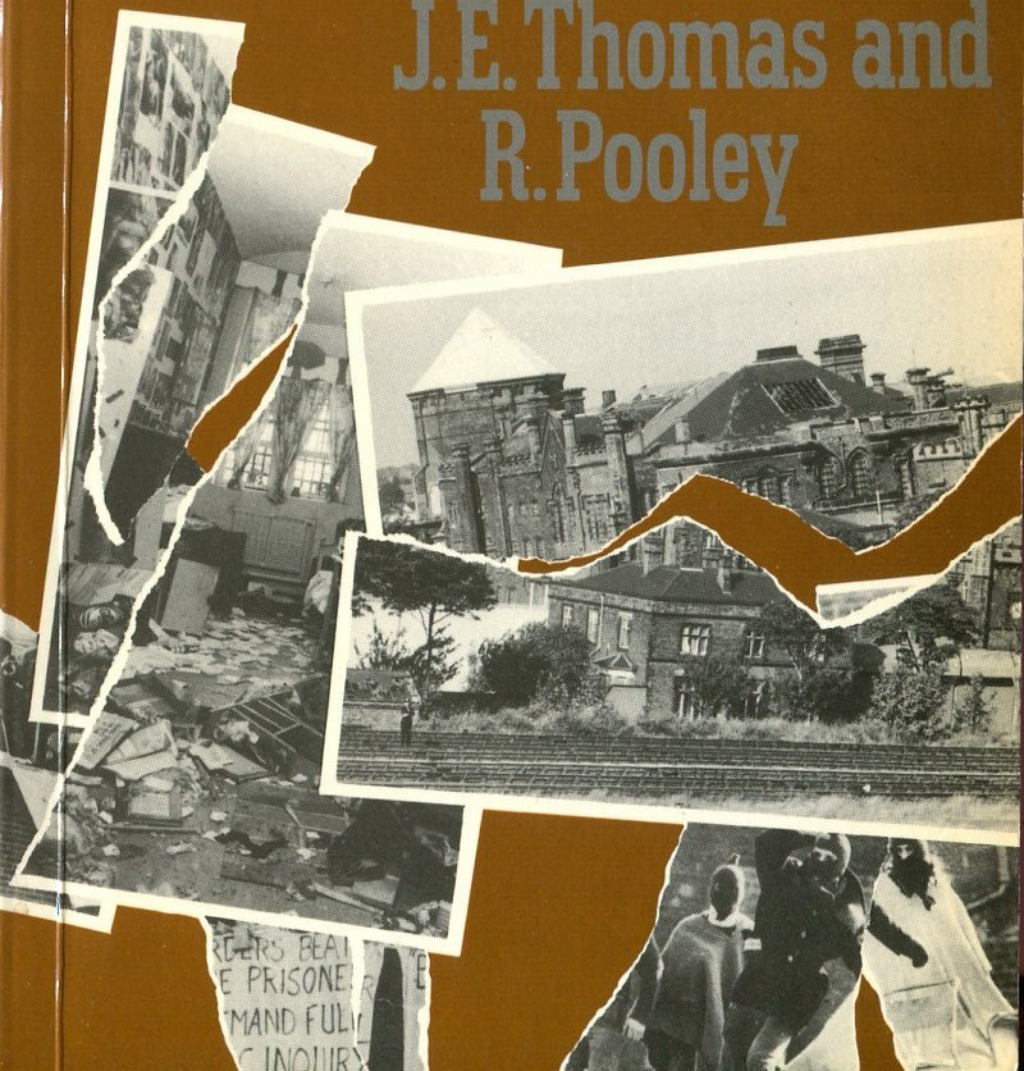


# The Exploding Prison

J.E. Thomas and  
R. Pooley





We appear to care very little — and to understand even less — about the workings of our prison system. News of a prison riot or disturbance, or the 'outrageous' accusations of an aggrieved prisoner, may provoke a mild flurry of concern, but interest rapidly wanes. In the unusual event of a prolonged public debate on prison conditions, misleading stereotypes abound: the wilful, maladjusted prisoner; the overworked, underpaid prison officer; the well-meaning prison administrator marshalling pitifully inadequate resources to deal with intractable or at least unpleasant problems. Only rarely does an event challenge our assumptions and force us to look more closely at a prison service we would prefer to ignore. But we may soon discover that we have been a little too complacent about our prison system. Is it really working?

This uncomfortable question was dramatically highlighted by events at Hull Prison in 1976 — later to be described as the worst riot in English prisons for more than 100 years. In the prolonged and disturbing aftermath to the riot, the official Fowler Report was supplemented — and frequently contradicted — by two unofficial reports, but the failure to reach agreement on what had gone wrong at Hull — and why — had disturbing implications. Was it reasonable to dismiss Hull as an isolated incident? Or was the riot at Hull symptomatic of a wider and more serious malaise?

In *The Exploding Prison*, the authors challenge the conclusions and recommendations of the Fowler Report. Using a detailed analysis of events at Hull as their starting point, and drawing on transcripts of evidence from subsequent trials to support their arguments, the authors examine the workings of the prison system as a whole, and arrive at some unsettling conclusions. In the course of their discussion, they paint a dismal picture of life in English prisons today — for staff and prisoners alike — and suggest that recent changes in prison policy may have added to the problems confronting the prison community.

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ISBN 0 86245 003 9 (hardback) £8.95  
0 86245 006 3 (paperback) £4.95

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### Prison Riots and the Case of Hull



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**J. E. Thomas and Richard Pooley**

JUNCTION BOOKS



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First published in Great Britain by  
Junction Books Ltd  
33 Ivor Place  
London NW1

ISBN: 0 86245 003 9 (hard)  
0 86245 006 3 (paper)

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# Introduction

On 31 August 1976, a riot took place in Hull prison in England. It was of unprecedented ferocity and when it ended after four days the prison was almost uninhabitable. It was estimated that £¾ million damage had been done, yet no one, staff nor inmate, died. Riots are rare in English prison history and this one was without question the worst.

The matter did not end there. Allegations of ill-treatment of prisoners began to filter out of several of the prisons in which erstwhile Hull prisoners had been located. After a lengthy investigation by Humberside Police, a number of Hull staff were charged with, and most convicted of, offences of violence against prisoners.

This book analyses these events. It does so because though the whole episode is unique in English penal history, it may not remain so. It does so too because these events are replete with lessons to be learned about riots, about prison systems, about the English prison system and about the community's need to take an interest in what goes on in institutions which it establishes.

We begin with a description of the dynamics of a riot. Then, since the English prison system has a deeply rooted history which colours its policies and practice, it is first necessary to explain how the system has evolved and how Hull's place in the system came to be. There follows a description and analysis of the riot, the aftermath and the trial of the prison staff. Finally, we discuss what should be learned.

Before beginning we wish to make two observations. The first is about the prisoners who were involved in the riot and were afterwards attacked. The fact that these prisoners were so attacked does not lessen the gravity of the offences for which they were sent to prison. We are not seeking to excuse them. What is reasonable is the expectation that when they are sent to prison, they will not be illegally attacked.



We spent some time wondering whether or not to name the prisoners. They are named in the PROP depositions and were named in court. No doubt at the moment many, if not all, would be willing to put their names to their statements. But times change, and in a few years this might prove an embarrassment to them. Therefore, we have not run that risk except in one case, which has already been widely publicized.

The second observation to be made is about the staff in the prison service. We do not allege that the misbehaviour of which a small group at York were convicted is typical. Indeed such a claim would run counter to our many years' experience, from very different perspectives, of thousands of members of the English prison service. But while no claim is made that the breakdown in staff discipline is general, or usual, there is a growing unrest among prison staff which it would be dangerous to ignore.

We have only one expression of thanks. This is to Elaine Pooley, who attended the York trial every day for its duration and took down every word of the proceedings. This was very hard, strenuous work, which demanded remarkable qualities of persistence. Without her transcript, this book could not have been written. To add that she also typed the manuscript seems trivial by comparison. It is not. It was a big job, and we are grateful.

# 1

## About Prison Riots

There is nothing new about prison riots. Since the development of systematic prison systems in advanced societies, a process which began about a hundred years ago, there have, from time to time, been revolts against authority. Perhaps the country which has had the most experience of riotous behaviour is the United States of America. The crisis in that country's very diversified prison system reached a peak in the early 1950s, when prisons all over the country were the settings for violent, concerted behaviour.

'Nearly half of the riots reported in the last century by American prisons and reformatories occurred within a five-year period from 1950 to 1955' (Schrag, 1960, p. 136). As far as it is possible to judge, these protests were against conditions of imprisonment which were acknowledged by those administering prisons to be intolerable.

The riots in American prisons in the 1970s have, however, contained a different component. The growth of political awareness and activism amongst the blacks, who are disproportionately represented in American prisons, has led to a new challenge to prison authorities. This challenge is based upon a belief that the prison is a symbol of state machinery which oppresses the poor and the powerless. This provides an explanation for the phenomenon, evident even to the casual observer, that minority racial groups are over-represented in prisons; it applies to American blacks, Australian Aborigines and to New Zealand Maoris. The modern prisoner increasingly believes that he is propelled into prison, not because of some personal defect, but because of social pressures and forces which are outside his control.

This has led to a major undermining of those philosophies of treatment which have characterized modern penal systems. The central tenet since the establishment of reformatory goals has been that the



prisoner has defects — social, educational and so on — which can be put right through the judicious intrusion of professional expertise. This was the justification for the visits from chaplains and accompanying exhortations to read the Bible. It is the very essence of social-work theory and practice. The damage to this critical assumption when it is not shared by prisoners can be imagined. There has, of course, always been a challenge from some prisoners to the idea that their predicament is subject to personal choice. What has happened in very recent times, however, is that this unease about the reformers' perceptions has been crystallized, notably by American radical groups, into what appears to prisoners to be a coherent alternative explanation for the existence of prisons and the selection of prisoners to fill them.

One consequence has been some disarray amongst theorists of 'treatment' and prison pressure groups. Another has been the creation for intellectual prisoners of an acceptable rationale for resistance to prison authority. This has not only taken the form of violent action but has also expressed itself in exploration of legal challenge to the actions and policies of prison administration. The nature and extent of this challenge has depended upon the legal traditions and practice of any given society. In America, a country which may be fairly described as a litigants' delight, prisoners nowadays frequently resort to the courts to establish and maintain what they judge to be their rights. In England, on the other hand, such resort has not been easily available. English involvement in Europe has provided a channel along which grievances from English prisoners are increasingly flowing. The activities of the European Commission and the Court of Human Rights have become a focus for the discontent of English prisoners. There are increasing numbers of appeals designed to show that English prison practice contravenes rights enshrined in several Articles.

The worst riot in American prison history, even allowing for the 1979 riot in the New Mexico state prison, took place in Attica. It was a culmination of increasing unrest both in prisons and in the wider society. Attica is one of the state prisons of New York, and it was there that prisoners took over in September 1971. The riot lasted six days. During the 15 minutes it took to regain control of the prison 39 people were killed. Ten of these were hostages, taken by prisoners, but killed by the assault force. A further 80 people were wounded. The Commission of Inquiry calculated that 'at least 2,200 lethal missiles were discharged from the guns of the authorities that day' (New York Special Commission on Attica, 1972, p. 374). This riot was on a vastly

different scale from that at Hull, largely because of American access to, and willingness to use, firearms. Yet both in significant ways demonstrate that there is such a thing as a typical riot, as we shall go on to see.

Riots are uncommon in the history of English prisons and, where they have occurred, have been a good deal less lethal than those in the United States. Before the intervention of central government in the second half of the nineteenth century, prisons were at times the scene of disorder. But this was usually particular to an individual or group of individuals rather than anything approaching a wholesale uprising. The establishment of a 'national' service in 1850 to administer the convict prisons and hulks, led to a studied attempt to control prisoners. This in turn led to trouble on the hulks, which were old ships, where prisoners had more freedom and could therefore more easily combine to create trouble. On several occasions in the 1850s, soldiers and marines were called in to quell riots on the hulks and, as might be expected, the ringleaders were generally severely flogged. There was a serious riot at Chatham convict prison in 1861. Chatham was often in trouble and was nicknamed 'the slaughterhouse' by the prisoners. The governor blamed the officers for incompetence and worse. Some had given newspapers to the prisoners, and the latter apparently believed that the officers would support them against the administration. The convicts were controlled at bayonet point, an escape plan was thwarted and the leader of the riot removed. (For an account of the period see Thomas, 1972.)

Such events were a rarity in England and it was not until 1932 that the English prison service, and for that matter English society, had its first experience of a full-scale riot. At the end of 1931, the governor of Dartmoor began to notice signs of trouble.

Simple weapons and keys were discovered, an officer was severely wounded and complaints increased, especially about food. The riot began on the parade ground in January 1932, and the prisoners gained control. Some tried to escape but as they appeared on the walls were met with gunfire. (Guns were used at Dartmoor until 1954.) On this occasion two prisoners were hit but none were killed. The staff and the police then drove the prisoners back to their cells. The whole riot had only lasted a few hours. (See Du Parc Report, 1932 for an account of this riot.)

Apart from the disturbances of 1972, which will be discussed later, there was no major trouble in the English prison system until the Hull riot. That riot is now not only the most serious riot in English prison history, but in terms of damage and consequences bears comparison



with most in Western society excluding Attica. Before going on to discuss Hull, it will be useful to examine briefly some of the main features of a prison riot. By doing so, the events in Hull can be put into some kind of theoretical perspective. Why do prisoners riot, and what course, typically, does a riot take?

The first and obvious point, but one which is not sufficiently stressed by those who discuss riots, is that not all prisoners riot. Riots, despite the considerable publicity they attract, are rare. Any discussion of the cause of a riot in a prison must include, as we do in later chapters, the particular situation in the prison in which it takes place. What may be pointed out, however, is that in any prison there are the seeds of disorder. Prisoners obviously do not want to be locked up and do not willingly submit to processes which ensure that they are. Yet the bulk collude with their incarceration because, on the whole, it suits them to do so. By behaving well they can gain privileges and avoid further punishment. Like most people they want to avoid conflict if they can.

One must wonder, therefore, given the restraints of prison regimes and the alleged aggressive qualities of prisoners, why there are not more riots. This is an important starting point in any analysis because it is undoubtedly true that a preliminary to a riot is a building up of pressure. Accounts of riots in England and elsewhere indicate that a riot is a consequence of a build up of tension over a period. Before exploring this it is worth noting that, by definition, before a riot can take place it must be physically possible for it to happen. This means that prisoners must be in communication and able to combine to achieve their aims.

Allowing prisoners to associate freely is a modern phenomenon. The Victorian policy, notably in England, was to keep prisoners strictly separate from each other except in long-term prisons where they were employed on public work. When this happened, as it commonly did in England, the southern states of America and Australia, the prisoners were kept in chains and surrounded by a gun guard. To put it mildly, this was a curb on their freedom to revolt, although from time to time they tried. This explains why there were riots in the hulks, where separation was impossible, while in Pentonville, 'modelled' on the separate system, there were none. It is true that where prisoners are locked in separate cells, they can make a lot of noise, or engage in acts of destruction. But they cannot engage in concerted action, and they cannot attack staff. The world-wide commitment to reform, which manifested itself notably in the English-speaking countries from 1900, necessitated, above all, an increase in the freedom of prisoners to

associate, and ultimately a minimum of restriction in so doing; the problem for administrators now is that public opinion will not condone a return to a separate system. So that widely-made staff demands for greater or even total restriction cannot be translated into policy. To dissuade a prison population from revolt requires instead an appreciation of the need for more sophisticated, more subtle mechanisms.

Those who administer prisons tend to catalogue a list of causes of prison riots over which they as administrators have little control. The American Prison Association, for example, established a committee to examine the riots of the 1950s. They listed the basic reasons as insufficient finance, untrained staff, idleness, overcrowding, large institutions, lack of professional leadership, ineffective or non-existent treatment programmes, political interference in prison management, and unwise sentencing or parole procedures (American Prison Association, 1953). Even if one can accept these explanations as being true of American prison riots, they have little relevance to England. Considerable sums of money are, at present, being spent on English prisons and much of it on increased staff training. English prisoners do suffer from 'idleness', but not on balance as badly as their American counterparts. There is overcrowding in England, but riots do not occur in prisons which are overcrowded. By 'large institutions', Americans mean 'built for 2,000 to 5,000 prisoners' (*ibid.*, p. 13), whereas there is no prison in England holding 2,000, and the average is very much smaller. 'Lack of professional leadership' because of 'political interference' are linked in America but do not affect England. In England there has been a proliferation of specialist groups engaged in 'treatment programmes'. What is 'unwise' about English sentencing is that far too many people are sent to prison, and there is distrust of parole. Here again, American prisoners are much more affected by parole than are their English counterparts as it is a much more integral part of the American sentencing procedure; indeterminacy in sentencing is usual in America.

The explanations from inmates as to the causes of riots, detailed by Schrag (p. 137), are mostly very different to those offered by prison staff. The inmates' explanations are: bad food, oppressive or inconsistent discipline, expressions of staff vengeance against inmates, racial antagonism, inadequate medical care, unequal or unfair parole practices and lack of treatment opportunities. There is likely to be a greater correlation between these and the views of English prisoners than between the views of the staffs of the two countries. With the probable exceptions of bad food and racial antagonism, most English prisoners



might well subscribe to the complaints listed.

In general, the inmates' explanations for a riot are rather more convincing than those of staff. The complaints made by staff about resources or facilities are not new. Indeed, conditions have generally improved. If lack of resources were a cause, one would expect the history of prisons to be a history of prison riots. But the riot is fairly new, at least as a persistent feature of prison life. Schrag (p. 137) goes on to point out that riots have occurred in those prisons which are 'progressive' and that, for example, there have been fewer riots in the deep south of America. This however is complicated. The two kinds of regimes — advanced urban and primitive rural — are so vastly different that a very careful analysis would have to be carried out to support this generalization.

Many commentators have pointed out that change causes strain in organizations and prisons are a case in point. This is recognized by the American Prison Association (1953): 'sudden changes of practices must be handled very carefully, especially if they involve a tightening up of restrictions or the curtailment of privileges' (p. 19). If a generalization can be made about a root cause it is that the inmates in a long-term prison, especially in recent years, will not tolerate unduly oppressive regimes. They are less likely to tolerate a 'tightening up' of regime, especially if such a procedure does not have any manifest security basis. Generally, prison administrators and investigators of riots either deny that this is true, or commonly deny that there has been any tightening up. The verdict of the official report on the Hull riot was that the regime had been tightened up but that it was justified.

Concern for security brings about the most obvious forms of restriction in a prison. Tight security contains prisoners and prevents any outlet for the inevitable tensions which are generated in a repressive regime. If, as in the past in England, escape is possible and indeed accepted by the administration as a reasonable risk, then the escape route affords an outlet for the tension. When security cannot be breached, which is increasingly true of long-term prisons in England, then the riot is likely to replace the escape. In America, where security has always been taken very seriously, and has the considerable sanction of the firearm, riots have been commoner than in England.

There is also present in the milieu leading to a successful riot, a necessary degree of administrative incompetence or unpreparedness which has little to do with the macroexplanations advanced by staffs. Increasing restriction on inmate freedom seems to be accompanied by a

breakdown in staff/inmate communication. This is sometimes formalized, where consultative committees of various kinds are abolished or fall into disuse. Whatever form it takes the breakdown leads to a situation where inmates no longer communicate with staff. The result is that the latter lose track of what is happening, and notably fail to gauge the significance of information they receive or actions they observe. It is highly probable as well that a policy of restriction affects uniformed officers as well as prisoners: the officers too are discouraged from communicating with their superiors.

Another aspect of organizational breakdown is likely to be the fact that everyone will be taken by surprise when the riot comes. Since, as we shall see, riots are spontaneous, inmates as well as staff are taken by surprise. Since the staff are not ready, their response is likely to be chaotic, especially if they have not been trained. An incoherent response has often been in evidence even where plans to counter-riot *had* been made, which until very recently in Western systems was unlikely. The failure to respond in a coordinated fashion was typified by events at Hull and Attica as well as on many other occasions. Schrag sums this up succinctly: 'The recent riots did not create disorganization in correctional institutions, they merely reflected and exploited disorganization that already existed' (p. 144). Commonly, in riots this confusion has been costly. It seems to be the case that if positive action were taken when the prisoners were still unorganized, the riot could be arrested. The resolve to do this has been weakened in the United States because of the frequent practice of taking hostages. Those making decisions, in addition to having to recover from the shock of what is happening, have to embark upon an action that could result in the deaths of friends and colleagues. It is a decision that they could be forgiven for hesitating over.

Such explanations are not palatable to prison administrators. They look for explanations external to their influence. Some of these have been mentioned. Two others are frequently advanced, one publicly and one privately. The public explanation is that the 'cause' of the riot is the presence of a ringleader or group of ringleaders who manage to persuade enough prisoners to engage in the riot. Like all such theories this depends upon a belief that an individual is possessed of such charismatic or oratorical gifts that he can sway a group of people who must be among the most difficult of human groups, to mount a cooperative action. It seems unlikely that this could be done except by some kind of superman — especially if there was no intelligible reason.



The governor of Chatham prison, after the riot of 1861, was typical enough when he referred to the leader who 'exercised the most remarkable influence over the convicts' (Report on Convict Prisons, 1861, p. 250). But the allegation that the presence of any one prisoner or any one kind of prisoner is necessary is rebutted by a remarkable prisoner, convicted of political offences, who was in prison at the time of the Dartmoor mutiny:

Great play is made with 'gangsters' and 'motor bandits' and 'planned escapes' as the cause of the trouble. There have long been gangsters in prison who have planned escapes, but this did not lead to the burning down of a prison (Macartney, 1936, p. 241).

The fact is that a leadership pattern emerges after the riot has begun. Prison administrators who make a systematic study of the patterns of riots realize that whatever else is controversial, this is not.

The private explanation which is entertained by staff involved in riots generally remains private, perhaps because it is rather unconvincing. It is that forces external to the prison originate, and even direct, the riot. The targets for this allegation are reformers and 'academics', which two groups are often blurred in this connection. After the Dartmoor riot, the March 1932 issue of the *Prison Officers' Magazine*, having opined that all the rioters, described as 'communists and bandits', understood was 'lead or cold steel' then turned to attack outside influence. There was a need to deal with the: 'so-called reformer type, most of whose followers are of the conscientious objector type who sees red in any man in blue whether he is a prison or a police officer'. Sometimes the target is specific. During the Jackson prison (Michigan) riot in 1950, one officer, hearing the opinions of a specialist member of staff, exploded, 'sociology, sociology, sociology, is all you hear around this place' (Martin, 1955, p. 96).

After the Hull riot, some staff, including senior members, expressed the view both privately and in public that the University was in some way responsible for what had happened. No doubt some attributed the disturbance to the prison social studies class, which will be discussed later. Quite what influence the University could have had in persuading prisoners to riot and then directing the riot is difficult to fathom, especially when it is remembered that no fewer than three members of the Board of Visitors were members of the University staff. The significance of that will become clear later in this account. On the other hand,

it is natural enough for those faced with public humiliation to try to blame other people even if the conclusions are not susceptible to rational argument.

In many respects the causes of a prison riot cannot be separated from its course. Fox sets out an accurate pattern. First of all, there is 'undirected violence' followed by the emergence of leaders. Then a process of interaction with the authorities leads to a surrender, after which the administration seeks to convince the public that the situation is under control (Fox, 1971, p. 2).

The setting for the riot then is a secure perimeter which does not allow the defusing of a situation through escape. There has also to be a restrictive regime which may be innovative. The long-term prisoner will feel the imposition of new and what to him are unnecessary rules, to a degree which a free man would find difficult to imagine. To put it simply, a free man who finds his work frustrating can escape from it and compensate for it in a variety of ways. A prisoner cannot. His entire life is contained and a restriction on one part is going to be accompanied by corresponding restrictions in others. His institutional existence is 'total' as Goffman describes it (1961). The staff who decide the conditions under which he will work, are the same as those who decide how he will occupy his leisure, or the milieu in which he will meet his visitors. Each situation spills over into the next. If this situation becomes insufferable through undue pressure from staff, it is only a matter of time before the trouble starts. Studies of riots show that the next stage is an episode through which bitterness is channelled. The episode will not be planned. The investigation into Attica, while acknowledging that prisoners were more 'political' than they had been, firmly dismissed the riot as some kind of a political rebellion:

The uprising began as a spontaneous burst of violent anger and was not planned or organized in advance . . . [it] was the product of frustrated hopes and unfulfilled expectations, after efforts to bring about meaningful change had failed (New York Special Commission on Attica, p. 105).

In the case of Attica, horseplay by inmates was followed by an assault on an officer which in turn led to two inmates being removed from their cells. But this took place within the context of deteriorating relationships between staff and inmates. Schrag, discussing a range of riots, concludes that:



each riot began as a sudden flare up of violence. In most cases there was no perceptible forewarning, though a state of heightened tension and anxiety was widely recognized. Sometimes an act of negligence or poor judgement on the part of an officer allowed the inmates to blunder into a rebellion without definite plan or purpose (p. 139).

This was what happened at Hull in 1976. Several of the prisoners giving evidence both to the PROP Inquiry and to the York Crown Court, made clear that this was the case and that there was definitely no deep-laid plan. Even the official report concedes as much by implication. There was a heightening of tension but there was no precise indication that a riot was imminent since the prisoners themselves were taken by surprise. An act of poor judgement 'allowed the inmates to blunder into a rebellion'. The parallels are striking, especially with Attica, since the immediate conflict was over the removal of a prisoner from his cell in the segregation unit.

The violence in the early stages of a riot is especially directed at the fabric of the prison, as happened at Hull. When this initial force is waning, the next stage is the evolution of an inmate hierarchy. This is a matter which is of considerable interest to American writers, largely because the Americans have a longer tradition of interest in the structure of the inmate community. Ever since Clemmer's pioneering work (Clemmer, 1940), a series of detailed analyses of the way in which that community is organized has appeared. With regard to Hull, the social organization of the rioters was not discussed. This was no doubt partly because it was not a matter of apparent relevance after the riot, when more urgent matters had to be attended to. The question of inmate intra-group relationships was only mentioned casually in the Fowler Report. One such comment was that many prisoners did not want to take part. And this is consonant with Schrag's observation that: 'the majority of the inmates . . . in all of the riots, tried to play a passive role' (p. 140).

When a leadership has emerged, there has to be some attempt to negotiate. After all, there is no alternative. Two factors are likely to complicate this. One is the mental and physical state of the rioters. They are likely to be tired, hungry, variously very hot or very cold depending upon the climate and, curiously, filled with a sense of elation or euphoria. With regard to hunger, an interesting piece of evidence that the Attica riot was devoid of serious planning, lies in the fact that excited rioters burned down the food store before it could be

emptied. The sense of elation which is often present was described by one of the rioters at Hull:

They were great times and were good for everyone. The prisoners couldn't believe the number and the joyous noise of the kids! [In the neighbourhood of the prison.] Very early on some of us began making banners. And what we did was to shout out to everybody around asking them what we ought to put on them . . . that was one of the best things — just to stand there, all of us with our arms around each other's shoulders and to shout out our anger and our contempt and our hopes and our strength and for everyone to endorse by whispered 'yeahs' and 'go ons' and raised fists . . . (PROP, 1979, p. 62).

The paradox in the inevitable wish of both parties to negotiate is that both rioters and staff are called upon to communicate, though their earlier failure to do so is one of the reasons why the riot has taken place to begin with. Since the riot, *inter alia*, is a manifestation of broken communication, it is a vain hope that the restoration of that communication will be feasible. This truism is summed up in a United Nations report: 'Efforts to introduce common communications with rioting inmates during an acute crisis may be doomed in most cases if such communication traditionally never existed' (UN, 1974, p. 6).

Since at this point the situation seems so hopeless, where are the pressures to bring the matter to a conclusion? From the point of view of the prisoners there is no choice. Some prisoners in the history of riots are prepared to die, and do so. But generally, after the period of euphoria and relief the pressure is on the leaders to begin negotiations on the most favourable terms. There is equivalent pressure upon the staff, but its degree is different in America and some other countries to that in England because of the custom of taking hostages, to which reference has been made. In America, the pressure to resolve the conflict emanates from politicians, and the media, but above all from a wish to spare the lives of hostages. People in England do not always appreciate the plight of hostages in a prison in America where violence is more casual.

In England there is, of course, political pressure. But the main pressure comes from the media. And the strongest component of that pressure is the ridicule, even unwitting, which is directed at the staff. The staff of a prison are, above all, supposed to control the population.



Failure to exert that control directs attention to the prison and whatever has been constructive in the regime is immediately forgotten. Now, as in Hull, the prisoners are in charge and the staff are angry. The media continues to demand to know what action is being taken. Something has to be done and negotiations begin.

At this point the prisoners are frightened. They suspect that when surrender comes they will be punished. Indeed, the American Prison Association points out to its readers that: 'No bargains should be made by the management that the rioters will not be prosecuted for their offences' (p. 23). Prisoners expect this. What they fear is brutal retaliation and a prime concern in their negotiations is to prevent this: 'No reprisals' becomes the slogan, and the failure to ensure this is an important concern of this book. Apart from this, the conditions vary. The particular concerns of the Hull rioters will be discussed.

So a riot ends. The usual practice is then to have an investigation. At face value such an investigation is designed to discover why the riot occurred and how such an event can be avoided in the future. Since the views about causes from both sides are likely to be clear cut, an obviously important issue is the credibility of those carrying out the investigation. It is axiomatic therefore that the investigator should be manifestly impartial, or at least not blatantly partial, that all evidence should be heard from all sides, that this should be done publicly and that the hearing should be published in its entirety. This never happens, and all kinds of reasons are advanced as to why it should not.

There is, first, an array of reasons which prison systems marshal to deny access to information. The principal one of these is 'confidentiality': that prisoners should not be exposed to public scrutiny. The argument is that prisoners should not be exposed to the public gaze or examination since this would cause distress to them and their families. Nor should they be forced to discuss their previous behaviour in public since they are supposed to be paying for that by being in prison. In short, prisoners have the right to privacy. This is a very difficult area, and there is a strong case to be made in support of it. Apart from this, resistance to fulfilling the other criteria is untenable. Most reports on prison riots, measured on a scale of openness, score very badly. An exception is that on Attica. The Attica riot investigation was something of a model. The special commission of nine were able to draw upon a veritable army of consultants and insisted upon hearing most of the evidence in public. They appreciated, nevertheless, that there were people who would prefer to give evidence in private and allowed them

to do so. The publication of a transcript in this case would have been a gargantuan task, but their report is detailed and is easily available.

The English record is not so impressive. The inquiry into the Dartmoor riot was carried out by a QC, but despite demands from MPs, no evidence was published. Instead, a summary and recommendations were available. The most unsatisfactory case in more recent years is that of Parkhurst, where there was a violent disturbance in 1969. An inquiry into this was carried out by a senior member of the prison service. Despite widespread concern and pressure his report has never been published. One can understand the conclusions forced upon critics of the system by this secrecy.

It was to convince the public that they had nothing to be ashamed of that the staff of Fremantle prison, the maximum security prison of Western Australia, took a most unusual course. In 1968, there was a riot in the prison during which a great deal of damage was done and staff and prisoners were hurt, some of the latter by bullets. Afterwards the *staff* advocated a public inquiry (Thomas and Stewart, 1978, pp. 169-70).

In respect of Hull, the Inquiry was carried out by a member of the prison service — which circumstance will be dealt with exhaustively. The hearing was in private and, as will be shown, prisoners were discouraged from giving evidence about staff behaviour which might be critical of that behaviour and which could not later be 'proved'. The evidence itself was not published but a report was. The report will figure prominently in this book.

Reports on prison riots everywhere are almost always 'official' although there was an 'alternative' inquiry into the Hull riot. Those conducting prison inquiries frequently have a vested interest in the outcome and are, therefore, judging the behaviour of their colleagues in a system of which they are a part. Add to this the fact that inquiries are private and that the conclusions which are published are based upon evidence which is not accessible, and Fox's summary seems reasonable:

The purpose of official reports, of course is political in the sense that they give assurance to the general public after a riot that the remaining power structure in the prison has analysed the causes, taken corrective measures and merits the confidence of the public in that their interests will be protected (Fox, p. 1).



