A HISTORY OF ENGLISH PRISON ADMINISTRATION

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Seán McConville

To the memory of
Dan and Margaret McConville

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Preface

This is the first of a series of publications that draw upon material gathered in the course of research into the shaping of the prison system during the period from the middle of the eighteenth century until recent times. As a starting date, the year 1750 stands simply for mid-century, and does not allude to any particular event. During the course of the research the starting point was repeatedly pushed backwards in order better to understand the circumstances, events and institutions which are the main subject of this volume. The first three chapters are based on secondary material thus collected, and are included for the reason that they were embarked upon: a necessary background to the state of prison administration which existed in England during the latter part of the eighteenth century. In 1877 an Act was passed to nationalise the local prisons; an event of such importance in English penal history that it is appropriate to end the first volume at this point.

Originally it was intended to concentrate the research on staffing issues in the history of English prisons, but it soon became clear that such a theme could not be treated in isolation. It is impossible satisfactorily to discuss the recruitment, roles and work of staff without paying due attention to the institutions within which they were employed, and to the nature of the duties which they performed. These considerations necessitate an analysis of several aspects of penal policy and administration. One must, for example, examine not only the penal régimes of the various establishments, but also the penal, social and administrative thought upon which the régimes were based. Similarly, one cannot enter into an historical analysis of the administration of prisons without collecting information on certain other public institutions. The practice of fee-taking and the entrepreneurial basis of prison management can only properly be evaluated in the context of the system of public administration then prevailing, which was substantially maintained by fee income. The widespread squalor,

starvation and disease of eighteenth-century prisons demand considera-
tion of the dominant penal ideology of maximum general deterrence,
and the constitutional doctrine which established a high level of auto-
nomy in local government, and the virtual exclusion of central govern-
ment from social and penal policy making. It must be acknowledged
that by modern standards certain sensibilities were markedly absent
in the eighteenth century, but one must go to beyond such an obvious
statement, to discover why penal objectives and methods, now so
widely considered barbarous and degrading, were viewed with
equanimity or even hearty approval by men and women, many of
whose other opinions were framed in accordance with high ethical and
humanitarian values. But the desire to provide as full an account as
possible of the philosophical and institutional context of prison history
should not allow the subject of staffing to be neglected, or to be
considered unfruitful. It is remarkable how many works dealing with
penal and social policy confine themselves to the philosophy, crises
and compromises behind new legislation or administrative change, and
pass over, with only the most cursory examination, the capacities and
reaction of those whose duty it is to apply the new dispensation;
despite the fact that time and again instances emerge where the practical
problems of management and the exigencies of staffing have
substantially altered policy.

There is, therefore, no single theme to this study. Rather, it is an
attempt to substantiate the contention that a proper approach to the
history of imprisonment in England requires close examination of the
various reciprocal relationships between government, criminal and
penal policy, prison administration and staffing. Clearly, changes in
penal thought and policy had an effect upon administrative structures,
management and staff, but the full story of those changes was never
simple nor one-sided. Innovations in policy and administration, in the
course of solving problems and removing what had come to be
unacceptable conditions or abuses, or of achieving new objectives,
frequently created or brought to light fresh difficulties, which demanded
reconsideration, and not infrequently introduced different categories
and types of people into the administration, management and staff of
prisons. The fresh interests, values and expectations thus circulating
often modified penal ideas and their practical application. Hence the
special attention paid here to the duties, standing and influence of
gaolers, keepers, governors and higher administrative officials, reflects
the key part they played in the changing position of prisons in the
life of the country.

It has been claimed that 'what we *don't* know about British penal
history is even now much more impressive than what we do know —
there are, indeed, few more under-researched aspects of modern British

social history . . .'.[1] Recent publications have given cause to revise this
statement[2] but it still remains true that the English penal histories so
far written have been poorly stocked with material on which to base
more specialised studies. Had general prison histories paying greater
attention to detail been available, this study could have extended over
a greater span of time, and might have been organised differently.
Such ambitions have been constrained, however, by the need to discover
the facts about many important issues and institutions.

The unsatisfactory state of English penal history is a matter not
only of scope, but of the writer's attitude. It is understandable, but
somewhat unfortunate, that so much of the history of the penal system
in general, and prisons in particular, has been written by those engaged
in administration or in campaigns of reform. Thus, although the Webbs'
contribution to the history of English prisons is pre-eminent in its
range, thoroughness and succinctness, the moving spirit of their labour
was a zeal for reform which absorbed them to the exclusion of many
other important matters. The role of religious and political ideas in the
development of policy, and the changing relationships between the
penal system and its broader setting, receive a disproportionately small
amount of attention and, somewhat surprisingly in a work so devoted
to the analysis of administration, the subject of staffing is also rather
neglected. Almost invariably, administrators and reformers as historians
are compelled by their interest and objectives to adopt a 'progressive'
perspective. Butterfield's well-known remarks on the whig interpreta-
tion of history are particularly appropriate to most historical studies of
the English penal systems,[3] and Kitson Clark's label, 'history without
background' may not unfairly be applied to many studies with a penal
theme. Administrators and reformers adopt the simplifying whig

1 Noel McLachlan, 'Penal Reform and Penal History', in Louis Blom-Cooper
   (ed.), Progress in Penal Reform, p. 2.
2 Some excellent studies of local prisons have been published and work on
   various national developments is now being undertaken. Michael Ignatieff's
   book on the early English penitentiaries, A Just Measure of Pain, deserves
   special mention.
3 'The theory that is behind the whig interpretation — the theory that we study
   the past for the sake of the present — is one that is really introduced for the
   purpose of facilitating the abridgement of history; and its effect is to provide
   us with a handy rule of thumb by which we can easily discover what is
   important 'from our point of view'. . . . The theory is important because it
   provides us in the long run with a path through the complexity of history;
   it really gives us a short cut through the maze of interactions by which the
   past was turned into the present; it helps us to circumvent the real problem
   of historical study. If we can exclude certain things on the ground that they
   have no direct bearing on the present, we have removed the most troublesome
   elements in the complexity and the crooked is made straight' (Herbert
   Butterfield, The Whig Interpretation of History, pp. 25-6).

perspective because they wish to establish origins, trace policy campaigns and construct hagiographies, in their endeavours to formulate new ideas and relate existing practices and structures to what has gone before. Moreover, penal history is prone to oversimplification and demands cautious handling for another reason, namely that a strong political or emotional charge attaches to any consideration of crime and punishment and,

> Historians with strong feelings often tend to forget that the people they dislike were possibly victims of incapacity and ignorance and ascribe their actions too consistently to simple inhumanity and greed. Accusations on such counts are of course not easy to answer when little direct evidence survives about a man's thoughts, which therefore must be supplied by supposition.[4]

Since much use has been made of official publications, particularly the reports of Parliamentary Committees and Royal Commissions, and various annual reports, some observations on the nature of this material may not be out of place. The Webbs, greatly experienced in the workings of committees of inquiry and in the use to be made of their findings, were outspoken in their judgment of the unreliability of much oral evidence, and were very sceptical about the soundness and representativeness of a great deal of the information so gathered.[5]

Yet there are good reasons for drawing upon the work of such inquiries. First, as the Webbs themselves acknowledge, these committees brought together a plentiful supply of interesting contemporary documents.[6] Second, many scholars would discount some of the stress that the Webbs place on 'the truth' and 'facts'; 'fact' and 'truth' as

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4 G. Kitson Clark, *The Making of Victorian England*, p. 12.
5 'All the conditions usually present in the taking of evidence by official committees and commissions of enquiry are adverse to the extraction of the truth. The majority of the members of these bodies are neither expert lawyers acquainted with the laws of evidence nor practised social investigators versed in the difficult art of interviewing. . . . The selection of witnesses leaves much to be desired, as this is usually decided by the chairman and secretary, neither of them trained for the task, supplemented by stray suggestions from such members as are interested in bringing forward a particular set of facts or point of view. . . . There . . . is no verification . . . the great mass of oral 'evidence' given before committees of enquiry relates to opinions on general questions, and not to actual occurrences, whilst even the modicum of fact given in evidence is not checked or verified by other enquiries' (S. and B. Webb, *Methods of Social Study*, pp. 152-5, *passim*).
6 'Perhaps the most useful of all the services rendered to sociology by these official enquiries is the collection that they usually make, and sometimes publish, of contemporary documents not otherwise accessible, to the student. Taken as a whole the massive array of British blue-books stands pre-eminent as a source of information about contemporary public opinion . . .' (*ibid.*, p. 156).

applied to social life and institutions are relative terms, modified by the perceptions of observers and methods of collection and presentation of information. Eighteenth- and nineteenth-century committees of inquiry may nowadays seem to be naïve and misguided in their methods of data collection, yet sophistication of technique, it may be argued, has complicated evaluation without advancing us closer to the Webbs' goal of absolutely objective knowledge. As regards the present study, reports and minutes of evidence have been used to investigate attitudes and values as well as to ascertain 'facts', and statements of 'fact' have been checked wherever possible against information in other documents and publications.

The veracity of officially published annual reports may similarly be questioned, since most of them have been subjected to judicious editing, and manuscripts have occasionally revealed instances of explicit agreement between committee members or other officials to omit from publication references to sensitive or politically embarrassing issues. Deliberate omissions are often highly significant and it has fortunately been possible in this way to pinpoint the exact nature of some censored material.

With the intention of providing some balance to the views and concerns of those engaged in central government affairs, several local authority archives were searched. These were selected mainly because of their connections with important aspects of prison history, but also, in some cases, in order to secure a measure of geographical representativeness. Since interest in this material arose from, and has generally been restricted to its significance for the national picture, no attempt has been made to provide an account of the frequently important part that these prisons have played in local affairs; this is left as being more appropriate to the many essays and books dealing with their individual histories.

