factor, the clampdown on a practice which had developed in the prison over rostering:

The person who rosters positions has a lot of power. It had been held by a particular person for a number of years, and for whatever reason I don't know, it was a job that paid penalty rates and overtime rates and so on, and was then re-advertised as a five-day a week job which would have meant a considerable loss of income, and this caused a lot of resentment in the union. That sparked off the mutiny. It led from there to big arguments about security in the prison and management of the prison, not being able to control the prisoners and the prison.¹¹⁸

In the weeks leading up to the mutiny tension had been running high within the prison. Newspapers ran reports of violence sparked off by overcrowding. No less than 630 prisoners were held in Fremantle in one week of July.¹¹⁹ In early August, the *Sunday Times* reported that, 'an uneasy peace reigned within the stark walls of Fremantle jail last night after weeks of violence and disruption'.¹²⁰ On the same day, the *Sunday Independent* was nevertheless still running reports about violence in the prison. Under a headline which read, 'DRUGS, WEAPONS IN JAIL: VIOLENCE IS NORMAL', it reported that:

prison officers regularly uncover knives, knuckledusters, iron bars and drugs in Fremantle jail. Searches are a part of daily life in the jail, carried out by a 'very highly trained' group of prison officers using metal detectors.¹²¹

The following week the paper ran a second story reporting a foiled escape bid by prisoners who used makeshift guns and pass keys, manufactured in one of the workshops, in their attempt to escape.¹²²

In this climate of discontent and fears over security, prison officers decided to clamp down on prisoners. Their actions were directed at cardboard boxes which prisoners

¹¹⁸ McGivern, OH, p. 36.

¹¹⁹ *Sunday Times*, 15 July 1979, p. 9.

¹²⁰ *Sunday Times*, 5 August 1979.

¹²¹ *Sunday Independent*, 5 August 1979, p. 5.

¹²² *Ibid.*, 12 August 1979, p. 1.

were allowed in order to store their few possessions. The officers decided that these constituted a security threat and so they approached the director, Bill Kidston, to request that the boxes be removed from the prisoners. The prison superintendent John McGivern, was also approached. When McGivern ordered the officers not to remove the boxes a stop work meeting was called. Officers walked off, returning later, according to McGivern, 'with all the officers they could muster, including those who weren't officially on duty'.¹²³ The officers proceeded to remove the boxes and some other property of prisoners, took them to Fremantle rubbish tip and disposed of them. On their return to the prison, the administration refused them entry until they gave an assurance that they would obey orders. The lock out continued for three days before the officers reluctantly gave the sought after assurance.

The return to work was not, however, the end of the matter. The Department of Corrections was clearly greatly concerned about what its director, Bill Kidston, was quick to describe as a mutiny of officers. It was also alarmed about the power which the Union wielded and by the actions of the Principal Officers who had been in immediate charge of the prison when the events took place. Among the Principal Officers three were charged and suspended but, with the support of the Union, refused to accept their suspensions. The Department wasted no time in dealing with the problem. Following consultations with the Public Service Board and the government, it was decided that the position of Principal Officer would be abolished and replaced by a new designation, that of Chief Officer, which would be a public service position under the terms of the Public Servants Act rather than the Prisons Act.¹²⁴ This meant that Chief Officers would no longer be eligible for membership of the W.A.P.O.U., a move clearly aimed at weakening the power of the Union.

If the Department and the government expected an end to Union dominance in Fremantle Prison, however, later events indicated that they had failed. In December

¹²³ McGivern, OH, p. 37.

¹²⁴ *Sunday Times*, 19 August 1979, p. 5.

1981, after a Fremantle Prison officer had been charged with misconduct, 230 Fremantle officers staged a walk out.¹²⁵ The officer in question, along with two colleagues, had signed off sick and later in the day had been found drinking in a Fremantle club.¹²⁶ The strike on this occasion lasted five days. Its significance lies, not so much in the issue over which it was called, but in the official response to the prison officers action.

'GAOL ROW BLAMED ON 'PURPLE CIRCLE', announced the front page headline of the *West Australian* on the second day of the strike. The story continued:

The 'Purple Circle' - an elite group of prison officers who expect certain privileges - was the cause of the warders strike, the Chief Secretary, Mr Hassell, claimed yesterday. He said that the officer who had been charged with improper conduct was the head of the 'Purple circle' at Fremantle gaol. The group had existed at the prison for about ten years.¹²⁷

It was a claim, not surprisingly, rejected by the union, which promptly called for Hassell's resignation and passed a motion denying the existence of the 'Purple Circle'.¹²⁸ Undeterred, Hassell pressed his claim, supported by an editorial in the *West Australian* which declared, 'There has been evidence before that such a group exists and that it exerts considerable influence in Fremantle Prison'.¹²⁹ A group of officers at Fremantle Prison had assumed powers that undermined management, Hassell told reporters. They had 'acquired great influence in the allocation of overtime, the allocation of Departmental housing ,... and the transfer of officers and prisoners'. While he did not have documentary evidence, he 'had been advised that some officers had been allowed to assume incredible powers'.¹³⁰

¹²⁵ *West Australian*, 20 December 1980, p. 1.

¹²⁶ *West Australian*, 22 December 1980, p. 1.

¹²⁷ *Ibid.*

¹²⁸ *West Australian*, 23 December 1980, p. 9.

¹²⁹ *Ibid.*, p. 6.

¹³⁰ *West Australian*, 24 December 1980, p. 1.