Public reaction to riots is naturally of great interest and concern to all those affected. Whereas most of the generalizations which have been made about riots are true in varying degree of most riots, it is more difficult to generalize about public reaction. The main problem in trying to evaluate this is that we cannot examine 'public' reaction at all. We can only examine what the media presents to us as public reaction, and the media's interest in prison affairs is generally short lived.

In the case of Dartmoor, for example, one has to ask which was the more representative view: that of *The Times*, which insisted that the riot should not form an excuse for reversing 'humane tendencies', or that of the *Prison Officers' Magazine* with its demand for severe punishment? During and after the Hull riot, the reaction purveyed by the press was almost entirely hostile to the prisoners.

Schrag, on the other hand, reports a very different reaction to the riots he discussed:

Immediate citizen reaction to the inmates' grievances was quite uniformly critical of correctional administrators and other governmental officials. Public expressions of indignation were, at first, as frequently directed against alleged mistreatment of the inmates as against the loss of control by the officials (p. 143).

Such a discrepancy in experience no doubt reflects the degree of awareness in a society of what is going on in a prison system and how 'liberal' a society and its media are at any point in time. Another variable will be the existence and strength of pressure groups. In other words, the crisis surrounding institutional breakdown is a very forceful reminder that there is a dynamic relationship between prisons and the community that owns them. Both in turn will be affected by the traditions and the stability of the traditions of society. A vivid example of this is the fact that in the period immediately after independence, the prison system of Uganda was, in the judgement of English prison staff, the most intelligent and humane in Africa. It degenerated, as did everything else, with the bestial intervention of Amin.

One result of riots which seems to be common is that the administration take a good deal of trouble to ensure that they are not repeated. After the 1968 Fremantle riot, extra security measures were introduced including an additional watchtower. After Parkhurst, staff demanded proper riot equipment and training. But it was Hull that caused the establishment of a riot control squad which went into action in

Wormwood Scrubs, London in late 1979. Such squads are now commonplace in prison systems throughout the world. What worries some senior members of prison staff, is that experience of such squads shows that they soon become restless if they cannot put their expertise to good use. This is true of such squads in police forces too. The overall experience also tends to show that when they do go into action, they use excessive force. It is precisely this feature which is being investigated following the first use of the squad in controlling the Wormwood Scrubs riot.

It is understandable that the main lesson drawn by prison officials from a riot is the need for tighter control. But if riots are to be avoided, the answers have to be more sophisticated than a simple increase of force. Questions have to be asked about regimes which may be answered with criticisms of faults which must then be put right. Staff and prisoners blame each other for a riot, but it is unrealistic to expect the prisoners to analyse causes and implement improvements to avoid repetition of violence. The burden for this lies squarely on the administration. The Commission on Attica, after a hard look at the worst riot in modern history, was convinced that:

if future Atticas are to be avoided, correction personnel must stop looking for individual scapegoats and concentrate on major efforts to train officers to understand and deal with the new breed of inmates, to eliminate the petty harassments and root out the racist attitudes which these inmates will never tolerate, and accelerate programs to make prisons — as long as they must exist — more humane environments for men to live in (p. 113).

Such then are the general causes, courses and consequences of prison riots. We turn now to an assessment of the development of the English prison system within which the Hull riot took place.



## 2

# The English Prison System

It is almost impossible to understand the events surrounding the riot at Hull prison unless one is aware of the main historical and organizational features of the English prison system. It is in the overall features that one can discover much of the explanation for what happened.

The English prison service is a very traditional organization. This does not mean that the people who work in it are especially reluctant to change, but that over the last hundred years there has developed a normative order, or a way of behaving, which has become very firmly engrained. The central component of that tradition is an emphasis on 'discipline' for staff and inmates. The concept of 'discipline' is notably ill-defined in a service where, at the present time, some officers demand more 'discipline' while they engage in actions which are tantamount to anarchy.

The physical and organizational expression of the tradition of discipline is in the 'paramilitary' structure of the prison service. The service is structured like the armed services into ranks distinguished by uniforms and insignia. From the last half of the nineteenth century, when central government first intervened in the mismanagement of prisons, the prison service has been so organized.

Although the paramilitarism of the prison service has been a constant source of complaint for penal reformers, the events at Hull while demonstrating its negative aspects also show two justifications for its existence. One of these is rooted in peculiar organizational needs, and one in the historical experience of locking people up.

The first justification for a structure which assumes analogues with the army is that prison staff, like soldiers, are in a state of war. This may sound unduly dramatic, but as in many wars, action is rare and expectation of action common. It is in this persistent expectation of

crisis that parallels between the military and the prison service are most striking. The plain fact is that the prison population does not want to be locked up and, therefore, will not willingly collude with its own imprisonment. The prison regime is, by definition, a coercive regime. But those who are being coerced can, nevertheless, be persuaded by a variety of peaceful means, to remain placid. There remain those who will refuse to collude and those whose apparent placidity cannot be guaranteed. From time to time belligerence will manifest itself and then the paramilitary staff structure has to mobilize to contend with it. The situation will be especially critical because the staff will be outnumbered.

To cope with this effectively demands the mobilization of certain assumptions implicit in the notion of a 'discipline' service. First of all there must be obedience. Staff must do as they are told, a process which they will find easier to accommodate if their roles are clear. Clarity of role is an essential component of the paramilitary structure, since people have to be clear as to the extent and limits of their authority. If people are aware of the boundaries of their role and if the tradition is one of obedience, then the essential quality of the paramilitary structure will assert itself, and the crisis will be controlled. In Hull prison in 1976, there was no such clarity and there was sufficient disobedience to negate precisely the reasons why the English prison service is structured as it is. The reassertion of the paramilitary task in times of crisis is brought out most vividly in the Fowler Report. The terminology used when discussing communications, for example, has a distinctly military ring:

There would appear to be a clear need for operational rooms to be manned at both Headquarters and Regions on a twenty-four hour basis when incidents of this magnitude take place. Pressure should, as far as possible, be taken away from the local commander who should be free to respond to local needs and act in respect to local intelligence. A liaison officer should be appointed to deal with the queries which are bound to ensue from Headquarters and Region and he should be able to provide a running commentary of events and sufficient information to enable strategic decisions to be taken as soon as possible (Fowler Report, 1977, para. 382).

The second reason why prison staff are organized in a structure where there is a premium on obedience also has its roots in the nature



of prison systems generally, but especially in the historical experience of imprisonment in England. This is that prison staff have to be supervised in their dealings with prisoners. A brief excursion into prison history will show why this is so. The horrors of English prisons before the nineteenth century are legendary, and no doubt were only different from those of the rest of Europe because they were better documented. It is not necessary for our purpose to elaborate upon the ill-treatment of prisoners since there are abundant examples of the kind of brutality which one might suppose will occur in a situation where people are locked up. Prisoners were beaten, kept short of food and water, detained even when acquitted because they could not pay a fee, sexually abused and sometimes murdered.

Especially from the end of the eighteenth century onwards, successive governments tried to improve the system. Laws were passed which, variously, ordered that prisons should be kept clean, that prisoners should be looked after, that gaolers should be paid and that doctors and clergymen should be appointed. Most of these laws, most of the time, were ignored by the local authorities — in the main Justices of the Peace — who controlled the prisons. Local potentates in England have always been reluctant to spend money on unpopular minorities — the gypsies today are a case in point — and there is hardly a less popular figure in society than a prisoner.

The consequence was that despite laws, inspection systems (from 1835) which published harsh criticisms of maladministration and a small but vociferous reform group, the English system remained dismal even by the standards of the age. In 1826, Peel, then Home Secretary, wrote to Sydney Smith: 'I despair of any remedy but that which I wish I could hope for — a great reduction in the amount of crime.' There is no other serious contender for the title of the blackest episode in public administration.

The whole matter came to a head in the early 1870s. Despite opposition from local people, which was often strong, and always self-interested, in 1877 a Prison Act was passed which transferred every prison in Britain to the central government. Then, as now, Scotland and Ireland had their own systems, so that today there are three prison services in Britain, Northern Ireland, Scotland, and England and Wales. They are entirely independent of each other which should be borne in mind when such perennial topics as conditions in the Maze (Northern Ireland) or the explosive issue of the 'cages' in Inverness are being discussed.

The reasons for centralizing the prison system in 1877 are complex, and should be of great interest to political historians. (For a detailed account of the causes and effects of prison policy in this period see Thomas, 1972.) Only some of these reasons, and effects, need to be analysed here; those which have a direct connection with the administrative environment in which the Hull riot, and the subsequent ill-treatment of prisoners, took place.

The main reason why the prisons were centralized was because, by processes which are difficult to examine in retrospect, society had decided that there was something inherently brutalizing in the experience of imprisonment. A universal truth about prisons seems to be that staff, however ordinary, average or well-meaning they might be, will, unless supervised, become careless, lazy or cruel in their behaviour towards prisoners, however they behave. Prisoners, in the history and current experience of every society, are at the mercy of the staff who guard them — Emperor Bokassa's custom of clubbing prisoners to death in Central Africa was exceptional only in degree.

In 1877, English society appeared to have decided, through Parliament, to take hold of the ramshackle and capricious prison system and restore order. To that end, a Prison Commission was established and the staff were organized in a paramilitary structure with clearly defined authority and very definite sanctions if that authority was exceeded. Uniforms were standardized, badges of rank designed and the adjective 'strict' began to appear with increasing frequency in the official accounts of the system. This was not the first time that the central government had been directly involved in prison administration. It had been responsible for the hulks, established in the eighteenth century and still operating in the mid-nineteenth; and during the first half of the nineteenth century, had acquired its own prisons as transportation decreased. These included two very famous institutions — Millbank opened in 1821 and Pentonville opened in 1842 — and is still fully operational today. In 1850, the Convict Service was established to operate these government prisons and it was upon this service that the new Local Prison Service was modelled in 1877. Although administered by the same people, the two services were not amalgamated until 1898.

The centralization of 1877 brought considerable advantages for prisoners. As well as improvement in some facilities (education for example), no longer could staff ill-treat them, as had commonly happened not long before. The prison commissioners often said that,



of course, they were trying to recruit staff who would not ill-treat the prisoners. But at the same time staff were left in no doubt as to what would happen if they did. In the *Annual Report on Convict Prisons* in 1877, officers were warned that: 'any instances of improper behaviour or ill-treatment of a prisoner would be severely dealt with'. On the other hand, the staff were assured that if they needed support they would get it.

This is not to suggest that the English prison system after 1877 was free of trouble. There was quite serious disorder at some convict prisons. Ex-prisoners in late Victorian England, like their peers everywhere, wrote about their prison experience. What are conspicuously absent from such memoirs are allegations of staff misbehaviour. On the contrary, it is much more usual to find commendation of staff rectitude, even if this rectitude was rather unsmiling. The point that is being made is that there is a real danger that staff will ill-treat prisoners and that the English prison service, in its early days, developed a structure and a system of supervision which tried to counter this tendency.

There was awareness also that too close a relationship with prisoners was not only a threat to this design, but that it might lead to faulty supervision or corruption, both of which were rampant in the earlier system. The relationship between the two groups had to be formal. To achieve this 'distancing' process a number of devices were employed. These included the wearing of uniforms, always effective, and a ban on unnecessary conversation between staff and inmates. Until the early 1970s, Prison Standing Orders declared it to be an offence for an officer to show 'undue familiarity' to prisoners.

Such was the Victorian system. That modern obsession, 'relationships' between staff and prisoners, was not an issue, since the attitudes of prisoners or their personal development were of no concern. The policy was one of deterrence, summed up in the famous caption on the gate of Holloway prison: 'May God bless the City of London and make this place a terror to evil doers.' Based upon puritan assumptions about human motivation and personal responsibility, Victorian prison policy was inspired by a famous House of Lords Committee of 1863 which concluded that they, the members of the Committee:

do not consider that the moral reformation of the offender holds the primary place in the prison system; that mere industrial employment without wages is a sufficient punishment for many crimes; that punishment in itself is morally prejudicial to the criminal and useless

to society, or that it is desirable to abolish both the crank and treadmill as soon as possible.

The Victorian system has been vilified by many writers, but for our purpose it is only necessary to record that, whatever its defects, it achieved the aims which have been briefly described.

In 1895 the Gladstone Report was published. This Report, the only exhaustive one that has ever been made about English prisons, radically altered prison policy. Its most important recommendation was that 'reform' should take a place alongside deterrence. Leaving aside the manifest incompatibility of these two tasks, which perhaps poses more of a problem eighty years later, the next phase of prison history was characterized by a steady, if uneven, attempt to make the prison experience a little less unpleasant.

The first fifty years of this century saw the development of a cohesive prison policy in which there were attempts at reformatory initiatives and which made England something of a focus of interest for other countries which were aspiring to penal reform. It was the spirit of this reformatory movement which lay at the root of the regime in Hull prison at the end of the 1960s, and the abolition of which contributed in large measure to the breakdown there. What were the assumptions underlying this reformatory ideal?

After 1900 there began a progressive dismantling of the more obviously repressive features of the Victorian system. (For a detailed account see Thomas, 1972). The 'separate system', which meant that prisoners spent the first nine months of their sentence 'doing separates', was gradually eroded although it was not finally abolished until 1930. Instead, prisoners now began to work 'in association', which seemed more humane. Such policies increased dramatically after 1920, largely because of the remarkable talents and energy of a Prison Commissioner named Alexander Paterson. In the 1920s and 1930s, year by year, reforms were introduced. These included the abolition of the convict 'crop' haircut, increased and improved educational facilities and the appointment of 'specialists' such as psychologists. It is from the early 1920s too that the term warder was replaced by officer and borstal officers began to wear civilian clothes. As uniform increases 'distance' so the non-wearing of uniform decreases it. Since borstal was intended to engage in constructive training, uniform would have been a hindrance. The suggestion that it should be abolished in borstals, interestingly enough, came from the uniformed officers.



In more recent years, home leave and the hostel scheme have been introduced. Under the hostel scheme which began in 1952, towards the end of a sentence some prisoners can go out to work in the community returning to the hostel at night. A prisoner is paid in the same way as the other workers. In 1930, Lowdham Grange borstal was opened. This was the first open establishment in English penal history and it was followed by several other open borstals and, after the Second World War, by open prisons.

The borstal has been very important in the history of the system. The first borstal was established in an old convict prison in the village of Borstal in Kent, in 1902. This was, of course, one outcome of the Gladstone Report. The borstal sentence (at present a period of six months to two years) was formally established in the Prevention of Crimes Act 1908. The classic borstal is modelled on the English public school. It is divided into houses in charge of which is a housemaster, who in fact is an assistant governor class II. There is a good deal of what has been called 'muscular Christianity', with incitement to play sport and go to church.

The importance of the contribution of the borstal to the shape of the modern prison system is that it was in the borstals that most of the reforms were introduced. If they worked there then they would be implemented in the prisons. Borstal also attracted young men as 'direct entrant' assistant governors (AGs), a term which will be explained later when discussing the York trial. Many of these AGs formed a cadre of committed reformers who, later in their careers, took their ideas into prisons much to the disgust of some officers. Harley Cronin, first general secretary of the Prison Officers' Association and, as can be seen from his book *The Screw Turns*, a determined opponent of reform, observed:

The rot . . . began, in my view, *when it was decided to introduce people from outside the prison service to act as housemasters . . .* [his emphasis] The later blow came when, with the passing of time, some of these 'outsiders' were promoted to the governor grades and transferred into the prison proper and, in certain cases, conveyed with them their borstal ideas (*Prison Officers' Magazine*, December 1967).

Cronin is quite correct in this analysis. His view is only contentious on the issue of the desirability of the process. But there can be no

doubt that the process took place and that it made many penal establishments, at different times, a good deal more pleasant and perhaps more 'reformatory' for the inmates. The alternative, advocated by Cronin and others, would have been the perpetuation of the Victorian system. There were forces at work in society who were not prepared to tolerate this, in part because they believed that repressive measures encourage the introduction of more repressive measures. The process appears to be that a repressive regime is introduced and the prisoners adjust to it and appear to be able to tolerate it. This provokes in those advocating a punitive regime a feeling that since prisoners are not in evident distress then the regime must be too easy. Therefore more punitive measures are introduced and so the downward spiral continues until the regime crosses the narrow dividing line between being 'disciplined' and being cruel.

The Cronin syndrome is always recurring and is occasionally successful. An example is the strange deviation from the path of penal reform which occurred in the Criminal Justice Act of 1948. This Act, probably one of the major pieces of reforming legislation in penal history, enabled the establishment of detention centres. These establishments, which are part of the prison system, developed a policy during the 1960s which came to be described as a 'short sharp shock'. Gradually their stark punitive function came to be modified although there is a promise by the present Conservative Government that the unpleasant component of the detention centre regime will be restored.

Such punitive activity as part of a policy was rare outside of detention centres until recent times. The commitment to reform, advocated by the Gladstone Committee and developed in the Paterson era, is enshrined in Prison Rule I: 'The purpose of the training and treatment of convicted prisoners shall be to encourage and assist them to lead a good and useful life.' This was the aim of English prison policy for seventy years. We are not suggesting that life was easy or pleasant in English penal establishments: the prison experience is uniformly miserable. But where this liberal tradition was implanted in a regime, it did mean a rather more tolerable life for inmates.

Later, when we discuss the causes of the riot, it will emerge clearly that in the English prison service there is a difference of opinion about the desirability of this liberal tradition which, in the past, has been the most distinctive hallmark of the English service. At the end of the 1960s and the beginning of the 1970s, Hull prison may be said to have been moving from a regime of which Paterson would have approved to



one of which Cronin would have approved. The Cronin faction would no doubt have been pleased to see what they called 'Paterson's Light Horse' routed. It is to be hoped that their successors will learn what the cost of such a rout can be.

Cronin articulated a good deal of the feeling prevalent among prison officers that making life more tolerable for prisoners is an undesirable goal. This view is common enough in the wider society. What is odd though is that some prison staff can work all their lives with people whom they loathe and hold in the deepest contempt.

Despite much of the emotional disapproval — to which some officers give tongue — of a policy, which in the usual phrase, 'pampers' prisoners, not all of the resistance to the evolving reformatory policy was as mindless as is commonly supposed by academic analysts of the prison system. There have been objections to innovation which may fairly be described as rational.

The officers were often put in a very difficult position because of the new policies. An obvious example is the introduction of association. Beginning at work, this spread to recreation, until, in long-term prisons and borstals, prisoners commonly were spending a large part of their time together in the wing or in the hall. Officers felt, rightly, that this exposed them to physical danger. They were also apprehensive lest they lost control of the prisoners or were unable to supervise them adequately, since the prisoners always outnumber the staff. George Blake, as we shall see, escaped whilst on association. It was Blake's escape which led to the Mountbatten Inquiry, which then changed the course of prison policy.

Officers also felt, and have expressed this feeling in *The Prison Officers' Magazine* since 1910, that prisoners were in some ways better off than the staff. They observed that if resources were allocated to the prison system it was generally to the advantage of the prisoners. A good example of this was the introduction into the prison system of large numbers of professionals, and one vivid example will give some appreciation of the officers' objections.

There is in the English prison system an elaborate and professional education service. But it is exclusively for prisoners. There are, of course, occasions when an individual education officer will help a prison officer but there is no statutory provision for this. It is possible to understand, if not excuse, the resentment of officers who, at the present, may be observed supervising prisoners who have been allowed extensive study time in the pursuit of degrees from the Open University.

Not only do officers have their own educational problems, since they have to pass examinations for promotions, but some too have educational aspirations.

The introduction of 'specialists', among whom may be included assistant governors, has always been a further concern. Since these specialists are appointed to work with inmates, they are likely to have more sympathy with them than they have with the officers. It should be remembered that the prison is in a state of quasi-war and alignments are important. In the Victorian system, provided staff behaved correctly they could rely upon being supported. In the years of reform, they believed the division between the prisoners and the specialists, including the governors, was narrowing and that the gap between the latter and the officers was widening. This is a central theme of officers' reminiscences. It is this tradition, in so far as it affects the AG grade, that helps to explain the curious evidence given by a Prison Officers' Association witness at the York trial when he was asked about an AG's authority. The witness questioned whether or not an AG could give orders to a Principal Officer. Since at the trial, an AG's freedom and future were at stake, it is essential to understand his place in the reformatory tradition and the attitude of officers to it.

Officers gradually came to feel that each new reformatory measure was going to make their jobs more difficult, and that those implementing the changes at prison headquarters had little appreciation of the fact. They felt too that the community had little sympathy for them but rather had a growing concern for the prisoners. In this connection they have usually been wrong. While some of the more radical elements regard prison staff with distaste, there is surely little doubt that, broadly, there is less sympathy with prisoners than with staff.

It is perhaps this erroneous belief on the part of officers which led some of them to attack the prisoners after the riot. This, despite the fact that during the riot, especially in Hull, there was considerable hostility expressed by varying sections of the public towards the rioters. Staff actions after the riot caused damage to their image and a loss of public sympathy which may well be irreparable. They engaged in their misbehaviour, no doubt in part, because they did not trust society to express its disapproval in sufficiently firm terms. They need not have worried. The Board of Visitors, as society's agent, handed down some of the heaviest sentences ever to be given to prisoners.

The great paradox in the history of the English prison system is that although up to the 1950s it was a model of reform for the rest of



the world, even allowing for the singular public relations skills of people like Paterson and Sir Lionel Fox, it was heading for a major crisis. (Fox was Chairman of the Prison Commission 1942-1961, and a well-known figure on the international penological circuit.) To understand the basic cause of this crisis we must now examine the way in which the prison population was controlled, despite the reformatory measures which gave it progressively more freedom.

The way in which the stability of the prison system was maintained in a situation which might have enabled prisoners to make trouble, was through the creation of a vast incentives scheme. One of the first formal expressions of this policy occurred in the 'marks scheme', associated with the famous Captain Alexander Maconochie (see Barry, 1958), who introduced it when he was appointed to the notorious Norfolk Island in the nineteenth century. It was to this island that the worst of the convicts from Australia were sent. Under such a scheme a prisoner earns marks, the accumulation of which might affect his earnings, his release, or a number of other things. The most important concomitant of the reformatory era was the elaboration and extension of the essence of this scheme.

A prisoner had to earn remission in earlier times, although now he can only lose it since he begins with an automatic third off his sentence. The rewards that an English prisoner has been able to earn are considerable. Good behaviour can bring extra letters, extra visits, permission to have personal articles such as cigarette lighters, posting to an open establishment, home leave, good work in the prison and parole. In borstal, the offender's release can vary between six months and two years, and the point at which he is released depends on good behaviour. Insolence, untidiness, non-cooperation, fighting, absconding — all can put back the date of his release.

It can be seen that the pressure to conform is immense and, in the event of the incentives being inadequate to persuade everyone of the virtue of good behaviour, there have during most of this century been negative sanctions. These have included 'reduced diet' — which could mean bread and water — fining, solitary confinement and, until recently, corporal punishment with the birch and the cat o' nine tails. The pressure from reform bodies to remove these punishments has been enormous. As a result, after 1945, corporal punishment was administered less and less. As the respective Annual Reports show, in 1961 ten men were sentenced to be birched although only seven of these sentences were confirmed by the Secretary of State. In 1966 only one sentence

was awarded (but not confirmed) and the Criminal Justice Act of 1967 abolished flogging altogether. The last three men to be given corporal punishment were beaten in 1962. Similarly, dietary punishment has now been abandoned. Loss of remission is now the most severe punishment a prisoner can receive.

During the early 1960s, there were important new additions to the prison population. These were people for whom the privileges which the system offered had little attraction. This was especially true of the greatest of all privileges, the prospect of earning, or rather not losing, remission and parole. The reason for this was that for the first time in recent English history, people were being sent to prison who had little, if any, prospect of release. These people went into a system which had achieved a fundamental *modus vivendi*. The prisoners, on the whole, behaved well provided it was to their advantage to do so; and the officers went about their work, uneasy at times about the liberalism of the policy. The 'new' prisoners who upset this delicate balance came to the prison largely as a result of the total abolition of the death penalty.

The abolition of capital punishment took the following course. Prior to 1957 all murderers were sentenced to death. This sentence was, however, commonly commuted to life imprisonment. Though the sentence of life imprisonment, despite popular misconceptions, means what it says, 'lifers' are reviewed annually for release after serving about eight years. This is because murder, heinous though it is, is mainly committed in very special circumstances, generally in a familial context, and is not likely to be repeated by the same individual. The professional killer, who seems to be the stock in trade of the American TV police series, has been rare in England as have bizarre or multiple murderers. The oddity of the latter — Haigh of acid bath renown, or the infamous Christie — is illustrated by the fact that they attract national interest and are enshrined in Madame Tussaud's waxworks. Although very few 'lifers' can expect to be released after only eight years, there has always been an expectation of eventual release. Involvement in the Hull riot by 'lifers' could, therefore, drastically affect their prospects of release. The man who wrote the letter from Leeds prison to the police which initiated the inquiry which ultimately led to the trial, is a case in point since he is a 'lifer'.

In the main then, the reprieved murderer has had some expectation of release and would collude with the system as do less serious offenders. The total abolition of the death penalty was preceded, in 1957, by a Homicide Act limiting the death sentence to certain kinds of murder.



These included killing a police or prison officer, killing in the furtherance of theft and killing with a firearm. It is obvious at which groups of criminals this selective legislation was aimed. But it was considered by some that the legislation led to anomalies and injustice. And since a mistake was irreparable when the sentence had been carried out there was steady pressure for complete abolition. The discussion about the executions of Timothy Evans and James Hanratty (the A6 'murderer') did a good deal to strengthen the abolitionists' case. In 1965, capital punishment was suspended and in 1967, it was abolished altogether. The last public execution took place in 1868. The last people to be executed in Britain, two young men, were hanged in 1964.

After abolition, the prisons began to receive a number of prisoners — killers of policemen, for example — who would under the 1957 Act have been hanged. These are not 'domestic' murderers, they are generally fairly young, and it is obvious to them that they are not likely to be released for a very long time if at all. At the present time one reprieved prisoner in England has served almost thirty years. This is almost unknown in the English experience, but it will become common, since by definition, the number is bound to grow.

At about the same time as these changes in the law were being made, a second new phenomenon arose with which the English prison system was expected to cope. This was the conviction of very serious offenders and the imposition on them of very heavy sentences. Two groups illustrate this trend. The first are the mail train robbers, some of whom in 1963 were sentenced to thirty years. The second are the spies, one of whom, George Blake, in 1961 received the longest fixed sentence ever awarded by a court — forty-two years. Both groups were to shake the prison system to its foundation.

The obvious complication which such prisoners presented to the traditional English prison system was that they would not be interested in any incentives which might ensure good behaviour. As soon as the mail train appeals were dismissed it would only be a matter of time before escapes occurred. Not long after the appeal hearing, in the early morning of 12 August 1964, a group of men broke into Birmingham prison and released one of the gang, Charles Wilson. The practice of breaking into prisons to facilitate escape was fairly common in medieval England but its resurrection in 1964 faced the prison service with a new and serious set of problems.

Not the least of these was the certainty, admitted in the Mountbatten Report, that a member of staff had helped with the escape, probably

by enabling a key to be copied. This is not much of a surprise when it is remembered that the haul from the mail train robbery was over £2 million. A member of the prison staff must have got a share since he took an impression of a master pass key and a security key and then tested the latter. Mountbatten is right to regret the fact that no one was prosecuted for such a serious offence (Mountbatten Report, 1966, para. 103).

Just under a year later on 8 July 1965, Ronald Biggs, who like Wilson was serving thirty years for his part in the mail train robbery, escaped in a cleverly planned operation from the exercise yard of Wandsworth prison, London. But what was regarded as the most serious escape took place on 22 October 1966. This was of George Blake from Wormwood Scrubs, London. Blake simply broke through a barred window and, obviously with outside help, made good his getaway. He has never been recaptured.

These and other dramatic escapes created a public and political outcry. But they were only different from other escapes because of the notoriety of the escapers and the methods used. The reality was that since the beginning of the century, security in the prison service had become increasingly weak. Nor is it difficult to understand why. A system which tries to rehabilitate must give freedom to prisoners, of which the most obvious expression is the open prison. Giving freedom will mean that some prisoners will try to escape. The attitude of the prison department to this has been to insist that it is a price which must be paid. When it came to the question of the escape of criminals of the stature of the mail train robbers and Blake, the politicians did not agree. The consequence was that there was what may be fairly described as a *furor* over escapes.

A typical English curiosity is that though the public and the government were unaware of any statistics, figures did exist and showed, although not too prominently, that the escape rate had soared. Anyone sufficiently interested to follow the pattern would have noticed a correlation with the movement for reform. The dramatic increase in the escape rate can be seen from the figures in Table 1.

The glib explanation of the troubles of the modern prison system is to point to these 'new' categories of prisoners and to allege that their presence, together with a few standard perennials such as overcrowding, reveals the source of discontent. It is true, as we have said, that today's long-term prisoners will not tolerate the conditions under which they are expected to pass their imprisonment. But many of the other reasons



for disturbances to which apologists rush are simply not admissible. If one contemplates, for example, the question of overcrowding, and if one ascribes to it the causative emphasis which is commonly done, then one would expect most disturbances to occur in prisons which are overcrowded. In fact, concerted disturbance occurs in prisons where there is no overcrowding, and where, for example, each man has his own cell. This does not demolish the case for reducing the foul business of putting three men in one cell ('threeing up'), but it does support the claim that many standard and routine explanations of the *malaise* in prisons must be set aside.

Table 1 Escapes and Attempts to Escape from Penal Establishments (Male)

Year	Daily average population	Escapes and attempts	Escapes and attempts per 1,000 of the prison population
1895	14,954	9	0.6
1928	10,305*	73	7.3
1938	10,388*	211	21.1
1946	14,566*	864	57.6
1956	19,941†	932	46.6
1964	28,718†	2,090	72.0

\*Includes borstals.

†Includes borstals and detention centres.

Source: Annual Reports of the Prison Commission and the Prison Department for the respective years.

An attempt to understand the most significant of these reasons for the *malaise* justifies the amount of discussion about the foundation of the prison service. The service was established in the form in which it was to exercise some control over the treatment of prisoners. In the early days of the service, and indeed until fairly recently, the contact between London and the field was sufficiently close for some plausible attempt to be made to do so. It should be remembered that the Prison Act of 1877 made the English prison service the most centralized of all our public services – apart from the armed services. Police, probation, education and health are all essentially administered and monitored by

localized bodies. The prison service is not. Until very recently, policy and all decisions affecting local situations, were made by London; most still are.

Such a totally centralized system would no doubt have worked reasonably well while the service was small enough to be manageable from London. But as it has grown from 14,954 prisoners in 1895 to 28,718 in 1964, to over 40,000 at present, the administrative structure has begun to creak. If it seems that this is far removed from the Hull riot, it should be remembered that what happens in an English penal establishment is conditioned, allowed and limited by the central apparatus in London. The latter gradually became, as the POA once said, a place 'where matters of mainly human interest were dealt with by people who are predominantly concerned with administration matters' (Prison Officers' Association, 1963, p. 3).

This division between the centre and the institutions was increased by the decision to abolish the Prison Commission in 1963. The Commission was set up under the Act of 1877 to administer the prisons. While the service was fairly small, the members of the Commission, especially the several Chairmen, were well-known to the establishments in the field. The reasons for the dissolution of the Commission were complex, and for our purpose, largely irrelevant except in two respects. One is the fact that when the administration of prisons became the responsibility of the Prison Department of the Home Office, staff began to feel even more isolated. They complained of lack of direction and lack of understanding. The other is that the attempt to combat this feeling gave rise to the policy of regionalization, and since there is much discussion about regional staff in the several reports on the riot, it is important to know what the concept means.

