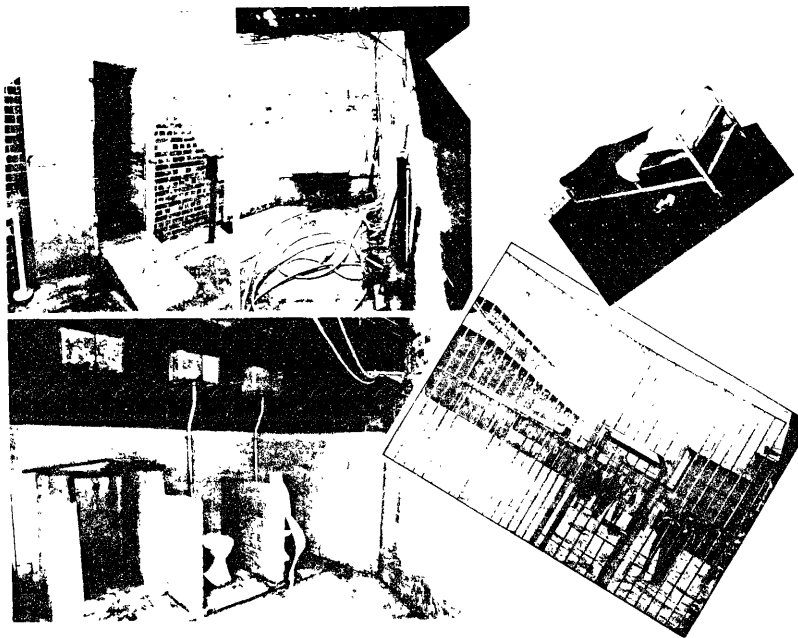


abandoned which was a commendable proposal. The nebulous reference to substituted "dispersal units" gave cause for concern. And Opposition Leader Coleman recently stated he would re-open Katingal if elected.



The report is replete with scathing indictments of the conduct of the former Commissioner for Corrective Services, Mr McGeechan. Just a few samples:

- "just a big cover-up".
- "Mr McGeechan's intention from his report appears, in the light of the evidence, to have been to defame Mr Clark, to deceive the Minister and to deny justice".
- "It was really no inquiry at all. It was a deception of the Minister, the Parliament and the public."

and finally

- "Mr McGeechan is unfit to be in a position where any Minister of the Crown has to rely on the accuracy of his reports. His conduct in relation to the departmental inquiry was disgraceful and warrants his removal from the office of Commissioner

of Corrective Services upon that basis alone".

And indeed the criticism is not undeserved. Any observer of the Royal Commission cannot have failed to be impressed by the eleventh hour evasion of Mr McGeechan in the witness box. Wran's State government pre-empted the Royal Commission recommendation as to his dismissal by sacking him before the Report was delivered. It is, of course, a classic tactic to purge a few rotten apples every now and then to ensure that the institutional apparatus remains untainted. The Royal Commissioner has made him the ultimate rotten apple, the symbolic scapegoat behind whom many others can and will be shielded.

Regrettably, the inferences drawn by the Royal Commissioner from the abundant evidence of horrific institutionalised practices do not match the tenacity with



which he sifted the facts to obtain that evidence. Indeed, his response illustrates rather than rectifies one of the major characteristics of prison administration: the double standard of justice. Despite his findings in relation to the illegal assaults perpetrated by prison officers over 33 years (1943-1976) at Grafton gaol and the systematic illegal assaults on various occasions at Bathurst Gaol, Mr Justice Nagle makes no recommendation as to actions to be taken against them - not even as to dismissal let alone civil or criminal proceedings. A decision in this regard has been left to the "appropriate authorities" - the Wran government.

It was immediately indicated by the government following the release of the report that no action would be taken because it was all too long ago and nothing could be achieved by this. Further, despite the fact that a sustained cover-up of these atrocities involved, to quote the Sydney Morning Herald editorial of 13th April, 1978, "visiting doctors, Cabinet Ministers and members of parliament, judges, members of the clergy, official visitors, health officers, public service inspectors and departmental administration, among others", no action is suggested by the Royal Commissioner. In the light of the government's decision as to the illegal assaults by prison officers, the prospect of even a minor rap over the knuckles for anyone in the last-mentioned category is very dim indeed.

Apart from calling for the removal from office of the former Commissioner of Corrective Services, Mr McGeechan, the report recommended action against only one person - a warder accused of making non-violent homosexual advances to prisoners. Witch-hunts against individuals are not necessarily an ideal solution - particularly inasmuch as such action legitimates and reinforces notions of individual fault and deflects attention from institutional abuses.