There is clear evidence from other sources that such a group did exist. Several of the oral history interviews conducted with prisoners and officers mention the existence of the 'Purple Circle' in Fremantle Prison, sometimes referring to it as 'The Scots Brigade'. John McGivern recalled, 'a small group of officers who appeared in Fremantle Prison ... to have gained some sort of informal control of the system'.¹³¹ John Neale, the Chief Security Officer, asked about the 'Purple Circle', responded coyly, 'Yes, it was in my time ... but you know I didn't pay much attention to it'.¹³² Robert Hind, an officer from 1971 until the closure of Fremantle, was equally coy:

they talk about 'Purple Circles' ...I wasn't in it, and there was never such things apparently. But there was at that time a certain group of people that ran the gaol really'.¹³³

Finally, Allen Halden, an officer since 1967 and Superintendent from 1988 until 1990, was more forthcoming; '[the "Purple Circle"] was basically a group of people with mainly Scottish backgrounds ... that generally had control of the prison ... and they controlled the union'.¹³⁴ It should be emphasised that the 'Purple Circle' represented only a small number of Fremantle officers. The concern for the administration was not so much the size of the group but the extent of the power which it held. It is obvious that by exposing the group and by disciplining its leaders, Hassell hoped to smash its influence, something which he claimed the vast majority of officers would welcome.¹³⁵

With or without the 'Purple Circle', by the early 1980s, Fremantle Prison officers had demonstrated beyond doubt that without their cooperation the implementation of new policies would be extremely difficult if not impossible. The officers themselves had been saying so since the early 1970s through the *Newsletter* which ran a 'Scottish Column'.

¹³¹ McGivern, OH, p. 35.

¹³² Neale, OH, p. 20.

¹³³ Robert Hind, OH2230/12, p. 19, B.L.

¹³⁴ Halden, OH, p. 11.

¹³⁵ *West Australian*, 3 January 1981.

One officer, in agreement with an article in the column, argued that, 'the most efficient agent of reform is The Prison Officers' Union'. He continued:

There is one way in which reform may be accomplished without involving the Prison Officers ... and we must ensure that this is never allowed to eventuate, and this would be to involve welfare and social workers, and other outside agencies ... to such an extent that the Prison Officer would revert simply to the role of a turnkey.¹³⁶

One final aspect of the role of the Fremantle Prison officers which needs to be addressed is their direct impact on the daily regime within the prison and, in particular, their relationship with non-custodial staff and inmates. The relationship between officers and non-custodial staff is explored in the following chapter and so will only be described briefly here. From what has already been said, however, it will be evident that relationships were far from cordial. Officer antagonism was directly expressed in a number of ways. John McGivern remembers occasions when officers would refuse to admit psychologists into the prison, and, if compelled to do so, 'then the sort of attitude towards them would be sort of nasty'.¹³⁷ Non-custodial staff remember similar incidents and recall attempts by officers to sabotage their work, for example, by denying or delaying access to prisoners.

It was through their relationship with prisoners, however, that the impact of prison officers on the regime within Fremantle Prison was most keenly demonstrated. The undermining of the officers' authority and their traditional custodial role, resulted in a feeling among officers that they were losing control of prisoners. It was a genuinely felt fear, fuelled at times by reports of riots and attacks on officers in prisons outside Western Australia. Following a major riot at Attica prison in North America in 1973, for example, the *W.A.P.O.U. Newsletter* warned officers, 'We in Western Australia face a similar problem on a smaller scale, ... YOU could be the next hostage'.¹³⁸ The climate of fear and uncertainty, and the extreme feeling of insecurity which Fremantle Prison officers

¹³⁶ *W.A.P.O.U. Newsletter*, April 1973, (no page numbers)

¹³⁷ McGivern, OH, p. 43.

¹³⁸ *W.A.P.O.U. Newsletter*, December 1973, pp. 8-9.

experienced as a consequence of the new policies of the 1970s and 80s, were important elements in the simmering tension which existed in the prison throughout the period. Faced with a perceived loss of control, the one option open to officers was to clamp down on prisoners, as illustrated in the events leading up to the 1979 mutiny. The antecedents to the disturbances in 1968, 1972 and 1982, described in another chapter, lay in claims by prisoners of ill-treatment by particular officers, claims which were substantiated by official inquiries.

The conflict between officers and inmates was, of course, two way. It is not the intention here to gloss over the fact that some prison inmates were violent and dangerous men. Neither is it the intention to argue that all prison officers were vindictive and cruel, or that all inmates experienced ill-treatment at the hands of officers. What is argued, however, is that in the enclosed world of a prison, particularly one so structurally defective and overcrowded as Fremantle, it only takes the actions of a handful of officers and inmates to create a brutal environment, and that throughout much of the period under examination Fremantle Prison was indeed a brutal place. This was in spite of official policies directed towards prisoner welfare and, moreover, a direct consequence of prison officers' resistance to these policies.

One manifestation of the brutality of the prison regime was an increase in the number of suicides and suicide attempts within Fremantle Prison. After a week in which two prisoners had hanged themselves in the prison, in February 1977, Gordon Leeder, a radio presenter with the Perth station 6PR, commented, 'Something has to be done about Fremantle jail ... there is no excuse for it breeding such utter despair that people take their own lives'.¹³⁹ Between July 1987 and December 1988, 43 prisoners were listed as either suicidal or as having attempted suicide.¹⁴⁰

¹³⁹ Gordon Leeder, 5 January 1977, 6PR, Perth, quoted in *W.A.P.O.U. Newsletter*, February 1977, pp. 6-7.

¹⁴⁰ Occurrence Book - Observation and Punishment, June 1987-January 1989, WAS 684, Cons. 4257, item 19, B.L.

The issue of ill-treatment of prisoners by officers has been dealt with in a previous chapter. However, the most serious example of ill-treatment occurred on the night of 27 August 1984, when a young Aboriginal prisoner, Robert Walker, died in Fremantle Prison following a struggle with several officers.

On the days before his death, Walker, who had a history of mental illness, became withdrawn, refused food and was observed to be constantly muttering to himself. On the night he died he had been spoken to several times for singing and playing loud music in his room. At 4 a.m., when a routine check was carried out, he was noticed to have blood-stained pieces of sheet wrapped around his wrists. The Chief Officer and the Hospital Officer were summoned and it was decided to remove him to the hospital surgery for treatment and then to the observation cell. When approached, however, Walker was reluctant to leave his cell, saying that there were phantoms outside.