During the 1960s, the Home Office was faced with a service which was increasing not only in size but in complexity. Incipient bureaucracies were coming to fruition. Educators, psychologists, social workers and others were establishing discrete organizations, which governors were amongst the first to recognize, both for what they were and for the dysfunction inherent in their growth.

The response to this was, on the face of it, sound. It was to develop a policy of 'regionalization'. This involved the establishment of four regional headquarters – London, Birmingham, Bristol and Manchester. The object was to bridge the gap between central administration and the field – a gap which had been the subject of interminable criticism by many of the people called upon to 'investigate' periodic crises in the



system. Each headquarters has a regional director who is an experienced governor. It is a commonplace in the discussion among prison staff that, as yet, regionalization does not work. The fact that it does not, and the reasons why, are of only marginal significance to the Hull riot, but are of profound significance if much of what is wrong with the prison system is to be corrected. The issues involved are of no little complexity.

To understand them one must advert again to the reasons why the prison system was centralized. One of the most important of these was the fact that control had to be established over the fate of prisoners. An outcome of centralization was that prisoners were treated 'uniformly'. Uniformity, as a policy, came to be vilified by reformers such as the Webbs who saw it as a denial of any individual treatment and *per se* inhuman. This is to misunderstand the notion. What 'uniformity' did was not to curb individuality, but to ensure that there would be a minimum standard of treatment to which every prisoner was entitled. The famous anecdote in which the Chairman of the Prison Commission, early in this century, told an audience that it was four o'clock and he knew what every governor in England was doing has been much misunderstood. Far from this uniformity operating to the disadvantage of the prisoners, it was intended to ensure that at least minimum standards were applied.

To allow relaxation of the centralized grip on the system would mean that variations would begin to arise between one region or prison and another. For the last forty years it has been prison policy to allow prisons to develop their own style, subject to a general direction from the centre. But if regionalization were to work, London would have to delegate. Apart from the familiar, historic reluctance of government departments to do any such thing, certain problems tend to accompany such discretion in a prison system. One of these remains the very reason for centralization in the first place — that discretion at an institutional level usually means that prisoners are worse off. But if, as sometimes happens, they are better off, then that can arouse resentment among other prisoners, and can create a problem when those who have enjoyed a more relaxed regime are transferred to a more severe establishment. In one case, prisoners who were transferred from Hull were irritated to discover that at the new prison they could not wear private footwear. There is, therefore, considerable pressure from staff and prisoners to maintain 'uniform' conditions. They would rather see two unequal men treated equally, than two equal men treated unequally. This question of regional policy affects the life of every prisoner in England,

and when we have discussed the events at Hull we will return to it. At this point it should be remembered that an important factor in the crisis in the prison system, of which Hull is one manifestation, is that it has become too big to be administered properly from London, and that up to the present time there has been no satisfactory solution.



### 3

## Escapes and Crises

By the mid-1960s, the English prison system was facing a severe crisis. The expansion of the system was paralleled by a feeling, now widespread amongst those who pay attention to the workings of the administration of criminal justice, that the idea that reform was a feasible or desirable goal was questionable. And then the escapes occurred, some of which have been described, which led to the appointment of the Mountbatten Inquiry, which was published in December 1966. The Home Secretary of the day, Roy Jenkins, had been under attack, and his response to the escapes, it may be fairly claimed, was precipitate. The emphasis on the narrow question of security can also be criticized, since, as we have shown, the issues were a good deal more complex than those of crude physical restraint. As it happened, Mountbatten broadened the scope of his Inquiry and produced a report which, if implemented, might have helped remedy at least some of the weaknesses of the system.

Two of the areas of the Inquiry are important for our purpose. The first is concerned with the question of what to do with long-term prisoners. Mountbatten proposed that there should be four categories of prisoners in the system: A, B, C and D. The category to which a prisoner would be allocated would depend upon the degree of threat he represented to the country. Category A prisoners would be those:

who must in no circumstances be allowed to get out, whether because of the security considerations affecting spies, or because their violent behaviour is such that members of the public or the police would be in danger of their lives if they were to get out (Mountbatten Report, para. 212).

This categorization was implemented and the English prison population is so stratified. It is with what in prison jargon are called the 'Cat. A' prisoners that we are concerned, because Hull was to become a 'Cat. A' prison and was so at the time of the riot.

What was even more important, and what was to become and remains a matter of considerable controversy, was Mountbatten's recommendation as to what should become of such prisoners. It was simple. A purpose-built prison had to be established, and since an island prison has obvious advantages as well as plenty of historical precedent, suitable islands were surveyed. After rejecting several, the proposal was made that a new maximum security prison should be built on the Isle of Wight. One wonders what people on the island may have thought of this, since they already had three penal institutions with a fourth being built. Mountbatten considered how the place might be staffed, acknowledged the difficulties and recommended 'as liberal and constructive a regime as possible' (*ibid.*, para. 216).

Before going on to discuss Mountbatten's other major commentary about an adequate inspectorate (para. 238), the fate of this central recommendation — to build a central prison — must be described. It should be pointed out that since early 1966, new measures of security had been introduced in selected prisons; one of these prisons was Hull. These included the establishment of 'maximum security blocks', closed circuit television, high powered lights, communication arrangements with the police and dog patrols. This was to provide the nucleus of an alternative system to that suggested by Mountbatten and it came to be called the 'dispersal system'. Why was this system adopted rather than Mountbatten's recommendation which seemed to many people to be a possible way of coping with a problem which though proportionately small, posed very difficult questions?

Since the processes were largely political, and therefore not susceptible to public scrutiny, it was difficult to discover for certain how the decision was made. Generally, the Labour Government of the day was short of money and the proposal to build an expensive new prison, even if it was in the community's interests, no doubt seemed exorbitant. It would appear that some reason for not doing so had to be found especially since, in the disarray which the whole problem created, some penal reform bodies could only express concern about the manifest and stark commitment to coercion which such a prison represented. The novelty, and to some the complexity, of the problem, left many who might have been expected to offer solutions literally speechless. This



was largely because the assumption underlying the policies of the English reform movements had always been that one day any given prisoner would be released. This was different. Now England had a prison population, albeit small, which might never see the free world again. To say anything intelligible or coherent about fitting such people 'to lead a good and useful life' was both daunting and an invitation to be ridiculed.

The British government has for some time had a body to advise on the penal system. In 1968 it was called the Advisory Council on the Penal System (ACPS) and its distinguished membership included lawyers, peers and academics. It was to this Council that the government turned 'to consider the regime for long-term prisoners detained in conditions of maximum security, and to make recommendations'. For this purpose, the Council appointed a Subcommittee under the chairmanship of Professor Radzinowicz of Cambridge University and consisting of the Bishop of Exeter (The Right Rev. R.C. Mortimer), Mr Leo Abse, MP, and Dr Peter Scott, an eminent psychiatrist.

The essence of the Subcommittee's recommendation on the subject is contained in the letter, written by Mr Kenneth Younger, Chairman of the ACPS to James Callaghan, which begins the report:

The Sub Committee found it impossible to discharge its assignment without examining the framework of security within which the regime will have to operate and the type of prison in which the prisoners in question are to be detained.

The meaning of this sentence is not clear. The notice it gives of its interest is to be expected in any report on prisons. Further there is no immediate connection between it and the summary recommendation which follows. There is, however, no doubt about the meaning of that central recommendation:

During the course of its inquiry the Sub Committee became increasingly doubtful about the possibility of establishing a satisfactory regime within a fortress-type prison in which all maximum security prisoners were concentrated. As a result, the Sub Committee concluded that the setting up of a small prison for a restricted category of long-term prisoners in conditions of near-absolute security is not the right solution to what are admittedly very difficult problems, and it recommends that these prisoners should instead be dispersed

amongst three or four larger prisons with strengthened perimeter security (ACPS Report, 1968, p. v).

The arguments for dispersal were, in the Subcommittee's view, overwhelming. They felt, first of all, that the regime would be intolerable. A prison which contained the worst elements in the system would be dominated by security considerations to a degree which would make life insufferable. Further, prisoners sent there would be 'publicly labelled as the worst' (*ibid.*, para. 35). Also, there was 'an alarming picture', drawn by a witness, of:

what could happen if a hundred criminal minds were concentrated in one small prison where all their energies and ingenuity might be expended on plans for escape or on conflict with authority. Other of our witnesses admitted that they would not want to serve in such a prison (*ibid.*, para. 35).

This last piece of 'evidence' raises the question of staffing. Officers, it was alleged, would not be willing to serve in such a place. In addition, the existence of such an institution would, 'in the long run have an adverse effect on the general respect in which the service was held by the community and on recruitment to it' (*ibid.*, para. 38). So why, the Subcommittee asks, if all these arguments for dispersal are so strong, has concentration been recommended?

The first explanation they encountered was that the presence of Category A prisoners would have an adverse effect on any prison to which they were sent. Thus, a governor with a number of Category A prisoners in his prison is likely to subordinate all other considerations – such as a liberal regime – to their safe custody; and so would his officers. Such prisoners might also terrorize the prison. But, the Subcommittee believed, such arguments are neither new nor valid. There are always 'evil and unscrupulous men' who 'can alter for the worse the whole atmosphere of a prison' (*ibid.*, para. 40). They then go on to talk about 'the sociology of a prison community'. They argue that the removal of leaders 'may only result in the appearance of fresh leaders'. Again, a prisoner who is a trouble maker at one time, or in one place, may settle if he is moved.

Despite the Subcommittee's association of their observations with the apparent objectivity of the term 'sociology of a prison community', these objections are, in fact, matters of opinion. Thus, in the experience



of the present writers, removal of a violent 'leader' does not, *per se*, mean another takes his place. This however, is a minor matter; it is also irrelevant, as is much of the discussion about many of the issues in the Report.

What the Report does is to make a fundamental assumption which is largely erroneous. This is that the prisoners who are classified Category A are necessarily violent or disruptive. Some will be, but many will be so classified because of the embarrassment, public anger or fear if they are at large. There would be such a reaction at the escape of a multiple child murderer, but whether or not he is likely to be dangerous in prison is almost random. Conversely, a man serving a one-year sentence might be extremely disruptive. If these factors are borne in mind then many of the objections which are put forward on behalf of staff have little validity.

If, nevertheless, the Report's arguments are taken seriously, then they can easily be countered. The views of experienced staff about the effects of dispersal were not only correct at the time, but they have come to fruition. The reality is that the pressure, in a prison designed for different purposes, of some kinds of powerful prisoners who should be elsewhere, results in tyranny. A good illustration of this in the Mountbatten Report is the discussion of Frank Mitchell, nicknamed the 'Mad Axeman', serving a life sentence, whose escape from Dartmoor was part of the crisis of the time. The evidence was that Mitchell, who was physically very strong, was the subject of special instructions, was in control of the prison and out of the control of the staff.

With regard to regimes, it is natural for governors of dispersal prisons, especially the more cautious, to structure a regime which is rigidly controlled and which is a constant irritation to men doing long sentences. This is precisely what happened at Hull, as we shall go on to see, in the years preceding the riot. So the Subcommittee was wrong to dismiss the considered views of prison staff. Wrong, not only *per se*, but in this particular respect.

The argument about 'unscrupulous men' (*ibid.*, para. 40) is also weak. The Subcommittee uses the Dartmoor mutiny report of 1932 to illustrate this argument but ignores the basic problem with which the system was faced in the 1960s. This was the presence of men who were unlike any who had been imprisoned in modern times in Britain. It also, yet again, confuses the issue of being 'Cat. A', and being violent or disruptive.

To support the premise that the behaviour of prisoners may improve

once they are transferred, the Report sets out 'evidence' from, of all places, Alcatraz — the famous US Federal prison in San Francisco Bay. Although arguments drawn from foreign experience are usual in reports such as these, it is only very rarely that one can be persuaded, let alone convinced by them. American prison systems are varied, confused with issues such as race and are political footballs in a foreign country. One may take, as an example, a statement such as: 'All our American witnesses agreed that when Alcatraz was closed, and its inmates dispersed to other very secure prisons, the majority settled down into their new communities' (*ibid.*, para. 41).

Since this is put forward as 'evidence', it is fair to put it to cross-examination. One might ask just who these witnesses were and how many gave evidence. Were they, for example, officials of the US Federal Bureau of Prisons, or were they prison guards? Alcatraz was totally secure. If there were ever successful escapes (there were some attempts), they were very few in number. The American view quoted in the Report is that disruptive prisoners settled down. This is only a part of the problem, which is largely about escaping. One may ask if prisoners are escaping from these 'new communities'. Nor does the Subcommittee discover — or at least reveal — the truth about Alcatraz. Although the Subcommittee does concede that Alcatraz was closed because of a 'combination of financial and other reasons' (*ibid.*, para. 41), the fact is that it was for financial reasons. The expense of transporting materials, notably water, across the bay was frequently commented upon in the US. In support of this as the primary motive, it may be observed that the US Federal Bureau has opened a prison with the same purpose as Alcatraz — concentration — at Marion, Illinois (Federal Bureau of Prisons, 1976).

The question that the Subcommittee asked may now be stood on its head: Why, in the face of such support for the Mountbatten recommendation, did the ACPS recommend dispersal? By sheer chance, an answer is publically available. It should be carefully studied by people interested in how penal policy takes the shape it does, and more generally, how decisions affecting the life of the community are made. The explanation for the recommendation that Category A prisoners should be dispersed is contained in a book by Mr Leo Abse, a member of the Subcommittee, entitled *Private Member*. With a frankness which is remarkable as well as instructive, Abse discusses 'The Admiral of the Fleet's' conclusions and recommendations, which he found 'predictable' (Abse, 1973, p. 121). The Report was, he announces, 'an affront'. He



then goes on to describe his own contribution to penal reform as a kind of contrast. Abse writes:

Given my views, it was ironic that within a few weeks of the publication of the Mountbatten report, when asked by Roy Jenkins, the then Home Secretary, to become a member of our newly created Advisory Council on the Penal System, I found the first task assigned to a handful of colleagues and myself on that Council was to frame a regime under which the long-term prisoners were to live in the fortress-type prison Mountbatten was demanding (*ibid.*, pp. 124-5).

Mr Abse was indeed an ironic choice for a committee which was going to look at a delicate problem which would affect the lives of thousands of prisoners and staff for the foreseeable future. One would have supposed that the members would have approached the task with fairly open minds, and while this may have been true of three of the members, it was not so of Mr Abse:

Whatever openness of mind my colleagues may have had in their approach to this problem, I had none. I was totally prejudiced . . . From the start I had one objective in mind: how to use our terms of reference to circumvent the implementation of the Mountbatten recommendation (*ibid.*, p. 125).

After some strange, rather personal, observations about the other members of the Subcommittee, Abse explains how he would 'thwart the Mountbatten Report' (*ibid.*, p. 137). A preliminary was to insist that the 'framework of security' had to be examined, and this gave rise to the statement by Mr Kenneth Younger in the introduction to the Report, which is quoted above. Having established this:

I cynically decided, therefore, to embark upon a diversionary tactic: to shift attention from the real issue of dispersal or concentration to another issue which would rouse the hostility of all the liberals, and place me on the side of the devils. It would provoke great controversy and, by riveting attention upon an irrelevancy, enable our sabotage of the main Mountbatten proposal to go unnoticed amidst the clamour. I put to my committee colleagues that perimeter security should be enforced by the use of guns (*ibid.*, pp. 132-3).

Apparently unaware of Abse's motives, two members concurred. But:

the kind psychiatrist who was the fourth member of our committee, refused to go along with us, and I knew he could be relied upon to write a fierce minority report against the use of guns that would precipitate the storm I wished to burst (*ibid.*, p. 133).

Precisely this happened:

The Home Secretary, by now Jim Callaghan, ever with sensitive antennae to majority opinion, picked up the mood and with the approval of Parliament, accepted most of our report, except the guns (*ibid.*, pp. 133-4).

Apart from the fact that the term 'majority opinion' in this context is incomprehensible, this last statement is accurate. 'Mountbatten's fury that his plan was rejected was evidently boundless' (*ibid.*, p. 134). Abse appeared to be well pleased with his success.

The cynicism of this whole episode is staggering and Mr Abse's frankness is indeed unusual. This is an admission by an MP of an ambition to undo a policy of which he disapproved in advance of any factual inquiry. It did not matter that most people who took an interest in the matter wished for a policy of concentration, as indeed most, including the Prison Officers' Association still do. Witnesses' views were treated with contempt and fellow members of the Subcommittee manipulated. One can only hope that this approach to public affairs is unusual. But this, apart from now adding to many peoples' disillusionment about public figures, was to have very serious effects on the most defenceless people of all, the prisoners. For the dispersal policy was implemented, and despite interminable criticisms of its defects from people inside and outside the prison service, successive governments have been resolute. One must suppose that they will remain unshaken until riots effectively reduce every dispersal prison to rubble.

The sense of crisis about security after the Radzinowicz Report was accepted was one of the first things to be 'dispersed' throughout the prison system. Had Mountbatten's recommendation been accepted, the need for new security measures could have been explored and contained. This would have left the rest of the system to continue to try to achieve a reformative, rehabilitative goal. This point was made to the Subcommittee and dismissed.



The 'dispersal' of the problem soon had an adverse effect on the system. To begin with there are not '3 or 4 larger' dispersal prisons, as the ACPS suggested, but 7. In these prisons there were, in 1977, according to the *Annual Report of the Prison Department*, 241 Category A prisoners. The detailed breakdown is set out in Table 2. A perusal of these prisons shows that over 90 per cent of the dispersal population are subjected to unnecessarily constricted regimes. And it should be remembered that the word 'secure', in a Victorian prison such as Hull, necessarily means restrictive. Again, most of the security features of the special Mountbatten prison are now not only in *all* dispersal prisons, but in some cases are present throughout the system. There are 'horizontal barriers such as barbed wire', walls are 'high and smooth', there are 'early warning systems' (*ibid.*, p. 122) and so on. To some observers the most unpleasant feature of the new system is the use of dogs. Had it been thought necessary these could have been confined to a single prison. Instead of which, by 1975, as a result of the dispersal policy, not only dispersal prisons, but twenty-five prisons were patrolled by 300 dogs and their handlers. Not only is this offensive, it is unnecessary and expensive. We will learn how unleashed dogs attacked prisoners during the Hull riot.

Table 2 Category A Prisoners on 30 June 1977 by Establishment

Type of establishment	Number of prisoners		Percentage of total prisoners in Category A
	Category A	Other	
<b>Dispersal prisons</b>			
Wakefield	57	661	8
Parkhurst	41	383	10
Albany	37	253	13
Gartree	36	218	14
Long Lartin	36	300	11
Wormwood Scrubs	34	1,155	3
Hull*	—	133	—
Other prisons	16	21,711	—
<b>Total</b>	<b>257</b>	<b>24,814</b>	<b>1</b>

\*All category A prisoners were removed while repairs were being carried out following the riot in 1976.

Source: *Prison Statistics for England and Wales, 1977*, HMSO, 1978.

One of the most extreme results of the dispersal policy is the establishment of 'segregation units'. The main issue, faced squarely by Mountbatten, was not ignored by the Subcommittee: What is to be done with men who constitute a special problem? Their answer to this was to propose 'separate segregation units' within a prison. This proposal was duly carried out. The issues which arose became not only of national but of international concern. The detail is not entirely relevant to this book (see Thomas, 1975) but it may be noted that the way in which prisoners were allocated to such units, and the way in which they were treated when there, were alleged to be both inhumane and illegal.

So a recommendation in a report by a subcommittee, the principal architect of which was delighted with its content, resulted in the establishment of 'units' which were to focus national and international concern upon the treatment of English prisoners for the first time in many years. It is necessary for a full understanding of the events at Hull to know about segregation units, since it was what happened to a prisoner in the 'seg. unit' at Hull which sparked off the riot.

The most regrettable result of the attempt to implement a dispersal policy, however, is that it has now become impossible to mount a coherent debate about the treatment of very long-term prisoners. An essential preliminary to such a debate is a realization that such prisoners are quite exceptional, have special needs and should be considered in isolation from the rest of the system. One major illustration of special needs is the question of conjugal visits. This issue was raised in the ACPS Report, no doubt as another 'diversionary tactic', to swing interest away from the real issue. And, of course, media interest focused upon it with a vengeance. But this is a serious question which should be treated as such, as indeed it is in several countries. But until it is clearly understood to affect a special group, this cannot happen. This is one example which is much less urgent than perhaps the main issue which dispersal conceals — the living conditions of long-term prisoners.

Most of the Category A prisoners live in Victorian prisons of which Hull is a good example. These prisons are cold, depressing, often cramped, with barely adequate recreational facilities. They were built to contain short-term prisoners a hundred years ago, and most of them have for many years been pronounced as unfit for human habitation; the chamber pot is the most visible, and disgusting, manifestation of their obsolescence. Nevertheless everyone, including the prisoners, gets used to them though, periodically, Home Secretaries and other outraged visitors announce that such institutions are intolerable. Despite



this no closed prison has been abandoned in this country since the early 1920s. Nor is there any sign of this happening. When new secure prisons are opened they are simply added to existing provision. The one good feature is that the prisoners have single cells and are not 'three'd up'. In the new dispersal prisons, such as Long Lartin in Worcestershire, it is probably true to say that the physical environment is slightly better than in the older prisons. However, a final judgement on the ACPS Report is that it condemned long-term prisoners to institutions some of which should have been closed years ago; and the government was spared the embarrassment of announcing public expenditure on a new prison, a prison moreover which would have attracted a good deal of public attention. It was easier for them to spend, and to continue to spend, millions of pounds on making existing prisons more secure. Since such expenditure was diffused, the total is not easily accessible, and so press and public hostility to such expenditure has been kept at bay. At the time, in Hull prison alone, the cost of 'conversion' was put at £1 million pounds (*Hull Daily Mail*, 6 February 1970).

We must return now to the Mountbatten Report and the second major question with which it was concerned — the organization of the prison service. This may seem removed from a riot in Hull prison in 1976, but Hull is part of the prison system which, it must be remembered, is highly centralized. We have discussed this centralized administration, and Mountbatten discusses its defects in considerable detail. Despite the occasional ritual concession he is very critical indeed. One of the areas which he discusses and one which is of direct concern in this analysis is the question of adequate inspection of prisons.

Mountbatten's analysis is that increasingly the heads of the prison service are staying in their offices in London. He does not condemn them for this, but he does express concern that, as part of a generally defective relationship between the centre and the field, there is no effective inspectorial machinery. At the time he wrote, there were two kinds of inspection: that carried out by the Board of Visitors (later we shall discuss how useful that is) and the *ad hoc* visits of directors and assistant directors from Head Office. It is, therefore, natural for Mountbatten to conclude:

in my opinion there should be greater stress on inspectorial duties, and I think that the importance of them has been underestimated for some time . . . a proper inspection . . . should be an occasion for a thorough examination of an establishment (Mountbatten Report, para. 238).

Mountbatten's solution was to recommend the appointment of a person designated as Inspector General. 'This high level and vital post' would fill a leadership vacuum and would recreate one of the features of the old Prison Commission: a recognizable, identifiable head of the service. This would be the individual who would spend a good deal of time visiting the prisons and remedying those things which were being maladministered at Head Office.

Such a post was created, and Brigadier M.S.K. Maunsell was appointed to fill it. There was a good deal of approval of the creation of the post and the new Inspector General was warmly received by staff who now saw some hope of the establishment of an administration which would be both competent and humane. However, times had changed since some of the gigantic figures of the Prison Commission dominated their departments. The dynamic way in which the new Inspector General approached his job was, by now, likely to be discordant in a Civil Service which had, as though following Max Weber's theories, rejected charisma as a desirable quality in a bureaucrat.

The way in which this thrusting outsider was dealt with was by raising the question of management reorganization. No doubt it seemed to the Home Office that to contain this particular individual's deviant approach would not be enough. After all, the Home Secretary might, if the present incumbent resigned, simply appoint a similar individual in his place. It was the role which had to be changed.

This was achieved in the course of 'management review'. In 1969 this role, which Mountbatten regarded as so crucial and the Home Office found so intolerable, was changed. The incumbent was now simply downgraded. After only three years, the Inspector General, it was explained in the Annual Report for 1971, was 'separated from executive functions'. This 'management review', it should be added, although it was the subject of heated discussion in the prison service, was never published or discussed. Eventually the post was redesignated Chief Inspector. It was the present holder of this post who carried out the official inquiry into the Hull riot.

The downgrading of this post, as far as the Prison Department was concerned, achieved a number of things. It 'regularized' the administrative situation and restored, in essence, what was familiar. It also eliminated the possibility of more outsiders being appointed. After Maunsell, the Chief Inspector's post has been held by ex-governors, which while it brings valuable practical experience to Whitehall, brings it to the wrong area. The most unsatisfactory aspect of this piece of



Civil Service manipulation is that there is still no adequate inspectorial organization which will sort out maladministration, let alone look after the interests of prisoners. We will go on to see that the official report on the Hull riot catalogues a series of administrative defects which, although sometimes muted, ought to add up to a conclusion that many of the criticisms made by Mountbatten have not been put right. These range from failure to ensure that instructions are carried out (Fowler Report, para. 240), to indifferent record keeping (para. 238), to indifferent relationships with the local press (para. 222). But, above all, the inadequacy of prison inspection remains.

It was Sidney and Beatrice Webb who first observed an interesting feature of prison inspection, in their book *English Prisons under Local Government*. They noted that before 1877, when the prisons were controlled by the local justices, government inspectors wrote volumes of criticism of the way these were administered. After 1877, when the prisons belonged to central government such criticism disappeared. The situation is the same at the present. The Chief Inspector is an ex-governor, judging the work not only of colleagues but friends, and moreover with some expectation of further promotion at the discretion of people whose work and behaviour he is expected to examine. This is in no way to denigrate any particular holder of the post; it is simply to insist that this arrangement breaks the principle that no man should be judge in his own cause. In any case, it is difficult to judge since no reports of inspections are published. Even the Inquiry into the Hull riot offers only conclusions. None of the evidence upon which these conclusions are based is available. Since Victorian times this has been typical of reports and inquiries in respect of prisons. (One notable and valuable exception was the *Eleventh Report from the Estimates Committee, 1966-67*.) In most reports since the Gladstone Committee Report of 1895, when every word of evidence was printed, what is communicated to the reader is not detailed information but conclusions which, without access to the evidence upon which they are based, can only be noted.

We must now put Hull prison into the context which has been described. Kingston-upon-Hull, as Hull is properly called, is a seaport on the north-east coast of England. It is an historic town with a population of about a quarter-of-a-million. Its fortunes in recent years have been declining: the fishing industry, for example, has found it increasingly difficult to survive in the face of other countries' restrictive rules. Hull remains an important port and it is in the dock area that Hull prison

stands. Most Victorian prisons in England were built in the poor, and generally the eastern, end of the big cities, and Hull is typical enough in this respect.

The prison was opened in 1870 and it served as a local prison for both sexes until 1939. The term 'local prison' in English prison terminology means those prisons which directly serve the courts and in which prisoners serve only short sentences. After the Second World War, when with the rest of Hull, it suffered extensive damage from bombs, the prison eventually opened, in 1950, as a borstal. During its time as a borstal it acquired a reputation for taking difficult trainees, thus adding to the general reputation which Hull has had, in the prison service and in the community, for being troublesome. It became a prison again in the early 1960s and took short- and medium-term prisoners from the north. The prison was reclassified as a long-term training prison in 1966 and as a dispersal prison in 1969, as a result of the acceptance of the ACPS Report.

In 1976, Hull's Certified Normal Accommodation was for 318 prisoners. On 31 August, when the riot began, there were 310 prisoners in the prison. The object of the regime was, according to Fowler: 'to provide a suitable regime for the spiritual, cultural, educational, physical and leisure needs of these prisoners within maximum security conditions' (*ibid.*, para. 24).

To achieve these aims there was a large establishment of staff. In the composition of its staff, in all important respects, Hull was typical of an English penal establishment. There were, first of all, the governors. The latter are divided into five classes: governors class I, II and III and assistant governors class I and II. In charge of Hull was a class II, which is a senior appointment. The particular governor at the time of the riot had only been in charge for two weeks. In addition to the governor, there was a governor III, who was the deputy, an assistant governor class I, and four assistant governors class II.

This group of governors constituted the 'line management' of the prison. They were concerned with the primary task of Hull prison which was to ensure safe custody. The operatives who carried out this task were the uniformed prison officers — the people who used to be called warders. It was reported to the House of Commons on 1 November 1976, that the ratio of these officers to prisoners at Hull was 1:1.23.

At the pinnacle of the officer structure are the chief officers, classes I and II. There was one of each of these in Hull in 1976. The 'chief' is



often perceived as analogous to the regimental sergeant major. He is generally accorded a good deal of respect by officers and inmates. Fowler describes what is generally accepted as the job of the 'No. 1 Chief'. He is 'in charge of all discipline staff, their deployment and discipline' (ibid., para. 26).

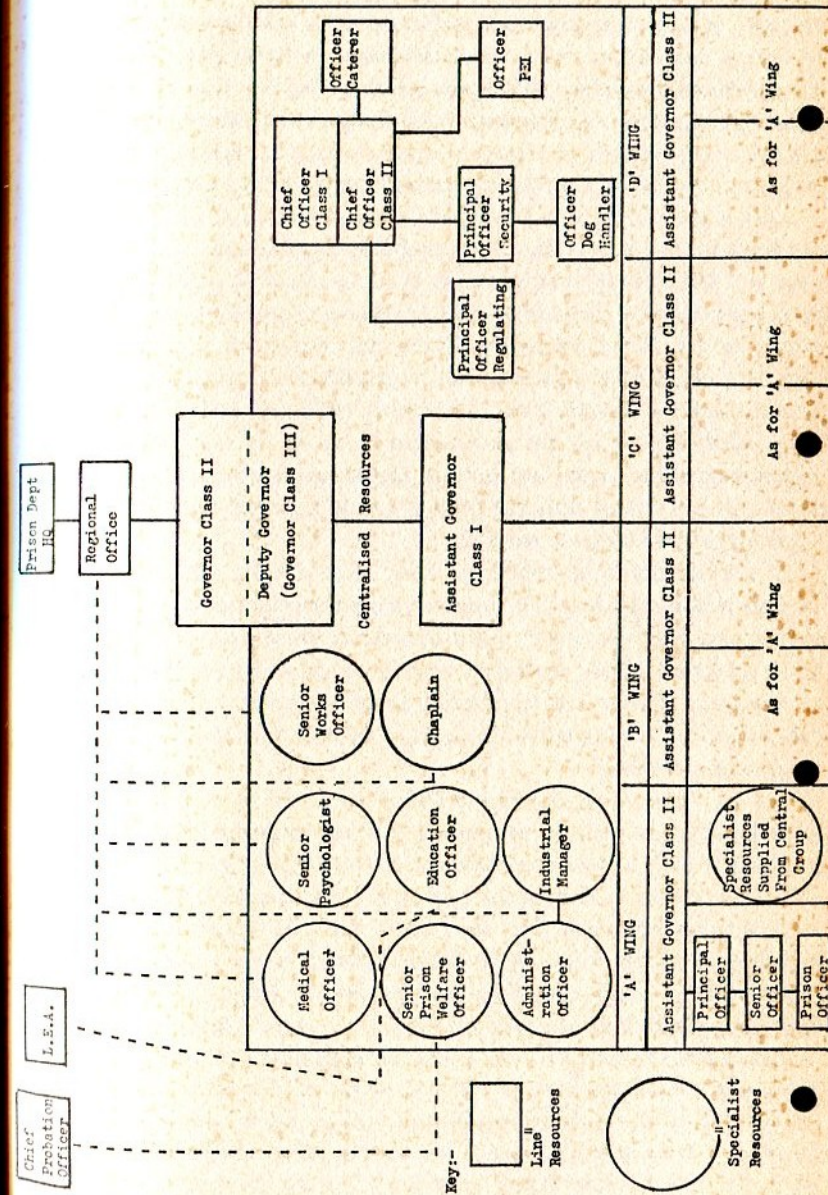
Below the chiefs are the principal officers of whom there were eleven at Hull, and next to these were twenty-seven senior officers. Finally, there were 160 'basic grade' officers in post. These are the men who carry out the routine work of the prison, locking, counting and so on.