Acknowledgments

During the writing of the doctoral dissertation upon which a major portion of this volume is based I was supervised most ably and sympathetically by Dr R.G. Hood, whose close reading and frank criticisms of my work were of inestimable value. He has continued to give greatly valued advice, encouragement and friendship, and I happily acknowledge my considerable debt to him. I am grateful to others who were kind enough to comment upon various drafts of the work, including Miss C.B.A. Behrens, Professor Nigel Walker, Professor Sir Rupert Cross and Dr Louis Blom-Cooper. Miss Isobel Gawler, now of Edinburgh University's Department of Criminology, took endless pains in helping me to avoid obscurities, inaccuracies and poor taste in my style of presentation. I hope that she will add my sincere thanks to those she has received from so many scholars over the years. All errors and defects which may be found in the work are entirely my responsibility, and are the more to be regretted because of the expert advice and assistance I have been given.

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Abbreviations

DNB   Dictionary of National Biography
JHC   Journals of the House of Commons
PP   Parliamentary Papers
PRO   Public Record Office
RC   Royal Commission
RCGP   Report of the Committee of the General Penitentiary
RDCP   Report of the directors of convict prisons
RR   Rules and regulations
RRGP   Rules and regulations for the government of convict prisons
SC   Select committee

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1 Imprisonment prior to the eighteenth century: the gaols

The use of imprisonment

According to Finberg, gaols were part of the systems of criminal justice in England as early as the ninth century.[1] Pugh notes that by the accession of Henry III there were only five counties for which no gaol is known to have existed.[2] Some of these gaols were purpose-built (such as the Fleet) but more often they were to be found within the protective walls of castles and towns.[3] Various social and legal changes increased the number of prisons and their importance as a means of maintaining order.[4]

Pugh argues that in medieval England imprisonment had three main uses: it provided for the safe custody of suspects or those awaiting sentence or execution of sentence; it provided for the coercion of debtors or the contumacious; and it was a punishment in itself. These he calls the custodial, coercive and penal aspects of medieval imprisonment.

Two of these functions are uncontroversial. All students of penal history agree that imprisonment was used custodially and coercively. The latter function was greatly expanded in the mid-fourteenth century when a statute (25 Edw. III, St. V, c. 17) placed all creditors on the same footing as the Crown, by enabling them to use imprisonment to secure payment of debts.[5]

1 H.P.R. Finberg, *The Formation of England*, p. 139.
2 R.B. Pugh, *Imprisonment in Medieval England*, pp. 59, 385.
3 Leslie Fairweather, 'The Evolution of the Prison', in United Nations Social Defence Research Institute, *Prison Architecture*, p. 14.
4 By the later Middle Ages, says Bellamy, prisons were 'an important instrument in the maintenance of public order'. (See J. Bellamy, *Crime and Public Order in England in the Later Middle Ages*, pp. 162-4, *passim*.)
5 From this statute sprang all the imprisonings for debt, all the prisons or debtors' wards, and all the lamentations which they brought in their train. . . .

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Some commentators, however, have been reluctant to accept that imprisonment was used punitively in medieval times,[6] but there is now abundant confirming evidence and it is clear that this type of imprisonment increased greatly from the thirteenth century. Pugh shows that even before the Conquest prisons were being used as a form of punishment, and that in later times they were so employed for a wide range of non-felonious offences.[7] Margery Bassett found instances of punitive imprisonment scattered through the City records 'too numerous to cite', including cases where this penalty had been imposed for stealing, striking a public official and molesting foreigners.[8] She argued that whilst the primary objectives of medieval prisons were custodial or coercive

> the opportunity of using them as places of punishment was not overlooked entirely. Breaches of the peace, disregard for the many ordinances governing life and trade within the city, petty crimes,

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> No piece of fourteenth-century legislation . . . played a more important part in the history of imprisonment. . . (Pugh, *op. cit.*, p. 46).

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6 See Lionel Fox's *The English Prison and Borstal Systems*. Clifford Dobb (thesis: 'Life and Conditions in London Prisons, 1553-1643', p. 7) seems to share Fox's view that punitive imprisonment is mainly a modern practice. He repeats this elsewhere:

> Men and women were imprisoned for many reasons of which criminal charges covered only a part of the whole. In very few cases are there any signs that a term of imprisonment was regarded as a punishment as in later times. Prisons were thought of simply as places where persons were kept in safe custody because it was considered too dangerous to leave them at large (Clifford Dobb, 'London's Prisons', in A. Nicoll (ed.), *Shakespeare in His Own Age*, p. 90).

Judges is more dogmatic:

> Prisons were absolutely necessary for the safe custody of accused persons awaiting trial. For the fulfilment of any other purpose they could only be regarded as expensive luxuries. A man or woman once convicted of crime was either unfitted to live or fit to be at large. Why institute penal servitude when the county jails were already full to overcrowding and, moreover, ravaged with pestilence? And so . . . we find imprisonment rarely mentioned as a punishment until quite modern times. It was too exotic and gruesomely a torment even for the hardened stomach of the Elizabethan Age to tolerate (A.V. Judges, *The Elizabethan Underworld*, p. lxii).

7   There was . . . a great deal of penal imprisonment for every type of fraud, contempt, disobedience to authority, failure in public duty, and petty crime . . . and from Edward I's opening years imprisonment of whatever type came increasingly to rest upon statute or municipal regulation (Pugh, *op. cit.*, p. 386).

See also A.D. Smith, *Women in Prison*, p. 58, and E.J. Burford, *In the Clink*, pp. 28-9.

8 Margery Bassett, 'Newgate Prison in the Middle Ages', p. 233, n. 3.

and disrespect for the governing body were among the misdeeds sometimes punished by imprisonment. The terms ranged from a few days to a year and a day.[9]

Because of the spread of municipal imprisonment,[10] specific statute provision, the greater use of the action of trespass and the extension of 'benefit of clergy' in cases of felony,[11] numerous offenders were imprisoned as a punishment – sometimes with a fine or a flogging added for good measure.

But although it is analytically helpful to draw distinctions between the three types of imprisonment it is probable that the practical administrative consequences of the use of prisons for these different purposes were trifling. It is true that in some of the larger prisons, from at least the fifteenth century, efforts were made to separate the felonious – charged and convicted – from other prisoners,[12] but classification was generally non-penal in nature.[13] Persons punitively

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9 *Ibid.*, p. 233.

10 The London Tun (a lockup) was used for vagrants, curfew violaters, the disorderly and morally defective – pimps, whores and adulterers.

> It was no doubt mainly to accommodate such minor delinquents that urban prisons multiplied and the crown gave the towns themselves the right to keep prisons not only for the 'custody' but for the 'correction' or punishment of such persons (Pugh, *op. cit.*, pp. 42-4, *passim*).

11 'Benefit of clergy' was the means whereby 'clerks' (originally those in holy orders) could avoid the mandatory death sentence for felony. By reading the 'neck verse' (the first verse of the fifty-first Psalm: 'Have mercy on me, O God, According to Thy steadfast love; according to Thy abundant mercy blot out my transgressions'), the prisoner established his clerical status. Then 'The successful "cleric" was branded on his hand to prevent his enjoying the privilege twice, and he might be gaoled for one year. . . ' (E.W. Ives, 'The Law and the Lawyers', in A. Nicoll, *op. cit.*, p. 82). By Tudor times the whole procedure was reduced to farce by prior coaching and memorisation of the relevant verse. I have been unable to discover if the loophole was as widely used before the introduction of the vernacular Bible (see Judges, *op. cit.*, p. 160, n. 15). But any difficulties posed by the Latin Bible in pre-Reformation England were probably counterbalanced by the great number of genuine clerics (those in holy orders ranging from the minor to the highest). These included one of the most undisciplined sections of medieval society – what Trevelyan has described as 'The army of unbeneficed priests, deacons and clerks in holy orders who were scattered about the country in every variety of employment . . . many drifted about from one job to another, forming lazy and criminal habits that made them in the end "unemployable" for any good purpose' (G.M. Trevelyan, *English Social History*, p. 51; see also S.T. Bindoff, *Tudor England*, p. 77). For different reasons, then, extensive use was made of 'benefit of clergy' prior to and after the Reformation, with a consequent recourse to sentences of punitive imprisonment.

12 Bassett, *op. cit.*, p. 240.

13 Thus Babington notes that 'During the forty-five year reign of Elizabeth I Newgate was used increasingly as a state prison. Felons and debtors were still

imprisoned could expect the same experience as those from similar social backgrounds held for custodial or coercive reasons. As punishment, secular imprisonment was retributive and deterrent — and it is in this sense alone that it should be understood. When imposing this penalty the sentencer knew that he was sending the wrongdoer to an unpleasant, expensive and dangerous place. A theory of reformative punishment requires the formulation of ideas about the causes of crime and other transgressions. This did not occur in medieval thought.[14] Even to the Church, with its total concern with man's spiritual life, crime was not a phenomenon requiring explanation: it was an inevitable feature of man's fallen and sinful state — of his very humanity. The retributive and deterrent approach to imprisonment persisted with respect to gaols through the seventeenth century and beyond. Babington observes of the mid-seventeenth century that 'The only penological principle . . . seems to have been that the criminal should be encouraged to feel a proper sense of repentance for his crime and a stoical resignation regarding his punishment'.[15]

Viewed simply as instruments of a retributive or deterrent policy, pre-eighteenth-century gaols have far fewer defects than many reformatory and 'progressive' penal historians and commentators would have us believe. Expense, exposure to epidemic disease and other ill-health, and the general social and economic inconvenience of the gaols were hardships of a kind to drive home the lesson and hence, to a certain extent, were desirable.[16]

Not only were conditions suited to the several objectives the gaols served, but when consideration is given to the standard of living in pre-industrial society — never far from a state of bare subsistence and incipient personal disaster for the mass of the population — the virtual

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sent there, but they shared the gaol with those imprisoned for their religious or political beliefs, or for their alleged treasonable activities (*The English Bastille*, p. 43).