At this stage the Chief Officer and the Hospital Officer decided that he was mentally disturbed. Eventually he was persuaded to leave. His mood was fluctuating. On the way he kicked the Hospital Officer down some steps. Once outside he again attacked the same officer, knocking him to the ground. At this point he was shoulder charged by another officer, forced to the ground and restrained with the help of a second officer. A third officer arrived and also helped to restrain him, at which point, according to the Royal Commission into Aboriginal Deaths in Custody Inquiry, he was 'effectively restrained and could not have escaped'.

Notwithstanding this, a fourth officer appeared on the scene and added his weight to the restraint procedure. Eventually, the Commission found, 'the amount of force which was being applied by the restraining officers became unendurable.' By the time he was injected with a sedative by the Hospital Officer, Walker had ceased struggling altogether. He was carried to the observation cell where he was noticed to be breathing abnormally. He died shortly after. 'Walker died of asphyxia', reported the Royal Commission, 'because his chest was so heavily compressed that he could not breathe'.¹⁴¹

¹⁴¹ Royal Commission into Aboriginal Deaths in Custody, Report of the Inquiry into the Death of Robert Joseph Walker by Commissioner L.F. Wyvill, PP. 2-6, B.L.

In its investigations, the Royal Commission rejected important elements of the version of events given by the officers. Medical evidence 'revealed that more was done to Walker than the officers were prepared to admit'.¹⁴² He rejected the officers' claims that Walker was in a violent mood and was directing his violence towards officers. 'In terms of violence,' said the Commissioner, 'when the struggle was over, Walker's body showed more signs of violence than all the officers put together could show, and he was dead'.¹⁴³

A number of important issues arose from the Royal Commission's investigation. Following Walker's death, the Department of Corrections failed to hold any investigation. Instead, the Director issued a staff bulletin applauding the officers involved. Furthermore, the prison officers did not give evidence at the inquest, so that the information provided to the coroner was incomplete, causing him to hand down an erroneous verdict on the cause of death. Two post-mortem examinations also failed to correctly identify the cause of death. Finally, the police investigation was, said the Commissioner, inefficient and incomplete.¹⁴⁴ In short, there appeared to have been a reluctance, to say the least, on the part of the authorities, to recognise the serious implications of the incident or to require the officers to be accountable for their actions. Had it not been for the pressure from outside agencies, which ultimately led to the setting up of the Royal Commission into Aboriginal Deaths in Custody, the incident would have been quickly forgotten. But perhaps that was what the Department wished. The W.A.P.O.U. certainly did not wish for the Royal Commission. The Union secretary's report for 1988 remarked:

1989 will continue with the sword of the Royal Commission hanging over our members. Since July the union has urged the Commission to change direction and not to retrace and retry that which has been done by the coroner.¹⁴⁵

¹⁴² Ibid., p. 43.

¹⁴³ Ibid., p. 75.

¹⁴⁴ Ibid., pp.6-8.

¹⁴⁵ *W.A.P.O.U. Newsletter*, December 1988.(no page numbers)

In summary, Fremantle Prison officers of the 1970s and 1980s had much in common with the warders around the turn of the century. Both groups shared long periods of boredom resulting from an unchanging daily routine within the confines of a dismal and overcrowded prison. The nature of their work, with its emphasis on security and the custody of prisoners, added to the monotony. Both groups shared similar attitudes towards prisoners, their custodial roles ensuring a persistent level of conflict between themselves and prisoners. Finally, both warders and prison officers brought with them into the prison certain social values and attitudes which determined the manner in which they carried out their daily activities. At times these values and attitudes ran counter to, and thwarted, official policy. In the early years of the century, when workers were organising for better working conditions, Fremantle Prison warders were fighting what they believed were unacceptable working conditions. By the 1970s, however, prison officers were represented by a strong union which had achieved pay and conditions which compared more than favourably with other workers.

The strength of the W.A.P.O.U. lay in its ability, through strike action, to bring the prison system to a standstill and to make it unworkable. However, the efforts of the W.A.P.O.U. throughout the 1970s and 1980s were directed not so much at achieving improved pay and conditions for officers but towards resisting new policies and the work of non-custodial staff. The perception by officers that the policies of the 1970s amounted to the mollycoddling of prisoners and that they were undermining prison security and their custodial responsibilities, was keenly felt in Fremantle Prison. In response, Fremantle Prison officers carried out their duties with increasing vigour, conflict between officers and inmates increased and by the early 1980s Fremantle Prison was in a constant state of turmoil. An increasingly oppressive regime took root within the prison during the very years in which new policies which emphasised prisoner welfare were being introduced. The regime was rooted in the Fremantle Prison officers' resistance to the new policies and their determination not to allow these to succeed.

In conclusion, a central argument of this thesis is that an understanding of the role and working of Fremantle Prison entails not just examining the official versions of the

prison, as reflected in annual reports, acts of parliament, new policies and so on, but also in getting to know the people who worked and lived within the prison, the officers and inmates. What actually happened within the walls of Fremantle Prison was shaped largely by these two groups of people. Uniformed staff and inmates brought with them into the prison certain sets of values and beliefs about their respective status and rights. These perceptions clashed with those of inmates, as would be expected. But it has been shown that they also clashed with the perceptions of a third inmate population, the professional experts, the new arrivals on the scene. The next chapter will examine the impact of these people on the life of the prison.

7

Campbell's People

Fremantle Prison is our criminological centre, and it is here the main activities of prison reform can find vent.¹

Artificial divisions at Fremantle gaol can, in no sense, render Fremantle a reformatory institution.²

The administrative changes which took place during Colin Campbell's ten years in office have been discussed in a previous chapter. This chapter will explore the legacy of the Campbell period and in particular the impact on Fremantle Prison of the most significant aspect of Campbell's legacy, the introduction of professional 'experts', or non-uniformed staff as they came to be called. Campbell's belief in rehabilitation of criminals in prison was the moving force behind this development, and so the notion of rehabilitation will also be examined in some detail.