In addition to these 'line' staff, there were many uniformed officers who had developed, and were now carrying out, specialist jobs. These included hospital officers, caterers, physical education instructors, instructors, works officers and dog-handlers. Then there were those groups which the prison system had accrued over the years as various professions had established an identity. These included a medical officer, a chaplain, executive grades of the Civil Service, education staff, psychologists, probation officers and an industrial manager.

Designing organizational charts showing the inter-relationship of this galaxy of staff is a favourite occupation of those attending training courses for prison staff. One version is set out in Appendix 14 of the Fowler Report and is reproduced in Figure 1. This chart is as coherent as any, but even the most casual examination of the chart will reveal many unanswered organizational questions. One might ask, for example, to whom principal officers, or for that matter, senior officers are accountable. To the chief officer or to the assistant governor? The problem in this particular case is that the role of the AG, and his place in the authority structure, have never been properly thought out. This is in part because the AG arrived fairly recently on the prison scene. This question is one which has direct relevance to the outcome of the riot, and it focuses upon the confusion about authority in the prison system, a confusion which is not apparent from the formal chart set out in Fowler.

When it came to apportioning blame for the brutality, the confusion became evident. The attempt to simplify it led to the prosecution of an assistant governor. But when the magistrate heard something of the issues of accountability and responsibility he expressed surprise that 'others' were not charged. Apart from any other considerations, the Hull riot confronted the service with urgent questions about authority and where it is located in a modern English prison.

Figure 1



Source: Fowler Report, 1977, p. 120.



Hull prison in 1976, then, was relatively small, not overcrowded and staffed with the same kinds of people, deploying the same kinds of resources, as any of the dispersal prisons. Being secure and being a dispersal prison were important differences between it and the other 121 penal establishments for which the Prison Department is responsible to the Home Secretary. The population of Hull prison was, in all important respects, the same as that of any of the other six dispersal prisons at Albany (Isle of Wight), Gartree (Leics.), Long Lartin (Worcs.), Parkhurst (Isle of Wight), Wakefield and Wormwood Scrubs.

During the early 1970s there had been a good deal of disturbance in the English prisons. The first, and probably most serious of these, had been in 1969 at Parkhurst prison. In that year Mr M.S. Gale carried out an investigation of allegations of ill-treatment of prisoners and made a report to the Home Secretary. There has always been considerable dissatisfaction with the decision not to publish this report, and Mr John Prescott, MP for East Hull, on 1 November 1976, was one of many who have failed to persuade the government to do so. In 1972, there were widespread disturbances, not only in English prisons but also in prisons abroad. It was almost certainly from this time that many prison officers began to become more demanding.

It has already been explained that, over a long period of time, English prison staff have felt alienated from the reformative aims of the system and have taken only slight interest in those aims. The events of 1972 attracted public attention to prisons, and officers suffered the humiliation, as they saw it, of being presented to the community, via the media, as incompetent. In short, they felt that they were being made to look foolish.

At the same time, the Home Office seems to have decided upon what is called, in military parlance, a 'low key' response. The argument was that if the situation were left, then it would be resolved peacefully. Officers felt that a more positive approach was required. For example, they felt that when prisoners went on to the roof to demonstrate they should be brought down. After 1972, officers began to take a much more militant stand than they had previously. They discovered that inaction, which is a synonym for 'low key', created a power vacuum that could easily be filled. This was the beginning of a process which has become hardened into an everyday tactic of many prison staff. It is to take unilateral action, to refuse to obey orders and to withhold labour, so as to put the burden for resolving the consequent disorder upon the Prison Department. In reality, it is the governor who has to

cope with this and staff militancy has now become the major problem in a governor's work.

Although the disturbances of the early 1970s were disruptive and sometimes destructive, none approached the dimension of Hull. It was in Hull in 1976, that the most serious riot since the Dartmoor 'mutiny' of 1932 was to take place. Its consequences were a good deal more prolonged than those of Dartmoor and the damage to the system likely to be more serious.



## 4

## The Hull Riot – Course and Cause

The riot in Hull prison began on 31 August 1976 and lasted until 3 September. In broad detail, the course of the riot is not a matter of dispute. The explanations offered of certain events and of the riot itself show considerable differences of opinion. After the riot, three reports were made. Since the versions given in these reports are the principal sources for this account of what happened, it is necessary to know something about them.

The first report was the result of an official Inquiry. It is entitled: *Report of an Inquiry by the Chief Inspector of the Prison Service into the cause and circumstances of the events at H.M. Prison Hull during the period 31st August to 3rd September, 1976*. It was ordered by the House of Commons on 13 July 1977 that this Report be printed and this was subsequently done by HMSO. As the title indicates, this was the official response of the Prison Department to the riot. The unsigned report was made by G.W. Fowler, Chief Inspector of the Prison Service. To help him he had seven assessors. Two of these were class I governors, one was a class III governor, two were class I chief officers and two were principals in the Civil Service. The evidence was heard in private and was not published. The Inquiry was limited to discussion of events up to the point where the prisoners surrendered. On 22 May 1977, the *Sunday Times* reported that the Inquiry, 'Will not examine allegations of violence by prison officers after the riot ended – that is being left to the police.'

The second report is that made by Mr John Prescott. Mr Prescott is the MP for the area of Hull in which the prison stands. He was present when the prisoners surrendered, and no doubt, as a politician, was faced with some very awkward conflicts at the time. Indeed, these conflicts have always created considerable difficulties for members of the Labour

Party. The difficulty centres around the fact that they have to adjudicate between three groups of people, all of whom, it may be fairly said, are people to whom the Labour Party addresses itself – prison staff, prisoners and people in the community living near the prison, who, in the cities, are generally manual workers. These three groups are, for obvious reasons, in conflict with each other, and it is for this reason that the Labour Party has never provided an effective base for prison reform.

Prescott, especially since his experience of prisons was limited, must have found it difficult to develop an attitude towards the riot which could contain these conflicts. It is to his credit that he prepared a long document and submitted it to the Chief Inspector. It expressed some sympathy for prison staff and of course discusses the riot. Its value though lies in the fact that he raises issues which are of national, rather than just local concern about the prison system. Thus, for example, he discusses the need for some kind of a 'correctional' Ombudsman. It is a fair and critical account, well researched and well informed. It is doubtless fair to say that it brought Mr Prescott little political advantage, and engendered some hostility in Hull. The report, which was widely circulated and quoted but not published, is entitled: *Hull prison riot: Submissions, observations and recommendations of Mr. John Prescott M.P. Hull East presented to Mr. G.W. Fowler, Chief Inspector of Prison Services*.

The third report grew out of dissatisfaction on the part of prisoners, ex-prisoners, those who had sympathy with them and those who dislike private inquiries and the way in which the Fowler Inquiry was being conducted. The dissatisfaction was channelled by PROP (Preservation of the Rights of Prisoners) into the setting-up of a public enquiry. In 1976, PROP was about four years old. After inevitable initial difficulties, by the time of the riot it was becoming very energetic. Prison staff have tended to regard PROP as being responsible for many of the incidents which have occurred in prisons in recent years – notably the rash of disturbances which happened in 1972. A moment's reflection on the facts shows that, for some reason, the 1972 prison disturbances were not only nationwide, but worldwide. It was as though prisoners all over the world communicated their grievances and rose in simultaneous protest. It was also commonly believed that PROP was the 'cause' of the Hull riot. This was not true, although the casual observer must have noticed that PROP was heavily involved in trying to communicate with the prisoners and vice versa. PROP was also prominent in media comment



during the course of the riot. But for one aspect of the whole business, PROP must claim substantial credit. When rumours about staff reprisals started to seep through, PROP, partly in this Inquiry, but generally in the media, helped to convince a sceptical public that these things had happened. The systematic collation of depositions from prisoners about their treatment, doubtless helped to develop the case against the prison officers who were later charged.

The Inquiry organized by PROP was called: *The Public Inquiry into the Hull Prison Riot*. Officers of PROP were anxious, fairly, at the time to emphasize that this was a 'public' not a PROP Inquiry. This should be borne in mind, since we shall refer to it as the PROP Inquiry as a convenient abbreviation.

The Inquiry was held in the Conway Hall in London from 27 May to 30 May 1978. It was chaired by John Platts-Mills QC, and its membership consisted of Peter Blackman, a well-known Barbadian, Peter Chappell, who had taken a leading part in the 'George Davis is innocent OK?' campaign, Mike Cooley, past President AUEW, Peter Hain, President of the Young Liberals, Monsignor Bruce Kent, Chairman of 'War on Want', Albie Sachs, formerly a prisoner in South Africa and Mary Tyler, a schoolteacher who had been imprisoned without trial in India for five years.

In addition, some distinguished people gave public support. They included Trevor Huddleston, Bishop of Stepney, Arthur Scargill, President of the Yorkshire area of the National Union of Mineworkers, and Austin Williams, Vicar of St Martin-in-the-Fields, Trafalgar Square.

There are many contradictions between one report and another. In terms of their relative accuracy one may note that the PROP Inquiry took evidence mainly from prisoners, that Prescott's account is concerned with issues and that Fowler took evidence mainly from staff, but also from some prisoners. In the light of subsequent events, it should be stated that the principal weakness of the Fowler Report is that it simply does not draw correct conclusions from the extensive evidence it gathered.

The point has already been made that the course of the riot is not in dispute. What happened was that the staff became aware on 31 August that there was likely to be trouble. The reason for this was that it was believed by the prisoners that a prisoner had been assaulted in the segregation unit. Since events happened so quickly, it is easy to lose sight of the fact that while this incident did not cause the riot in any total sense, it was, as several prisoners later said in their depositions,

the last straw.

The prisoner concerned stated to Fowler that, after a 'verbal exchange' between himself and a senior officer he was assaulted by four officers. He claimed that he was punched, kicked and dragged along the floor. Another prisoner, who was a cleaner in the unit, saw this, and he told prisoners who were outside the unit. Very soon, the information was all over the prison.

Naturally, Fowler spent some time in dealing with this matter. The officers concerned and other staff in the area denied the prisoner's allegation. As to the evidence of the prisoners Fowler concludes:

Three other prisoners in the segregation unit (two employed as cleaners) stated that they either saw or heard the alleged assault and conversations between this prisoner and the officers. However, these statements were in conflict with each other in a number of respects (Fowler Report, para. 272).

Fowler does not, however, elaborate on which 'respects'. Two hours after the incident, the medical officer and a hospital senior officer saw the prisoner concerned and no complaint was made. Later in the day the deputy governor and the duty governor decided that he had not been ill-treated because of the absence of marks. On the contrary, he had assaulted a senior officer and had to be restrained. Fowler adds (para. 279), 'I may say that the majority of the prisoners who saw this prisoner during the course of the riot have informed me that he had no visible injuries.' Several, he goes on, were very angry that they had been misled.

It may well have been that the 'majority' of the prisoners giving evidence to Fowler led him to understand that the man was unmarked. But by no means all of the Hull prisoners gave evidence: 'Statements were received from two-hundred-and-two prisoners (66 per cent of the population at Hull), and we have seen seventy-four prisoners who were either directly or indirectly involved in the riot and others who wished to see me' (ibid., para. 6). Prisoners were, of course, very cautious about making statements anyway, because of the prison rule, which was incorporated in the chief inspector's letter sent to prisoners, inviting evidence:

Nothing you say in your statement will be used as evidence in any criminal or disciplinary proceedings against you, except I should



point out that the making of a false and malicious allegation against a prison officer is an offence against the prison rules, and consequently any such allegation in your statement may be inquired into and may thereafter be proceeded with in the normal way as a disciplinary offence under the Rule (Fowler Report, Appendix 11).

Because of the explicit threat in this letter, it is not likely that prisoners would accuse staff of assaulting the prisoner. Some, however, did. All of those who commented on this matter to the PROP Inquiry stated that they saw, clearly, that this particular prisoner was injured.

The conclusion of this matter is an extremely effective illustration of the danger facing a prisoner who makes allegations. After the riot the prisoner was himself charged with assaulting the senior officer who was, he alleged, one of those who had assaulted him. The Board of Visitors (which will be discussed later) found him guilty and he was 'awarded' 120 days' forfeiture of remission, and 56 days' stoppage of earnings. Nor was that all. The next day he repeated his allegation and the deputy governor investigated it. Three weeks later, he was in front of the Board again, charged with 'making a false and malicious allegation against an officer'. He was found guilty and lost another 90 days' remission.

This then was the incident that sparked off the riot. At 6.30 p.m. on the same evening, the assistant governor I, acting as duty governor, was approached by a number of prisoners demanding to see the prisoner who, they believed, had been assaulted. The depositions collected by PROP made clear that this had been the dominant topic of discussion throughout the day in the prison, and that it had been agreed by a group of prisoners that they would make this demand. It should be noted that this is not an uncommon happening in long-term prisons where rumour is rife and difficult to validate. We will return to this.

There was a great deal of unusual movement about the prison, and the focal point of this was the Centre where, by about 7 p.m., between 30 and 68 prisoners were variously estimated to be talking to the duty governor. The Centre, as its name suggests, is the market place of the prison. In the classical Victorian prison it resembles the hub of a bicycle wheel, with the wings radiating out like spokes. If one stands in the Centre of a Victorian prison one can generally see into all the wings. This is precisely the effect it was designed to achieve.

Despite the duty governor's assurance that the prisoner in the segregation unit was unhurt, the prisoners continued to demand to see

him. By 7.15 p.m., they had become abusive and noisy and the governor was contacted by telephone. He refused to allow the prisoners to do as they demanded. The situation then deteriorated sharply. Just before 7.30 p.m. about 40 prisoners in the Centre were refusing to leave, the Emergency Control Room (ECR) was informed and staff were alerted. The ECR room is a feature of all dispersal prisons. It is a communications centre not only for the prison, but between the prison and, for example, the police.

The prisoners then rushed into A-wing; after a while, the staff were withdrawn from the wing. The prisoners had decided to move to A-wing because it was less exposed than the Centre and because it joined the segregation unit. By 10.20 p.m. the latter had been abandoned by the staff even though no order to that effect had been given by the governor, who had by now arrived in the ECR. Of the short time since the prisoners had assembled in the Centre, Fowler observed: 'It is clear that staff communications had already deteriorated considerably' (*ibid.*, para. 118). At 10.20 p.m., it was reported that three prisoners were on D-wing roof. 'Control of A-wing', Fowler noted, 'had by this time been completely lost'. One of the prisoners in his deposition to PROP, explained what happened then.

As soon as they [the staff] left, simultaneously the place began to get demolished, with every place being attacked at once. There was an attack on the roofs and the prisoners got out onto the roof and began making entry to the segregation unit through that roof. Prisoners attacked all the cell doors, making strategic barricades within A-wing and going along the roofs to the other two wings C and D and building barricades at various places around the main prison block. B-wing is a separate entity and most of the eighty or so prisoners in B-wing were locked . . . many smashed their cells up . . . and the windows and set fire to bedding etc. throwing it out of the cell windows . . . everyone who was in the seg. unit . . . were freed (PROP, 1979, pp. 59-60).

Meanwhile the regional headquarters had been contacted and staff were arriving in the prison. A senior officer, the physical education instructor, deployed these. This was the first mention of the role of this particular officer in filling a leadership vacuum in the prison. Unfortunately for him, as we shall go on to see, his enthusiasm became excessive. The deputy governor took a party into C-wing and all the



prisoners there were locked up, and staff withdrawn. But by midnight, Fowler reports, 'pandemonium reigned'. A, D and C-wings were 'dominated from the heights'. A-wing and the segregation unit were under the control of the prisoners, D and C had been evacuated by staff and in B-wing prisoners were still barricaded in the dining-room. The gymnasium was reported to be on fire. Staff were arriving from other penal establishments and the fire brigade and police had arrived.

The chaos continued into the early hours of the second day. Staff tried to extricate themselves from positions where they had become trapped and missiles were thrown by prisoners from their commanding positions. The most devastating development though was the discovery by the rioters of personal files, which they read. The reading of these files resulted, Fowler notes, in 'additional fury': 'although the incident concerning the prisoner in the segregation unit may have been the initial fuse, the real trigger to the devastation was the sight of the records and what they contained' (Fowler Report, para. 147).

Several of the prisoners giving evidence to PROP went into rather more detail. One man, serving life for murder, read an assessment of him which recommended that his wife should be discouraged from contacting him, said that he was having a homosexual relationship with a prisoner and that it was unlikely that he would ever be released. He was he said, 'pretty well stunned . . . There was not one good thing written in my favour' (PROP, 1979, p. 72).

Another prisoner described the reports as:

like the ravings of a very frightened, extremely paranoid and evil (amateur) psychologist. Every other word was 'psychopath', 'misfit', 'anti-authority', 'manic-depressive' and so on . . . They were all in the same language, and one prisoner's file was almost interchangeable with another . . . according to the system every friendship existing in prison was hatched out of inherent criminal tendencies, that every association was suspect, conspiratorial and everyone was up to no good (ibid., p. 60).

It was the sight of these files that provoked what John Prescott was later to call 'a huge ball of hate'.

Fowler, while understanding this fury, explains the need for records. He points out that they have to be kept for consideration for parole and so on, and they have to be frank. It is not surprising, indeed, 'It is inevitable that the records of violent, uncooperative or disaffected

prisoners will not please them' (Fowler Report, para. 286).

At about 5 a.m. three prisoners gave themselves up to officer dog-handlers. Fowler observes that: 'There was at least one occasion when a surrendering prisoner was bitten by a dog which had been unleashed. When this was reported the deputy governor gave firm instructions for all dogs to be on a leash' (ibid., para. 314). The cool reporting of this incident is in contrast to the version given by several prisoners who observed it:

he started climbing down a drainpipe. When he was about 20 feet from the ground officers started to pelt him with bricks and he fell, but when he landed on the ground the dog-handlers turned four [some accounts say three] dogs on to him, then the officers started to kick him and dig him with sticks.

This, as one prisoner observed, 'greatly deterred anyone else from giving themselves up'.

Prescott, incidentally, mentions that on a previous occasion he had complained that a man who had surrendered had been bitten by dogs. 'This was not denied', he reports 'and it was explained to me that there were difficulties in handling such dogs' (Prescott Report, paras. 3-10). This is the most extraordinary explanation, since it frankly admits that professional dog-handlers cannot control their dogs. A much more accurate explanation may lie in the fact that in jobs which are monotonous there is a temptation both to provoke action and then to demonstrate effective control of it. In other words the problem is not the misbehaviour of the dog but the boredom of dog-handling.

During the second day there was a good deal of discussion by the prison staff with the police and the fire service. The police provided plastic shields obtained from the army and a Saracen armoured personnel vehicle was brought to carry staff about in safety. Fowler emphasized that at no time was it intended to use this vehicle as an assault weapon. Meanwhile, the prisoners on the roof tried, largely unsuccessfully, to communicate with the public, with a representative of PROP, and with the media representatives outside. They were prevented from doing so by the police forbidding such communication, an order which the press accepted meekly enough. Throughout, banners were displayed claiming brutal behaviour by staff, and exhorting people to 'Remember Hull 76'. For most of the time prisoners wore masks. There was considerable administrative chaos in the prison, which was to



be the subject of much discussion in Fowler's Report: we will return to this. The second day, Wednesday 1 September ended, as Fowler reported, 'very much as it began'.

The early part of the next day, Thursday 2 September, saw a continuation of the destruction with a variety of incidents being reported to the ECR. It was reported, for example, that prisoners had made a hole into the administration block which was being held by staff, and into which a gas pipe had been inserted. The gas supply was consequently turned off. It was then reported that paraffin had been poured through and an attempt made to light it. Several fires were started which seemed to staff to be a diversionary tactic to facilitate escape. It was also reported that differences were developing amongst the prisoners. By 9.30 a.m. it was stated that 180 prisoners were loose in A, C and D-wings and that the wings were wrecked.

By mid-morning, the prisoners decided that they wanted to discuss terms for ending the demonstration. After a series of meetings, agreement was reached. The conditions were:

1. That the deputy regional director would personally supervise their reception.
2. That the chairman and deputy chairman of the Board of Visitors would be present.
3. That there would be no reprisals.
4. That they would be received by Hull officers.

This last request was assumed by some people to be an expression of trust. Fowler indeed recorded that this request was thought 'significant' at the time in view of allegations of brutality prior to the riot. However, 'a number of prisoners contend that they asked for this concession as they would be able to identify staff subsequently in the event of force being used' (Fowler Report, para. 315). One prisoner put it quite bluntly — 'we wanted to recognise the ones who would beat us up' (PROP, 1979, p. 64). The surrender was to be made at 9 a.m. on Friday 3 September. During the night, there was still a good deal of agitation, fires and 'smashing up' going on. On Friday morning the staff were paraded 'and the governor personally gave them instructions as to how the prisoners were to be received and stressed that no violence was to be used' (Fowler Report, para. 199). The fact that this order was at once disobeyed is a depressing reflection on the ill-discipline of some of the staff.

The prisoners began to come down at about 9.05 a.m. The last prisoner surrendered at about 4 p.m. As each prisoner came in he was searched, and any personal property he was carrying was placed in a polythene bag which was labelled. Fowler adds that 'no records were kept of the contents', which — as we shall see — had very serious consequences. 'The whole of the surrender operation', Fowler reports, 'had undoubtedly gone remarkably smoothly' (para. 207). Because of the damage to the prison, by 6 September, of the 310 prisoners at Hull, 235 had been transferred leaving 75, who were located in B-wing, which was the only one habitable.

That is, in essence, the course of the riot. Two matters related to it must now be considered. The first is the way in which it was handled; the second is why the riot occurred in Hull.

It will be recalled that the hidden justification suggested earlier for the acceptance of the Radzinowicz proposals was that they would be less expensive than building a new prison and, that since the cost was to be dispersed, only the most vigilant observer would appreciate the expense involved. In fact, the question of expense is occasionally asked. On 1 November 1976, Mr Prescott was told that 'estimated' total cost of improvements to security in seven dispersal prisons was 'of the order of £6 million'. But this routine parliamentary reply does not draw the attention of the media, as would a new secure prison, especially if it attracted, as it no doubt would, local hostility. The question which has to be asked is how did the new 'system' in Hull prison acquit itself?

It should be pointed out at once that no prisoner escaped, although it is nowhere suggested with any conviction that any tried. In that sense the system was successful, but it should be remembered that the police were out in force around the perimeter going about their duties in a manner which drew Fowler's admiration and which was, for him, in marked contrast with the organization of the prison service: 'their very obvious discipline and training, must have reinforced a feeling of confidence in their ability. This inevitably made the prison service appear rather less than professional in an incident of this kind' (ibid., para. 140). It is hardly remarkable that by the end of the riot the prison staff felt vulnerable and humiliated through being put into a position of defeat, with what emerged as negligible leadership and direction. This is an important issue not only because it was an integral part of the riot but because administrative decisions affected the course of the riot itself.

This is nowhere more clear than at the very beginning. Fowler's



comment on the governor's refusal to allow a visit to the prisoner who had allegedly been beaten was unequivocal:

I am bound to say that in these circumstances a request for the chairman of the Board of Visitors or his deputy to visit would not have thrown doubt upon the propriety of the administration and it is possible that the incident, certainly on this occasion, might have been avoided (*ibid.*, para. 301).

The depositions of the prisoners made to PROP conveyed the same impression. There was no room for negotiation: the only person who could have given authority – the governor – was not available. Not only did this seem to them to be symptomatic of increasing repression in the Hull regime but it tended to confirm their worst suspicions about what had happened to the prisoner who was the subject of their enquiry.

'The genesis of the loss of control', Fowler goes on, 'lay perhaps in the failure of senior and middle management to appreciate the seriousness of the situation around this time' (*ibid.*, para. 303). In making this observation he pointed out the inherent weakness of a standard feature of ECR drill: the governor went straight to the ECR and was dependent upon second-hand judgements about the situation which were defective. An important lesson for the administration would seem to be that the ECR, which was intended to be the nerve centre of such operations, was nothing of the kind. Despite the governor's view that it was, Fowler comments that: 'I am not persuaded that he is right' (*ibid.*, para. 304).

The second major error of judgement was the declining of an offer by the police to negotiate with the rioters. An assistant chief constable told Fowler that a dialogue with the prisoners could have started as early as the morning of 1 September. The police were able, he was told, to provide 'skilled negotiators' and had considerable experience. But the governor's views on this were 'unequivocal': 'He contends that total surrender was the aim and that initiative for this was certainly not going to come from his staff' (*ibid.*, para. 315). As a result a crucial skill, which the police have made something of a speciality in recent years, was not marshalled. Their offer to help with the final surrender was likewise refused.

The final judgement about the structural provision to cope with such emergencies, the need for which was a direct outcome of the Radzinowicz recommendations, is that it simply did not work. It must be conceded

that the events were almost without precedent, but at the same time there has been very little precedent for the amount of time and money spent, in the 1970s, on devising ways to cope with the situation. This led Fowler to make some statements of approval which he was immediately forced to modify to the point where they were undermined:

It should be placed on record that the North region at the time was the only region in the country operating a contingency plan. In concept it is wholly laudable and proved invaluable at Hull. To be fully effective, however, it requires proper coordination, liaison at the scene of operations, a mustering area away from the 'front line' and appropriate arrangements for deploying, relieving and feeding staff. No such arrangement existed at Hull (*ibid.*, para. 307).

The theme to which Fowler constantly returns is exemplified by statements such as 'conditions at the gate became chaotic' (para. 139) when staff arrived from other establishments; 'rumour and counter-rumour were rife amongst them as they had not been properly met or briefed' (para. 139). His comments on staff behaviour, even allowing for their lack of direction, must be regarded as very serious indeed: 'staff were acting on their own initiative and were not operating as a cohesive and disciplined entity in all cases' (para. 319). They 'were not kept in the picture as frequently as they might have been. In consequence morale was sometimes at a low ebb' (para. 319). It was difficult to be sure who was in charge. In one situation:

the A.G.I was the senior in rank, and the chief officer I was still present in his self-appointed task of 'bolstering morale'. There were at least four principal officers also present. However, the dominant figure appears to have been the ubiquitous senior officer (physical education instructor), and many staff claim to have been taking their orders from him in preparation of the defences (para. 149).

Most serious of all was his statement that: 'there was some hesitancy on the part of some staff to comply immediately with orders' (para. 377).

Even when direction was given, and orders were obeyed, Fowler questions the judgement of some of the decisions. On one occasion, for example, an order was given to try to retake D-wing. Some of the assault party were not Hull officers and the roof was occupied. The result was a volley of missiles. 'Some injuries were, in fact, sustained



but the raid could have resulted in hostages or fatalities' (para. 309). In short, while Fowler is trying to be fair about a very difficult and dangerous situation, the organizational arrangements and their operation failed dismally to minimize the crisis. There is no question but that the prisoners did an enormous amount of damage; but it is equally certain that the organization failed to restrain or curb their excesses.

But why did the riot happen at all? Some people, including Fowler, examined the working of the dispersal system. What the Home Office continued to do, however, was to maintain its obstinate refusal to reconsider the system which had been created as a result of the Radzinowicz recommendations. The discussion which follows should be seen against the background of the fact that prisoners serving very long sentences have every prospect of spending those sentences in prisons, most of which are Victorian and none of which were designed for the specific, unusual and small group of prisoners who must be considered separately from the general, traditional population. This point is constantly made by the Prison Officers' Association, which repeatedly expresses the view that Victorian prisons are not suitable as dispersal prisons.

Not surprisingly, the official and staff views of the causes of the riot and the lessons to be learned from it differ from those of the prisoners. In respect of the Fowler Report, the most important issue is avoided; that is, a radical analysis of the inherent defects of the Radzinowicz proposals. Instead, his Report pays attention to the problems of managing a dispersal prison, taking it as given that the dispersal system is to stay. His concern is to discover what went wrong in a system which, as is commonly acknowledged, simply cannot work.

He begins with the opinion, which is undoubtedly true, that the events in Hull were 'due to a number of predisposing or contributory factors' (ibid., para. 249). One of these was the fact that Hull had 'an abnormally high proportion of potentially violent prisoners' with records of violence and with a history of involvement in other disturbances. Next was the fact that the regime had been curtailed: 'for various reasons, not least staff availability and the budgetary control of prison officers' overtime' (para. 10(c)). There is no doubt that restriction on prisoners' erstwhile activities was, broadly, *the* cause of the outburst. But what the Fowler Report entirely fails to say is that this began a very long time before 'budgetary control'. He also regards ineffective management in the very early stages as a factor, as he frequently reiterates throughout the Report.

A good deal of the blame he puts down to 'the changing role of staff' (ibid., Part IV). In this section of the Report there are a number of questionable assertions and a number of contradictions. He begins (para. 255) with the claim that the 'more sophisticated prisoner of today' is 'armed with formidable knowledge concerning the law, civil rights and the legislation touching on imprisonment'. He 'realises that he has powerful allies among the pressure groups outside'. This has been accompanied by a 'withdrawal of the prison officer from a central role involving both custody and treatment to the more peripheral role of observer'. It should be said, at once, that whilst Fowler's observation is true of many staff, this 'observer' role was the outcome of the crisis of the 1960s and the precipitate employment of electronic devices and dogs.

To understand the enormous significance of this passing observation by Fowler, a classic, unstated assumption of the English prison system must be explained. As prison systems, in the last fifty years, have developed reformatory policies there has developed a conflict between the custodial and 'reformatory' aims of the organization. This conflict reaches its peak in the day-to-day work of the prison officer. It is a conflict which is the periodic standby for articles in the quality press and serious magazines.

Some prison services, notably in North America, resolve the conflict, or suppose they do, by making some officers responsible for custody and some for 'therapy'. This is an attractive idea; but it fails because the conflict remains since it is now located in two men rather than one. Questions of status and prestige quickly become heated and, typically, one group of staff becomes locked in deadly debate with the other.

The English prison system, because of its historic commitment to, and faith in, the potential of the ordinary prison officer has eschewed this as a solution. Rather it has taken the view that the officer should be concerned with the total environment of the prisoner and has sometimes alleged that, allowing for the fact that prison is a very coercive establishment, there is no real permanent or chronic conflict. An officer and a prisoner can together accept the essentially negative experience of imprisonment, and can try to treat each other with respect within that curious context. Whether anybody has ever adequately defined what 'reform' is, is very questionable. But in aspiring to the ideal of lessening the pains of imprisonment, the prison service in England has had a good record. It is a record which has centred around the fact that *every* officer has contact, which may be close, but



which is, in the narrow sense personal, with prisoners.

The events surrounding the Mountbatten Report eroded this classic principle. Now for the first time officers appeared who were to watch internal television screens and others who were appointed to patrol with dogs. This meant that now there were staff who in the course of their daily work would never speak to prisoners. Furthermore, they were to work in jobs which are excruciatingly boring. This helps explain why, in the Hull crisis, they set their dogs on prisoners. There had been very little occasion to do so in the years since Mountbatten.

The particular contribution made by the Radzinowicz proposals to this was the wide 'dispersal' throughout the system of these roles. It is important to realize that there is no connection, as Fowler implies, between the attitude of 'pressure groups' and the creation of an 'observer' role for officers. The 'observer' role arose because of undue panic over the escape of George Blake and political weakness on the part of the Labour Government of the day. Roy Jenkins, the Home Secretary, was having a hard time on many fronts, but it was he who carved a niche in penal history. He introduced dogs.

Yet Fowler talks about 'the greater liberalisation of prison life' (*ibid.*, para. 257). This is the cause, he suggests, of 'increased industrial unrest', especially since the balance is 'weighted at the moment in favour of the prisoner'. In fact, the causes of the growing dissatisfaction amongst prison officers in the last thirty years are extremely complex. The principal reason has been a constant inability on the part of prison headquarters to understand or appreciate the problems which prison staff have had to face. What is not admissible is the suggestion, which runs through the Fowler Report, that in some way increased 'liberalisation' is the cause of this. It is one factor, since such a policy does give rise to new problems for officers. What is important however is the fact that the Home Office, especially since the disbanding of the Prison Commission in 1963, has shown little appreciation of those problems. As is clear from the relationships between the two the Home Office treatment of prison staff has been dismal.