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14 Bellamy argues that 'Medieval man had little curiosity about causation of crime, although he was aware of the importance of opportunity. Revenge was understood, but not much else' (*op. cit.*, p. 31).
15 Babington, *op. cit.*, p. 53.
16 'In some cases, when a person was sentenced to only a few days' imprisonment, it seems likely that the chief penalty involved was the payment of numerous fees and charges. . . . On Friday 16th March 1593, the Privy Council committed one John Ward to the Fleet, "till Sondaie next in the mornynge before prayers," and one Richard Ironside to the Marshalsea "Till Mondaie next in the morning" ' (Dobb, 'Life and Conditions', p. 14).

The overlapping in functions and the basic usefulness of confinement as duress was also apparent in the case of State prisoners. Families of imprisoned gentry or nobles who had to bear the heavy expense of gaolers' carefully graduated charges were thereby kept in financial subjugation during the period of the imprisonment (*ibid.*).

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impossibility of using these prisons in any other way becomes apparent.

The criterion for success in gaol management was not, therefore, the reform of criminal offenders, or even the financial sobering of reckless debtors. It was, quite simply, the ability of the gaol to prevent escapes: to hold suspects and those on remand until the courts required them; to hold debtors and rebels until they paid up or purged their offence, and those under punishment until the sentence of the court expired. One medieval statute ordained that the act of breaking prison was in itself a felony, whilst the keeper of a prison who had neglected or corruptly overlooked this most fundamental duty incurred penalties ranging from fining and dismissal from office to a felon's death.[17] The regulation of prisons consisted, therefore, in one essential: ensuring that the keeper and his staff devoted themselves to the maintenance of custody. From time to time, as will be seen, there were attempts to stiffen control; to prevent, for example, 'excessive' brutality, corruption or extortion. But the *sine qua non* of success for a gaoler was security of bolts and bars.

Administration

Pre-eighteenth-century gaols were administered by several different types of authority, the two most important (numerically) being the counties and municipalities. There were in addition, however, franchise gaols, national prisons and ecclesiastical and other special prisons. Each of these types had its distinctive form of ownership and control.

County gaols

These were normally in the charge of the sheriff, and at Clarendon in 1166 it was enacted that sheriffs should provide gaols for counties hitherto without them. The subsequent administrative history of these prisons, until relatively recent times, is marked by an erosion of the powers of the sheriffs and their assumption by the justices of the peace.

The forerunner of the justice of the peace was an official first appointed during the Civil War of 1263-5, with the title of conservator

17 See Pugh, *op. cit.*, Chapter 11 generally. Moreover, 'If corruption entered in and the "keeper" was found to have connived at the escape, he was to be indicted for felony and if convicted was to suffer a felon's death' (p. 233). This thirteenth-century severity appears to have lapsed, however. In 1696 the then keeper of Newgate, one James Fell, was convicted under precisely such circumstances and, as Babington reports, 'The offence does not seem to have been considered as especially grave for the sentence of the court was postponed indefinitely and Fell was allowed to retain the keepership' (*ibid.*, p. 65). Although, as far as I have been able to trace, no such instances of the death penalty appear in the literature, there are numerous examples of fining, dismissal from office and imprisonment.

or keeper of the peace. Until 1329 the conservators had powers only to record breaches of the peace, but from that date — at first intermittently, and then regularly — they and their successors, the justices of the peace, were empowered to try felonies and trespasses.[18] They were appointed and held office entirely at the pleasure of the Crown; and their duties and authority expanded from the purely legal province at their innovation in the fourteenth century, to an extensive policing and administrative role in local government,[19] as they 'successfully grasped at every shred of power let slip by the sheriff'.[20]

An Act of Henry VIII extended the duties of the justices to the gaols[21] and provided that in most counties justices were to levy a rate out of which to construct new gaols; this task completed, gaol administration would be carried on by the sheriffs. This Act was renewed several times, finally lapsing after about fifty years. Pugh thinks that this period of administrative intervention by the justices and subsequent lapsing of the legislation created great uncertainty about the division of administrative responsibilities;[22] by the seventeenth century, however, the justices had generally taken the responsibility for gaol maintenance out of the sheriffs' hands, the shift in arrangements being probably due to the instructions of the Privy Council which, under the Tudors and Stuarts, placed the greater part of the burden of local government firmly on the justices.[23]

Municipal prisons

By the reign of Henry VIII most municipalities had provided themselves with gaols and lockups to serve their own courts. Prisons were often a part of the town charter, but were also established without this authority.[24]

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18 Bellamy, *op. cit.*, pp. 94-5.
19 W. Eric Jackson, *Local Government in England and Wales*, p. 29.
20 William O. Hart and J.F. Garner, *Hart's Introduction to the Law of Local Government*, pp. 13-14.
21 23 Hen. VIII, c.2.
22 Pugh, *op. cit.*, p. 346.
23 'In all the social experiments of the Tudors and early Stuarts it was the justices who bore the burden and heat of the day. Two hundred and ninety-three statutes were passed previous to 1603 bearing upon the duties of these humble magistrates, and the parliament of Elizabeth had contributed a total of seventy-eight . . .' (Judges, *op. cit.*, p. xiiv).

Trevelyan describes the JPs of the time as 'Elizabeth's maids of all work', and points out that if they slacked in the performance of their manifold duties 'the vigilant eye of the Privy Council was upon them, and its long arm was soon extended'. 'The judicial, political, economic and administrative powers of the Justices of the Peace were so various', he concludes, 'and taken together so important that the J.P.s became the most influential class of men in England' (*op. cit.*, pp. 170-1, *passim*).
24 Pugh, *op. cit.*, pp. 98-100.

Within the towns the exact division of labour in the running of the gaols between the mayor, corporation, town justices and sheriffs varied greatly. In London, for instance, the sheriffs bore the primary responsibility under the supervision of the Court of Aldermen, who were, in turn, accountable to the Common Council — the highest legislative body of the City.[25] In early years the London sheriffs had great latitude in the discharge of their custodial duties and were apparently free to decide whether they kept prisoners in their own houses, in their compters or in the common gaol.[26]

Franchise and other prisons

Franchise prisons were held by ecclesiastical and secular lords and served a group of estates, a hundred, a manor or even a soke or liberty within a town, and varied in capacity from a single room in a manor house to a specially constructed part of a monastery. Whereas in medieval England they were so numerous as to be familiar to everyone, ownership came to be restricted to those who had a royal grant or who allowed their periodical delivery.[27] So naturally accepted was this form of gaol-holding that a number of these prisons persisted into the second half of the nineteenth century.

In medieval times there was not what today would be called a national prison system — a group of prisons financed and administered directly by a department of state. Several establishments, however, were used for national purposes by government and the higher judiciary; of these, Newgate was recognised as the leading criminal prison in the kingdom and, although the property of the City, on the instructions of the Crown, Privy Council or superior courts, it accommodated prisoners from different parts of the country, including state prisoners, religious prisoners and notorious criminals and debtors.[28] The Fleet, probably the oldest prison in the country, originally held prisoners of all kinds, but with the increased usage of Newgate and the Marshalsea it latterly became the 'recognized prison for the court of common pleas, the chancery, the star chamber, and for those held by the exchequer for debts to the King'.[29] The Marshalsea and the Tower were even more closely connected with the Crown. Although the latter was used in

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25 Babington, *op. cit.*, p. 17.
26 Bassett, *op. cit.*, p. 234.
27 Pugh, *op. cit.*, p. 97.
28 Babington, *op. cit.*, p. 43.
29 Bassett, 'The Fleet Prison in the Middle Ages', p. 383. The Fleet had a special relationship with the Crown because it was 'the King's owne proper prison next in trust to his Tower of London, and as that in his fort in the East, soe was this one in the west of the citty and chamber of his kingdome' (The Camden Society, *Economy of the Fleet*, p. 23).

later times almost exclusively for state prisoners, in the thirteenth century it was used also for common felons.[30] The Clink, originally the bishop of Winchester's prison for petty offenders, whores and their associates, was used in Elizabeth's reign to accommodate recusants.[31] The King's Bench seems to have originated as a form of custody and acquired an identity and physical location separate from the Marshalsea of the Royal Household only from the fifteenth century. Appointments to the administration of the Fleet, Marshalsea and Tower were made either directly or indirectly by the Crown.

Certain forest and mining areas had special courts served by their own prisons. The stannaries (tin-mining districts), for example, were granted prison charters in the early fourteenth century.[32]

In addition to these secular prisons the Church in maintaining her own system of justice owned prisons that came under the authority of bishops and episcopal abbots. They might be separate establishments, or accommodated in part of a secular franchise prison held by the bishop or abbot in his lay capacity. The use of the plea 'benefit of clergy' increased the demand for this type of prison which continued to exist until the readjustments between secular and sacred authority of the sixteenth century.[33] Special prisons for academic clerks were provided in the two university towns and maintained at the expense of the lay authorities for university use.[34]

Finance

Expenditure on prisons was in keeping with their limited custodial purposes and what was general practice in public administration until fairly recent times. Apart from the provision of buildings and inter-mittent structural maintenance, prisons were expected to be self-supporting, just as sheriffs, coroners and justices and their various clerks and subordinate officials were expected to obtain their incomes from fees.[35] As the number of office-holders in medieval and Tudor society was great,[36] and little or no means existed of paying them from centrally gathered revenues, there can be no grounds for branding

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30 Pugh, *op. cit.*, p. 123.
31 Burford, *op. cit.*, Ch. 8.
32 Pugh, *op. cit.*, pp. 132-3.
33 *Ibid.*, pp. 136-7.
34 *Ibid.*, pp. 137-9.
35 Bellamy is uncertain whether the justices were initially paid by the Crown, but thinks that from the outset they were allowed to retain a proportion of any fines levied. In the reign of Richard II regular payment of 4s. per day was made, up to a maximum of twelve days each year (*op. cit.*, p. 97).
36 Even into the reign of the early Stuarts English counties and villages retained elements of communal self-government, and under the control of squire and justice there existed a wide range of offices. Freeholders took part in the

prison finance as any more 'corrupt' than that of other public institutions of the time.