The history of imprisonment in the Western world is the history of two incompatible urges; the desire to punish and the wish to reform the criminal. Although the focus on reforming criminals did not really take root until the nineteenth century, in England the first 'house of corrections' was opened in Bridewell as long ago as 1556.³ Randall McGowan, describing English prisons between 1780 and 1865, sees penal change during that period as being 'full of contradictory impulses and policies'.⁴ McConville, in his

¹ Annual Report for 1913, p. 3, in *M.V.&P.*, 1914-1915, vol. 2.

² T. Walker, Member of the Legislative Assembly, *Hansard*, 1 October 1918, vol.58, p. 475.

³ McConville, 'The Victorian Prison', p. 133

⁴ McGowan, 'The Well Ordered prison', p. 80.

study of the period 1865-1965, argues that, 'Penal history is littered with unfulfilled promises and abandoned hopes'.⁵

Such too is the history of the Western Australian experience of imprisonment. The short burst of reformatory zeal in the late 1890s, which has been described in another chapter, was over as quickly as it started. The silence which followed the handing down of the 1898 Jameson Commission's report has been noted by Thomas and Stewart, who point out that the report received no comment in parliament and little from the press. Thomas and Stewart suggest that the lack of sustained interest in prison reform may have been the result of the government's pre-occupation with more pressing matters such as the proposed Australian Federation. Other reasons can be suggested. Although the commissioners talked about 'prison treatment' and, 'reclamation and reformation of criminals', there was clearly some ambivalence, even confusion, in their thinking. 'The social environment is the cultivation medium of crime', they argued. Yet they thought that:

the criminal is not a normal individual, but a morbid variety of mankind, physically and morally degenerate ... by some defect of heredity, or of birth, or of training, he belongs, as it were, to a lower and older social state than that in which he is actually living.⁶

However, this degeneracy was in degree only, so there were some criminals who were susceptible to reclamation. Unfortunately they did not give any indication of how many prisoners were only mildly degenerate or how they could be distinguished from unreclaimable degenerates. Reclamation of criminals was only one aspect of the commissioners' concerns. Prison, for them, was first and foremost a punitive agent. Even the introduction of the separate system, the central feature of the Commission's recommendations for prisoner 'treatment', would, in the commissioners' own words, 'greatly ... affect the severity of the punishment inflicted'.⁷ The contradiction inherent in

⁵ McConville, 'The Victorian Prison', p.131.

⁶ Jameson Report, pp. 11-12.

⁷ Ibid., p. 2.

these twin aims is very clear from the commissioners' final report, in which they argue that:

Necessary as the prison may be as a punitive agent we cannot regard any form of imprisonment as having been shown to be particularly successful as a reforming influence. On the contrary, institutional life with its fixed rules, its removal of the elements of hope, of anxiety, and of the necessity for individual enterprise, tends to make the prisoner more or less of an automaton.⁸

The commissioners appear to have been oblivious to the very contradiction which they were articulating. Such ambivalence was hardly likely to result in an enthusiastic reception of their recommendations or the implementation of meaningful reform.

One final reason for the lack of interest in reform following the 1898 Jameson Commission lies in the circumstances which led to the setting up of the Commission in the first place. Lynette Stevenson, in her study of Fremantle Prison in the 1890s, refers to the moral panic present in Western Australia in the early years of the decade.⁹ Following the gold rush there was a huge increase in the population of the colony. During the 1890s the total population rose by over 124,000.¹⁰ Simultaneously there was a marked increase in the prison population. In Fremantle Prison the daily average number of inmates rose from 138, in 1890, to 396 by 1898. According to Stevenson, the popular perception was of an invasion of criminals from the eastern colonies. These developments resulted in considerable discussion throughout the 1890s, in the press and in parliament, about the causes of crime and how to deal with it.¹¹

By the time of the Jameson Commission, however, imprisonment rates were declining, as were crime rates, a fact which did not go unnoticed by the commissioners who commented, 'Now that the gold industry is settling down to regular business this

⁸ Ibid., p. 13.

⁹ Stevenson, 'Fremantle Prison in the 1890s', p. 2.

¹⁰ Ibid., p. 33.

¹¹ Ibid., p. 35.

condition of things is rapidly passing away'.¹² The moral panic which had stimulated interest and discussion about prison reform was over.

The ambivalence shown by the 1898 commissioners in their attempt to articulate penal policy was shared by Captain Pennefather in his 1911 Report. Although of the view that imprisonment should be 'curative', Pennefather's emphasis was on punishment and deterrence. Accordingly he recommended the introduction of strict separate treatment 'especially in regard to youthful first offenders ... who should be made to feel that prison life is not the pleasant one some people outside think it is'. However, the most important part of Pennefather's Report, in terms of significance for Fremantle Prison, was his conclusion that:

in order to carry out modern principles of prison reform, Acts, regulations and ideals are of little use without means and facilities to do so. I can only reiterate the necessity of erecting a new prison and prisons in some suitable site or sites, where prisoners of different class may be treated in accordance with present day ideals.¹³

Western Australia had to wait another eighty years before Fremantle Prison was replaced. Meanwhile, Colin Campbell's appointment, in 1967, to the post of Comptroller General ushered in a new era in the prison system in which reform of prisoners was once again on the agenda. Campbell's appointment was significant for at least three reasons.

Firstly, as Thomas and Stewart point out, he was the first 'outsider' to be appointed to a senior position in the prison service since the resignation of Hugh Hann as Superintendent of Fremantle Prison in 1918. Secondly, his background as a psychology graduate from the University of Western Australia and his experiences in the field of child welfare and as superintendent of a juvenile offenders' institution, were qualifications which placed him in a unique position. For the first time in its history, the Western Australian prison system was being administered by someone conversant with current theories of human behaviour and criminology. One of these theories was that prisons

¹² Jameson Report, p. 11.

¹³ Pennefather Report.

should be places in which inmates could be rehabilitated. For Campbell this was more than a theory; it was a firm conviction.