However, the startling disparity in the treatment of prisoners can hardly escape notice. More than 30 prisoners received increases in sentences of up to 3 years following the Bathurst prison riot of 1974. During the riot many prisoners were shot, some seriously wounded and one is now a paraplegic. In some cases, these prisoners were not involved in the riot in even a marginal way. No recommendations are made as to commutations in sentence

or even as to compensation for those injured by the admitted use of illegal force. Secondly, it should be noted at a general level that many of the crimes committed by prisoners currently in NSW prisons pale into insignificance when compared with the "systematic", "calculated" and "brutal" use of "illegal force" against prisoners by prison officers, and the duplicity and dereliction of public and legal duty in which the large numbers of so-called responsible members of the community were engaged.

There are a number of recommendations in the report which would exacerbate, if not dramatically set back, the situation in NSW prisons. The vague reference to the dispersal prisons and special units to hold "dangerous prisoners" could well negate the effect of the Katingal closure. The recommendation against payment of award wages completely undermines prospects of improvements in slave labour pay rates. The adoption of the Victorian "earned" remission system would open the way for discriminatory reporting by officers and associated abuses. The recommendation that "a new maximum security gaol to accommodate 200 to 300 prisoners should be built near to Sydney within the next five years" flies in the face of the conclusions in the report that prison should be used as a last resort and that prisoners should be placed in the lowest security institutions possible.

There are a significant number of reform proposals in the report which deserve recognition. While none of these attack the fundamental nature of the prison system, their immediate implementation would go some distance towards ameliorating the conditions of prisoners and should be supported for this reason. Many could be cheaply and speedily implemented. There is not space to detail them here. However, the prospects of rapid implementation of the specific proposals referred to above are not great. As the Royal Commissioner pointed out, a number of the suggested reforms merely reiterated recommendations of former commissions of inquiry over the last 100 years. Further, the law and order rhetoric of the Premier (just prior to the release of the report) indicating that a "hard line" should be taken against prisoners, does not augur well for an avalanche of action.

The only promise thus far - to close Katingal - has exploded in the face of the government. Industrial action by prison officers resisting the proposal has set the tone for future attempts to improve conditions for prisoners. The handing down of the bulky report has, it is suggested, been a cathartic process. Any momentum that has been built up as to an examination of the prison system and any public consciousness of the issues which may have been generated will be defused. Tragedy has drifted into commentary. And commentary is evaporating. Media interest is already shrivelling on the vine. "Let's face it, prisons have been done to death", they say. The existence of the report on the shelf is a sufficient discharge of responsibility.

What began as a "safety valve" operation in response to the Bathurst incidents is now a symbol attesting "public concern" in relation to an issue which does not really exercise people's minds and hearts greatly. A subsidiary result is that it is certain that no far-reaching inquiry into the NSW prison system will be held for many years to come.

On the positive side, there are a number of recommendations whose implementation would undoubtedly make life more tolerable for prisoners. Activists are given some ammunition. In the meantime however, it is manifest from the evidence presented to the Royal Commission and the conclusions of the Commissioner that the day to day routine of prisons, leaving aside eruptions of violence on a large scale, involves a pattern of conduct in which the prisoner is dehumanised and degraded. This would be so if the letter of the law were to be strictly observed in all institutions. However, it is clear that departures from the law do occur relatively frequently, that a blind eye is turned to such infractions and if the matter is pursued by the prisoner or others on his or her behalf strenuous efforts are made either to justify the conduct or to cover-up.

The justificatory arguments (often sitting somewhat uneasily alongside alternative submissions denying the events in question) formed a major part of the official response. Thus, in relation to illegal assaults by prison officers, it was invariably urged, until the crush-

ing weight of evidence forced a change in tactics, that this was appropriate conduct in all circumstances. It is well known, of course, that prison officers can legally use such force as is reasonably necessary, to prevent violent conduct by prisoners. Accordingly, it was not surprising that resort was had to this excuse on numerous occasions. When this failed, the prison officers ran the Nuremberg (superior orders) defence. This too, not surprisingly, fell on deaf ears.

It is only in extreme situations which transcend the "accepted" levels of infractions that inquiries are held, action is taken. If the inquiry does reach conclusions which are adverse to the prison system it does so in relation to the specific incidents. Although it is historically understandable that a good deal of time and attention was concentrated on the Bathurst events, the irresistible inference from the deliberations of the Commission and its report is that it was single incident oriented. The report fails to come to grips with the inference to be drawn from its conclusive findings of fact - that brutal conduct is inherent in and will be perpetuated by the prison system in NSW or elsewhere.

Ultimately the report evades entirely any systematic appreciation of the causes of crime - an analysis which must, if honestly pursued, take account of the definitional content of crime, the mode of enforcement and the victims of that process. For it is only by reference to these processes that the ultimate population of prisons can properly be examined. The unwillingness to confront the purposes and aims of imprisonment and the tacit acquiescence in the traditional legitimations of the NSW prison system constitutes a major failure, particularly as there will be no rush to invest again several million dollars to re-open the question in the near future.