Pugh has been able to identify some prisons where gaolers were paid a weekly wage, though he feels that this method was not a means of providing gaolers with a livelihood: 'Much more important sources of revenue than payments at the Exchequer or by the hands of sheriffs were the various fees which gaolers collected from their prisoners.'[37] According to Margery Bassett, the Fleet warden was paid a shilling a day, had use of two houses and received certain rents; but this author was unable to discover any reference to the Newgate keeper's salary at all. At both prisons the warden and keeper could be expected to obtain a substantial income from fees and other perquisites.[38]

Fees were levied on entrance and on discharge and on every possible turn of event between. In the Fleet, the most expensive prison in the kingdom, charges from the mid to the late sixteenth century were on a sliding scale, applied according to the social rank of the prisoner, and ranging from a £10 entry fee for an archbishop, duke or duchess down to 13s. 4d. for a yeoman and nothing for a poor man; discharge fees were more moderate, at most £3 5s., at least 7s. 4d. In addition there was a host of underlings — clerks, porters, turnkeys and chamberlains — with their own demands for services rendered; these were also graduated in scale.[39] Fees at City prisons were not as high as those at the Fleet: taken together the fees payable for committal to one of the Counters amounted to about 10s.[40]

Gaolers also charged to ease custody, a procedure which they justified by arguing that an easement increased the possibility of escape

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proceedings of the county court; the manorial court leet was attended by the peasantry who participated fully. And, as Trevelyan notes,

> in every English village there were various humble offices — such as constable, overseer of the poor, headborough, ale-conner, road-repairer, churchwarden, sidesman and innumerable other small public posts — which the common people filled, either by election or rotation (*op. cit.*, p. 214).

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37 Pugh, *op. cit.*, p. 166. And from the late thirteenth century, he says, 'examples of fee paying are too common to be worth enumerating. Indeed the system of fee paying expanded, rather than contracted, and remained in full vigour until in the late eighteenth century it came under the censure of Howard'. The payment of fees by prisoners can be traced back as far as the Mercian Kingdom (AD *c.*650-800) (Burford, *op. cit.*, p. 48).

38 Bassett, 'The Fleet Prison in the Middle Ages', p. 384, and 'Newgate Prison in the Middle Ages', p. 246. See also C.T. Clay, 'The Keepership of the Old Palace of Westminster', pp. 5 and 14.

39 Dobb, 'London's Prisons', p. 94. Bassett gives slightly different figures which ranged from £13.5s.0d. to 19s. for entrance fees ('The Fleet Prison in the Middle Ages', p. 395). In the early fourteenth century a uniform admission fee of 2s. 4d. was levied (Clay, *op. cit.*, p. 14).

40 Dobb, 'London's Prisons', p. 95.

and, therefore, exposed them to monetary and other risks as gaolers. Exemption from, or lighter, fetters or irons could be purchased,[41] as could removal from a close to a more spacious part of the prison. At the Fleet, Ludgate, the Counters, and some other prisons, easement of custody went as far as 'going abroad' — a privilege accorded to debtors at a price of 4*d*. per half day; an extra 6*d*. bought the services of the accompanying *baston*.[42] So attractive was this privilege that, despite its very high charges, some prisoners had themselves removed to the Fleet on the pretext that they were Crown debtors.

These expenses overlapped with another type — the purchase of goods and services from the keeper. At the Fleet rent had to be paid according to rank: gentry had separate rooms by paying 2*s*. 4*d*. weekly, which included the use of a parlour; prisoners of lower degree used the common hall and paid 1*s*. 2*d*. weekly to share a bed in one of the wards; the destitute received nothing but the barest of accommodation.[43] Board at Fleet varied in a similar manner from £3. 6*s*. 8*d*. to 6*s*. But in City prisons charges were much more modest; board and lodgings together cost gentlemen only 3*s*. a week and yeomen 2*s*.[44] Alehouses on the premises run by the keepers provided prisoners with all daily necessities, bedding, fuel, cooking utensils, food and even, sometimes, water, as well as goods for recreation and pleasure. In fact, prisons were profit-making concerns, and the prisoners were the 'customers' who had to yield a steady living to those who risked capital and life within the walls. By Shakespeare's time there was a small army of fee-charging officials making substantial profits as agents in the various sectors of civil and criminal justice. From writ-serving and arrest to final release, few opportunities were missed to impose a charge or extract a gratuity. Generous, but carefully calculated credit was granted, for there could be no departure until all charges were paid — even, it was said, on behalf of the dead.[45]

In all prisons of the medieval and Tudor period there were excellent

41 Dobb says that except at Newgate this was a formality in the London prisons. Ironing fees were therefore based on a fiction. Many keepers blamed the ruinous state of the prison buildings for the use or threatened use of irons.
42 Bassett, 'The Fleet Prison in the Middle Ages', p. 397.
43 *Ibid*., p. 395.
44 *Ibid*., p. 396.
45 William Fennor, who had been imprisoned in the Counters, left a bitter account of his squeezing and grasping gaolers. They went so far, he said, as to take fees from the dead and 'scarce let the coffin go out of their gates before his friends hath paid his fees'. But this may have been an apocryphal story, for he goes on, 'Therefore, if these reports be true, it is most abominable for them to act, and most lamentable to hear' (William Fennor, *The Counters' Commonwealth*, 1617, republished in Judges, *op. cit*., p. 477). Sheehan, however, writes of 'several instances' of keepers hiding corpses to force relatives or friends to settle the account of the deceased (Wayne Joseph Sheehan, thesis: 'The London Prison System, 1666-1795', p. 345).

opportunities for extortion. Ironing, for example, need not have actually been undertaken; prisoners would pay almost as willingly upon the threat and sight of some monstrous device. Similarly with accommodation, there are several accounts of prisoners being shown into dank, repulsive dungeons as a prelude to their being offered and paying for more acceptable lodging. Even the highly born were to a large extent at the mercy of their captors; if they were being held for political or religious reasons, they would have already lost some influence and were unlikely to receive the sympathy of the powerful who had placed them in such irksome captivity. All students of penal history agree that complaints of extortion and immoderate charges were ubiquitous and persistent.[46] Moreover, the boundary between customary and extortionate practice would have been difficult to draw. There were, unfortunately, cases of flagrant brutality and torture, but gaolers did not need thus to expose themselves to public censure in order to wring optimum revenue from their captives.

So necessary was a good and constant flow of prisoners that some gaolers felt it improvident to trust in the normal workings of the law. Instead, they had themselves placed on commissions of the peace and indicted quite innocent parties who between committal and release paid numerous fees and charges. Other gaolers compelled prisoners to approve (i.e. accuse) innocent and honest prisoners.[47] So widespread was this practice that it was necessary for an Act to be introduced in 1327 directing the King's justices to discover which sheriffs and gaolers had compelled prisoners to become approvers.[48]

Staffing

In theory all gaols were the King's but in practice, of course, the gaol-holder appointed staff. The county gaols were in the charge of the sheriffs, who bore ultimate custodial responsibility. The Crown could impose a penalty on them in the event of escapes, and creditors could

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46 Bassett, 'Newgate Prison in the Middle Ages', p. 246; Babington, *op. cit.*, p. 53; Pugh, *op. cit.*, p. 177.

47 'Gaolers, it seems, were less interested in the maintenance of law and order than in extorting money from those whom the approvers desperately, yet often falsely, appealed. Approvers frequently got the names of their appellees and details of their crimes from gossip in gaol' (Bellamy, *op. cit.*, p. 129).

48 *Statutes of the Realm* (1810 edn), 1, p. 233 (s. 26). See also 13 Edw. I, c.13. Similar extortion was practised by means of the Church courts. An allegation of adultery would bring the accused before these bodies, with consequent loss of time and money and the possibility of excommunication. A threat to inform could therefore extort a heavy bribe and, as Judges notes, 'It was alleged that apparitors carried about with them blank processes *Quorum nomina*, signed or unsigned, with a place ready for the victim's name' (*op. cit.*, p. 140, n. 14). Extortion seems to have been inseparable from many parts of the machinery of justice.

sue for the outstanding debts of an escaped debtor. The sheriffs or their equivalents in franchise, ecclesiastical, national or special prisons appointed working gaolers upon whose efficiency they thereby became dependent. As a result bonds of indemnification were often required from gaolers, which protected gaol-holders from the consequences of an escape.[49]

As prisons were profit-making concerns, usually requiring an initial investment, the office of keeper was usually transferable and often inheritable. In Shakespeare's time the keeperships of Ludgate, Newgate and the two Sheriffs' Counters were (like all public offices of the City) offered for sale by the incumbent or formal holder of the custody and speculatively purchased.[50] The Fleet prison was the classic example both of inheritance and transfer on purchase, being held by one family and their collaterals throughout the middle ages, for at least 428 years.[51] In 1490 the wardenship of the prison was leased at £40 a year, and in 1559 the serjeanty was sold by the last hereditary office-holder for the vast sum of £4,000, and was then leased out at £80 per annum.[52] The warden was expected to provide his own subordinate staff out of prison income, but it is probably safe to assume that even the subordinate offices were self-financing. In 1558, for example, the warden leased for a number of years a portership – a very lowly office indeed – for £20.[53]