Thirdly, by all accounts, Campbell's personal charisma was such that he was able to gain respect from all quarters, politicians, professional staff, prison officers and inmates alike. It is from this observation that an assessment of the impact of the introduction of professionals into Fremantle Prison can begin.

One year after his appointment, an article appeared in the press describing the immediate impact of Colin Campbell's appointment as Comptroller-General. The headline itself reflects both the strength and weakness of his period in office: 'CAMPBELL'S KINGDOM. COLIN CAMPBELL ... THE REBEL WHO HEADS OUR PRISONS SYSTEM'. 'His liberal ideas on prisons - are bringing a refreshing change within the prisons system, among staff as well as inmates', the article declared. 'Prison is a place for rehabilitation', said Campbell, who had an 'obsession with rehabilitation'. Campbell was 'no armchair theorist', he 'sees virtually every prisoner in Fremantle'. The final paragraph of the article was a statement which, as will be shown, expressed a sentiment which was to back-fire years later in public concern about security; 'He aims to put Fremantle, his other prisons and their inmates in the public eye - where they belong'.¹⁴

As long as the prisons system consisted of Fremantle Prison and a few prisons in outlying regions, Campbell could indeed reign over his 'kingdom' and his personal touch could have some impact. Percy Boyes and Peter Dunlop were two of the first psychologists employed within Fremantle Prison. Boyes, who arrived in Fremantle Prison in 1968, remembers Campbell as 'a guy who actually cared about the people in prison. He cared about the prisoners. He cared about what happened to them. He was a humanitarian'.¹⁵

According to Peter Dunlop, who was appointed to Fremantle Prison in 1972, the fundamental thing about Campbell 'was that he knew all these guys in prison. He knew

¹⁴ *Weekend News*, Supplement, 11 November 1968, pp. 5-8.

¹⁵ Percy Boyes, OH2230/20, p. 24, B.L.

them as teenagers. He knew what they were like and he knew they were not monsters'.¹⁶ Terence Maller, an ex-Fremantle Prison inmate, also remembers Campbell as someone with an intimate knowledge of the prison's inmate population. 'Campbell could walk into any of the yards in Fremantle Prison and not worry at all'.¹⁷

Two anecdotes related by Percy Boyes provide an insight into Campbell's personality and perhaps also of his attitude towards bureaucracy. Campbell 'was accustomed to roving around the Department from time to time and going into somebody's office and flopping down in a chair and having a chat.'. On one such occasion he called in at Boyes's office:

The desk was sort of in the middle of the room and I was sitting there and he was sitting on the other side of the desk. He looked at the desk and said, 'This is a bloody mess. You know you could have a fire in here,' and with that he said, 'It would be so easy,' and he held out his cigarette lighter and he said, 'just like that,' you know. Some of the papers hanging over the side of the desk began to burn and I sort of sat there thinking, well, it's his problem. He sat there thinking, well, it's his desk, it's his problem. Well we got into action a little time later and for many years I think there were a few charred prisoner files in the filing system that had resulted from this little skirmish.¹⁸

On another occasion:

Colin was down at Pardelup Prison Farm for an inspection and was driving through Rocky Gully and so on. While he was down at the farm they'd said: oh look, we really need a grader. The roads around the farm are really a mess.' He said, "oh." So as he was driving back he spotted a road grader that had a "For Sale" notice on it, and he went and bought it with a local purchase order. Now that is entirely improper as far as the public service is concerned, but none-the-less, there it was, he bought a grader.¹⁹

Campbell's personal touch was possible as long as the prisons' system remained relatively small. Once the prisons system expanded however, 'Campbell's Kingdom' was replaced by an enormous bureaucracy in which the influence of a single person was

¹⁶ Dunlop, OH, p. 15.

¹⁷ Maller, OH, p. 23.

¹⁸ Boyes, OH, p. 24.

¹⁹ Ibid.

inevitably diminished. Before that happened, however, Colin Campbell had left the scene, having died suddenly, in 1976, while still in office.

Campbell's most significant contribution stemmed from his insistence on the possibility of rehabilitating inmates. His 1968 tour of the U.S.A, Europe and New Zealand, described in an earlier chapter, stimulated him in his attempts to reform the prison system over the subsequent decade. In his report of the tour, he outlined five major reform measures; the introduction of work release programmes, the establishment of work release hostels, the setting up of a remand and assessment unit, the placing of greater emphasis on vocational training and the placing of a maximum limit of 250 inmates in correctional institutions.²⁰ The first four of these measures were introduced into the prisons system over the following years. The fifth was never achieved in Fremantle Prison, where over-crowding continued to be just one of the obstacles faced by professional staff in their efforts to introduce reforms.

To achieve his aims, once in office Campbell set about enlisting the expertise of professional experts. A major problem, however, was that he never clearly articulated his concept of rehabilitation, nor, according to Peter Dunlop, did he have a clear concept of what the role of psychologists in prisons should be. 'Campbell', recalls Dunlop:

wasn't given to fine definitions of anything. He still saw psychologists as people who knew something about human behaviour and you poured a bucketful of that in the prison system and it ought to do some good.²¹

As a result, Dunlop found himself uncertain of what his role was, even though he arrived on the scene in 1972, four years after psychologists were first deployed in Fremantle. The first inmates with whom he came into contact were referred to him by the prison Medical Officer after they had complained of stress and requested medication. 'They'd be referred to me by the medical officer saying "is this person genuine?"' Dunlop remembers seeing these inmates 'because it filled in time and I didn't know what else to

²⁰ Annual Report for 1968-1969, p. 4.

²¹ Dunlop, OH, pp. 14-15.

do really'.²² Later, Dunlop found that his role was gradually defining itself, and he moved on to doing psychological testing of inmates and using these to plan rehabilitation programmes. He also began psychotherapy sessions with individual inmates.