There are many reasons for this. One is that working in London conduces to remoteness. Many of the people in the Prison Department of the Home Office, who make vital decisions about the service, rarely visit the establishments. If they are junior, then they have no business doing so; if they are very senior, their interest in the service is passing since they expect to be on their way to another post. Furthermore, while members of the prison system believe that the service is important,

for the professional high-grade civil servant, it is not a prestigious area of the Civil Service. It should be borne in mind too that the prison service is in all important respects centralized. All of this adds up to the fact that the prison service has suffered for a very long time from the worst defects of heedless bureaucracy.

Fowler's summary (*ibid.*, Part VIII) recommends a review of:

- a. The present administration of the dispersal system and its regime.
- b. Staffing levels and standby resources.
- c. The respective roles of Prison Department Headquarters and Regional Offices in major incidents.
- d. Operational orders in emergencies.
- e. Investment in staff training at all levels.

These conclusions are less than adequate. As has already been said, the Report raises no basic challenge to the dispersal system. Staffing levels were carefully worked out in the early 1970s by a team of experienced prison staff in collaboration with the staff of each penal establishment. Staffing levels, furthermore, except in emergency, have but slight connection with 'standby resources' which in any case were quite adequate. Yorkshire, to take this case, bristles with penal establishments, and when the crisis arose there was no shortage of staff. What was in short supply was a capacity to deploy them. Point (c), if one has only the evidence of the Report to contemplate, is obscure since nowhere is this alleged to be a contributory factor. What Fowler is raising here, which is not discernible to the uninitiated, is the fact that the attempt to decentralize an increasingly unwieldy service is not working very well. The prison service personnel who were members of the Inquiry would take the opportunity to ascribe some of the blame, however diffuse, to the inadequacies of the relationship between London and the regional headquarters. The question of 'operational emergencies' (d) is understandable, since the Report is much concerned with these. Staff training (e) is an essential component of every report on almost any kind of organization. To allege that staff training will improve an organization without any discussion of the kind of training is a perennial ploy.

A considerable amount of time, thought and money have gone into training in the English prison service. The trouble is that the training organization is expected to solve problems and conflicts which properly belong to a particular prison. This is a common burden which is placed



on many training schemes outside of prison services. It is especially evident in prison systems because of the heightened confusion about aims and roles. As a result, training appears as either magical, in that it is expected to do everything, or harmless, in that it does nothing. Instead it should be regarded as one activity which might improve organizational performance. Fowler's listing of it is a ritual. It is a fault of the particular organization, not of defective training, if staff disobey orders.

The response of the Prison Officers' Association to the Fowler Report seeks, as any document representing a pressure group must, to extract the maximum advantage for its members. They agree with Fowler that the dispersal system is in need of improvement rather than abandonment. (This may represent a change of policy on their part.) But it is the prisoners who are largely to blame. Thus, they say, the absence of clearly defined structures 'has produced a degree of doubt and uncertainty which has been manipulated and exploited by certain criminal elements in the dispersal prisons' (POA, 1979, p. 151). The kind of change which the dispersal system introduces 'lends credence to the view that the primary intention of the dispersal system is to appease the inmate population' (ibid., p. 151). Such an analysis is distorted to the point of being grotesque. As we noted in chapter 3, the dispersal system has had the most adverse effects on the quality of life for prisoners. To accord to them the blame for disturbances is not only dishonest but blocks the way to an understanding of how trouble can be avoided. The zenith of self-interest is reached in the opinion that the Hull riot was the 'consequence of manpower restrictions', and that 'the failure of management to respond to the situation which was developing at Hull was . . . conditioned more by the pressure on local management to conform to artificial manpower limitations than to anything else' (ibid., p. 152).

One observation made by the POA provides endless debate for those who are cynical about the meaning and purpose of welfare. The point is made that prison officers should do the work undertaken by welfare officers. This 'could go a long way towards meeting the objectives set out by the chief inspector in paragraphs 355 and 356 of his report' (ibid., p. 150). The latter paragraph reads:

One of the great truths about running a prison 24 hours a day, every day of the year, however, still remains in 1977. Real security and control, irrespective of the physical devices, lies insofar as is possible,

in knowing what a person is going to do before he does it. This implies *involvement* by staff at all levels and an understanding by the public that support is needed in what is, after all a demanding and exacting job.

Thus welfare becomes (although to be fair Fowler does not say so) a means of control through enabling an effective intelligence system to be developed.

The final advantage which the Association tried to extract from the calamity was an acceptance of the idea that staff could be promoted *in situ*. This would be a considerable advantage for prison officers. Like many people in mobile positions they are not actually very keen on mobility. In any prison, a substantial number of staff will be natives of the area in which they work. Frequently, they prefer this, and there is, in the classical working-class tradition, pressure from wives to be near in-laws. Officers will very often decline promotion rather than transfer. If they could be promoted without transfer, in the past a very rare procedure, a considerable advantage would have been gained. All in all, the pronouncements of the Prison Officers' Association do not take us very far towards an understanding of the riot.

To arrive at any adequate understanding, we must turn to the views of the prisoners who were involved. Of all the welter of words about this riot, it is only those of the prisoners which adequately explain why this happened at Hull and not at one of the other dispersal prisons. What they have to say is not exclusive to Hull — indeed it is of universal relevance — but it does particularize in a way which no other version does with any conviction. Their explanation was that the regime at Hull had become increasingly repressive, until it became intolerable. This is a constant theme in their depositions to the PROP Inquiry, as the following extracts show:

It is true that the root of the trouble stems back to 1970 as Mr. Prescott explained, tension had been building up slowly throughout Mr. A.C. Kearn's term as governor, it was he who had abolished all the various committees that Mr. Perrie had formed, also he started to ban various articles in the prison — but a little bit at a time so that we wouldn't notice — and at first we didn't (PROP, 1979, p. 115).

inmates were subjected to a tightening programme in which they lost a good number of privileges, including the hour's association. Most



of these were petty, which could only have been kept in force and did nothing for security and only served to annoy frustrated men who had had them for years. Example — not allowed football socks any more (ibid., p. 16).

I got to know pretty well everyone there, that's including the screws as it was a very liberal prison at one time . . . (ibid., p. 19).

we were subjected to more turn-overs, we were getting nicked for answering back, altering our clothes to fit in shops [in workshop time], not wearing standard footwear in shops etc. (ibid., p. 27).

One prisoner mentioned another sophisticated dimension to the increasing repression. Talking of security he wrote:

They [security staff] are a fast growth industry since the Mountbatten Report and they regard themselves as the elite of the screws, acting as police in jails . . . They were systematically stopping all long-term prisoners from having the kinds of things that both the Mountbatten Report and the 'Guide to Long Term Prisons' had suggested and allowed — like for instance altering prison clothing, wearing your own underwear, T. shirts, socks, handkerchiefs etc . . . You'd get handed stuff in by visitors and you wouldn't be allowed to have it — the reason was always 'it's against security requirements, it's nothing to do with us, see security'. It was an amorphous malignant secret service (ibid., p. 57).

To people with no experience of prisons, such statements must appear confusing. What is it that the prisoners are talking about? And how far are their comments particular to Hull, and how far are their observations applicable to the general experience of imprisonment?

The main feature of prison regimes in England is the mobility of the governors. This is occasioned by a number of exigencies, the most usual and pressing of which is the promotional structure. There are three classes of governors, I, II and III and the grade of governor designated to a penal establishment will depend upon its size. At the time of the riot Hull was a governor II post. A governor III expects to become a governor II; a governor II expects to become a governor I; and it follows that the period a governor spends at an establishment may be quite short.

In the fourteen years between 1962 and 1976 there were five governors of Hull. Since the issue of regime is so very important, they must be identified:

March 1962 — February 1968	Mr E.A. Esquilant
February 1968 — August 1970	Mr W. Perrie
August 1970 — April 1973	Mr E.R. Cooper
April 1973 — August 1976	Mr A.C. Kearns
August 1976 — (during the riot)	Mr H. Parr

The next point is that the governor sets the tone of an establishment. Traditionally, governors in the English prison service have exercised a fair amount of autonomy, although there has been much discussion in recent years as to whether or not this has been eroded. The fact remains, that the traditional advice given to officers is to 'take your time from the governor'. This means that if a governor wishes to establish a given kind of regime, within certain limits, he can. He cannot control the activities of all the staff all the time, but he can very quickly demonstrate which behaviour he finds acceptable and which he does not. And generally, staff will conform. This is frequently attested to in the autobiographies of prisoners (see Baker, 1961) and staff, and when the latter talk about an experience in the past, it is the governor of that day who is the central figure in the narrative.

Mr Perrie arrived in Hull at the time of the Radzinowicz Report and, by all accounts, tried to operate a liberal regime. This should not be taken to mean that prisoners could do exactly what they wanted. It meant accepting the novelty of the situation and attempting to create a regime which, while fulfilling the primary aims of ensuring safe custody, would make life reasonably tolerable. Such a policy was entirely consonant with the Radzinowicz recommendations. One example of the attempt to develop a 'community' consisted of the establishment of a variety of committees which could act as a communication bridge between inmates and staff. Such activities have not been uncommon in the English system, but they often become ritual and pointless, as ultimately those at Hull did. What is needed to make such efforts succeed is determination, commitment and competence. After all, it requires very special skills — not to say courage — to handle a group of prisoners and staff, especially in a long-term prison, in a situation which is informal and which is intended to encourage frank exchange. Prescott, as is typical in his Report, is both correct and succinct when he writes:



Hull prison under Governor Perrie, represented a good example of the correlation between informal governor/prisoner contact and the creation of a relatively tension-free prison community. I am informed that each wing had its own representative, who with other such representatives, held regular weekly meetings with the governor. Thus a strong informal structure of contact was established between governor and prisoners. This played a part in producing a more liberal regime and resulted in less offences, incidents and tension (Prescott Report, paras. 5-17).

While this 'liberalism' meant allowing non-regulation footwear or opportunities to brew tea, such opportunities for contact contributed to that intangible and important entity called 'atmosphere'. Other components were an approachable set of governors, officers who did not enforce obsolete, petty restrictions and, in the case of Hull, the development of a dynamic relationship with the community. An example of this was the 'social studies group', which is mentioned frequently in the prisoners' depositions to PROP.

This social studies class was organized by people in the community, including a business man and the wife of a university professor. The groups consisted of between 10 and 20 citizens, a speaker and about 36 prisoners. It is impossible to exaggerate how important this opportunity was for the prisoners to meet members of the local community. Several ex-prisoners are in the habit of claiming that the opportunity to meet such people within the context of the Perrie regime made a profound difference to them and to their future behaviour. The very least that happened was that helpful, sometimes influential, visitors to the prison gave active assistance to prisoners on discharge.

There is no need to labour the nature of the regime in the last years of the 1960s. These were some examples of the components which, together, added up to the construction of a sound, commendable attempt, and one which was entirely in harmony with the best traditions of the English prison system, to lessen the misery of imprisonment and to make life more bearable and interesting for the staff. Since this is an historical as well as an analytical account of the worst riot in English prison history, it is necessary to put on record that the nature of the regime changed upon the transfer of Governor Perrie in 1970.

Although it is agreed by all those who were involved in the riot, whether as participants, or observers, or commentators, that the period 1970-76 saw the erosion of the initiatives of the earlier period, and

their replacement by a more 'disciplined' regime, the rate of change is debatable. Governor Kearns is the individual who has been blamed most heavily. He undoubtedly contributed to the changes, and of course, he was the governor who had only just left when the riot began. Therefore, he was the governor of whom most of the prisoners in the riot will have had experience. It should be remembered, however, that after Perrie left, Governor Cooper ruled Hull for almost three years, not 'briefly', as the PROP Public Inquiry said.

In any case, it is difficult in this discussion to separate private and public behaviour. Questions arise as to how far the changes were due to the exercise of the autonomy of the governor or how far a particular governor was carrying out instructions from the Home Office. Prescott is no doubt correct when he suggests:

Following Governor Perrie's departure, I observed in Hull a swing away from informal contact to the more rigid use of formal procedures. This was accompanied by increased tension which, as I have already indicated, I regard as having been a significant factor in the occurrence and nature of the recent serious riot (*ibid.*, paras. 5-17).

That is to say, the erosion of the liberal regime began before Governor Kearns took post – an opinion which is confirmed by prisoners who were in the prison between 1968 and 1973.

Although it is difficult to distinguish private from public policy, it is vital that an attempt is made since it is the universal testimony of the prisoners who gave evidence to PROP and the conviction of Prescott that the change in regime was the long-term cause of the riot. The Fowler Report never really faces this important issue squarely. But since it is immanent in the Report, it must be raised.

Some examples of increased repression given by prisoners have been mentioned. One objective measure of the repression emerged after the riot. This was the use of cellular confinement as a punishment, as Prescott describes:

Its use between 1968 and 1970 was almost non-existent, yet by the year 1975 it is ten times greater than the level for the 1968-70 period. This is all the more surprising as in 1975 Hull had 8% of the total amount of offences committed in dispersal prisons. Yet of the total number of solitary confinements in dispersal prisons, Hull was responsible for 40% in 1975. This at a time when other dispersal



prisons had reduced the use of solitary confinement as a punishment during the last decade . . . (ibid., para. 5.4).

the amazing drop in the use of solitary confinement is evident in the period from 1968 to 1970. During this period the average number of confinements for the three years dropped from 57 to 11, and from 94 in 1967 to 9 in the following year, 1968 . . . a most remarkable change . . . (ibid., para. 5.34).

In the two years 1974 and 1975, the average rises from 47 to 106 per year, with 122 solitary confinements in 1975. This represents a 125% increase on the average for the previous three years, 1971-3, and no less than an 860% increase over the level during the 1968-70 period (ibid., para. 5.35).

Fowler counters these uncomfortable figures with a number of points. He concedes that:

Before the riot there had undoubtedly been some tightening up of the regime. But it must be remembered that a Governor's job is no sinecure . . . Prisoners will always try to improve their lot and obtain privileges over and above their entitlement . . . It is when these acquisitions become excessive that a governor feels he has to apply a corrective (Fowler Report, para. 283).

There is evidence that drugs, drink and money had been finding their way into the prison and the previous Governor had been trying to stamp out these practices. His policy in this respect was one of gradualism, but it is an infinitely more difficult matter to eradicate abuse than to permit it (ibid., para. 284).

It is difficult to argue about the validity or relevance of such a statement. When a Report is merely a summary and the reader has no access to the evidence, so that he can ponder on its credibility and weight, he cannot judge. It would be interesting to know who made the allegations, what sort of quantities were being brought in and by whom. Without that information, such allegations merely provide a blanket justification for 'some tightening up of the regime'. All that passes as evidence is the list of serious offences he records as having taken place in the previous twelve months. 'Of these two involved replicas of keys, one roof-top

demonstration, two mass refusals to obey orders, one discovery of a plan to arrange an escape. There was *one* case of discovery of cannabis, *one* of a visitor being in possession of drugs, and *one* case of an officer trafficking in spirits and money' (ibid., para. 37). (Our emphasis.)

In the case of money, it is impossible for staff to control it, if the prisoners are paid in cash. This was a system which was introduced as an experiment in the Northern Region. In other areas men are paid in credit. The introduction of money always leads to trouble, it is an ill-advised measure and an 'experiment' which would never have been mounted if the slightest attention had been paid to prison history or experience in other countries. It is recounted that the 'take' at the canteen often exceeded the money actually paid out (ibid., para. 54) as though this demonstrated an especial deterioration in behaviour. The weakness is not in the behaviour of the prisoners, but in the judgement of those mounting the 'experiment'.

Further justification is offered by the needs of the Health and Safety at Work Act which: 'Had resulted in a review of the dress and general safety standards at work; this was interpreted by many prisoners as part of the policy of tightening up' (ibid., para. 285).

Another *apologium* for Kearns is indeed acceptable. But it comprises, at the same time, a most serious allegation of misbehaviour on the part of previous governors concerning the most explosive area of prison life – punishment. So serious is this, that the Report must be quoted at some length:

Alienation and tension are the indicators of situations getting out of hand. Alienation is probably best reflected by such things as the use of the segregation unit, the number of adjudications and the use of Rule 43. Tension is indicated by demonstrations about food or treatment, the number of prisoners' petitions to the Secretary of State and applications to see the Governor or Board of Visitors, requests for transfer and requests to the Welfare department. The use of these indicators in any examination of Hull prison before the riot might suggest that there had been an increase in the use of the segregation unit and an increase in the number of adjudications. Against this it must be said that the Governor from 1973 to 1976 was extremely correct in his dealings with prisoners and this included the precise entry of awards on punishment sheets. *One or two of his predecessors were, perhaps, less punctilious in this respect.* This exemplifies the difficulties of attempting an objective evaluation of



the regime at Hull under different Governors (ibid., para. 267). (Our emphasis.)

Fowler summarizes his assessment of Kearn's 'strictness', by recording that the Prison Department thought well enough of him to promote him, just prior to the riot, and he draws attention to his 'integrity and sincerity'. 'A number of prisoners', it is pointed out, 'testified to his fairness and kindness but it is equally true that a sizeable number found him too cold and aloof'. 'Some members of the Board of Visitors felt that he interpreted regulations over literally and made insufficient concessions to prisoners in treatment terms' (ibid., para. 292). Fowler concludes that he had, 'No doubt that the former Governor showed many acts of kindness to prisoners, particularly in relation to visits and welfare matters' (para. 293).

All of this is, of course, a matter of opinion, based upon evidence which is not on public display concerning the state of the prison in 1973 when Kearn arrived and the crucial issue as to whether he received direction or not. Prescott comments on the visit of the Home Office Inspectorate to the prison in 1971. Therefore, as he observes, this visit and the tightening up of the regime at Hull could be correlated. This most important question was never adequately explained by Fowler, because it was never properly examined. If in fact, a policy decision was made to tighten up Hull, then this should have been noted in the official Inquiry. If for no other reason, this would have been just to governors upon whom the bulk of the blame fell.

By now it should be clear that much of the Fowler Report is concerned with a general denial that the regime had been tightened up excessively, or that if it was, the implication is that it was necessary. But sometimes in the Report, the conclusions to this effect are not justified even from the limited evidence to which the reader has access.

There was a good deal of comment by those hostile to the changes in the regime in the 1970s (these did not only include prisoners) and to the progressive abandonment of the committee system which had been designed to facilitate communication in the prison. Fowler did not seem to realize, or would not admit, that this had happened. 'Committees', he reports, 'were an integral part of the management structure' (ibid., para. 28). But the change is clear from what he says. The Policy Committee met *ad hoc*, the Heads of Departments met quarterly, the Industrial Meeting took place 'as required', the Principal Officers' Meeting was held every six weeks, the Instructors' Meeting twice

monthly. The Staff Training Committee, the Security Committee and the Wing Committees met *ad hoc*. The only two committees which seem to have met regularly were the Senior Management Committee (weekly), and the Rule 43 Committee which meets in accordance with Rule 43 of Prison Rules to consider the disposal of prisoners separated from their fellows on their own request, or as a disciplinary measure (fortnightly). It should be noted too that, with the exception of the Wing Committees, these were staff groups. So that staff communications and consultation appears to have been very slight. A glimmer of the attitude of prisoners is afforded by the observation in respect of the Messing Committee that: 'for the past year no prisoner felt the need to attend'.

It is an organizational commonplace that the face value of setting up a plethora of committees is quickly dissipated by the difficulty of making them useful and purposeful. Prison services, because of the overtones of 'paramilitarism' and 'discipline' find this an especial trial, and many well-meaning efforts in this direction quickly come to grief. But in the experience of staff and prisoners at Hull, in the earlier days when the committees were working, they went some way to erasing misunderstanding and examining grievance. In the light of his own description of the situation in the years preceding the riot, Fowler's conclusions are quite inadmissible:

Communications throughout the prison were effected by means of these committees (para. 29). The structure of management appeared to be sound. Generally the system of communication had proved to be efficient in the past and staff were kept fully informed (para. 31).

Such comments are especially inaccurate in the light of the very serious criticism which Fowler makes of the failure of staff to appreciate and communicate the significant pointers before the riot to a very real possibility of trouble. A good deal happened which, if communication had been effective, could have been acted upon. An illustration occurred when prisoners in the kitchen asked permission to buy provisions from the canteen during working hours. This was unusual, but was not reported (ibid., Part III).

The Fowler Report is concerned, naturally, with improving control of incidents such as riots. It makes many recommendations to this end. But it is not clear if major, and generic, facts about prison systems emerge strongly enough. The matter of communications is one example.



Inadequate facilities for communication and consultation are a reflection of a managerial style. If that style is autocratic, then this will express itself, not only in the regime for prisoners, but in that for staff. Both groups make the same complaints in this respect, and both are, generally, willing to accept and to try to cope with the alternative and more complex matter of an 'open' regime. Apart from all the desirable features of the latter, a more cynical argument might be that what is presently called 'intelligence' about prisoners will be improved.

One more major discussion point must be made. This concerns 'budgetary control'. This was instituted at the behest of the government as an attempt to economize, and its most serious effect was a substantial curtailment of officers' overtime. Chief officers and governors do not get overtime. Many of the people concerned had something to say about this loss of earnings and their views should be put into context.

Prison officers, like many workers, not only earn considerable sums of money on overtime, but budget in the certain knowledge that it will be available. Thus, for example, hire-purchase commitments are entered into with the expectation that they can be met from overtime. Officers at local prisons, which deal with the courts, are the wealthiest in this respect since by the time a court rises and they take the prisoners back and settle them, many extra hours have been clocked. In some prisons, as in any other work-place, anyone doing excessive overtime is nicknamed the 'overtime bandit'.

Officials of the Prison Officers' Association have always ostensibly protested about the amount of overtime officers have to work. But 'budgetary control' confronted them with the truth that their members needed it. So they opposed this control, but not on financial grounds: they pointed to the threat to control which this policy posed.

Prescott believes that 'at least part of the problem at Hull stemmed from reductions in prison officers' overtime' (Prescott Report, para. 5.32). Fowler states that 'the effect should not be exaggerated' (Fowler Report, para. 266). He goes on to say that association was reduced by an hour (without adding per *day*) and that recreation was lessened. Although both reports point out that the Board of Visitors, a week before the riot, had written to the Home Secretary asking that Hull should not suffer overtime cuts since it was a 'powder keg', Fowler does not give the matter the same importance: 'Evidence from prisoners, however, suggests that a fair number were not averse to rather greater privacy and that the recreational facilities were the prerogative of a self-selected few' (ibid., para. 266). The only adverse effect he thought

possible, was that the duty governor, on the night of the riot, might have hesitated about calling in staff.

The prisoners had a rather different but consistent, interest and view:

The regime *before* the riot was one of intimidation and harassment, usually on visits, searches and strip searches which became more and more frequent. Petty nickings were a commonplace occurrence. What contributed most to an increase in tension was the economy cuts which adversely affected the screws' overtime. Pressure was put on the prisoners to do 'something' which would draw attention to their overtime cuts (PROP, p. 41).

This claim was made by several prisoners in their depositions to PROP. The allegation in its complete form is that the officers were provoking the prisoners, so that it would be necessary for them to be called in. Another prisoner observed 'they got more than they bargained for' (ibid., p. 39). What is definitely the case, is that this cut added to the restriction on prisoners' relative freedom. And, as was reported to the PROP Inquiry by the woman who organized the social studies class, 'budgetary control' saw its demise. Soon after his arrival, she reported, Kearns had halved the size of the class for 'security reasons'. But following the curbing of overtime, a few months before the riot, the social studies class was closed down. In its small way this marked the end of an era.

What then, in essence, was the cause of the riot? Fowler is right to draw attention to the fact that long-term prisoners in modern times are less amenable than their forebears. They are infected, like the rest of society, with the experience that blind submission to authority encourages that authority to become complacent, lazy and rigid. If you take a number of strong active men holding such beliefs, which are by no means unusual in modern society, and put them into Victorian prisons, then there is a good chance that trouble will result.

The term 'politicizing' of the prison population is used to allege that their impatience is in some way generated by 'subversive' propaganda. One may note the fascination with possible Irish involvement in the riot, by the press and by Fowler. The English prisoners in their evidence at York were to state firmly, and for no other reason than that it was probably true, that the Irish prisoners had little influence. Naturally, some took part. In short, the English prisoner is not a committed, left-



wing radical. He is simply a modern man who is likely to resist any imposition on his freedom which seems to him to be unnecessarily restrictive.

In this sense, many of the dispersal prisons are potentially explosive. Indeed, trouble is occurring with increasing regularity. Had it not been for the deterrent rule threatening punishment, perhaps more prisoners would have given evidence to the official Inquiry and explained why. Their evidence leads to the conclusion that the gradual restriction of the regime in the years leading up to the riot annoyed prisoners who, year by year, observed their freedom within the secure perimeter being eroded. 'Budgetary control' exacerbated this, especially since it put extra strain on the staff. With respect to the incident involving the prisoner in the segregation unit, Fowler wonders (para. 281) whether a different response from the governor would have 'prevented it at some future occasion'. The answer is, probably not. PROP and the Board of Visitors had both publicly stated that the situation in the prison was critical. But, as Fowler makes clear, the refusal to agree to the prisoners' demands to see their colleague was a very bad error. Access to the records added considerable fuel to the flames. And the whole episode was undoubtedly worsened by incompetence, and staff misbehaviour. Fowler is generous in respect of these phenomena, but he is ultimately forced to make very critical observations.

Thus ended four days of rioting at Hull. The English prison had seen nothing quite like it, even allowing for the only other major uprising – at Dartmoor in 1932.

## 5

# The Aftermath

As far as the outside casual observers, dependent upon processed press reports, were concerned, the surrender of the prisoners marked the end of a dramatic but finite episode. Generally, the press expressed outrage at the damage that had been done. The figure of £2 million was plucked from the air, promulgated as the cost of the destruction and soon enshrined as an accepted fact. In the event, much later, a more accurate assessment was £three-quarters of a million. Fowler forecast expenditure on building would be 'within the sum of £700,000'. To this, he reckons, another £25,000 should be added for replacement of equipment. The total cost would be 'of the order of £725,000' (Fowler Report, para. 241). But the figure of £2 million was guaranteed to mobilize public indignation and disgust at what had taken place. The full anger of the popular press was directed exclusively at the prisoners. All that now remained, it was assumed, was the punishment of the rioters.

The body which punishes prisoners for serious offences in England is the Board of Visitors. This institution was established in the nineteenth century when prisons were centralized. The Boards are appointed by the Home Secretary, in practice on the recommendation of the governor. The membership is in the great tradition of the English amateur who interests himself in public affairs. The composition of the fifteen-person Board at Hull is typical. There were two members of Hull University staff, a psychiatric social worker (in fact also a member of the University staff), a medical practitioner, a director of a family business, the warden of a community centre, a retired trade union official, a bank manager, a retired principal probation officer, a post office worker, a full-time union official, a retired insurance manager, a housewife, a headmistress and the head of a large baking and confectionary business



(who was the chairman).

As we have seen, the Fowler Report is seriously flawed by a remarkable propensity for drawing entirely the wrong conclusions from evidence and from the facts that it reports. Its discussion of the membership of the Board is a good example. Commenting on its composition Fowler proclaims: 'All sections of the community are represented' (*ibid.*, para. 338).

The Board has two main functions. The first is to monitor, for the benefit of the Home Secretary, and by extension for the information of the community, what is going on in the prison. The second is to investigate charges against prisoners which are considered to be too serious to be dealt with by the governor. It has substantial powers; it can, for example, suspend a member of staff. When it came to punishing prisoners, the Hull Board was to show that it would not flinch from exercising its powers, as two cases will illustrate.

When the riot was over, the prisoners involved were duly charged and brought before the Board. Of these, one lost 720 days' remission — equivalent to a three-year sentence — and another lost 700 days. These were typical of the Draconian awards which were handed down. Whether or not such awards were just is a matter of opinion. Significantly, the opinion of the Home Secretary was that they were not. The prisoner who lost 720 days had 120 days restored and the man who lost 700 days had 180 days restored.

One of the cases dealt with has been discussed at length by Laurie Taylor in an article called 'Bringing Power to Particular Account: Peter Rajah and the Hull Board of Visitors'. Taylor deals extensively with the implications of the eventually successful legal action by prisoners in respect of their conviction. The style of adjudication is well illustrated by a remarkable transcript of a hearing which Taylor reproduces:

Rule 47 Para 6: 'Absents himself without permission from any place where he is required to be whether within or outside prison.'

*Governor's Clerk:* Do you plead guilty or not guilty?

*Rajah:* Not guilty.

*Senior Officer Dudding:* At 2000 hours on 31 August 1976 in C Wing I was Senior Officer-in-Charge. I checked Rajah's cell at 2000 hours and found him to be missing.

*Chairman:* Were you in your cell at 2000 hours?

*Rajah:* No — I was in the showers — I was in my cell at ten past eight.

*Chairman:* Was a body check taken?

*Senior Officer Dudding:* Yes — all the doors were locked — either occupied or empty. If he wasn't in his cell at 2000 hours he couldn't have been in his cell ten minutes later.

*Rajah:* He didn't look in the showers.

*Senior Officer Dudding:* Rajah was one of a group on the centre at seven o'clock.

*Chairman:* All the cells, showers and recesses were checked — you weren't there and were not on the list of those who were there.

*Rajah:* I was in the shower at five to eight.

*Chairman:* Case Proven.

This prisoner faced four charges. He lost 390 days' remission, 154 days' privileges, 154 days' earnings and 154 days' associated labour. His hearing lasted fifteen minutes.

Whether or not this prisoner was guilty, one is bewildered, as Taylor clearly was, at Lord Justice Lane's comment in the Divisional Court:

Whatever other criticism may be levelled at the Board, no one could fail to admire their industry and application and no one could fail to applaud the way in which the proceedings were recorded and documented.

The Board, and the prison service, had another lesson to learn. This is that long-term prisoners, in modern times, will not submit to the casual infliction of heavy sentences by boards. Legal challenge to penal authority was developed in the United States, largely as a dimension of the black-power movement. The American prison systems are at the present bogged down, it may be fairly claimed, in interminable litigation over prison conditions and their alleged breaching of the Constitution. British prisoners, without any written constitution to challenge, have found adequate appeal more difficult. The English prisoner is especially disadvantaged because he is denied access to lawyers, except under very restrictive conditions. Under Prison Rule 34(8) a prisoner may not consult a lawyer, much less initiate proceedings, without the permission of the Home Secretary, even if, as is likely, the Home Office is the target of the prisoner's complaint. Matrimonial proceedings, under certain conditions, are excepted. After a complaint to



the European Commission on Human Rights in 1972, permission is not now denied where there is physical injury as a result of medical negligence.

Since Britain's involvement in Europe, however, prisoners have had access to European institutions concerned with human rights and there is every indication that they are using them with increasing vigour. However, a group of the Hull prisoners, seven in all, decided to apply to the High Court for an order of certiorari which would quash the penalties which had been awarded. The legal issue, heard before the Lord Chief Justice, was whether the punishment had been administered by the Board in an administrative or in a legal function. It was decided that the punishment had been awarded 'in the course of private disciplinary procedures' and the application was refused. However, in October 1978, this remarkable decision was reversed upon appeal. Prisoners were now given the right to appeal against the award of a Board of Visitors.

The effect on penal administration is likely to be shattering. Every week, some of the 40,000 or so prisoners in England and Wales are subjected to the curious procedures of Boards of Visitors and subsequently punished. The disadvantages they suffer in the process are legion, and are only now beginning to attract the attention of jurists. These include the fact that the hearing is in private, no lawyers are present even in an advisory capacity, there was no appeal (although that has now changed), there is no legal assistance, and no 'friend'. The governor is present at the hearing, but not during the discussion afterwards. The prisoner can only call witnesses or cross-examine with permission, and questions can only be put through the chairman. It is small wonder that there is every prospect that large numbers of prisoners will exploit their newly established right of appeal.