Men paying for office naturally expected a good return. This was recognised by the municipal authorities, who sought to mitigate possible excesses of exploitation. The sheriffs, who had the authority to appoint to the City's prisons, were bound on oath not to sell keeperships as 'Gaylors buying theire offices will deal hardly with the pitifull prisoners'.[54] It was decreed, in the mid-fourteenth century, that only men of good character were to be appointed to the keepership of Newgate. The keeper himself had to swear on oath that he would not extort money from the prisoners. Repeated attempts throughout the

49 Bassett, 'Newgate Prison in the Middle Ages', p. 234.
50 Dobb, 'London's Prisons', p. 94. Keeperships were also sold as reversions (i.e. to be held after a certain time, or when the office next fell vacant). Sometimes several different grants were sold for the same office, and the purchasers had to wait for the necessary time until their grant matured (Wayne Joseph Sheehan, thesis: 'The London Prison System, 1666-1795', pp. 25-6).
51 Clay, op. cit., p. 15.
52 Bassett, 'The Fleet Prison in the Middle Ages', p. 386. Even as late as the eighteenth and nineteenth centuries examples may be found of family connections with prisons. Eric Stockdale gives the example of the Richardson family, who for seventy years between 1711 and 1814 held the gaolership of Bedford County Gaol. Most appropriately (and profitably) the family were also keepers of the Chequers public house, which stood next door to the prison (A Study of Bedford Prison, 1660-1877, pp. 31-2).
53 Ibid., p. 385, n. 14.
54 Cit. Bassett, 'Newgate Prison in the Middle Ages', p. 234.

middle ages to stop Newgate keeperships being sold show the lightness of the keepers' oaths and the difficulty of enforcing such an ordinance in self-financing prisons.[55]

Such lucrative offices were valuable patronage, and the sheriffs were often challenged by City authorities or by the Crown over the privilege of appointment. The Crown sought gaol patronage in the fourteenth and fifteenth centuries chiefly, it seems, to provide rewards or pensions for retainers. The sheriffs fought tenaciously to keep their patronage and succeeded in securing it by statute.[56] In provincial municipalities gaol patronage was contested by sheriffs, mayors and aldermen.[57]

Gaolers, in their turn, employed subordinates. These included turnkeys, porters and clerks. Turnkeys appear only as background figures in records and literature, but from all that is known it is evident that they, too, drew their income from various fees and perquisites. Their duties were locking and unlocking the various parts of the prison throughout the day, counting the prisoners at locking and unlocking, and generally being on hand to suppress fighting and riot.[58] Many subordinate staff appear to have lived on the premises (a condition of office even for the keepers of the London prisons, and their deputies).[59] In the Fleet there were special staff to accompany prisoners who had the privilege of going abroad.[60] Around 1620 the warden of the Fleet complained of the need to provide about twenty servants 'for that service onely', and that the £80 or so a year that prisoners paid him for the privilege did not cover his costs.[61] Turnkeys and other subordinates were also needed for court duties[62] and to produce prisoners for various examinations (as, quite wisely, judges and other high officials minimised for themselves the dangers attendant on prison visiting).[63]

55 The 'no-farming' proviso was promulgated in 1356 and again in 1421 when it was extended to all the City prisons. In 1431, in order to establish a greater degree of control and supervision, the aldermen directed that keepers were to be appointed annually — even though a suitable incumbent might be reappointed.
56 19 Hen. VII, c.10.
57 Babington, *op. cit.*, pp. 18-19.
58 There are numerous records of riots, fires and mass breakouts in medieval prisons. See, for example, Babington, *op. cit.*, pp. 55-6.
59 Dobb, 'London's Prisons', p. 93. In 1595 and 1636 Newgate keepers were dismissed for failing to live in the prison.
60 Bassett, 'The Fleet Prison in the Middle Ages', p. 397.
61 Dobb, 'London's Prisons', p. 99.
62 An enactment of 1328 provided for gaol delivery at least three times a year.
63 Before the Old Bailey was built, in 1539, the City sheriffs hired a hall for the gaol deliveries. Judges were reluctant to enter or transact business in Newgate because 'commonly prysons were theefes and other malefactours be deteigned for there offences be many tymes vysyted with syknes and by reason thereof the place ys infected and moche peryll and damygys hath chauncyd to the Justyces' (*cit.* Bassett, 'Newgate Prison in the Middle Ages', p. 344).

Clerks were a necessary part of the management of medieval prisons and kept tallies of the expenses incurred by inmates.[64] They read and recorded committal warrants and judicial and royal instructions – an important safeguard against suits for wrongful imprisonment. The gaoler, it is true, would be in court to hear sentence or other disposal or might know prisoners' escorts, but proof of the committal or release authority was most important in case of dispute, and doubtless the use of documents increased as the volume of prison business outgrew the possibilities of personal verification. Civil-law prisoners presented similar problems, as premature release could lead to an aggrieved creditor suing the gaoler; indeed, the documentation for them, especially if several creditors were involved, was probably far more complicated than for criminal or political prisoners. For these various reasons any gaol which had a substantial committal rate would need a full complement of clerks.

Religious services were provided in medieval prisons. The Church insisted on regular attendance at mass and receipt of the Sacrament, and this requirement could not easily be obstructed by the lay authorities. Priestly visits, certainly to prisoners of standing, must have been frequent. Prison chapels were provided at York in 1237, at Newgate in 1431 and at Bury in 1492. The first appointment of a prison clergyman at Newgate was in 1544, when it was provided that one of the four chaplains of St Bartholomew's Hospital would visit 'all the poor and miserable captives within the prison of Newgate, and minister unto them such ordinary service at times convenient, as is appointed by the King's Majesty's book for ordinary prayer'. The chaplain (initially called the 'Visitor of Newgate') was instructed to persuade the prisoners to return stolen property and to 'disclose all such other persons as they know living, which by robbery or murder may hurt a common weal'. 'And in all their extremes and sicknesses', his instructions continued, 'ye shall be diligent and ready to comfort them with the utmost pithy and fruitful sentences of God's holy word.'[65] When, in 1620, a full-time chaplain or 'Ordinary' was appointed, there was initiated one of the most ill-famed prison posts of all times, which gained especial notoriety from the duty of preaching the 'condemned sermon' and accompanying the condemned to execution.[66]

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64 Pugh, *op. cit.*, p. 162.
65 Babington, *op. cit.*, p. 45.
66 Indeed, the following description of the condemned sermon and Ordinary by Luke Hatton (1596) shows that even the part-time Ordinary was the focus of curiosity in earlier days:

'See. In yon hall are divers sorts of men
Some weep, some wail, some mourn, some wring their hands,

However, a number of considerations militated against widespread employment of full-time prison chaplains. Expense was one factor, as payment had to be made from public funds. There was also the difficulty of finding reasonably reputable clergymen willing to undertake such hazardous visits. But it should also be noted that the first appointment was apparently in Protestant London at the height of one of the first storms of the Reformation. In its acceptance of the ministry of preaching, as distinct from merely officiating at the Sacraments, London was exceptional, and preaching, from the outset, was particularly compatible with prison visiting.

It was not until the late seventeenth century that a medical practitioner was appointed to Newgate. This innovation was due to the recurrent outbreaks of gaol fever which did not particularly discriminate between unworthy prisoners and honourable judges, aldermen and others connected with the administration of justice. So in 1692 a surgeon from St Bartholomew's began to visit the gaol. This was probably the first appointment of a medical officer to a gaol in Britain.[67]

Prison conditions

The social and organisational consequences of medieval and Tudor penal ideology and administration are fairly predictable and some have been mentioned. Prisons, however, were very individual establishments, and staffing and living conditions consequently varied a great deal. Size of population was an important consideration, but unfortunately there are no surveys comparable with those carried out by Howard and his followers in the late eighteenth century. Because of the very large number of purely custodial commitments, however, all populations would have fluctuated greatly in accordance with the frequency of gaol deliveries. London was exceptional in having so many prisons and such a great degree of specialisation based, in the early seventeenth century,

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Some curse, some swear, and some blaspheming.' Then
My heart did faint, my head-hair upright stands,
'O Lord', thought I, 'this house will rend in sunder.
Or else there can be no hell this hell under'.

Thus wondering, I on sudden did espy
One all in black came stumbling up the stairs.
'Who's yon?' I asked. And thus he made reply:
'Yon is the man doth mitigate our cares.
He preacheth Christ, and doth God's word deliver
To all distressed, to comfort men for ever'.
(The Black Dog of Newgate, cit. Judges, op. cit., p. 2'

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67 Babington, *op. cit.*, p. 64. But Bridewell — which was a house of correction, not a gaol — had a surgeon from its earliest days; see p. 38 below.

on the use of ten important prisons.[68] Physical conditions of prisons —
dependent as they were on local initiative and revenue — also varied,
although there are fairly uniform complaints of decaying fabrics. This
neglect was due partly to the legislative muddling of the responsibilities
of justices and sheriffs already mentioned, but was also an outcome of
local parsimony. Even in the wealthy City, after all, it was not until
Richard Whittington's bequest that the original gatehouse of Newgate
was replaced in 1423.[69]

As safe custody was the only necessary reason for limitations being
imposed on prisoners they could, depending upon their wealth and
social standing, organise their lives very much as they wished. True,
there were some elementary forms of classification: where possible,
felons were kept apart from civil prisoners and misdemeanants, and in
some prisons women were segregated from men and natives from
foreigners. A few — mainly state prisoners — were kept in close confine-
ment, but this was not a form of punishment recognised by common
law and was always imposed by royal prerogative — exercised directly
or through the instructions of a commission.[70]