Inmates were not the only focus of psychologists' attention. Percy Boyes was also involved in the selection and training of new recruits into the ranks of prison officers. Traditionally, prison officers had been selected on the basis of elementary maths and English. The involvement of a psychologist in recruitment resulted in would-be prison officers having to complete intelligence, personality and aptitude tests. This, as will shortly be shown, was a contributing factor in subsequent poor relations between uniformed and non-uniformed staff.

Indications of disillusionment with the rehabilitation approach to imprisonment can be detected from the mid-seventies. In 1976, Percy Boyes and C.R. Foley-Jones, psychologists working on the Assessment and Orientation programme at Fremantle Prison, noted 'a strong anti-rehabilitation move afoot towards the concept of "just desserts" or the "justice model of corrections" ... a reaction against the apparent failure of the rehabilitation model'.²³ Among psychologists themselves there was an increasing questioning of the ideal of rehabilitation and their own role within the prison system. Boyes and Foley-Jones pointed to what they saw as 'a major paradox':

Inmates are segregated from society in order to be re-integrated into that same society. From the inmates' point of view, he is punished. It is not surprising that correctional programmes are by and large regarded cynically and often with considerable hostility by inmates.²⁴

Peter Dunlop remembers the arrival of a group of newly trained psychologists into the prisons department in 1975. They were, he recalls:

²² Ibid., p. 21.

²³ C.R. Foley-Jones & P.J. Boyes, 'Assessment and Orientation Procedures, Policies and Philosophies in Western Australia', *Research and Information Series*, no. 14, 1976, p.6.

²⁴ Ibid., p. 8.

strong abolitionists. As far as they were concerned rehabilitation was just a kind of sop to the capitalist society and the prisons were inherently bad, and the psychologists shouldn't be down in the prison ... placating the 'running sore' of the prisons.²⁵

Confronted by these arguments, Dunlop himself began to question his role as a psychologist and eventually found himself 'utterly disillusioned with the rehabilitation philosophy approach to imprisonment':

One of the difficulties I had, was just the word 'rehabilitation'. It made sense in terms of someone having a car accident, and they'd had brain damage or their limbs had been damaged or something like that, and they were being rehabilitated back to a state that they were in previously. These guys had never been in any sort of fit state. They weren't shipshape from the start and in prison it was making them less shipshape. It was a kind of funny concept.²⁶

A paper written by D.Todd, a prison psychologist in 1974, summarised some of the problems encountered by prison psychologists. There was in the first place, he wrote, no clearly defined role for psychologists in the prison system, a fact which, he thought, was reflected in the lack of statutory recognition of psychologists in new rules and regulations drawn up in 1974.²⁷ This lack of recognition continued when the new Prisons Act was passed in 1981. The Act placed strong emphasis on the custodial nature of imprisonment and contained only one small section dealing with prisoner welfare.²⁸

In his paper, Todd went on to argue that the very presence of psychologists in prisons confirmed the image of the prisoner as someone who is sick, or inadequate.²⁹ 'There is no room here for an analysis of social conditions, ... psychologists are there to make the system "work" not to search for an understanding of the political necessity to imprison'.³⁰

²⁵ Dunlop, OH, p. 42.

²⁶ Ibid., p. 43.

²⁷ D. Todd, 'The Ethical problems of psychologists in the Prison Service', in *Research and Information series*, no. 8, 1974, p. 3.

²⁸ Prisons Act 1981, Part IX.

²⁹ Todd, 'The ethical problems of psychologists', p. 4.

³⁰ Ibid., p. 5.

Psychologists were thus part of the status quo and were seen as such by prisoners who often interpreted treatment as punitive. One result of this perception by prisoners was that they attempted to sabotage treatment, for example by providing misleading answers and filling out questionnaires in a misleading way. Under such conditions, Todd concluded, 'rehabilitation could scarcely be maintained even if its theoretical justification was sound'.³¹ In short, Todd was highlighting three major problems facing prison psychologists; the lack of clear guidelines as to their role, the theoretical inadequacy of the concept of rehabilitation and the reality of sabotage by prisoners. To these can be added a fourth, namely sabotage by prison officers.

Regarding the first of these, Todd's view of the ill-defined role of the prison psychologist was shared by prisoners. A. Duddy, a prisoner who was invited in 1976 to present a paper to a seminar for prison staff on the prisoners' view of prison psychologists, declared:

The precise function of the psychologist is not understood by most of the prisoners. He stands as a very mysterious figure; a skilled mind-prober who is credited with an amazing amount of deviousness. The ways in which he can help prisoners are largely unspecified and the methods that he uses can only be speculated upon.³²

The result, Duddy went on to argue, was fear and suspicion and 'The confidentiality to be expected from the therapist-patient relationship immediately loses all credibility'.³³

A second more pressing problem for psychologists, however, was the concept of rehabilitation. One aspect of this problem was the coercive nature of many programmes. One prisoner, for example, complained that he was being 'stood over' in attempts to get him to participate in a social drinking programme and that failure to participate in the programme was affecting his parole.³⁴ Campbell's annual report for 1974-1975 indicated

³¹ Ibid., p. 11.

³² A. Duddy, 'The Prison Psychologist: A Prisoner's View', in *Research and Information Series*, no. 11, 1976, p. 3.

³³ Ibid., pp. 4-5.