Apart from the injustice of prison adjudication highlighted by the awards given to the prisoners at Hull, the riot raised serious questions about the functioning of Boards of Visitors in English penal establishments. To understand just how serious their defects are, it is necessary to advert once more to the classic distinction of the English prison service — its unique degree of centralized administration. There are no local, administrative, structural links, except the one historical remnant in the shape of the Board of Visitors. In the latter, in theory, reposes the only hope that prisoners, staff and the community have, that the truth about prisons will be told. It is up to this body to ensure that excesses are curbed and maltreatment inhibited. This is especially

important because prison staff, however senior, are increasingly restrained in their wish to ensure orderly conduct amongst staff by the caution of central administration and the increasing intervention of the Prison Officers' Association.

One might reasonably assume, therefore, that the Board of Visitors would have been closely involved in a situation of total institutional collapse. Indeed, it may be fairly claimed that they had a statutory obligation to be so, and to give an intelligible, honest appraisal of events to the Home Secretary and to the community at large. In a situation of institutional breakdown, as happened in Hull, the Board of Visitors is the only answer to the classic conundrum: 'Who guards the guards?' It should be remembered too that people in the vicinity of the prison were very apprehensive and that their apprehension was exacerbated by the fact that they were given no information about events in the prison. Although local people were not aware of it, they had every right to expect the Board of Visitors to ensure that they knew what was happening.

The reality of the Board's role in the course of events is not only depressing to contemplate but provides ammunition for a demand that the whole purpose of the Boards be questioned. During the riot, there was only minimal involvement by the Board. Fowler (para. 212) claims that the Board of Visitors was 'actively concerned in the progress of events', but this is manifestly not the case. It is reported that the chairman visited from 10 a.m. to 10.30 a.m. on Wednesday 1 September, and supervised the removal of a prisoner with a broken leg. At 11.30 a.m. on the same day, he and his deputy called in. Both were in the prison on the last day, from 8.30 to 15.45, to supervise the reception of the prisoners. This modest involvement was undertaken, it should be noted, by only two of the fifteen members of the Board.

Fowler's assessment of the Hull Board and its relationship with the regime is studiously generalized, and tainted with an imprecision which is impossible to challenge unless the evidence upon which it is based is available. He reports that the Board had 'diverse views about the prison', but 'the majority had confidence in its administration before the riot' (*ibid.*, para. 329). One must ask about the size of the majority. Was it perhaps eight to seven? Fowler felt 'certain' that opportunities for members of the Board to disagree would 'never have been denied by the chairman or deputy chairman' (*ibid.*, para. 330). If this was so, this would have been a very unusual Board because boards are generally dominated by the chairman. Similar vagueness is present in the remark



that 'the broad opinion' was that 'Hull was managed by a competent and just governor and an able staff' (para. 331).

But some (once again it is not clear how many) expressed the view that 'Hull suffered from an unnecessarily restrictive regime' and 'that authority was too intrusive into their counsels' (ibid., para. 332). The chairman and deputy chairman were 'supportive to the governor and his staff without being blind to the occasional stricture which was necessary and warranted' (para. 334). When were strictures necessary, one wonders, and why?

Prescott, in his report, points out, correctly, that while the Hull Board are 'individually well-known, their membership of this Board is little known' (Prescott Report, para. 5.24). The matter of the identity of the Board's membership was raised from time to time during the riot. Generally, members who were asked for names declined to give them. One, a member of the University staff, replied to a request from one of the present writers that the list was confidential. Such is the effect of the atmosphere of secrecy in the administration of the prison system. Nor, as a matter of fact, are the members named by Fowler. If such furtive behaviour seems untypical, a simple test can be conducted: telephone the nearest penal establishment, and courteously, without explanation, ask for the names of members of the Board of Visitors. It is almost certain that the request will be denied.

Such reticence at Hull was, in a sense, well advised, since the Hull Board failed in its primary public duty. It notably failed to protect prisoners from the excesses of staff members, and it was incapable of handling the aftermath. This failure is one of the most serious aspects of the riot, especially since the chairman contributed to a carefully edited campaign in the media to maintain the discredit which the press had, for the most part, directed at the prisoners' behaviour.

In a series of press reports, generally designed to ensure that the public would be filled with distaste for what the prisoners had done, the chairman of the Hull Board was prominently featured. He dealt first with the causes of the riot:

Mr. Mackman, J.P. and chairman of the Prison Board of Visitors for the past two years, said last night after spending six hours watching the 168 prisoners surrender: 'You can't read their minds. It is hard to understand and explain a prisoner's view. I don't know how this happened, what really was behind their actions. But I am sure, very definite, that it was not, as some said, because of a prisoner being

beaten-up. That has not happened.' (*Hull Daily Mail*, 4 September 1976.)

Mr Mackman then offered an account of the surrender, which he witnessed.

He discounted ill-treatment to any prisoner during yesterday's surrender: 'Nobody was ill-treated. Any bruising or injuries they had were noted as soon as they came through.' (Ibid.)

With regard to the prisoners' belongings, about which a good deal will be said later, he observed that: 'Their belongings were placed in individual polythene bags.' But he then went on to make an incomprehensible claim that some prisoners had left the jail with more belongings than they should have had. 'I think it was recognised that some of them took more than their share.'

It is, of course, easy for critics to be wise after the event. But the burden of responsibility on the Board of Visitors for ensuring that prisoners came to no harm is heavy. Such an utter failure to do so, as in this case, must be levelled where it belongs.

In the same newspaper report, however, the chairman observed that at least something had been learned:

The Victorians really knew how to build jails. Everyone has been saying what an old-fashioned place it is. But I don't think these new prisons would have been able to stand up to the treatment Hull prison has gone through.

We have dwelt upon this because it is such a very serious example of a Board failing in its duty: the public utterances of the chairman were critical of the prisoners, who in fact, as it was to become clear, were subjected to the very treatment the chairman had been at pains publicly to deny.

Such failure, and consequent expressions of dissatisfaction with the operation of Boards of Visitors, is not new. Indeed, it was widespread concern with the defects of the Boards which led to the establishment of an Inquiry, chaired by Lord Jellicoe into the whole question (see Jellicoe Report, 1975).

This was a quite radical Report and it recommended some basic reforms. Some of these were that members should visit more frequently;



that the membership should be more representative; that vacancies should be advertised; that the membership should have a right of access to governors' and departmental reports; and that the Board or 'Council', as it was proposed to call it, should publish its own report. The principal recommendation was that the punitive function of the Board should be abolished. This recommendation has made no difference to the workings of the Boards, since it has not been accepted. For reasons that are not at all clear, the May Inquiry has recommended against the division of the two traditional functions of the Boards.

Yet the handling of the aftermath of the Hull riot was ample demonstration that the Boards are not fitted, in any sense, to act as a judicial body, especially in a prison where the accused is so grossly disadvantaged.

One minor exception to the depressing pattern of behaviour of Boards should be made. From time to time, individual members of the Boards have carried out their duties in a critical spirit. For example, when members of the Board of Visitors at Wormwood Scrubs complained, in the early 1960s, that borstal boys were being kept too long in the Scrubs before being sent to their training borstal, there was consequent pressure on borstal staffs to speed up training. In the early 1970s, when the school-leaving age was raised to sixteen, borstals found that, for the first time, there were some young people in borstal who should be undergoing full-time education. It took an article in the *Guardian* written by a member of the Board at Everthorpe borstal, W.G. Fox, to energize the prison education service into developing a programme for the trainees, as required by law.

Naturally, in the cautious tradition of Boards, such members are not popular. They can annoy some of their colleagues, and embarrass the Prison Department. What they will not know is that their agitation about blatantly or chronically unsatisfactory features of the system will be applauded by some powerless staff, not to say prisoners. But such members, who are by no means all 'radical' or 'left wing', generally do not last. The conservative and classic amateur committee, of English tradition, has ways of negating their concern, and, because of judiciously placed frustration, causing their resignation. There is, in any case, a statutory means of getting rid of Board members who are deemed unsuitable. Appointments are for a period of up to three years, and members under seventy years of age can be 'considered' for reappointment. It is possible, therefore, simply to neglect to offer reappointment. Moreover, prison officers' unions in many parts of the world are

increasingly interfering in the management of prisons. One aspect of this intervention in England is the refusal to cooperate with members of Boards of Visitors of whom they disapprove, as has happened in 1979 at one remand centre.

Having levelled these severe criticisms at the Hull Board, it must be pointed out that one authority (Martin, 1980) records that after disturbances at Gartree in October 1978, the Board of Visitors of that prison, and for that matter the prison administration as well, performed their duties and handled the matter well. Certainly, there were no repercussions of the kind that Hull witnessed. The governor of Gartree, for example, ensured the presence of members of the Board of Visitors from the onset of trouble. This was heartily endorsed by the local branch of the POA. The surrender, when it came, was monitored by the Board, as was the checking and dispatch of prisoners' property. If the community could be certain that in future such behaviour would be usual, a good deal of unease could be removed.

We have dwelt on the deficiencies of the Boards because of their importance, in theory, to the welfare of prisoners. The Hull Board's refusal to fulfil this role was all the more serious because of the events which followed the surrender of the prisoners. These events were remarkable, did inestimable damage to the reputation of the prison service and when first alleged, were regarded as absurd by some people in the community. Yet, they and the media moved from a certain conviction that prisoners should be severely punished for the damage they had done, to a certain conviction that the allegations made by the prisoners after the riot had to be believed. How did this come about?

PROP, immediately after the surrender, began to accumulate evidence which it tried to publicize, that staff had abused prisoners. It was difficult to convince anyone, partly because of the anger which had been orchestrated by the press about the damage that had been done, and partly, as has been pointed out, because of the improbability of such allegations being true. This reluctance to accept the allegations was shared by one of the present writers.

It was not until 9 January 1977, some four months after the riot, that the *Observer* reported that five prisoners involved in the riot had contacted relatives and friends, and that they were making 'allegations of ill-treatment by prison officers'. At this stage, it was natural to continue to dismiss these. After all, it was felt, prisoners, like psychiatric and subnormal patients, are constantly making allegations which reflect either a design to wreak vengeance upon staff or a disordered imagination.



But on 24 January, the prestigious BBC television programme 'Panorama' took up the matter. It reported allegations that prisoners had been assaulted, that their property had been destroyed, and that they had been given milk which was tainted with urine. The next day, the *Hull Daily Mail* reported that the staff at Hull prison were 'extremely annoyed' at the allegations in the programme. The public at large doubtless felt that the staff were justified in their annoyance. The suggestion that prison officers would urinate in milk and give it to prisoners to drink, seemed so outrageous that it was barely worth consideration. On the other hand, prisoners were quite capable of fabricating such a charge as part of a strategy to discredit the prison staff. Long-term prisoners suffer the classic disadvantage of people who have been put away. This disadvantage, shared by psychiatric patients and old people, is that they have no credibility. Prisoners are, in the eyes of the community, additionally to be distrusted, because they are sane and anti-social, and consequently have no excuse.

Nevertheless, the interest of the press and community had been aroused, and doubts were beginning to be expressed. *New Society* on 25 January, reported that the Home Office had stated that there had been 'too many punishments to be published'. This incomprehensible statement was qualified however by the revelation that the maximum punishment which had been awarded was 810 days' loss of remission and 308 days' loss of privileges. The extent of such a sentence should be savoured slowly. It is, even by Board of Visitors standards, colossal. It is the equivalent to a three-and-half year sentence, with remission. If it had been awarded in a legally constituted court, after processes which had some claim to being just, and the recipient had been undoubtedly guilty, it would still have been a heavy sentence.

At the beginning of February, *The Times* took up the matter. It reported, first, the several versions of abuses perpetrated upon prisoners which had been handed to PROP. *The Times* also announced that Humberside Police were to investigate allegations by more than twenty inmates. The precipitating factor appears to have been a letter written by an ex-Hull prisoner which had been smuggled out of Leeds prison to Humberside Police. *The Times* article was the first to mention a phrase which was afterwards to become infamous. It was the advice given to the officers when they were beating prisoners — 'Don't mark his face.'

A short while afterwards, on 22 May, the *Sunday Times* reported that the Fowler Inquiry would not deal with the allegations of staff misbehaviour:

A government report into last year's Hull prison riot will name and criticise certain prison officers for their part in the disturbances but it will not examine allegations of violence by prison officers after the riot ended — that is being left to the police.

In the event, the Report did not 'name and criticise certain prison officers'.

The reason why the police intervened soon became clear. There was, first of all, the sheer volume of allegations which were sent to the press and especially to PROP. Experienced police officers must have concluded that groundless fabrication of so many allegations was not an exercise which even the most vindictive prisoners would have embarked upon unless those allegations were true. Not only were the allegations voluminous and very serious, but their homogeneity precluded any claim that they were untrue. It will be remembered that immediately after the assaults upon them, the prisoners were dispersed around the system. This was necessary because much of the accommodation was unserviceable, but it was to prove a considerable — cynics might say a deliberate — hindrance to the police investigation. In fact, it was an action which operated to the disadvantage of the accused officers, since dispersal meant that the possibility of collusion could be eliminated.

By now the tone of the press was very different from that displayed during and immediately after the riot. Then, the hostility towards prisoners by the press was unequivocal. Now, as an article in the *Evening Standard* on 30 May showed, it was beginning to have serious doubts about the previously held belief that prison officers could not possibly have behaved in the way suggested:

even if the separate accounts did not coincide so impressively, even if the accused had not been prepared to be identified, the stories were so appalling and the machinery of official enquiry so inadequate, the issue must be one of the most urgent public concern.

The police team appointed to investigate the allegations was led by Detective Superintendent Ronald Sagar. In a sense, this was a piece of bad news for the officers who were ultimately found guilty, since Sagar is commonly regarded as an exceptionally competent, persistent and fair policeman. The fact that he was called upon to try to enable justice to be done to people, some of whom society regarded as contemptible, was not likely to disturb his professional approach to his job. Nor, in



the event, did it. He was assisted in the investigation by Detective Sergeant Colin Passmore, Detective Constable Paul Bacon and Detective Constable John Richardson.

The police investigation, it can be safely said, was one of the most difficult and complex a police officer would be likely to encounter in a long time. The scale of the problem was made explicit at the conclusion of the trials of the staff at York. Because of the dispersal of prisoners, and for that matter, of staff, the police had to visit forty prisons, taking statements from 310 prisoners and more than 250 officers.

As if this were not enough of a logistical and wearing problem, Mr Sagar reported instances where he had met studied obstruction in his attempt to interview prisoners. On one occasion, for example, he visited a prison, having taken care, of course, to warn the staff of his arrival. When he arrived, he found that the prisoner had been transferred. This may have been incompetence but it is much more likely that this was intended to be a hindrance, and should have provoked an immediate departmental inquiry. It is, however, probable that the decision to move the prisoner was made at departmental level, since neither the officers nor the governor, acting on his own, would have the authority for this: certainly the governor, in particular, would not dare to engage in such a provocative act — even if he wanted to.

There was much in the total configuration of events surrounding the riot which brought the gravest discredit on some sections of a public service whose record through most of its history had been honourable. This obstruction of investigations was one. Another, which only becomes credible after the certainty of a criminal trial proved that some officers would urinate in milk, was Mr Sagar's statement that during his investigation he had been subjected to abuse and physical threats. These are matters to which we will return. By the time we do, their credibility will be considerably increased. During the investigation many people who were interested in the outcome complained that it seemed to be taking an inordinately long time. At the end of it all, the length of time it had taken seems perfectly understandable.

On 8 September 1977 *The Times* reported that some of the Hull staff might be prosecuted as a consequence of the revelations which were being made. But it was not until July 1978 that it was announced that twelve uniformed officers and one assistant governor would be charged with various offences arising from the aftermath of the riot. It was further announced, after some equivocation, that they were not to be suspended, but would be put in working situations where they

would have no contact with prisoners. This decision was normal, and indeed fair, since they had not been convicted of anything at all.

At the Magistrates' Court, at the end of October 1978, there was only an outline of the nature of the charges, since it was evident that they were of such gravity that they would have to go to a higher court. The proceedings in that court will be the substance of the next chapter. The most important event in the lower court was the appearance of Major James as a witness in the defence of the assistant governor. This extraordinary and courageous act by Major James, a senior governor, and a member of the Fowler Inquiry, contributed to the acquittal of the AG on one of the charges — conspiracy to assault.

These allegations, and the very heavy sentences doled out by the Board of Visitors were not the only lamentable features of the aftermath of the riot. One of the most vindictive acts carried out by some of the staff, according to the prisoners' depositions to the PROP Inquiry, was the systematic destruction of prisoners' property. At least eight prisoners alleged that their property, some of it expensive, some of it of sentimental value, had been destroyed or had disappeared. In some cases cage birds had been killed and photographs had obscenities written on them. Some prisoners claimed to have seen officers destroy property.

One prisoner discovered that all his property had disappeared. Despite repeated requests, he received no satisfactory explanation of its whereabouts. Eventually: 'The reception screw came to my cell and told me all my gear was lost. When I asked how, he said, "It isn't advisable to ask those questions."' Later on, he saw the place where prisoners told him the staff had burned a lot of property: 'I noticed radios and batteries and envelopes and photos still scattered about a big, smouldering pile of rubbish' (PROP, 1979, p. 30).

Another described his return to his cell:

My cell was like a refuse tip. I'll give you a brief insight. All my photos were torn up, my letters were in a pile in the centre of the floor mixed with excrement and urine, snooker cue in bits, running shoes soleless, same with sandals, bedspread in ten-inch squares, radio and record player in little bits. So I ended up with no property (ibid., pp. 112-13).

Another described his inspection of his property when he arrived in his new prison after transfer from Hull:



I found that my guitar was badly damaged. Obviously this was done deliberately as the guitar is in a protective case and the type and extent of the damage indicate this. Also the guitar is valued at £50. Also missing were several educational certificates (*ibid.*, p. 20).

Yet another recounts how:

When I saw the state of my property or rather what was left of it, I went white with anger. The screw could see that I was about to explode. He said quickly that I should check what was there — that he could see things had been tampered with and that I should see the governor about it. The medallion my mother had given me had been stolen. It was a heavy and expensive one. But that is not what upset me. It was of great sentimental value. My radio was stolen, a dictionary, and an expensive pen bought for me by my sister, a bedspread, yoga books, toilet and razor set, slippers and many small articles (*ibid.*, p. 69).

These are typical of the many complaints which were made. Furthermore, these very serious allegations have never adequately been explained by the Home Office, despite the fact that prisoners kept up constant demands for the return of their property or adequate compensation. Clearly the force of their case was evident to Fowler's team, since he reports:

Unfortunately, one error, later to have serious consequences, was made. Although the governor and deputy governor gave consideration to what was to be done with the personal property in the possession of departing prisoners, specific instructions were not, in fact, implemented. A subsequent discussion about the state of B-wing resulted in an order that all cells should be stripped of their contents and made ready for new occupants. I have reason to believe that this task was carried out with an excess of zeal and that insufficient care was taken on the stripping operation (Fowler Report, para. 159).

Not only is this tantamount to an admission, however understated, that prisoners' property was damaged, but it provides one more example, with which the report is replete, of serious and chronic staff disobedience. Fowler's rather quaint phrase 'excess of zeal' was later to be put more

forcefully by an observer of equal authority — Major James. His evidence on this matter will be discussed in full. It is enough for the present to note that he told the magistrate that the officers had engaged in 'an orgy of destruction'.

For some prisoners, their transfer to other prisons was not the end: 'Those who went to Strangeways [Manchester], in buses of twelve, all were met by some twenty screws, and while handcuffed, were beaten from the buses to D-wing Seg. Unit' (PROP, 1979, p. 65). Much of the rest of the aftermath is best considered in the context of the trial of the prison staff at York. But it is worth noting, as an example of how frustrated prisoners can be in trying to obtain legal redress, that lawyers were prevented from effectively trying to represent them in their battles over their property. One London firm felt so strongly that it made a statement to the PROP Inquiry about the matter. Since it is such an effective illustration, it is worth quoting it at length:

We were in correspondence with our client and then on the 11th May [1977], we sent to our client an application for legal aid. This was returned . . . referring to an earlier letter. The Home Office inform us that — may not be allowed facilities to consult a solicitor, until he has received a reply to his Petition to the Home Secretary . . . it was submitted on the *16th September 1976* [our emphasis]. We have requested a copy of this Petition . . . as . . . [it] is the property of the Prison Department . . . we replied to the Home Office that we could not accept their refusal . . . so far we have not received a reply . . . We now feel that we are left with no alternative but to yet again take this issue to the European Court at Strasbourg.

This kind of experience was common amongst lawyers after the riot, and it had one important effect. It was to draw the attention of lawyers who have an interest in the issue of civil rights, to some of the basic ways in which English prisoners are deprived of rights which are not only taken for granted by citizens who are free, but are often available to prisoners in other countries. This may lead to a situation where some members of the legal profession will maintain an interest in prisons when the case of Hull is no longer of immediate concern.



# 6

## The Trial at York Crown Court

The trial of the accused staff took place in York Crown Court, in a part of the city which has witnessed its fair share of historical events. The court itself was the scene of the trial of Dick Turpin, and the area is overlooked by Clifford's Tower, a Norman fortress in which the Jewish population of the city were burned in medieval times. For this trial the Tower reverted to its medieval use as a look-out, this time manned by police officers. Security was strict, and included television cameras, a 24-hour guard on the courthouse, armed policemen, and a strip search twice a day of anybody wishing to attend the trial. This security was necessary because of the numbers of prisoners who would be called upon to give evidence and the fact that some of these were members of the IRA.

The historical setting was appropriate since the trial promised to break some records. It was predicted that it would be the longest and most expensive trial in legal history. But, in addition, it was the first time for 200 years that members of staff of an English prison had been charged with crimes which attracted such national interest. The previous occasion had been in the 1720s when Thomas Bambridge, the outrageous Warden of the Fleet prison was charged with ill-treating prisoners, although his offences were a good deal more ugly than those dealt with at York.

The trial opened on Monday 15 January 1979. Twelve prison officers were accused of conspiring together and with others to assault and beat prisoners at the jail: Senior Officer M.H. Stevenson (46), Senior Officer M. Dudding (47), and Officers K. Burns (29), A.J. Bumstead (27), A. Wilson (27), S. Hewson (26), P.L. Watson (36), G.N. Clarke (40) and four others who were subsequently acquitted. One of the assistant governors at the prison was charged with wilfully

neglecting his duty by failing to take steps to stop or report assaults on prisoners. The allegation was that the offences took place, in the main, on the morning after the surrender, before, during and after breakfast. Each of the accused pleaded not guilty.

The opening witnesses for the prosecution were really rather unusual, and on that account their evidence was very damaging. Both had been officers at Hull during the riot and one, McLaughlan, was still a serving officer in Wakefield at the time of the trial. The other, Unwin, who was no longer in the prison service, had not only been in the prison at the time of the riot, but went on to admit that he had taken part in the beatings.

McLaughlan's evidence included allegations which were to be discussed on several occasions during the trial. The first of these was that the physical education instructor (a senior officer) had assumed a leadership role, which manifested itself in part by his indication with a thumb signal, whether or not a prisoner was to be assaulted. McLaughlan said that he had seen the PEI give a 'thumbs down' several times.

The PEI's role had been crucial throughout the riot and its aftermath. This was noted in the Fowler Report and by Major James in his evidence to the Magistrates' Court. Having observed that there were senior members of staff present on day two of the riot, Major James went on to say:

Yet any order or instructions which were given seemed to emanate only from Senior Officer P.E.I. [Physical Education Instructor] Stevenson. Staff who were in the administration block informed me that they took their orders from him. It was as though a corporal had taken over the control of the army.

This quite extraordinary state of affairs, which James described to the magistrate, is a fair measure of how the formal chain of command had failed to maintain its authority. It also provides, incidentally, if regretably, an interesting example of that discrepancy, much discussed by sociologists, between formal and informal distribution of power.

Since Major James's critical evidence will be quoted several times, it is important to know with what authority he spoke. At the time of the riot, he was a governor class I, which is to say he was one of the most senior governors in the service. He had served for 28 years in a variety of establishments — Wormwood Scrubs, Wandsworth, Birmingham, Liverpool, Wakefield and Norwich. He had also been Superintendent



of Changi prison in Singapore. His knowledge of the riot arose from the fact that he was a member of Fowler's investigating team.

But what is even more relevant than James's considerable experience and the weight which that gives the evidence, is the courage with which he acted. It became clear, during the magistrate's hearing that the AG was going to be, as he himself said, the 'fall guy' for the defects of management. The only service witness to appear for his defence was Major James and one can only conclude that this was a personal, voluntary gesture by someone who was appalled at the position in which the AG found himself.

It is also a reasonable conclusion that James appeared without 'approval', since the appropriate service candidate would have been Fowler himself. But an even more remarkable and courageous feature of James's evidence is that it exposed the utter inadequacy of the official Inquiry and its Report: it was apparently evident to one of the assessors that some officers had behaved badly, that management had been inept and that the Inquiry had been aware of it. And yet these facts do not play the central part in the Fowler Report which they should. There can be little doubt that James's evidence at once began the process which led to the AG's acquittal.

The allegations against the PEI were especially prolific on account of this leadership role. It was to be conceded later in the trial that during the riot, his leadership, in the absence of any other, was vital.

A second matter which was raised by McLaughlan and which recurred, and was a good deal more important than perhaps was appreciated in the court, was the question of what was said at a staff meeting. At this meeting, held at some point on the morning after the prisoners had surrendered, it was alleged that officers had been instructed to 'stop horseplay' and that this instruction had been given by a principal officer in the presence of the deputy governor. The importance of this lies not in the fact that it represented a demand for control (it was already too late for that), but that it was an admission that formal authority was concerned about what was happening.

After describing some of the incidents which he had seen, McLaughlan's motives were questioned. He set out his reasons for giving evidence quite simply: 'I can say categorically that this is the worst experience I have ever had. I was asked by the police and I saw these things happen. I had to say the truth.'

His erstwhile colleague, Unwin, went into much more detail. What was especially damaging and convincing about his evidence was that,

in general, and largely in particular, it was consonant with the mass of depositions collected by PROP and with the evidence to the Public Inquiry. This was so remarkable that defence counsel, if indeed they were aware of the degree of consonance, must surely have felt rather dejected.

The picture, which Unwin was the first of many witnesses to draw, was of a deliberate, organized and coordinated scheme to punish prisoners for the riot. This, eventually, was the conclusion to which the court came. Unwin described how several officers had removed their ties and jackets; he went on to describe the scene at breakfast which was to be repeated so frequently and with so little variation that the judge, Mr Justice Boreham, began to weary of the monotony of the evidence. It was a monotony, born not of the tedium of dull voice and language, but of endless repetition of an apparently truthful version of the events of that day.

The violence started at 'slopping out'. This remains the most memorable and the most depressing experience of imprisonment in England. It is when prisoners are unlocked, carry their chamber-pots to the recess, empty them, and go back to their cells. During this ritual there was, Unwin claimed, 'pushing, shoving and abuse'. (Unwin admitted joining in.) Prisoners had their ankles kicked, and one prisoner was dealt 'two pretty good blows' by the PEI, who was a judo black belt. It was especially noticeable, the witness explained, because: 'for [the PEI] to hit anyone and for them not to go down is memorable.' One of the accused, Unwin alleged, had to be restrained by other officers as he kicked prisoners on the way back to their cells.

Then it was time for breakfast. The pattern here was to insist that prisoners turned up for breakfast whereupon they were doused in jam, cornflakes were thrown over them, and they were beaten again. The whole process involved running a gauntlet of officers who, according to Unwin, laughed. One prisoner, for example, was asked if he wanted jam. He declined. But an officer said that it was part of breakfast and he had to have it. So his face was slapped with the jam spoon.

The prisoner who had, unwittingly, caused the riot, not surprisingly perhaps, came in for special treatment. An officer (not one of those accused) confronted him, and said: 'You accused me of assaulting you. I'll teach you to do that.' He was held and beaten — 'given a good hiding'. Another prisoner, described in court as a 'pathetic creature', was kicked continually as he lay on the floor, and when he was dragged back to his cell was kicked again. This was the same prisoner who was



reported in later evidence as having been forced to wipe soup off the officers' shoes. There was a kind of irony in Unwin's reply to the question as to whether at the end the prisoners got breakfast. 'I didn't see many get it, it was either kicked out of their hands or they didn't get to it.'

Unwin confirmed that there had been a staff meeting as McLaughlan had said. Further, they had been told that 'horseplay' had to stop. A significant pointer to the veracity of this is the word 'horseplay'. It is an unusual word in any circumstances outside of, say, a boarding school. But already two witnesses had reported its use. One of the accused, a senior officer, gave out the admonishment, which was to symbolize the episode for many people, not to 'mark their faces'. Unwin stated towards the end of his evidence, that he was told that he should clean up as there was 'blood all over the landing'.

On 18 January, four days after the trial began, the first of the prisoners gave evidence. So much of what he said was to be confirmed by the other 45 prisoners who gave evidence, that it is not necessary to repeat it. In contemplating these events, however, it is essential to remember the scale of the brutality and the numbers of prisoners upon whom it was perpetrated. The fact that it is not dwelt upon excessively in this account should not minimize either its scale or its seriousness.

The first prisoner was the man who later wrote the letter to the police which would prompt the investigation. He was ordered to get his breakfast. He was given bread and butter and an officer threw a handful of cornflakes into a bowl and poured milk on it. The officer who was serving jam smeared it on the prisoner's clothes and then smacked him in the face with the spoon. He was given a mug of tea, and told to 'fuck off'.

When he was near his cell, an officer knocked the tea all over him and a number of officers then beat and kicked him. He did not remember getting back into his cell but he woke up with a bloody nose, and two slices of bread. The prisoner was then unlocked again and told to 'slop out'. He never arrived. He was knocked down and kicked, and returned to his cell. After describing the treatment of other prisoners, he concluded by relating how he was beaten on the way to a van to be transferred. An officer kicked him saying: 'Take that to Strasbourg as well.' The final assault was punctuated with a cry of 'Remember Hull 76.' Like many others, this prisoner was transferred to another prison. All in all, this experience was alleged to be typical. There were, however, some refinements and variations.

Several prisoners said that the tea, milk and soup contained urine. Not only did many of them say that they smelt and tasted it, but one said that he actually saw an officer, whom he named, urinate in the tea and milk. The prisoner was asked if he wanted any, and when he declined, it was thrown at him. He retorted 'tough man', and was given a hefty kick in the backside.

Another prisoner testified that he saw an officer, not in the dock, spit into the marmalade. This same prisoner seems to have had a particularly hard time. Amongst other things he was beaten while he was handcuffed. He did, however, volunteer the statement that a prison officer tried to control his assailants, saying: 'There's no need for it.'

Two prisoners described how they were held around the neck. One said that the night when the prisoners surrendered, an officer had given him a bowl of soup. The prisoner said: 'This looks like its got piss in it.' One of the officers replied: 'That's right; we did.' The prisoner thereupon shouted a warning about the soup to other prisoners and he was kicked in his 'private parts', and dropped to the floor. An officer put a towel around his neck and twisted it.

The prisoner eventually inspected his bedding and found that there were urine and excreta on it and that it had been 'done recently'. He was not the only prisoner to make this particular accusation. Nor was he alone in claiming that it was impossible to sleep because the officers kept up a constant barrage of noise. The next morning, a number of officers came into his cell and he was assaulted again. One officer, again not in court, twisted the prisoner's testicles. He was then dragged into the corridor where 'they just used me as a football'. After collecting his breakfast, he turned around, and was hit in his private parts. The prisoner butted the officer who did this, and tried to get a bucketful of tea to defend himself:

'Fight', they said, 'we've got a fighter'. They jumped on me, punched, kicked, and walloped . . . I was dragged into the recess and put upside down into the sink for emptying slops . . . They thought it was funny and there was a lot of laughing about it. I got dragged back into the cell then . . .