Prisoners could introduce their servants, spouses and families, either
to visit or to reside; this facility seems particularly to have been used in
the civil prisons.[71] Certain prisons in themselves seem to have posed
little threat of discomfort for certain categories of offenders with
material resources, and one of the scandals of medieval and Tudor
times was the use of imprisonment by 'politic debtors' to their own
advantage. This arose from the inadequacy of the law respecting credit.
Once a creditor had obtained a court order and the committal of his

68 In the City and the immediate area, according to John Taylor, there were sixty
   whipping-posts and stocks and cages, and eighteen prisons ('The Praise and
   Vertue of a Jayle and Jaylers', in *All the Works of John Taylor the Water-
   Poet*, p. 131). Besides Newgate there was Ludgate for City freemen and
   freewomen committed for any cause except treason and felony — in practice
   it was almost exclusively a debtors' prison. Then there were the two Counters
   for offenders against City ordinances; Fleet and Marshalsea, both closely
   connected with administration of royal justice and used for all offences
   except treason; Clink (in Southwark) for peace-breakers and religious
   offenders; King's Bench for state prisoners and debtors and Westminster
   Gatehouse mainly for state prisoners. Bridewell (which is discussed in the next
   chapter) should be added to this list, making a total of ten, for though it dealt
   almost entirely with minor offenders it occupied an important place in the
   criminal justice system of London.
69 It had then been in use for about 300 years (Bassett, 'Newgate Prison in the
   Middle Ages', p. 239).
70 Dobb, 'Life and Conditions', p. 29.
71 That imprisonment was not expected greatly to restrict can be seen from the
   description that John Paston gave in a letter to his wife in 1472: 'The Flet
   is a fayir preson, but ye had but smale lyberte therin, for ye must nedys aper
   when ye war callyd' (*Paston Letters*, III, 41-2, *cit*. Bassett, 'The Fleet Prison
   in the Middle Ages', p. 398).

debtor no further action to compel payment was available. 'Politic debtors' were persons who took advantage of the law to obtain large sums of money, feign bankruptcy and when arrested live comfortably in prison, forcing their creditors eventually to settle for a percentage of the amount owed.[72] John Taylor the Water-Poet thus described the two types of debtor in his 'Praise and Vertue of a Jayle and Jaylers':

So Rorers, Rascals, Banquerouts politicke,
With money, or with friends will find a tricke,
Their Jaylor to corrupt, and at their will
They walke abroad, and take their pleasure still:
Whilst naked vertue, beggerly, despis'd,
Beleaguered round, with miseries surpris'd,
Of hope of any liberty defeated,
For passing of his word is merely cheated:
And dungeond up, may tell the wals his mones,
And make relation to the senseless stones,
Where sighs and grones, and teares may be his feast,
Whilst man to man is worse than beast to beast.
Till death he there must take his sad abode,
Whilst craft and coozenage walke at will abroad.[73]

For the involuntary debtor and criminal prisoner without resources imprisonment could be a virtual death sentence.[74] Besides the ever-present risk of disease, many must have starved to death as, whatever may have been the previous position, by the thirteenth century prisoners were expected to find their own keep.[75]

Some prisoners were able to support themselves by continuing their trades in prison, particularly if they practised the easily portable

72 Dobb, 'Life and Conditions', pp. 19-21, *passim*. Another type of debtor chose to remain in prison in order to preserve his possessions for family and heirs. Debts were personal and were cancelled on death. See also Fennor, *op. cit.*, pp. 466-7, and Gamini Salgado, *The Elizabethan Underworld*, pp. 174-5.

73 *All the Workes of John Taylor the Water-Poet*, p. 131. And it was not just the spendthrift who made use of the prisons. Aydelotte notes that 'it is a curious fact that even the jails served now and then as a refuge for Elizabethan rogues and as a basis for their operations. We hear of fellows who lived in jail and would not be persuaded to leave, who kept themselves loaded with suits for debt to cover their other knaveries' (*Elizabethan Rogues and Vagabonds*, p. 83). Prisons were thus used as alternatives to the sanctuaries.

74 Or worse, if Thomas Dekker is to be believed:

Art thou poor and in prison? Then thou art buried before thou art dead. Thou carriest thy winding-sheet on thy back and down the house. Thou liest upon thy bier and treadest upon thy grave at every step. If there be any hell on earth, here thou especially shalt be sure to find it: If there be degrees of torments in hell, here shalt thou taste them (*cit.* Salgado, *op. cit.*, p. 169).

75 Pugh, *op. cit.*, p. 319.

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occupations such as cobbling, saddle-making or tailoring. Charity for the destitute might be provided by legacy, or prisoners could beg through a grating into the streets, or even appoint some of their number to walk abroad soliciting food and money. The 1572 Poor Law[76] provided a county allowance for poor prisoners, but there is abundant evidence that its provisions were unevenly and sparsely implemented. Municipalities often arranged that food and other supplies confiscated by way of penalty for violations of the trade laws, would be assigned to the prisons. Upon all these forms of private or governmental generosity the gaoler and his assistants could, of course, be expected to levy a toll.

How did prisons stand in the eyes of the broader community? Pugh argues that 'The law, the church, and what passed for public opinion were opposed to the exploitation of prisoners and the practice of cruelty towards them . . .'.[77] The City authorities promulgated regulations for Newgate, and their other prisons, in the early fourteenth century. These included provisions for some classification and segregation, a scale of permissible fees and charges and new arrangements for the distribution of charities.[78] Between 1443 and 1681 attempts (which met with various degrees of success) were made to ensure regular inspection of Newgate.[79] In the latter year it was provided that prison visitors were henceforth to be elected annually:

> every September two curates and two commoners were to be chosen to inspect the prisons in order to hear prisoners' complaints, to find out why each was being detained, to enquire whether the ordinances were being observed, to determine whether alms were being dispensed fairly, and to inspect the water supply.[80]

Shortly afterwards fines and suspensions were introduced as penalties for prison staff who broke regulations.[81] Attempts to regulate the City prisons became more wide-ranging and persistent as the Common Council and aldermen came increasingly under the influence of Puritanism.[82] In other municipalities similar attempts were made from

76 14 Eliz., c.5.
77 Pugh, *op. cit.*, p. 387.
78 Bassett, 'Newgate Prison in the Middle Ages', p. 241.
79 Sheehan, *op. cit.*, p. 20, n. 4, and p. 21.
80 Bassett, 'Newgate Prison in the Middle Ages', p. 242.
81 *Ibid*.
82   The City government, increasingly as it became more Puritan, tried to do something for the prisoners, legislating against the admission of unauthorised female visitors, irregular behaviour in divine services, gambling and excessive drinking. They tried particularly hard to prevent the sale of the strongest beer and ale to them (Dobb, 'London's Prisons', p. 98).

Dobb here refers to the period 1600-30.

the fourteenth and fifteenth centuries onward, whilst the Crown sought to control fees in the national prisons that came more directly under its control.[83]

Babington shows that the Court of Aldermen were well informed about the defects and oppressions in their prisons. 'Indeed', he says, 'the repertories disclose a constant preoccupation with the excesses and disobedience of the gaolers; this is apparent even in the initial volumes covering the period between 1495 and 1560.'[84] None the less, standards of inspection, even in London, suffered from long periods of neglect which, given the unpleasant nature of the prisons, and the hazards involved in even stepping over their thresholds, is hardly surprising. In remote county prisons, inspection must have been an extremely rare occurrence.

Prison staff were subject to much social condemnation and suspicion. In a sometimes harsh society their means of livelihood was set apart by the inordinate degree of its harshness.[85] They often wrung their money from misery, and penal history is plentifully punctuated with complaints against them. The strong and vivid literature of the sixteenth and seventeenth centuries contains several such pithy attacks. Taylor seems to be voicing a general feeling of despair and resignation when he writes in the early 1600s:

> That jailes should be, there is law, sense and reason,
> To punish bawdry, cheating, theft and treason,
> Though some against them have invective bin,
> and call'd a Jaile a magazin of sin,
> An Universitie of villany,
> An Academy of foule blasphemy,
> A sinke of drunkenesse, a den of Thieves,
> A treasury for Sergeants and for Shrieves,
> A mint for Baylifes, Marshals men and Jailers,
> Who live by losses of captiv'd bewailers:
> A nurse of Roguery, and an earthly hell,
> Where Dev'ls or Jaylers in mens shapes doe dwell. . . .[86]

Mynshul also developed the theme of gaol as hell:

> As soon as thou commest before the gate of the prison, doe but thinke thou art entring into Hell, and it will extenuate somewhat

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83 Pugh, *op. cit.*, pp. 170-1.
84 Babington, *op. cit.*, p. 39.
85 'It must be said . . . that charges of misconduct against prison-keepers, whether those keepers were sheriffs or other "principals", or common gaolers or other "agents", are extremely common and derive from all periods' (Pugh, *op. cit.*, p. 177).
86 Taylor, *op. cit.*, p. 128.

of thy misery, for thou shalt be sure not only to find Hell, but fiends and ugly monsters, which with continuall torments will afflict thee. . . .[87]

Fennor, also writing from bitter experience, described gaolers as:

men that, having run through their trades as they have their estates, at last are forced to take upon them this most base and odious kind of life; which they no sooner have obtained but are as proud of it as a lousy prisoner of a fresh suit, or a beggarly rhymer of twelvepenny dole when he oweth ninepence for ale. They are men that have no quality in them but one, and that is to ask money, and, like lawyers, without their fees they will do nothing. They imitate ravens, kites and crows that feed upon the corruption, stinking garbage, and guts of any carrion lying in the fields and leave that part that is most wholesome untouched; so these feed upon the follies and vices of the age, and have nothing to do with anything that is good. . . .[88]