³⁴ C.R. Foley-Jones, 'Treatment or Correct and Incorrect Treatment', in *Research and Information Series*, no. 6, 1974, p. 6.

a recognition of this problem and pointed to a significant shift in thinking about rehabilitation. There is, he said, 'a shift of responsibility towards providing information to the inmate in the expectation that he will be able to make more choices for himself from the options open to him'.³⁵

By 1976, therefore, there was a clear recognition by psychologists that the paternalistic and pseudo-medical model of treatment was presenting more problems than it solved. Moreover, many prisoners regarded the programmes as part of the punishment of imprisonment and reacted with cynicism and hostility.³⁶ Foley-Jones and Boyes saw the major defects of the rehabilitation model as its coerciveness, its focus on individual pathologies which resulted in prisoners being cast in the role of the 'sick' patient, and its tendency to confound the problem of institutionalisation by making prisoners more dependent.³⁷

After 1976 the emphasis was increasingly placed on the voluntary nature of rehabilitation programmes. The new philosophy outlined by Foley-Jones and Boyes emphasised 'voluntary rehabilitation with self-determination on the part of the inmate being given priority'.³⁸ But problems remained. The interventionist nature of applied psychology and the continuing ill-defined role of the prison psychologist, made it very difficult to escape from a pseudo-medical, individual pathology model. The emphasis on voluntary treatment did nothing to remove the stigma of being labelled 'sick'. 'Perhaps the most cruel of the prevailing attitudes within the Prison', declared Duddy:

are those adopted towards prisoners who attend "occupational therapy" classes and those who regularly see psychologists. These people are branded as "slowies" by the other prisoners and are despised by most of the offenders.³⁹

³⁵ Annual Report for 1974-1975, p. 5.

³⁶ C.R. Foley-Jones & P.J. Boyes, 'Assessment and Orientation Procedures', p.8.

³⁷ Ibid., pp. 9-10.

³⁸ Ibid., p.11.

³⁹ A Duddy, 'The Prison Psychologist', 1976, p. 5.

The result was that, while the removal of the coercive element of rehabilitation programmes may have reduced the likelihood of prisoners sabotaging programmes, the voluntary approach resulted in a reluctance by some prisoners to avail themselves of the services of psychologists, for as Duddy remarked, 'Few prisoners who have parole in mind will risk being labelled as "mentally ill"'.⁴⁰

The fourth problem confronting the rehabilitation model was its vulnerability to sabotage by prison officers. The relationship between psychologists and prison officers epitomises the essential contradiction inherent in attempting to implement rehabilitative measures within the prison setting. By 1982, Peter Dunlop was arguing that:

Imprisonment ... is not about correction nor is it about rehabilitation. It is about the loss of liberty, and it always has been. My short answer to the frequently asked question, 'what must we do to rehabilitate offenders?' is, 'don't send them to prison.'⁴⁰

The problem of instituting rehabilitative programmes in a custodial setting was clearly an ongoing concern for the prison psychologists. 'If one is seen to be interested in the welfare of inmates to the exclusion of all other considerations', Foley-Jones complained in 1974, 'one can find a massive sabotage effect from the prison administration at all levels'.⁴¹ Concern about prisoner welfare could only ever be secondary to the custodial responsibilities of prison officers and so it was inevitable that psychologists and officers would be in conflict. A prison psychologist in 1982, Robert Fitzgerald, commented that:

At times, the attitude of professional staff has been that the prison officers were obstacles to effective intervention with prisoners. In like manner officers have expressed the view that professional staff were obstacles to the maintenance of security.⁴²

⁴⁰ Ibid., p. 5.

⁴⁰ P.J. Dunlop, 'Planning a New Prison: An Examination of Process and the Search for a Philosophy'. In *Research and Information Series*, no. 24, 1982, p. 1.

⁴¹ C.R. Foley-Jones, 'Treatment', pp. 1-2.

⁴² Robert. E. Fitzgerald, 'Management of Occupational Stress in Prison Officers', in *Research and Information Series*, no. 23, 1982, p. 3.

The W.A.P.O.U. *Newsletter* throughout the 1970s and 1980s reflected widespread animosity between professionals and officers. One contributor to the *Newsletter* in 1973, while agreeing that reform of the prison system was needed, thought that, 'the most effective agency for reform was the Prison Officers' Union'. The writer continued:

[Administrators and Psychologists] do not seem to realise that, before you can begin to operate a system of treatment based on enlightened ideas, you must ensure that the officers who are to carry out the programme are in sympathy with it, and are themselves being treated in a humane way.⁴³

The fear that emphasis on inmate welfare was a threat to the welfare of officers was a repeated concern among contributors to the union newsletter. T. Patten, an officer in Fremantle Prison, strongly opposed the role of psychologists and psychiatrists in the prison 'until such times as they put 25% of their effort into suggestions in the Department for better working conditions for the prison officers'.⁴⁴

Another Fremantle Prison officer was concerned over the threat to security which psychologists, in his opinion, posed. Ivor Knight was a Senior Officer and a member of the executive of the Union. 'Many psychologists appear to regard security as being of only minor importance', he told a seminar for prison staff in 1976, 'but in a maximum security institution it is of paramount importance'.⁴⁵ Knight was scathing in his view of psychologists. In a revealing statement which said as much about his attitudes towards prisoners as psychologists, he described the latter as 'city counsellors modifying the garbage dump'. 'What do officers generally expect of psychologists?' he asked. 'That they will one day do as the Arabs. Fold their tents and silently steal away'.⁴⁶

Perhaps the most revealing criticism which Knight levelled at psychologists was that they paid too much attention to prisoners. 'Officers also resent', he told his audience, 'the attention the inmates are receiving from you when they know that nowhere near the

⁴³ *W.A.P.O.U. Newsletter*, April 1973.

⁴⁴ *W.A.P.O.U. Newsletter*, April 1975.

⁴⁵ Ivor Knight, 'A Prison Officer's View of Psychologists', in *Research and Information Series*, no. 12, 1976, p. 7.

⁴⁶ *Ibid.*, pp. 13-16.

same attention is being lavished on the victims of the inmates'.⁴⁷ There was a ring of truth, therefore, in the belief one psychologist expressed some years earlier when he declared, 'recent notions that imprisonment should involve treatment of the offender have to a large extent been superimposed upon the older retributive system'.⁴⁸ In 1982, P.J. Dunlop described the first reaction of officers in Fremantle Prison towards the introduction of psychologists:

We had been sent to the front line with minimal instructions and discovered with dismay that the troops already there not only did not want us, but were positively hostile. They saw us as agents in league with the enemy... they were suspicious and resentful ... The old soldiers knew their game well. Their objective was clear. Survival is what it's all about and to do that, you must hold on to every bit of territory you have, concede nothing ... Moreover, they had the advantage of knowing all the lanes, the by-ways, and back alleys, as well as all the tricks by which you gain and hold power.⁴⁹

Not every prison officer shared these antagonistic views of psychologists. G.Gannon called on his colleagues to be more open minded about the changes which were occurring in the prison system.⁵⁰ Another officer/cum poet, made the following plea:

Have you ever stopped to ponder
as you pace the prison floors
of the people you are keeping
behind those grim steel doors

There is but just one answer
if you really need a guide,
that's put yourself in his shoes
and pretend it's you 'inside.'