After a final wrench of his testicles, the prisoner was left to recover.

The second prisoner described how, after an officer had driven his right knee into his kidneys, he fell to his knees. While the same officer held his hair, 'they all ripped in'.



[He] came up behind again, grabbed me by the throat again, and crushed my windpipe. I couldn't breathe I was terrified. They took me down to the floor. 'Kung Fu' shouted 'get his legs open'. They were all kicking me round the thighs and stomach. I thought I was going to die. I couldn't breathe, my tongue came out, my eyes were popping. [A senior officer] screamed: 'That's enough, that's enough.' One said, 'You'll remember Hull 76.'

A procession of prisoners continued the same theme. One told how a jug of urine was poured over him, others described how they were pulled along by the hair or were beaten on the way to being transferred.

Many prisoners, in their evidence, observed how the IRA and black prisoners were especially humiliated. One of the former, for example, was made to sing 'God Save the Queen.' This man was held down and told to sing. He replied, 'Go play with yourself, you puff'. An officer then said, 'Hold his legs open', and then 'he put the boot in my testicles'. Later he was told, 'You Irish bastard; you'll remember me for the rest of your days.' One of the black prisoners stated that he had been kept awake on the night of the surrender by officers switching on his light, kicking his door and shouting: 'National Front rules, big black bastard.' After being beaten, this prisoner went to breakfast when an officer said: 'What does this black bastard think he is going to get?' When he did get breakfast, another officer hit his hands and the food went all over him. After being made to run the gauntlet to 'see if you can run like the other black athletes' he was put in his cell. There another officer poured the contents of a chamber-pot over him.

The other black prisoner had the same kind of treatment. He was the man that the PEI had failed to knock down, and he confirmed Unwin's version of this particular assault. He also alleged that an officer had said: 'You flash cunt. If you're not quick with this slopping out, you'll be a sorry nigger.'

Not surprisingly, there was not much resistance on the part of the prisoners to this treatment. The wing was, by everyone's account, swarming with officers, a circumstance which was never absolutely satisfactorily explained although it could have been — by the simple expedient of calling as a witness the officer who made the roster. That is assuming that it was properly drawn up and would detail the officers who should have been on the wing at that time. Two prisoners tried to resist, one effort having been described.

The prisoner whose removal in the segregation unit had sparked off

the riot was ordered to apologize to the officer 'for assaulting you at the segregation unit'. The prisoner spat in the officer's face. Another prisoner who had a cup of tea thrown over him retaliated by filling a cup and throwing it over the officer. He was then beaten but he still tried to fight back. But most people agreed that there was little resistance. Unwin indeed testified that there was: 'No violence offered to officers at all.'

By the third week of February, 46 prisoners had given evidence. The accused prison officers were defended by an impressive array of barristers, including several QCs. Altogether 13 barristers were involved in the case. The way in which those defending set about their task was predictable, ordinary, and, the defendants might have thought, not especially challenging in several areas.

Naturally, the first line of defence was to suggest that the prisoners were lying, and that they concocted their stories to discredit the staff *before* the surrender. Some of the cross-examination was elementary in the extreme, as the following exchange, which is typical, shows.

Q: You got cornflakes in your face?

A: Yes.

Q: It didn't happen did it?

A: Yes it did.

This was hardly likely to undermine, or even to challenge the credibility of the prosecution's case. There was, in any case, a very serious flaw in the attempt to prove that the prisoners had collaborated in their versions of events. Since they were dispersed on the morning after the riot, their chance of communicating thereafter was nil. It was alleged, therefore, that they conspired before surrender. But to accept this as possible would mean that the court would have to believe that prisoners would know that there would be enough of the activity which they described to make a credible case. This is just possible. But the real fallacy in this particular defence argument is that the prisoners would have had to know which officers were to be on duty in the wing on the following day so that they could be named, *before* the surrender. That was impossible. And yet this was never aired in the court.

The next predictable theme in the defence was to allege that the witnesses were not credible. It is, of course, a commonplace in the courts to impugn the honesty or accuracy of the witnesses. Those witnesses who were prisoners were especially vulnerable to accusations



of dishonesty and malice. After all, as several questioners demonstrated over and over, they had all been convicted of very serious offences, for which they had been given long sentences. Furthermore, they had all pleaded not guilty at their trials and logically, it was often implied, would commit perjury with impunity. As to why they should do so, the defence lawyers explained that there was no doubt of the hatred they felt towards prison staff. These questions were typical:

*Q:* On the other hand, the witnesses are by definition of bad character?

*Sagar:* Yes, very bad character.

*Q:* There are desperate, violent men in Hull prison?

*McLaughlan:* There could be: I've not had experience of many.

*Q:* There are a number of IRA men there, prepared to do anything to achieve their ends. They will murder and bomb. One of their targets is prison officers?

*McLaughlan:* In Ireland, not here.

*Q:* Apart from theft, you were convicted of garage-breaking, shop-breaking, house-breaking, burglary, and many thefts; fraud with a motor-vehicle licence, taking and driving away?

*A:* Yes.

*Q:* Did you once escape from the custody of the police?

*A:* Yes, from Leeds Town Hall.

*Q:* Did you commit, at that time, grievous bodily harm during that escape?

*A:* Yes. On three officers.

What the lawyers were doing during such questioning was to mobilize, as part of their defence, the classic and characteristic disadvantage which prisoners and psychiatric patients typically suffer. That is, they have no credibility, because the right to be listened to, and perhaps believed, is a right which every convicted person foregoes. That is why investigations of allegations in total institutions are so often unsatisfactory, whether they take place in prison, old people's homes or psychiatric hospitals. This particular tactic, whilst it was understandable, failed at York because of the weight of evidence given by men, who, regardless of previous histories, were articulate and whose evidence was identical in all important respects. At times, the suggestion that the

allegations were made through malice back-fired. On one occasion, for example, when a prisoner was so accused, he replied: 'Do you think I enjoy seeing them sat there? I was there myself.'

The defence tried to prove dishonesty by raising the failure of the prisoners generally to complain to the governor or medical officer. As the prisoners repeatedly pointed out, there were very good reasons for this. In the case of the governor, they were well aware that, if it was judged that the complaint was malicious, they would be punished. Indeed, as we have seen, the prisoner whose ill-treatment had caused the riot had been so punished. One prisoner told the court that he had complained to the governor and had been told to put his complaint in writing. This, probably wisely, he declined to do. It should also be remembered that as far as the prisoners were concerned, they did not know what the attitude of the senior staff was to the behaviour of the officers. No doubt prisoners would judge it as extremely unlikely that members of the governor grades would order or condone such treatment, but the situation was unique. It must have occurred to them that it was *possible* that the governors approved.

With regard to the doctors, the prisoners' views on medical treatment were repeated many times in the court. At the present time medical care of prisoners is a matter of public concern on several accounts. The over-use of drugs is constantly being commented upon, and the right, or rather absence of it, to consult a second medical opinion is a target for the human rights movement. The assumption of most institutional doctors, including those in the prison service, is that people who report sick are malingering. If these facts are borne in mind, and if the mood at the conclusion of the riot can be imagined, the reluctance of prisoners to complain to medical officers can be understood. Nevertheless a few prisoners did report sick. One, after transfer:

saw a woman doctor, and made a complaint. Bruises had started to show all over my body, my chest was feeling very sore. I saw a man doctor a few days later about my chest, and he strapped my chest up for three weeks.

Again, to question why prisoners did not consult the medical officer was an understandable defence tactic, since people unfamiliar with prisons, such as the jury, would not be aware of the special nuances of prison medical care.

There were similar attempts to discredit the two officers who had



been witnesses to the crimes. McLaughlan was accused of fabricating stories about his colleagues, so that he would be transferred. It was implied that he was anxious to remain in the service so as to be able to keep his free accommodation. There was also an implication that the fact that he had passed the examination to become an assistant governor in some way influenced his evidence. But this was one of the many occasions where the defence was rambling, and ultimately rather pointless, since it was never clear what his examination success had to do with the question of his motives. McLaughlan was a difficult witness to challenge because he was still a prison officer and he had taken no part in the offences. It was difficult to avoid concluding that he was a courageous man.

Unwin, on the other hand, was a different case. He was no longer an officer and, on his own admission, he had taken part. Naturally, he was accused of trying to avoid prosecution.

*Q:* You purchased freedom from prosecution by giving totally untrue evidence.

*Unwin:* No I didn't. That's untrue.

There are some remarkable inconsistencies in such questioning. Was the suggestion that he fabricated evidence to save himself? Was the implication therefore that he assaulted the prisoners on his own? Unwin had also to submit to some scurrilous remarks about his private life. The fact that he had extra probation when he joined the service, his relationship with his wife and the way in which his quarters were kept were all the subject of cross-examination. But his evidence was unshaken.

The police evidence received the treatment that police evidence generally does. Its accuracy was challenged, as was the method of getting it. Much was made of the fact that although the Prison Officers' Association wished solicitors to be present when police interviews took place, this had not always happened: the implication being that the police had discouraged or disallowed this. It was also claimed that Wilson had been held against his will. This was the subject of a lengthy discussion between the lawyers and the judge, with the judge concluding in favour of Sagar's version of events: 'they did not force him to make any statement, they did make their notes at the time, and during the interview, not afterwards as Wilson says'. After observing that Wilson clearly understood the position about getting a solicitor, the judge said: 'What statement he gave he did so completely voluntarily.'

There was a good deal of discussion too about the way in which Bumstead's statement was taken. This statement, as presented to the court, was extremely damaging. He stated that he 'wished he'd never been there on the Saturday after the riot. It sickened me.'

*Q:* What sickened you?

*A:* The whole thing. It should never have happened . . . no one was strong enough to stop it. It's scandalous . . . Those who were abusive deserved it, the others were passive and were frightened. Their faces showed fear. What sickened me was they didn't deserve it . . . Inmates did not have a chance . . .

The defence tried valiantly to undo the harm to their case which this long statement comprised. The police were accused of having arrested Bumstead in order to get him to the police station and of having threatened to keep him overnight and take him back to Hull (this interview took place in the Midlands). Further, they were accused of not cautioning him, of suggesting to him that his attitude was putting his family in jeopardy and of telling him that he could go home in ten minutes if he was prepared to name four officers. Bumstead claimed that he only made the statement because 'he was at the end of his tether'. They also, it was claimed, refused him cigarettes. All these allegations were strenuously denied.

The defence naturally tried to prove that the events simply did not take place as alleged by the police, the prisoners and the officers who had been present. During the summing-up, the PEI's counsel pointed out correctly that his client's version of events had never wavered during the whole progress of the investigation and the court hearing.

As well as simply trying to deny the charges, the defence very smoothly introduced into cross-examination what can only be described as a note of justification. Now and again there was a hint that if these things had been done then no doubt it was excusable. And so there was much emphasis on the character of IRA prisoners, on the violence which the officers themselves suffered during the riot (one officer stated that he narrowly escaped being killed by missiles on two occasions) and the anger which had been provoked because of the damage done by prisoners. There was a good deal of use of photographs of the rooftop demonstration, with prisoners being asked to identify people. This exercise had no manifest purpose at all other than to keep the mood of the riot alive in the minds of the jury. There was even a



suggestion — made only once — that the prisoners were armed with spears. This point was raised very early in McLaughlan's evidence.

*Q:* Weren't there also makeshift spears like billiard cues with chisels and scissors tied to them?

*McLaughlan:* I didn't see them, but it was general knowledge.

The whole thrust of this part of the defence seems to have been to try to confuse the violent destruction of the prison with the violence shown to the prisoners. If officers had assaulted prisoners, then they could be excused because of the stress and strain which the prisoners had themselves created.

The defence offered for the assistant governor was altogether different. He was not charged with beating prisoners but with failing to prevent the beatings. Since the charge was different, the defence tactic was also different. Discussing this most unusual charge provides an opportunity to explain the position in which this assistant governor found himself.

The defendant was an assistant governor class II. Basically, there are two ways in which a person can become an AG II. He can be promoted from the uniformed staff, or he can be appointed directly from the outside. People who come by the second method are called 'direct entrants'. Very roughly, about two-thirds of the governor grades, that is governors and assistant governors, are direct entrants. The direct entry scheme was instituted in 1912 and despite the official opposition of the Prison Officers' Association has continued. It is vital that it does so, since prison services which promote exclusively from the rank next below find that when they want enthusiastic and intelligent men to run complex areas of the prison system, they are in short supply. In such services, by the time a man or woman is in a very senior position, interest and indeed health have generally begun to wane. In the English prison system, on the other hand, it happens that a direct entrant can be a governor of an establishment within ten years of joining the service and so still have a long career ahead of him.

One of the oddities of the system though, despite its long pedigree, is that there is considerable confusion about the role of the AG II. When he becomes an AG I the position is straightforward. In that grade, he is likely to be a deputy governor. As an AG II there has always been uncertainty as to his authority. A familiar statement is that the AG II is a 'training grade' and that he has no real authority. It has happened

that an AG II has tried to discipline an officer for misbehaviour only to be reprimanded himself for exceeding his authority. And so on the training course for AG IIs, there are interminable and inconclusive debates about precisely what his position is.

This notion that he is 'training' is one which is, of course, subscribed to by the officers since this effectively negates any precocious behaviour towards staff on his part. But it is a notion which is especially ludicrous when it is remembered that, unlike the 18-year-old subaltern in the services, direct entrants may be up to 40 years old and may have exercised considerable responsibility before joining the service. Army officers of field rank, for example, join as AG IIs. The defendant himself was 35 years old and was an ex-serviceman. But the prison service tradition has been to discourage the exercise of responsibility in any real structural sense.

All of this is important in any attempt to understand the position in which this AG found himself. Anyone understanding the prison service as Major James did would agree with his view expressed at the hearing in the Magistrates' Court that:

[it] was a totally wrong decision and a calamitous decision to put an Assistant Governor Class II in charge of B-wing on the Friday night and Saturday morning. I cannot believe that from the Regional Director downwards, that the Hull management did not realise that there had been a total lack of discipline and control.

Mr Sagar, from his analysis of the riot, agreed. He stated that:

Had the prison governor been in the gaol the morning after the riot and toured the landings where the beatings took place, it is possible there would have been nothing to complain about.

The magistrate, listening to such statements, made an observation which was widely shared at the time: 'I am surprised, having heard all the evidence, that there are not others before me.'

It was indeed a remarkable error of judgement that of six members of the governor grades in Hull prison, one of the most junior was put in charge at such a critical time. Nor can the fact that the others had had a very strenuous and tiring time justify the act.

What therefore was he to do? Supposing that he was aware of the brutality, should he have tried to stop it? It is easy to say that he



should. But would he have succeeded? The replies of the accused officers indicate the unlikelihood of his being able to do so. The AG's view in his statement, that his presence among the staff would only have 'incensed' them, was confirmed by Mr Cook, chairman of the Hull branch of the POA, who gave evidence:

Q: Do you agree that an A.G.II would have been perfectly responsible in leaving the supervision of the uniformed grades to the Chief Officers and Principal Officers?

A: Yes. I've never known an A.G. take over supervision of the uniformed staff.

Q: Would a Principal Officer resent receiving orders from an A.G.?

A: I wouldn't expect to be given orders. I would be in charge of the wing. I would personally obey it, but would resent it — I'd think he thought me incapable. I would probably report it to the Chief Officer.

Such evidence speaks volumes about the perceived role of the AG II, and more generally about the gradual erosion of discipline in the prison service which has become evident in recent years. The officers frequently demand 'discipline', and complain about its disappearance. Yet here is a senior member of the officer grades saying he, not the AG, is in charge and that he would resent orders being given. It is a measure of the generic insularity of prison work that the enormity of such insubordination seems not to be understood. The special irony in this case is that there was apparently no principal officer on the wing anyway. The fact that the AG was in an impossible position is further illustrated by Wilson's statement that: 'An assistant governor was there, but they don't come on the landings. They didn't want to know.' Without doubt, however, the most serious accusation made by the AG and reported by Sagar at the Magistrates' Court was that an officer had tried to assault him. If discipline had broken down so badly, it can be agreed that it was hardly surprising that the AG was acquitted. The tone of such evidence was, in many respects, as important as its contents. And since it is an indicator of the nature of the milieu in which the offences were committed we must now look more closely at the picture which emerged of Hull prison and of the English prison service.

The first point to be made is that, as Major James forcibly put it, there was a complete breakdown in discipline. While there was reference to the fact in the York trial, it was much more clearly spelt out in the

Magistrates' Court. This can be seen from the unequivocal statement made by James.

From the evidence I heard I formed the opinion that the discipline of the uniformed staff had completely broken down. Instances were reported to us of prison officers disobeying the orders given by superior staff. On one occasion I recollect being told by a senior officer that he had instructed four or five officers to follow him to a certain point in the prison. When he got there three of the five had vanished.

After paying tribute to the discipline of staff from neighbouring borstals who had been brought in, Major James went on:

During day two, in the late afternoon or early evening, we were informed that large numbers of uniformed prison staff (and I think a lot were from support prisons not necessarily Hull staff) engaged in exchanging verbal threats with prisoners on the roof of Hull prison. We were told that the Chief Constable of Humberside asked for them to be dispersed, and that he was alleged to have said to the governor that if they didn't disperse, he would disperse them himself.

The attitude of some of the uniformed staff was not the only remarkable feature of the affair. Mr Sagar's statements at the close of the trial, if they had not been made by a responsible police officer, would have been incredible. There was, first, the attitude of the governor grades, with the notable and honourable exception of the accused. Sagar interviewed all six members of the governor grades:

Q: Mr. — was both open and cooperative with you?

A: Yes. Mr. — was very helpful and did his very best to answer my questions as well as he could.

Q: Can you say the same of the other governor grades?

A: No sir.

As well as these forthright observations, there were serious allegations about the failure to cooperate which are veiled in some of the statements. Thus, for example, in passing Mr Sagar mentioned that Mr Cook, who was a prison officer, albeit chairman of the POA, had been helpful in certain respects. He had, for instance, given the police a list



of prisoners who had been in Hull and a list of the prisons to which they were transferred. It would have been interesting to know why such information was not put at the disposal of the police by the governor instead of being given because of the goodwill of the chairman of the POA.

But the hostility to the police did not stop at Hull. It will be recalled that the investigation involved 900 interviews and 62,000 miles of travelling. Yet:

Several times the officers arrived at jails to be told that the prisoner they wanted to interview was not there (even though he was). Sometimes they would be kept waiting for hours before being allowed to talk to inmates in uncomfortable, poky rooms. Once when the police demanded to see the governor about the delays, they were warned that they might have to face an angry group of prison officers outside the gate.

Mr Sagar also told the press that:

We generally have been treated as if we shouldn't concern ourselves with what goes on in prisons . . . Never before have I in any inquiry been subjected to so much insult, abuse, threats, aggravation and downright obstruction of justice (*Hull Daily Mail*, 5 April 1979).

If the governors were colluding with this kind of obstruction then such a state of affairs is lamentable. If they were not, then the staff were, in effect, out of control. Such incidents were not isolated and their prevalence indicates, indubitably, a measure of coordination and planning which extended beyond the accidental. As if these allegations were not enough to alarm those who were prepared to subscribe to the integrity of the prison service, the police went on to state that they had received anonymous telephone threats. They were warned that 'sworn evidence should be changed if they wanted to ensure their own safety'. Small wonder that a police officer of Mr Sagar's experience concluded by stating: 'It had been a particularly gruelling and trying enquiry — one which unfortunately for me I'd been instructed to carry out.'

All of this emerged after the trial was concluded. As well as the defence, which has been described, there were other witnesses, some expert, whose evidence did not materially affect the issue. One, for example, was a forensic expert who examined cell walls for bloodstains.

He found plenty but his evidence as to how they arrived there was inconclusive.

The next important stage in the trial was an invitation by the prosecution in a final speech to the jury to acquit two of the defendants.

After the closing speeches, which were unremarkable, the judge, Mr Justice Boreham summed up. Naturally, since the bulk of the prosecution witnesses were altogether exceptional men, he dealt with their rights and asked if they were entitled to complain. 'The fact is whatever a man's misdeeds have been he is still entitled to the protection of the law . . . The mere fact of a bad character is not conclusive of lying.' The question for the jury was whether beatings had taken place: 'If that was done there is no suggestion that there was any justification for it . . . the riot couldn't justify it . . . No amount of justification could justify it.' As to the lack of visible injury, a point which had been stressed by the defence: 'The lack of visible injury is not conclusive . . . in law it is not conclusive in favour of the defendants.'

At the conclusion of the summing-up the jury, by now reduced to eleven because of illness, retired. After seven-and-a-half hours the jury returned and acquitted four of the officers. The jury retired again, and after about three-and-a-half hours came back. The assistant governor was acquitted and the eight remaining officers were found guilty. Then there were speeches in mitigation, the principal theme of which was the enormous personal suffering which the convicted men would undergo. They would lose their jobs and their quarters. It was emphasized that the offences had been the result of 'madness'.

The judge spoke some very strong words before passing sentence. He told them that it was 'a very sad day'.

One good thing has come out of this trial. I hope it is something that has been learnt by everyone. Never shall there be a group of people who take the law into their own hands.

There was, he went on, 'no group of people so depraved that they are not entitled to protection'. He accepted that the injuries were 'reasonably slight' and that there had been 'some exaggeration in the witness box . . .'

The fact is you rallied together to inflict punishment on these prisoners. This was a concerted effort and that is the salient part of this case. By this you have, in a way, played into the hands of these wicked people.



The judge then passed sentence: Stevenson and Dudding were awarded nine months imprisonment suspended for two years; Wilson, Hewson, Watson and Burns were awarded six months imprisonment suspended for two years; Bumstead and Clarke were awarded four months imprisonment suspended for two years. The trial had lasted almost three months. The cost was enormous. An estimated £20,000 for the barristers and £65,000 worth of security were just two items of expense in a bill which no one calculated as a total.

The convictions, to judge from the reaction in the court (which caused the judge to observe that there would be no jeering), came as a shock. This was, no doubt, because of a widespread feeling, despite the judge's instructions, that the Hull prisoners had deserved what they got. The POA certainly saw it as an unfair and potentially disastrous verdict. Mr Cook advised the officers at Hull to hand in their truncheons. According to the *Hull Daily Mail* (5 April) he said: 'The way I look at it is, if they have no truncheons, that's one less allegation that can be made against them.' He also stated that: 'Now there is going to be a hardening of attitudes. This is the verdict the prisoners wanted - I.R.A. bombers, murderers, rapists and robbers. Now they have got it we shall have to wait and see the outcome.'

Such reaction was not altogether unexpected. *The Times* (26 July 1979) reported that prison officers in several parts of the country had said that they were 'ready to take protest action if suspensions went ahead' in the wake of the summonses which had just then been served. It was further reported that Mr Merlyn Rees, the Home Secretary, 'has decided not to suspend them'. But, despite the lack of resolve in dealing with unreasonable demands from some prison officers, which has typified Home Office policy in the last few years, the officers were eventually suspended.

The POA, after the sentences, at once appealed to the Home Secretary not to dismiss those who had been convicted. In some respects this action by the POA was understandable. But in deciding to make it, the POA demonstrated that it still failed to grasp what in fact had happened. This was pointed out by all sections of an incredulous press, most sections of which had vilified the mutineers at the time of the riot. The *Daily Mirror* (6 April) commented: 'The Prison Officers' Association demand that the eight guilty warders should keep their jobs is barefaced cheek . . . the officers should be content with their freedom. More than content.'

The *Guardian* (6 April) observed:

Five months after prisoners were beaten up in what was left of Hull prison following the riot, a police inquiry began. Two years after that a three month trial opened and it closed with a jury out for 10 hours. Eight officers were given suspended jail sentences. After all that, the P.O.A.'s chairman still felt able to say: 'I view with grave concern the fact that members of my association can lose their jobs and livelihoods as a result of a riot.' That is not an acceptable statement.

The *Sun* (6 April) reminded readers that: 'Mr. Peter Taylor, Q.C., who prosecuted the Hull eight, said that the trial was a test of a civilised society. *He is absolutely right.*'

A few days later, it was announced that the convicted officers would appeal and on 30 April they were dismissed. Quite what the Home Office intended by this action is difficult to imagine since an appeal to the Civil Service Appeals Board quickly, and rightly, brought their reinstatement pending the hearing of the appeal.

That is not the end of the Hull riot. There was one other very serious matter with which the Fowler Report failed to deal. This was the wholesale destruction and disappearance of prisoners' property after the riot. The staff alleged that this destruction had been carried out by the prisoners themselves, hinting at reprisals against their fellows.

It is to the evidence of Major James that we turn to throw some light on such apparently curious behaviour. He told the magistrate what he believed had happened:

After they had been transferred prison officers, in my opinion, entered into wanton destruction of the property prisoners had left in their cells. When we, the Inspectorate arrived at Hull, which was certainly ten days later, all this property was stacked in B-wing on the ground floor. One of the first questions that my colleagues and I asked was, 'How was it all smashed up?' We were told that the prisoners had done it. This was something I refused to believe. Prisoners are inclined very quickly to smash up government property and that issued to them by the prison authority. They do not, in my experience, destroy transistor radios, record players; they do not destroy gramophone records. They certainly do not tear up their photographs of relatives and loved ones, let alone write obscenities on them. And I have never known them to destroy caged birds. I



came away from B-wing with the feeling, which I still hold, that 95% of all that damage was certainly done by uniformed staff (let me say that I am aware that not all may have been Hull officers) in what I can only describe as an 'orgy of destruction'.

## 7

# The Lessons to be Learnt

What is clear from this account is that what happened at Hull, took place within the context of the historical evolution and structure of the total English prison system. If, therefore, lessons are to be learnt from this incident, they must be lessons which affect the whole system. The treatment afforded to any individual in the English system is a consequence of policies and decisions made within this wide context. An outward, if to prisoners unconvincing, sign of this national framework is that it is the Home Secretary who is ultimately responsible for what is done in prisons. Unfortunately, in recent years it has been a responsibility which has appeared slight when compared with some of his other tasks. The large scale of some of these tasks has led to a corresponding decrease in the interest expressed by MPs in prison affairs.

The last part of this analysis of the Hull riot will, therefore, deal with those issues which affect not only Hull but all prisons and prisoners in England. One of the more depressing features of prisons, and one that has been studied over a long period, is that so many of these issues are perennial and solutions seem so remarkably unacceptable to policy-makers. The reasons will become clear. Of these reasons, the most notable is the capacity of the Home Office for frustrating innovation of which it disapproves.

The first issue which must be discussed is the overall matter of administration. It will be remembered that the root of much of the present breakdown in communications in the system lies in its centralization: a constant theme in reports and inquiries in recent years. The reactive policy has been to set up a number of regional headquarters, the object of which is to bridge the gap between London and the field. This seemed, in the late 1960s when it was done, to be obvious enough and equally obvious was the idea that it should be



based on geographical areas.

The first opportunity that regional staff have had to comment on the system, was to the May Inquiry. The May Inquiry was not set up as a result of the Hull riot. It was the generally unsatisfactory behaviour and dissatisfaction of prison staff which caused its establishment in 1978. Evidence given to the Inquiry contained the view that regions did not have enough authority to operate effectively, since too many matters were still controlled by London (May Report, 1979, para. 96). An interesting example of what this meant in practice occurs in the Fowler Report. The impression one gets from the discussion in the Fowler Report is that, although the governor was responsible for what was going on, regional staff were present and from time to time became actively involved – for example, during the surrender. Yet when the governor was informed that the press were becoming increasingly impatient on the last day because it was impossible to discover exactly what was happening, he had to ask London for permission to make a statement about the procedure of the surrender. This was, incidentally, a routine matter which at that stage was proceeding smoothly (*ibid.*, para. 244). And so one is left wondering just how much London was concerned in the direction of affairs at Hull.

This raises another problem for an interested public. That is, that since regionalization, it is not at all clear how policy, which might at ground level appear insignificant, is formulated and implemented. At Hull, for instance, the instruction to the governor to change the regime, a matter of great significance, emanated from somewhere. London cannot, as it once could, be accused of being responsible since it could have been decided in regional headquarters. But it is not clear where this decision was made.

A number of important points emerge from the May Report about the regional structure. The central one of these, generally agreed, is that it does not work. Once again, it should be stressed that if some component of the prison system is defective, eventually the staff and the prisoners will suffer. Several explanations are offered for this failure. One is the reluctance of Head Office to delegate. We have already seen that the 'uniformity' of treatment policy has a rationale which is based on historical experience. The pressure to maintain it comes from staff and prisoners. Staff wish to maintain it because, for example, it is then clear what prisoners may or may not have as personal possessions. This saves a good deal of argument when prisoners are transferred. Much of the attempt by prison staff to explain away the Hull riot has

always centred around a belief that Hull was too lax, and that this was affecting 'discipline' in those prisons to which Hull men were transferred. This has constantly been emphasized by the Prison Officers' Association. As 'uniformity' has been undermined, they have advocated that any changes which are introduced should take into account an institution's ability to cope with them. The POA has consistently expressed the view that there should be as much uniformity as possible. In this they agree with that part of the Fowler Report which advocates 'equality', although, as is carefully pointed out, this does not mean a lowering of standards. 'There should be as much uniformity as possible within the dispersal system. But uniformity should not be sought by applying the undesirable principle of "equality of misery"' (Fowler Report, para. 364). At the end of this chapter we will see how uniformity in present policy is leading to a curbing of privileges and how such a policy gives every promise of considerable disorder in prisons.

The issues, in fact, are simple to understand but difficult to resolve. What the POA means by uniformity is the stripping away of those idiosyncratic privileges which have grown up in many penal establishments. They have been introduced through the liberalism and generosity of governors, they do not usually contravene regulations, and without disrupting the prison, they make life more tolerable to a degree which is out of all proportion to the amount of trouble they cause. The way in which prisoners were allowed to wear their own footwear at Hull was a case in point. It would be 'tidier' if no exceptions were made and the somewhat grim uniformity of earlier times reasserted.

Unfortunately the total penal experience is that the demand for uniformity is linked to a demand for a deterrent regime and that both are insatiable. This is one of the reasons why the Home Office, whilst subscribing to uniformity as a policy, is reluctant to delegate too much of its authority. There are other reasons too: the fact that people who have power are reluctant to share it; and the belief that if the Home Office is accountable to the Minister for prisons, then the Home Office should run them – from London.

The solution to the problem of regionalization offered by several witnesses to the May Inquiry including the Home Office is predictable and invalid. It is to 'increase resources', that antique slogan of those who are unwilling to consider fundamental change. 'The regions', the Home Office told the Inquiry, 'were under-resourced for the work they were theoretically required to undertake' (May Report, para. 5.71). One of the reasons given is really rather important. It is that the growth



of 'casework' had taken up a great deal of time in regional offices.

It should be understood that 'casework' in the Home Office context has nothing to do with social work. In the latter, casework has a precise technical meaning. In the Civil Service the term means, substantially, dealing with prisoners' petitions. The latter comprise the only means of communication, such as it is, which inmates have with the outside world, if one excludes, as one must, the Board of Visitors. These petitions have become increasingly complex in recent years because prisoners now have further access to European institutions. This has meant that some petitions are potentially, if not actually, very troublesome. The Home Office, in its evidence to the Inquiry, provides us with a very interesting example of its apprehension about delegating authority. Clearly, because of the issues which some of these petitions are raising and the political interest which they are likely to excite, the Home Office wants to regain control of them.

The way in which this was put to the May Inquiry was subtle. It was agreed that regions were over-burdened and under-resourced. Casework was, in part the cause:

the combination of the lack of sufficient resources and the burden of casework had together prevented the regions from devoting themselves to the supportive relationships with establishments that has characterised the former prison directorate (*ibid.*, para. 5.71).

The answer was:

not to transfer any further areas of operational responsibility to regional offices, but to expand the latter's existing roles (*ibid.*, para. 5.72).