Contemporaries knew only too well that the system of prison finance and administration was as much to blame for the gaolers' unscrupulous methods as were any vicious qualities in the men themselves. This is shown by a pamphleteer of the late seventeenth century:

How commonly do under-officers, gaolers, etc. excuse their barbarity and unreasonable exactions by alleging that they have no other way to make up the interest on their purchase-money? . . . It is this alone that steels and case-hardens a gaoler's conscience against all pity and remorse, giving him the confidence to demand extraordinary fees and racked chamber-rent from his prisoners, or else to crowd them into holes, dungeons and common sides, designedly made more nasty to terrify the prisoner who, for the preservation of his life, is thereby forced to part with his money or is devoured by famine and diseases. This makes him let out his tap-houses at such prodigious rates that, where poor people should have the best and cheapest, they have the worst in quality and the smallest in quantity at excessive prices. Also he farms out his beds to mere harpies.[89]

Many of the defects and unnecessary oppressions in medieval and Tudor prisons were recognised and attempts made to legislate against

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87 G. Mynshul, *Essayes and Characters of a Prison and Prisoners*, pp. 49-52.
   Mynshul was a Gray's Inn lawyer who was imprisoned in the King's Bench
   prison for debt. The *Essayes* were written during his incarceration. (Aydelotte,
   op. cit., pp. 132-3, claims that Mynshul largely cribs his descriptions of prison
   life from the 1616 edition of Thomas Dekker's *Villanies Discourred*.)
88 Fennor, *op. cit.*, p. 469.
89 *England's Calamities Discovered* (1696), *cit*. Babington, *op. cit.*, pp. 66-7.

them. But with one significant exception which I shall discuss in the next chapter, the reformation and control of prisons was not seen as a prelude to the reformation of offenders; it was not intended, by seeking to cure the excesses of gaolers and other prison staff, to make prisoners better people, but rather to make custody less productive of evil and more in keeping with Christian morality.

2 Imprisonment prior to the eighteenth century: the houses of correction

Bridewell unto my memory comes next;
Where idlenesse and lechery is vext;
This is a royall house, of state and port,
Which the eighth King Henry built, and there kept Court,
King Edward somewhat ere his timelesse fall,
Gave it away to be an Hospitall:
Which use the City puts it well unto,
And many pious deeds they there doe doo:
But yet for Vagabonds and Runnagates,
For Whores, and idle Knaves, and suchlike mates,
'Tis little better than a Jayle to those,
Where they chop chalke, for meat and drinke and blows.
In this house those that 'gainst their wils doe dwell,
Love well a Bride (perhaps) but not Bridewell. . . .[1]

Thus, within seventy years of its foundation, Bridewell, one of the most momentous social innovations of the Tudor period, was sufficiently notorious and established to be celebrated in the doggerel of John Taylor. Bridewell was an attempt to entrust imprisonment with reformatory and punitive objectives, which were to be secured by a closely regulated régime. This use of prison was a radical departure from existing practice where, as has been shown, if imprisonment was imposed for penal reasons the goal was thought to be achieved purely and simply by the deterrent and retributive loss of liberty, and the pressure on the prisoner of the expense and danger entailed. Against this background Bridewell can truly be treated as the first example of modern imprisonment — certainly in Britain and probably in

1 John Taylor, 'The Praise and Vertue of a Jayle and Jaylers', in *All the Workes of John Taylor the Water-Poet*, p. 131.

Europe.[2] Bridewell and the system of houses of correction to which it gave rise have a central place in the history of English penal philosophy and administration.

In his study of the history of penitentiary imprisonment in America, David Rothman observes that, with few exceptions, historians have described the advent of 'deviant-processing' institutions as a 'reform'. But this, he goes on to suggest, raises the wrong questions:

> The volumes that follow this tradition do not ask why the society adopted this particular measure rather than another. By describing the innovation as a reform, they assume that the asylum was an inevitable and sure step in the progress of humanity. Ostensibly it was an obvious improvement not only over existing conditions, but over *other possible alternatives*. It was exactly the type of device that well-meaning and wise citizens should have supported. But such a perspective is bad logic and bad history. There was nothing inevitable about the asylum form, no self-evident reason why philanthropists should have chosen it.[3]

That being a sensible point, this chapter will attempt to raise some of the right questions: in particular, why Bridewell and the houses of correction were established; what particular assumptions about society and human nature their philosophy and administrative policy rested upon; and why, within a relatively short space of time, their functions, administration and staffing largely became assimilated to those of the common gaols.

Social policy

As with most seemingly radical innovations, closer examination reveals a number of continuities − extensions of, rather than breaks with, existing practices. Moreover, Bridewell and the other houses of correction arose from, and were an integral part of, broader Tudor social policy; and this policy, as several writers have pointed out, was conservative. George Unwin puts this point well when he notes that in almost all social legislation of the period 'we may see the England of

2 Mannheim goes no further than to recognise that modern methods of imprisonment came into being in the sixteenth century and that there is dispute about which country has best claim to be the originator: Holland, Italy and England all having their claims (Hermann Mannheim, *The Dilemma of Penal Reform*, p. 49). Austin Van der Slice ('Elizabethan Houses of Correction', p. 47), however, thinks it likely that the English Bridewell was the model for the Rasp Huis of Amsterdam, founded in 1596, and thus probably for subsequent foundations in other countries. Max Grünhut holds that because of the 'striking similarity between English Bridewells and Dutch Houses of Correction, English influence is not improbable' (*Penal Reform*, p. 17).
3 David J. Rothman, *The Discovery of the Asylum*, p. xiv.

the past erecting vain barriers against the England of the future'.[4] Tawney uses the term 'conservative reconstruction' and observes that the Privy Councils of the time pursued the ideal of stability rather than progress:

> Their enemies were disorder, and the restless appetites which, since they led to encroachment of class on class, were thought to provoke it . . . their aim was to crystallize existing class relationships by submitting them to the pressure, at once restrictive and protective, of a paternal government, vigilant to detect all movements which menaced the established order, and alert to suppress them.[5]

This search for stability engendered wide-ranging social and economic legislation, extending from the regulation of prices and labour to the relief of distress, and the suppression and reform of the idle and dissolute. This was a corporatist society: there was little social anonymity; everyone had a place and a duty to which, for the common good, the powers, secular and sacred, strove to keep them.

There is disagreement about the causes of increased vagrancy and destitution in Tudor times. Some analyses stress the effects of the dissolution of the monasteries, which were the traditional sources of poor relief; others contend that whilst relief was thereby made more difficult, the dissolution did not in itself cause the increase.[6] Commentators, however, are agreed that the Tudors and early Stuarts were plagued with beggars and social unrest: 'All accounts affirm that the number of beggars was prodigious; thieves abounded everywhere; and in the unruly north their bands were still a menace to the villages after the borderline had ceased to be a frontier.'[7] Although society had always had its poor, its displaced and its idle, the sixteenth century produced new twists to the old problems. There was, for example, a concentration of paupers in the large towns, drawn thither by industry; seasonal unemployment replaced the under-employment of the medieval peasant; and altogether there was a greater probability that those who survived into old age would have no land to support them.[8]

Various means were adopted to relieve the poor, but the increase in their numbers and the necessity for their relief did not immediately present problems for the established social philosophy of pre-Reformation England. Religious and social thought was then much

4 George Unwin, *Studies in Economic History*, p. 315.

5 R.H. Tawney, *Religion and the Rise of Capitalism*, p. 170.

6 See, for example, Christopher Hill's *Society and Puritanism in Pre-revolutionary England*, p. 255, for a statement of this latter view, whilst Frank Aydelotte argues that both before and after their dissolution the monasteries increased the beggar class (*Elizabethan Rogues and Vagabonds*, p. 16).

7 A.V. Judges, *The Elizabethan Underworld*, p. xv.

8 Hill, *op. cit.*, p. 267.

more concerned with the state of mind and benefits accruing to the giver than it was with the moral worth of the receiver:

> Now and again, it is true, one of the Fathers of the Church would instruct the faithful that they should not encourage idleness and fraud by their gifts. . . . But the overwhelming tendency of regarding alms as an act of piety, like fasting and prayer, principally from the standpoint of the state of mind of the giver, was in the direction of dismissing all considerations with regard to the character of the recipient.[9]

But one group of the poor seem always to have been unfavourably regarded: vagabonds, in a settled, mainly rural society, were condemned as lacking place, responsibility and moral links with the community. Repeatedly from the reign of Richard II repressive statutes had been enacted against them.[10] Vagabonds posed a demoralising example, threatening political and social order, and their ranks were a breeding ground for crime. Their very appearance in public, for this reason, attracted as much disapproval from the authorities as did their dissolute moral characters. Despite the licensing of special categories – mendicant friars and returning soldiers and seamen – open solicitation for alms was taken as an insult to and subversion of the industry and social order of the commonwealth. Injunctions against public begging were promulgated by several statutes of Henry VIII and Edward VI, for example, 27 Hen. VIII, c.25, and 5 and 6 Edw. VI, c.2; the former seemed to choose the lesser evil in charging the various local authorities to provide relief so that beggars should not be compelled 'to wander idle and openly ask alms'.

Measures against pauperism and vagrancy were promoted with even greater political urgency as the Tudor commonwealth became increasingly Protestant. According to Bindoff, Tudor England was a society 'which ranked, not cleanliness . . . but industry, next to godliness and loyalty, and which condemned idleness as both a sin against God and a crime against the commonweal'.[11] In the social programme drafted by Bucer, Professor of Divinity and Edward VI's Cambridge tutor, was included the declaration that 'wilful idlers are to be excommunicated by the Church and punished by the State'.[12] Thus whilst the number of poor and vagrant subjects was increasing dramatically, political, religious and social attitudes were changing. The tension between these two forces concentrated social policy and administration on the problem of classifying the poor. Otherwise how could the different

9 S. and B. Webb, *English Poor Law History: The Old Poor Law*, p. 5.
10 Van der Slice, *op. cit.*, p. 48. For a comprehensive list of such poor-law legislation see Sir Frederick Eden's *The State of the Poor*, III, Appendix LX.
11 S.T. Bindoff, *Tudor England*, p. 293.
12 Tawney, *op. cit.*, p. 147.

needs of the worthy poor be met and the wilfully idle poor be punished and set to work?