The way you would wish to be treated
if the roles were thus reversed
is the way you should be treating him,
Humanely-Unrehearsed.⁵¹

Such views as these were, however, minority ones and, significantly, were not apparently shared by many Fremantle Prison officers.

⁴⁷ Ibid., p. 13.

⁴⁸ P. Pringrove, 'Periodic detention: A report regarding the desirability of instituting periodic detention in Western Australia', in *Research and Information Series*, no. 1, 1972, p.3.

⁴⁹ P.J. Dunlop, 'Planning a New Prison', p. 2.

⁵⁰ *W.A.P.O.U. Newsletter*, undated, but between June 1973 and October 1973.

⁵¹ *W.A.P.O.U. Newsletter*, December 1973, p. 15.

One other group of professionals whose role requires some mention was social workers. Their main responsibilities were organising work release programmes, educational programmes and recreational activities for inmates.⁵² A major problem, however, was the difficulty of recruiting and retaining qualified social workers. Annual Reports for the years 1972 to 1976, indicate a severe problem in recruitment of qualified social workers. The Annual Report for 1976 pointed to the high turn-over of staff in the social work division.⁵³ Concern about insufficient numbers of welfare officers was raised by the Jones Report in 1973. Jones recommended the attachment of 'sufficient numbers' of specially trained welfare officers to Fremantle Prison, who, he thought, 'should preferably not be ex- prison officers and should not be on the staff of the Department of Corrections, but should be attached to the Department of Community Welfare'.⁵⁴ By 1986, however, basic welfare services had been included in the responsibilities of prison officers, 'consistent with the policy', according to the report for that year, 'of enhancing the role and making better use of the skills of the prison officers'.⁵⁵ By the following year, the role of prison officers included, 'the responsibility for primary welfare functions in all prisons ... consistent with the decision to abolish the welfare branch'.⁵⁶

Overcrowding continued to be a major problem within Fremantle Prison throughout the 70s and 80s and impeded severely the work of psychologists and social workers. It put enormous strains on the work load of professionals who were in short supply in any case. In 1971, for example, there were only four social workers to deal with a daily average of 528 inmates and to help process 2,220 inmates who were reviewed by the classification committee.⁵⁷ Reports throughout the 70s referred to the continuing shortage, and difficulty in recruiting trained social workers.

⁵² Annual Report for 1976-1977, p. 7.

⁵³ Ibid.

⁵⁴ Jones Report, p. 174.

⁵⁵ Annual report for 1986-1987, p. 14.

⁵⁶ Annual report for 1987-1988, p. 15.

⁵⁷ Annual Report for 1971-1972, pp. 4, 6 and 11.

Overcrowding also impacted on the work of psychologists. Contact with inmates was further restricted by the hours in which they were available for interviews. Because of the hours which prisoners spent in their cells they were only available for interviews with social workers from 8.30a.m until 11a.m. and 1.30p.m. until 4p.m.⁵⁸

Overcrowding, cramped conditions and difficulty in accessing inmates were relatively minor matters. The greatest impediments to the work of professional staff were the status of Fremantle Prison as Western Australia's main maximum security prison and the entrenched regime by which it operated on a daily basis. Both of these factors brought professional staff into direct conflict with prison warders.

The prime responsibility of the prison officers was the safe custody of prisoners and they clearly saw the introduction of professionals as a threat to security. Peter Dunlop recalled how, when he first began work as a psychologist at Fremantle Prison:

the most striking feature of the prison was the frequency with which the 'need to preserve security' was a phrase used to justify actions and procedures which to my mind seemed excessive, punitive and in some cases simply cruel.⁵⁹

Finally, the administrative changes which had begun during the 1970s had by the 1980s resulted in the development of a vast bureaucracy within which the personal touch of a single administrator such as Campbell became impossible. Describing the impact of restructuring on professional staff, Peter Dunlop remarked:

Campbell's men and women, all their positions were thrown open and it was clear in some cases they wouldn't be re-appointed ... I suppose really it was the end of the Campbell era. That's certainly what I felt-what we felt. Those of us who were Campbell's people felt like it was the end of the Campbell era, and now we were moving into something different. We were fairly pessimistic about what that difference would be.⁶⁰

⁵⁸ 'Fremantle Prison: An Agency Report by a Social Work Student', April 1979, p. 11, AN 15, Ministry of Justice Library, Perth.

⁵⁹ P.J. Dunlop, Report on a W.A.P.O.U. request to re-open segregation at Fremantle Prison', 1984, p. 25., uncatalogued, Ministry of Justice Library.

⁶⁰ Dunlop, OH, pp. 70-71.

Margaret Steadman, appointed in 1984 as an education officer in Fremantle Prison, in response to a question about Colin Campbell's influence on the prison, replied:

I moved into a system that seemed extremely archaic and that was the system that Colin had influenced. I mean he hadn't been dead long, and he'd made a lot of changes, but it wasn't obvious coming into the system and seeing it as a complete outsider. So there was still a prison officers service with very little training, very clear 'us' and 'them' attitudes between prison officers and prisoners and we are very much an austere prison culture. So, no. It wasn't very obvious to me.⁶¹

While Campbell's impact on the Western Australian prison system is unquestionable, it is clear that his impact on Fremantle Prison was minimal, a confirmation, in fact, of statements made by politicians and prison administrators over the previous hundred years or so, about the impossibility of carrying out reform measures in such a wretched place.

⁶¹ Steadman, OH, p. 4.

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