This development would mean the demolition of those mini bureaucracies which have begun to grow up in regional headquarters, of 'regional education officers' and others which the Home Office saw with other factors, as 'likely to cause the rise of four considerable bureaucracies' (*ibid.*, para. 5.71). The resolution put forward by the May Inquiry was apparently that offered by the Home Office, and no doubt supported, in varying degree, by other witnesses. This was that there should be no further delegation from Head Office, and a greater concentration 'in the field of operations'. This would include frequent visits to institutions, and responsibility for detailed inspections.

Apparently to simplify the organization, 'all the regional specialists should be dispensed with or withdrawn to headquarters'. With regard to casework: 'We recommend that the casework at present dealt with both at headquarters in London and in the regions should all be dealt with at headquarters' (*ibid.*, para. 5.47).

If this last recommendation is taken up, one of the few advantages which has accrued to prisoners through the regional policy will have been lost. It is that petitions have, it is generally agreed, been dealt with more quickly since they were handled by regions. The May Report is not the first to comment upon the length of time it takes for a petition to be handled when it observes: 'We have not, for example, been impressed by the length of time taken to answer petitions' (*ibid.*, para. 5.57). This does not apply to petitions alone, it may be pointed out, but to many applications made to the prison department by staff or inmates. Nor is the predictable explanation — that some of these contain complicated issues — adequate since the experience is too common. What now remains to be seen, supposing this recommendation is accepted, is whether, because headquarters deals with them in increasing numbers, the amount of time taken to reply generally becomes excessive.

Because of this important possibility affecting casework, it would appear as though this new role for the regions would be more limited than at present but, depending upon what 'operational' comes to mean, might be more effective. This is the belief underlying the proposal. But, on the other hand, one would want to know a good deal more about how these suggestions would work out in practice before being convinced. If the case of 'inspection' is considered, the reason for caution becomes clear. If a regional headquarters carries out an inspection of an institution in its area and discovers that certain things are wrong, what powers will it have to put matters right? If its powers and influence are limited, which is to be expected, then the inspection will merely be a matter of record, and private record at that. In other words, the lack of power on the part of regions could remain a major issue.

The recommendation to remove regional 'specialists' has a certain logic. The idea, ostensibly, is to give the region an opportunity to concentrate on those issues which are important, and to which the experience of the staff could be best applied. Yet it does raise the question as to whether this dismantling operation is in any way a reflection of the disillusion with reform which is now beginning to permeate thinking about criminal justice. Does this proposal mean that



the proliferation of specialist staff which has continued unabated since the 1920s is now to be halted or reversed? On the other hand if the 'specialist' grades are to continue and to expand, then the proposals to withdraw them from regions will do little to counter the succinct statement made by the Governors' Branch of the Society of Civil Servants, which drew attention to the real organizational problems the presence of the specialists caused:

each of these additions, usually concerned with specialist needs and techniques, is equipped with its own hierarchy, channels of departmental communication, and Head Office pressure group. In the absence of agreement on basic aims, which would facilitate integration and the establishment of priorities, the department can be reasonably described as an aggregation of secondary interests more or less continually in conflict with each other (*Eleventh Report from the Estimates Committee, 1966-67, p. 64*).

In the final analysis, is there any means of breaking up the colossus which seems to be the Prison Department and of giving a degree of power to smaller units, without causing anxiety about issues such as uniformity and adequate supervision of staff?

While the attempt to develop a regional policy is praiseworthy, it is based upon a major error. This is implicit in the title 'regional headquarters'. The assumption, which was never questioned, was that a division of administration should be on a geographical basis. Hence, the regional headquarters would be in the south-east, the south-west, the midlands and the north. There are several flaws in this assumption. One of them is that it is based upon a fallacy about distance and travel. In Victorian England, it would have been sensible to have located a regional headquarters in a geographical area. Even today, however, such location, as was made clear to the May Inquiry, has failed to solve the problem. The adherence to the notion of geographical division has, in effect, made administration more cumbersome. Since regions have limited power in respect of, say, personnel matters, they become a hindrance to staff who want a decision made. If regions have no authority they provide an additional hurdle to be overcome before a request can arrive where it can be dealt with.

The administration of the prison service has, indeed, to be broken into smaller units, but instead of this being done on a geographical basis, it should be done 'functionally'. The prison service is responsible

for the administration of a wide variety of institutions: Category A prisons, local prisons, borstals, detention centres and others. Each group of these is very different from the rest. But *within* each group there is a good degree of homogeneity. Thus one borstal, in all important respects, is very much like the next. What they all have in common is a structure designed in the 1930s based upon the English public school and committed to training.

The trouble with a regional division is that each region contains examples of all these kinds of institutions. If a region is to develop policies which, while remaining within the broad remit of national policy, pay some attention to local needs and preference, a borstal or a Category A prison in one area may well be very different from that in another. Precisely this happened at Hull. The regime there in the later 1960s was very different from the average prison of the same kind. It is this assault on uniformity which has proved difficult to tolerate, and as long as regional administration is to mean anything at all, the assault is bound to continue.

If, instead, the administration were divided not by geography but by function, there could be developed a highly specialized, uniform regime for each of the groups of institutions in the system. Since each group is so obviously different from the next, such discrepancies as arose between these major groups would not be such a problem. Staff and inmates of a local prison do not expect their regime, and that of a neighbouring borstal to be the same.

This functional division would also have the advantage, especially in respect of the complicated Category A prisons, of enabling expertise to be built up by those in charge of them. Paramilitary organizations, and the prison service is no exception, find it difficult to admit that specialist knowledge is valuable in different areas of the organization. The tradition is rather that everybody is a 'generalist' who can change jobs with an equivalent rank with ease. The prison system has become too diversified to allow the maintenance of such a myth.

At one time, until the management reorganization of the 1970s, there existed a rudimentary form of this functional substructure. Up to that time, there was a Director of Borstals Administration and a Director of Prison Administration. As far as borstals were concerned this arrangement led to a feeling of identity with an important but discrete part of the larger organization. Indeed, at the present, headquarters maintains a special unit which deals with the dispersal prisons. Such a division would have some chance of success; nor would it matter if everyone



concerned worked in London. The problem of dissatisfaction in the prison system is not centred around the question of geographical proximity, or of too few visits. The problem is about action following such visits, and more generally, matters of policy and humane and intelligible administrative behaviour. The suggestion, made by May, that the regions should have an inspection role, does not solve the problem of the unsatisfactory experience of regions. It merely avoids the fundamental issue and clouds another one — that of adequate public supervision of the prison system. It is that to which we now must turn.

For a very long time, the system of inspection of prisons in England has been unsatisfactory. The community cannot be assured that there is adequate control over what is being done to prisoners nor can it assume that the truth about what happens in prisons is being told. This is not in itself to allege that the prison system is a relentless machine which doles out incessant and illegal punishment. It is to say that the community, for the most part, has been kept firmly at bay.

The present position is that the Board of Visitors has a statutory obligation to inspect and to hear complaints. The Chief Inspector and his colleagues carry out inspections at five-yearly intervals and now, it would appear from the Hull experience, occasional inquiries into incidents. The prisoners for their part, apart from applications within the system, have very limited access to lawyers, no appeal to a Member of Parliament until all other channels have been exhausted and access to the 'Ombudsman' only through an MP. There is now access to the European Commission on Human Rights, and this is where many of the grievances felt by prisoners are being dealt with. In the sense that there seem to be a large number of formal opportunities, Fowler is justified in his claim that: 'There is an extensive system for enabling prisoners to make complaints about their treatment in prison' (Fowler Report, para. 287). Despite this, prisoners are substantially cut off from the community and are vulnerable as a result. The conclusion must be that if prisoners find it difficult to make contact, then the community must do so through an adequate system of inspection.

The Home Office in its evidence to the May Inquiry recites the procedures and pronounces them as 'sufficient'. It then turns its attention to the 'Ombudsman' suggestion made by Prescott in his report on Hull. The problem here, it is alleged, is that he might over-rule a decision reached by the Prison Board, which means a decision of the Home Secretary. There would thus arise a constitutional clash because of

ministerial responsibility to Parliament. If he could not over-rule, then he could do no more than is done by the Parliamentary Commissioner for Administration (May Report, para. 5.56).

The May Report goes on to point out, as many people do, that there is a Prisons Ombudsman in Canada reporting to the Solicitor General, and that the system appears to work satisfactorily. The Inquiry, because of the haste demanded of it, did not have time to pursue this. But it is one pressing matter in respect of English prisons, which should not be allowed to lapse simply because reference has been made to it, briefly in the May Report.

For if the events surrounding the Hull riot demonstrate one thing it is that a credible system of inspection and appeal does not exist. It is impossible for a member of the prison service to inspect, in any objective fashion, the work of colleagues and friends. Not only is this something which amounts to an absolute truth but it is demonstrated by the Fowler Report. To be fair, Fowler does criticise the governor of the prison for his conduct of the riot. The muted nature of this criticism can be attributed to a reasonable attempt to deliver a professional judgement. Yet the criticism is clear and unequivocal. Where the inadequacy of the present system can be clearly seen is in the evidence given by Major James in the Magistrates' Court, and the contrast between this devastating account, and the summary statement by Fowler that this was 'an excess of zeal'. If an Inspectorate is to be anything worthy of the name, there should have been an immediate and searching inquiry into how the damage to prisoners' property was done. Instead of which, the truth only emerged because a prisoner managed to send a letter to the police and it happened that the police officer in charge of the investigation was persistent and fair minded. The 'extensive system' was of no use whatever, and the one prisoner who tried to use it found himself losing a considerable period of remission for, it was alleged, making a malicious allegation. This, of course, was the prisoner who had been the subject of the prisoners' demands when the riot began.

At the root of this is the rule which makes it an offence to make a false and malicious allegation against an officer. The disabling effect of such a rule is enormous, especially since, by definition, the credibility of prisoners rates from low to zero. The warning about the rule was even included in the letter sent by Fowler to prisoners in which they were invited to give an account of the riot. Every prisoner who made statements about staff misbehaviour which were subsequently accepted by a Crown Court jury, ran the risk — and it was a considerable risk —



of being charged. It was small wonder that very few were prepared to take the risk.

The evidence given to the May Inquiry by the governors expressed the view that there should be an independent inspector, who would report to the Home Secretary and that his reports should be published (*ibid.*, para. 5.51). The brevity of this statement should not conceal its significance. Governors apparently suggested that reports should be published, fully aware, presumably, of how this would open up the system. Moreover, they were supported in this by the regional directors.

The Home Office submitted a long paper on the matter of independent inspection to the May Committee. Predictably, the Home Office produced a number of objections to independent inspection. Put briefly, these were:

1. The Home Secretary, answerable to Parliament, is responsible for prisons. An independent inspector would be independent of Government, and this was impossible.
2. Independent reports made to the Home Secretary would not be independent because they might report an unsatisfactory situation to the man theoretically responsible for that situation.
3. There would have to be, within the Home Office, a department, outside the prison department, to advise the Permanent Under Secretary whether the report should be accepted or not.
4. The trouble with publication is that a report 'might well contain frank criticisms of personal performances' which should not be published (*ibid.*, para. 5.56ff).

The May Inquiry, whilst acknowledging some of these points, was not convinced. Several of these objections are constitutional, and are generally disposed of (*ibid.*, para. 5.58ff). While appreciating the difficulty, the Report reasserts the simple public concern which is at the root of the matter. This is that government departments, of which the prison service is one, should be more exposed to public scrutiny. It is, one may note, not rare to see the Home Office engage in such convoluted objections to proposals which they are fully aware could lead to an independent inspectorate. What is needed is the resolution to establish it. There are indeed problems which derive from the structure of the prison service. Inspectors of police, probation or education, can produce reports which are critical since although the officials making them are professionals they are inspecting the work of local bodies,

with a responsibility, in the main, to some form of local authority. The prison inspectorate is different. It is inspecting an organization at the behest both of the Minister who is accountable and of the most senior people who administer that organization.

The inadequacy of such an arrangement is evident. Unfortunately, despite their rejection of much of the Home Office view, one of the May Report's recommendations is futile. It is recommended that the inspections of particular establishments should be carried out by regional directors. This makes the whole exercise even more unconvincing since regional directors would be superhuman if they reported adversely on a prison in their own region and for which they were responsible. It must be remembered too that, while Chief Inspectors are reporting on the system to those who can affect career prospects, this is even more the case with regional directors.

The May Report does recommend that there should be within the Home Office an independent 'Prisons Inspectorate', 'headed either by someone independent of the Civil Service entirely or by a senior ex-governor as the Home Secretary may decide' (*ibid.*, para. 5.62). HM Chief Inspector of Prisons should carry out *ad hoc* inspections. One would hope, incidentally, more critically than was done in the case of Hull.

Altogether the strength of the May recommendations lies in the fact that the Chief Inspector could be from outside the service. This is what Mountbatten recommended, but the post soon became a part of the career path of the governor grades. May could have been stronger and recommended that only exceptionally should the appointment not be from outside. It is commendable too that May envisages a broader and more penetrating inspection system and that, except where security is involved, the reports should be published and laid before Parliament. Of the many important topics discussed in this Report, none is more vital than that of inspection, and the response to these recommendations should be observed with very critical interest.

There is one other recommendation which is related to the question of making prison administration more visible. This is a proposal by the May Inquiry that the Prison Boards should include two 'entirely independent non-executive members'. These two members would contribute to a Board's discussions, both as individuals with a particular expertise and as representatives of society (*ibid.*, para. 5.47(e)). The fate of this recommendation too should be of interest to those interested in the processes by which penal policy is made.



When it comes to the Board of Visitors, it has already been explained that, constitutionally, the Board must suffer from a conflict of interests; a conflict which, at the very least, makes its 'impartiality' questionable to prisoners. The reluctance of people to see that the prisoners have an inherent reason for some suspicion is really quite remarkable. In discussing the Board of Visitors, it is impossible to discuss one function without discussing the other, and the relationship between the two is the substance of the Jellicoe Report (1975).

The Jellicoe Committee recommended that the adjudication and inspection functions be split, but the Home Secretary, in a parliamentary statement on 7 December 1976, did not agree:

I am sure the Jellicoe Committee was right to emphasise the importance of the independent positions of boards, but after careful consideration and consultation, I have concluded that this independence and the boards' present functions are compatible. Accordingly, I have decided, after paying the due regard also to public expenditure implications, that boards should retain all their present functions, including those relating to disciplinary matters.

Fowler's comments on the Hull Board were generally approving, although careful reading will show that there are several conditional phrases in his assessment (Fowler Report, Part VI). Sometimes, his conclusions can only be described as contradictory. Thus he reports: 'There is no doubt that the complaints machinery was fully used at Hull prison and that the Board of Visitors dealt with applications to them seriously and conscientiously' (ibid., para. 288). But in the next paragraph it is stated that: 'Some members of the Board at Hull were not satisfied that applications to the Board were investigated with sufficient thoroughness' (para. 289). There are two reasons for this confusion and for the support that Boards in general, and the Hull Board in particular, seem to receive. In Hull, in particular, we are discussing the position with hindsight. At the time, it might have appeared that the Board had behaved well. It would have been possible to hold that opinion, if generous. But the main reason is one to which reference has often been made in this book; the lack of credibility of prisoners. The cumulative attitude of the Home Office and other authorities, as well as some sections of the community are summarized, albeit unwittingly, by Fowler at the conclusion of his discussion of the complaints procedure.

It highlights so effectively the reasons for refusing to face the issue of Board of Visitors that it is worth quoting at length.

However, irrespective of the procedure adopted for processing grievances and complaints, the large mass of such grievances will usually derive from the situation in which the prisoner finds himself and the deprivation of his personal freedom. It would seem, therefore, that in the event of any revised or augmented procedure which may be adopted, prisoners will always protest their innocence or seek reduction in sentence. They, like most of us, will always judge any procedure, no matter what it is, by the favourable result. For this reason, in the eyes of some prisoners, the Board of Visitors and the petition are seen as an extension of "the establishment" in which disciplinary proceedings are paramount, and the complaint a secondary consideration. I do not believe this to be the case (ibid., para. 291).

While this assessment has some truth, in that some prisoners, like other people, will be aggrieved even if they have been fairly dealt with, this is no justification for perpetuating a system which at present the Board of Visitors does, where it is assumed that a number of manifestly incompatible functions are carried out simultaneously. Both the intractable nature of this particular problem and the curiously effective persistence of the prison system in maintaining the *status quo* is well illustrated by the approach of the May Committee to the question both of Boards of Visitors and of inspection generally.

The May discussion on Boards of Visitors begins with a telling statement: 'Staff associations hardly referred to them, although they seemed of interest to a number of outside observers' (May Report, para. 5.91). The Report goes on to discuss the attitude of the Boards themselves to separation of the two functions. It reports that after the Jellicoe Committee, the Home Office consulted Boards, a consultation which revealed 'widespread opposition to separation' (ibid., para. 5.92). In written evidence to the May Inquiry 'only one board favoured separation'. In discussion 'none was in favour as a whole of separation . . . a few individual members were' (para. 5.95). There are few new arguments marshalled, except for two, both of which are against separation. Reporting one witness, they state:



Creating some form of external tribunal for adjudications on prisoners within prisons would make it very difficult to deny legal representation and thus legal aid. This was bound to involve additional expense and it had to be asked whether in the present economic circumstances such additional expenditure could be justified (para. 5.94).

Such a view plumbs new depths. The argument — that because a prisoner who has lost control over his affairs and is in trouble which could lead to the massive penalties awarded at Hull cannot be adequately defended because of the *expense* involved — must be some indication that there can be few reasons left for maintaining the present system.

The May Inquiry also looked at two judgements, including that on an appeal from Hull prisoners. As the Report rightly points out, the success of this appeal has given rather more safeguards to prisoners who have been unjustly dealt with. In future adjudications will be liable to review in the Divisional Court by certiorari. Judges who were consulted, and who apparently bore these judgements in mind, had reservations about the Boards but 'most' did not wish for separation (*ibid.*, para. 5.97).

The Home Office, naturally, had not changed its mind. Guidance had been circulated in 1977 'to ensure that the proceedings were fair to all concerned and the principles of natural justice observed' (*ibid.*, para. 5.100). In conclusion, the May Inquiry states that:

On balance we do not think a sufficient case for change has been made out. We have come to the conclusion that, despite the apparent inconsistency between the two roles, we should recommend that these should continue as they are presently exercised (para. 5.103).

The Report observes that 'these are serious issues' (para., 5.101). They are indeed and, furthermore, the issues are a good deal more serious than perhaps the members of the May Inquiry suppose. They state that the 'Boards may award 180 days loss of remission for the most serious offences.' But, as happened at Hull, for the most serious offences the amount of remission which can be taken away is unlimited. The Report concludes with a recommendation that the Boards should take more interest in the welfare of staff and their families.

There is another possibly important dimension to the continuing refusal to revise the role of the Boards, and to eliminate the adjudicatory function. This is concerned with the constantly expressed wish of

the prison authorities to broaden the range of backgrounds from which members of the Board are drawn. It is possible that removal of the punishment function would repel some of those who, at the moment, according to the evidence, are anxious to retain that function. Simultaneously, a new membership might be developed which would be more interested and concerned with constructive inspection of the prisons.

However, the May recommendation not to separate the functions, which is likely to terminate discussion of the matter for the foreseeable future, is an especially disappointing recommendation from this important and most recent Report on the prison service. It is a pity that even allowing for the pressure of time which made the work of the Inquiry very difficult, some more extensive discussion did not take place which would especially have taken account of the Hull situation, and the persistent efforts of prisoners to extract justice both from our legal system and from Europe.

Now, after a lengthy investigation culminating in the Jellicoe Report, the dismal experience of the Board's performance at Hull (recognized as such by the Home Secretary's restoration of some of the remission) and incessant expressions of unease, a prisoner on adjudication is in exactly the same position as he always has been. The only manifest difference is that 'Guidance' was circulated to all the Boards in 1977 by the Home Office 'to ensure that the proceedings were fair to all concerned and the principles of natural justice observed' (*ibid.*, para. 5.100). There is also a modest amount of training for Board members. But these are merely tokens. A short course cannot produce a wise adjudicator who is knowledgeable about prisons especially since it is a common complaint amongst the members that the adjudicatory function, which according to Home Office evidence to May is so liked by the Boards, is generally carried out by a limited number. Nor should it be assumed that those who do carry it out are necessarily the most fitted to do so.

Since this failure to change the system will be so disappointing, to put it mildly, for the prisoners it is as well to conclude this part of the discussion with a reminder of the procedure which a prisoner charged with an offence undergoes. There is a statutory obligation that a prisoner should: 'be given a full opportunity of hearing what is alleged against him, and of presenting his own case' (Prison Rules 1964, p. 49(2)). A prisoner is to be informed of the charge, as soon as possible in writing. Within 24 hours, it will be dealt with by the governor or referred to the Board. The hearing is private and there will be no legal



adviser present to counsel anyone. The governor and a number of prison officers will be present but they will leave the room when the Board discusses the case.

When it comes to a reasonable opportunity 'of presenting his own case', the prisoner may well have been kept in solitary confinement since his alleged offence or since being advised of the charge. If he is to answer for a serious offence, such as making a malicious allegation, he certainly will be so isolated. This means that it is impossible to contact witnesses. Indeed, in practice isolation is designed to prevent contact, since the belief is that such witnesses would in any case lie. To this should be added the probability that potential witnesses would be apprehensive about reprisals.

Finally, assuming that the accused has the intellectual and verbal ability to conduct his own defence, he can only call witnesses or cross-examine with the chairman's permission. If the accused is found guilty, which is in the nature of things more than likely, he can appeal to the Home Secretary. This has not been especially fruitful in the past. If it does operate as a brake on the capriciousness of penal adjudications in the future it will not be because of any new consciousness of a need to be just but because of an awareness that the case can now proceed to legal appeal and to Europe. Public exposure may result and this will make the civil servants handling the appeal think very carefully before rejecting it. Not that 'assurances of careful consideration' will inhibit prisoners from appealing to Europe anyway as long as the system appears unjust, not only to prisoners, but to concerned outsiders including many lawyers.

The next matter to be discussed is the dispersal system. The general debate on this matter has already been discussed in Chapter 3. Nevertheless, the Hull riot raises certain issues about the policy which must form a part of any conclusion about the event.

It is a fact that as a secure prison Hull proved effective. Fowler reports a general belief that there was an intention, at least on the part of some people, to effect an escape. The security of the prison prevented this although the prisoners must also have been aware that the perimeter of the prison was bristling with police. Where the system failed was in the control of events inside the walls. It is not a matter which is of special interest in the context of this book, but as a matter of record there has been considerable expenditure since Mountbatten in terms of equipment and training. What Fowler shows is that the Emergency Control Room did not function as the focal point of the

operation. Despite several years of training the documents were not properly kept and real control over events was located elsewhere.

Naturally, Fowler, as a professional, has a good deal to say about these failures and suggests ways of putting them right, including the perennial recommendation for more training. Nothing that happened in Hull, however, according to Fowler, justifies any serious challenge to the dispersal policy.

In other words, the intention is to press on with attempts to make the dispersal system work. In fact, Fowler recommends increasing the number of dispersal prisons. Pointing out that an additional prison is scheduled for Low Newton, he adds that he considers 'that this provision is insufficient' (Fowler Report, para. 364(i)). Furthermore, it is intended to keep Hull as a dispersal prison. Fowler lists a number of defects in continuing its use indefinitely. These are the proximity of civilian houses, the nearness of the wall to the cell blocks and the lack of open space or resources inside the prison. The Prison Officers' Association has advocated the gradual phasing out of Hull as a dispersal prison.

Given the damage that was done — and the opportunity presented, upon sound evidence, to reclassify Hull — it is remarkable that it has been reopened as a dispersal prison. Hull should have been made a local prison, which is to say it would deal with the courts and hold short-term prisoners. If it were to be made a local prison, it could relieve pressure on overcrowded Leeds and with the building of the Humber Bridge, could have relieved pressure on Lincoln by 'serving' courts on South Humberside.

But there is a more important reason for reclassifying Hull than the effective distribution of local prisons. It is that it remains, as Fowler reported, short of open space and of resources. It is, therefore, as unsuitable as it ever was for the containment of prisoners who are serving very long sentences. It is difficult to avoid the conclusion that the Prison Department learned very little from the events at Hull especially in terms of regime. It remains to be seen as to whether a sane but secure regime will be developed in Hull, which will make imprisonment a reasonably tolerable experience for those expecting to undergo it for long periods. At the time of writing there is no real evidence that such a regime is being developed. There has been serious trouble on several occasions since the riot including quite a destructive episode in April 1979. This gave the Prison Department an opportunity to show that it had introduced two improvements: blocking access to the roof



and the establishment of a riot squad.

The demand for proper equipment and training to deal with riots began to be voiced by prison officers after the Parkhurst disturbances of 1969. It now appears that this request has been granted since the squad prevented any escalation of the uprising in Hull in 1979. The governor, describing the conduct of the squad, stated: 'I can't pay enough tribute to the staff's action last night, under the circumstances of the feeling and emotion of last week. Admiration is the only word that can be used for the way they reacted to orders' (*Hull Daily Mail*, 12 April 1979).

The 'circumstance' referred to was of course the conclusion of the York trial. The development of riot squads in the English prison system is already attracting a certain notoriety. At the end of 1979, it was widely reported in the press that prison staff were being trained in the use of riot control techniques. The *Guardian* reported on 11 October that this was a 'long-term' Home Office programme. Media interest had been aroused because of an incident at Wormwood Scrubs in August 1979. There was, it appeared, a peaceful demonstration which, the Home Office said had 'got out of hand'. As a result, according to press reports, some 300 prison officers wearing riot gear 'quelled' it. PROP claimed that prisoners had been injured through the use of excessive force. An initial Home Office denial was later varied to an admission that 53 men had been hurt. An article in the *New Statesman* (12 October 1979) reported that it had collected information from 'eight different sources' and that these: 'reports tally in almost every respect and add up to an astonishing account of unprovoked violence'.

The similarity of this situation with that of Hull in 1976 is a vivid illustration of the inability of the Home Office to learn from experience. Even from the initial reports, it is clear that the two ingredients which gave Hull a place in penal history are not only still present but have been escalated.

The most important, as well as the most volatile aspect of this is the movement to 'uniformity' which despite Fowler's hope appears to amount to 'equality of misery'. 'New regulations', the *Guardian* reported on 11 September 1979, were, according to the Home Office: 'designed to achieve standardisation of personal possessions in the dispersal prison system'. The circular states that 'privileges are no longer to be related to length of sentence'. And so the opportunity has been taken, amongst other things, to limit private cash and to ban the wearing of personal underwear and footwear. It was this kind of restriction which

led to the Wormwood Scrubs sit-in.

The second component of this episode in Wormwood Scrubs which is an echo of Hull concerns staff behaviour. Evidence is mounting that the degree of force used was excessive but it is also generally agreed, even by the most hostile commentators, that some of the officers who were not involved but who were witnesses, were appalled at the behaviour of their colleagues. There is too, what is fast becoming an habitual Home Office response — denial followed by confession. PROP and other organizations are pressing for an investigation into the episode. One very interesting consequence of the Hull riot and its aftermath is that the media are much less reluctant to believe that such things can happen in an English prison. Hull demonstrated that even those sympathetic to the prison administration now have to allow that such things are possible and that until the Home Office learns from its experience and acts upon that learning they may be repeated.

This latest episode in Wormwood Scrubs gives strength to the main argument in this final conclusion. Briefly, this is that the community must assert its authority over its prison system. If the Home Office cannot devise a system where prisoners are secure, cared for and not abused, then the community must protest. This raises the whole issue of the relationship between the two.

There is a dynamic relationship between the community and its prisons. The latter exist at the behest of society and are administered by public servants. The community has an inescapable duty to concern itself with what is going on in the prisons. Relations between the public and the prisons are a subject of comment in most of the reports discussed in this book. Each commentator has a different emphasis but there is general agreement that relations are in need of improvement.

Fowler, naturally, is concerned with public relations in the event of crisis. Media representatives attending the Hull riot were exasperated by the difficulty of finding out what was happening. During the entire episode there was a very limited amount of information and no authoritative account of what was happening, on television for example. Fowler concludes his sound recommendations on this question with the *caveat* that: 'this is, perhaps, a policy of perfection' (Fowler Report, para. 376). He need not be so cautious. This is a matter of eminent public concern and it must be put right.

The May Inquiry is more concerned with developing links with the community and sees the Board of Visitors as having a particular contribution to make (May Report, para. 5.104). They suggest that staff and



inmates, should be involved through the agency of the Board in the local community. Members of the Board should:

consider themselves not merely as independent outsiders from the local community coming into a prison as overseers in the inmates' interests, but also as informed insiders with a duty to increase their local community's knowledge and understanding of what goes on in their prison, and to involve as many of the latter in its work as possible (ibid., para. 5.104).

These proposals are admirable. The paradox is that at Hull, where there was to be the worst prison riot in our history, there had existed a regime under Perrie which was involved with the community to a significant degree.

It is sometimes very difficult to make some people in the prison service aware of the fact that many normal, ordinary people in the community are interested in our prisons for reasons which are legal, respectable and healthy. There are, for example, adult educators who have a professional interest in the prison education scheme. There are others who offer their services as prison visitors or as instructors or teachers. They should be welcomed, since they then develop a *cadre* of informed opinion in the community about what is going on in prison. This is not only good for the service, but it is of inestimable value to prisoners. This is recognized, in a way, in the Fowler Report, which discusses the need for support 'by the weight of well-informed public opinion' (para. 257). It goes on to ask for public understanding of 'what is a difficult, distasteful and sometimes dangerous duty'. It is, however, essential that prison officers, by their behaviour, encourage such understanding. And it is undoubtedly true that early attempts to do so in Hull, when it became a dispersal prison, were studiously undermined by successive administrations in the 1970s. There was no lack of potential for public understanding, but that potential was thwarted. Despite this, as has been stated, at the end of the riot it was clear that the staff had a great deal of public sympathy. This persisted well into the York trial, and when it was alienated, it was because the public were compelled to believe their ears.

The relationship between Hull prison and the citizens has generally been poor. Perrie improved that relationship to the point where many people from the community were involved. The last example of this was the formation of the social studies group which has been discussed.

This period in the history of the prison was a model of good public relations. Of course, it is to be assumed that the regime can stand public scrutiny. There is likely to be a correlation between the decency of a regime and the willingness to involve the community in its activities, since the administration that is 'open' is not likely to have much to hide.

In the final analysis, it is the individual governor who will encourage or discourage community involvement, since his view is decisive. Despite the fact that the consequence of a more open policy can only be good, it is, unfortunately, not uncommon to find alongside those who encourage openness those who most certainly do not. It is a measure of excessive personal caution, for example, for a governor of a dispersal prison to refuse to allow a visit from a study group of officers from a neighbouring borstal. Or to refuse to allow a mature practitioner of adult education to visit an open prison 'for reasons of security'. Both such examples occurred in the experience of one of the writers and there are more. Other governors hearing of such instances tend to join in the kind of despair which such anecdotes provoke.

It is truly difficult to say anything hopeful about the future of the treatment of long-term prisoners in this country. It is equally difficult to advance a claim that these novel experiences of riot and disturbance, damaging to staff and prisoners alike, have led to at least some potential change. It would be hopeful to say that the Home Office was now flexible in its approach to long-term prisoners but it would be untrue. Not only is there no possibility of a mature discussion about the dispersal system, but there is every likelihood of a crushing, negative, uniform regime being imposed. If this happens, it will signal the end of a tradition which once brought great credit on the English prison system; a tradition of liberal, imaginative attempts at least to *try* to develop reformatory regimes. There is still time to reassess the whole matter of prison policy. An imaginative Home Secretary might make a start on problems which are certainly not simple, but which, given a modicum of strength, imagination and firmness might at least be tackled. The alternative course which is being pursued at present is little short of disastrous.

The matter is more serious than a rather sentimental lament about the past or a ritual exhortation to reconsider the position. Present policies, as they are developing, are simply not working. They are not even keeping order. Order cannot be kept by the escalation of repressive measures. One good reason for this is that the community will not



tolerate it. After Hull, it is likely to be a good deal more vigilant and more suspicious than it was.

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