The fact that many forms of minor misdemeanour were condemned more as indications of a wanton, shameless, idle and unproductive life than as misdeeds in themselves, gives Tudor social policy a particular relevance for penal history, as in its administration delinquents were associated with broad categories of the poor. That apparent idleness was the criterion that fused a number of otherwise disparate groups can be seen from the way in which 'vagabond' was defined in 14 Eliz., c.5. It embraced proctors and procurators and persons 'using subtyll craftye unlawful Games'; those 'fayninge themselves to have knowledge in Phisnomye, Palmestrye, and other abused Scyences'; all those able-bodied landless and masterless persons unable to account for the means by which they earned their livelihood; all 'fencers, Bearwardes; Comon Players in Enterludes and minstrels' not attached to a nobleman; 'Juglers, Pedlars, Tynkers and Petye Chapmen' (small traders) unless licensed by two JPs; common labourers, able but refusing to work for customary wages; all makers and users of counterfeit passes (used to pass poor people from one parish to another, *en route* to their place of settlement); all Oxford and Cambridge scholars begging without chancellor's or vice-chancellor's licence; and shipmen and liberated prisoners without proper licences. The term 'vagabond' included, therefore, the socially unworthy nuisances, the disreputable and the suspected: all those who could not establish to the satisfaction of the authorities their place in the social order and productive processes of the commonwealth.

Bridewell

Whipping, branding, enslavement and hanging all had been employed in various attempts to curb the rising tide of vagrancy. None proved effective. Mid-sixteenth-century London resolved upon other remedies. In the first place these involved the organised use of public resources to relieve poverty in the community. It was, as Judges writes, 'A new chapter in administrative history' which

> opened with the decision of the Common Council of London that from Michaelmas 1547 'citizens and inhabitants of the said City shall forthwith contribute and pay towards the sustenation, maintaining and finding of the said poor personages by the space of one whole year next ensuing the moiety . . . of one whole fifteen[th] , and that weekly church collections should be discontinued'.[13]

13 Judges, *op. cit.*, p. xxix. This was probably the first poor-rate ever levied.

In general terms, the City leaders were moving between two distinct modes of social thought: Catholic and Protestant, medieval and modern.[14] They sought to relieve the poor, but by means which would, at the same time, discipline and coerce them. This policy rested on the practical drawing of distinctions among the poor and the application of measures appropriate to the different types.

In seeking an administrative solution to the problem of sorting and differentially dealing with the poor the City turned to a familiar model — the hospitals. In Tudor times the 'hospital' served a far greater range of purposes than its modern equivalent:

> The term hospital was by no means confined to institutions for relieving the sick, but almshouses, orphanages and training homes were often called by this name. St. Thomas's Hospital may be taken as a typical institution of this kind ... [it] consisted of Master, brethren ... sisters ... and nurses. ... It was founded for the relief and cure of poor people, and in 1535 there were forty beds for the poor, and food and firing was provided for them.[15]

O'Donoghue amplifies the point: 'the word "hospital" originally signified a house which received guests and gave hospitality to sick people, poor people, old people and children. We speak in these days of an almshouse, a workhouse, a hostel or a school'.[16]

Pre-Reformation London had been well supplied with these institutions: in 1536 there were fifteen of them, and four lazar houses. To Henry VIII, who suppressed them, many seemed to fulfil no useful function, or they possessed estates that the Crown could better use. The City, however, sought to preserve some of them. As a result of refounding or new grants there were four royal hospitals functioning by 1552-3. Each served a particular section of the poor: St Bartholomew's, the sick; Christ's, fatherless children; and St Thomas's, the aged sick. Bethlehem, founded in 1274 by Simon Fitzmary and given to the City by Henry VIII, was for lunatics who had no others to care for them. But for one key group there remained no provision — the able poor. In the early 1550s the City's leading secular and religious figures gave urgent thought to the correction of this deficiency.

The unsatisfactory state of existing social policy was the theme taken by Lever in a sermon preached before Edward VI in 1550. His exposition shows to what extent relief and suppression, distress and

14 The constructive protestant alternative to indiscriminate charity was to set the poor on work to stimulate self-help. ... Hard and productive work is of advantage both to the individual and to the community, of which he is a member. Interest and duty here coincide (Hill, *op. cit.*, p. 268).

15 E.M. Leonard, *The Early History of Poor Relief*, p. 19.
16 E.G. O'Donoghue, *Bridewell Hospital*, II, p. 2.

misdemeanour were compounded in the minds of those groping towards the foundation of a new institution for the able-bodied poor.

> Nowe speakinge in the behalfe of these vile baggars . . . I wyle tell the[e] that art a noble man, a worshipful man, an honest welthye man, especially if thou be Maire, Sherif, Alderman, baily, constable or any such officer, it is to thy great shame afore the worlde, and to thy utter damnation afore God, to se these begging as thei use to do in the streates. For there is never a one of these but he lacketh eyther thy charitable almes to relieve his neede, orels thy due correction to punysh his faute. . . . These sely sols have been neglected throughout al England and especially in London and Westminster. . . .[17]

Of the many leading citizens who debated policy at this time Richard Grafton probably played the most important part. It was he, O'Donoghue thinks, 'who pointed out how the poor could be effectively relieved, or reclaimed, by discriminating between the deserving and the undeserving, and by giving a pension or offering work according to circumstances'.[18] Grafton and others sought and secured the aid of Nicholas Ridley, bishop of London, in their attempts to obtain a place in which the worthy and unworthy poor might be distinguished by the test of offering work. They had in mind Henry VIII's palace of Bridewell, part of which was used as the Imperial and Spanish Embassy.

In 1552 Ridley, pursuing this project, wrote to Cecil, in the curiously moving, supplicatory language of the day:

> Good Mr. Cecil. I must be a suitor unto you in our good Master Christ's cause; I beseech you be good to him. The matter is, Sir, alass! he hath lain too long abroad (as you do know) without lodging

17 *Cit.* Leonard, *op. cit.*, p. 30.
18 O'Donoghue, *op. cit.*, I, p. 135. Other European countries were at the time facing similar social problems, and shedding medieval values in their approach to poverty. It seems likely, therefore, that the pioneering ideas of men such as Juan Luis Vives were familiar to Grafton and his colleagues. Vives, an international scholar and courtier, had written a pamphlet on the relief of the poor when he was attached to the court of Henry VIII as tutor to Mary. Very similar suggestions reappeared in a policy paper circulated by the City authorities in 1552. In particular, social policy (in line with Tudor thinking) was presented as a keystone in the bridge between rich and poor. Action to relieve poverty, it argued, should begin with a census of the town's poor – in hospitals, in their own houses and those who were beggars. Then, says O'Donoghue, summarising the document,

> > Begging should be absolutely prohibited and . . . all applicants for alms should be made to labour if they are fit to work. Educate the children of the poor (for education may save them from becoming paupers), and send the sick and maimed into hospitals. . . . Relief to be given to the poor in exchange for work, and poor-relief to be administered by the local authorities (*op. cit.*, p. 195).

in the Streets of London, both hungry, naked and cold. Now, thanks
be to Almighty God! the citizens are willing to refresh him, and to
give him both meat, drink, cloathing and firing: but alass! Sir, they
lack lodging for him. . . . Sir, there is a wide, large, empty house of
the King's Majesty's called Bridewell, that would wonderfully well
serve to lodge Christ in, if he might find such good friends in the
court to procure in his cause. Surely I have such a good opinion of
the King's Majesty, that if Christ had such faithful and hearty friends
who would heartily speak for him, he should undoubtedly speed at
the King's Majesty's hands. Sir, I have promised my brethren the
citizens to move you, because I do take you for one that feareth
God, and would that Christ should lie no more abroad in the
streets.[19]

Ridley preached the case before the king who, moved, invited the
citizens to petition the Privy Council. This, after consultation, they did
in 1553. From the wording of the petition it is apparent that Ridley's
initially vague and general charitable request had been considerably
refined and elaborated. The petitioners first pointed out that thievery
and beggary abounded, despite all the various preventative and punitive
enactments. They had come to the conclusion that the reason for the
misery and beggary was idleness and that 'the mean and remedy to cure
the same must be by its contrary, which is labour'. Among the poor
they distinguished three classes for which appropriate provision had to
be made: the succourless poor child, the sick and the impotent, and the
sturdy vagabond, or idle person. Relief was already being given to the
first two categories, which left the able-bodied poor.

Now resteth for the third sort, an house of occupations, to be erected;
wherein as well the child, when he is brought up and grown to years,
and found unapt to learning, neither any honest person desireth or
would have his service, may there be exercised and occupied; as also
the sore and sick when they be cured; who shall not be suffered to
wander as vagabonds in the commonwealth, as they have been
accustomed, but shall there be exercised. And unto this shall be
brought the sturdy and idle: and likewise such prisoners as are quit
at the sessions, that they there may be set to labour. And for that
the number will be great the place where they shall be exercised must
also be great. And this, being (as it were) the perfection of our whole
former travail, is yet undone, and moveth us now to sue for the King's
majesty's house of Bridewell; for that the situation and largeness
thereof seemeth most meet and convenient for this purpose.[20]

19 *Cit*. Thomas Bowen, *Extracts from the Records and Court Books of Bridewell
Hospital*, pp. 3, 4.
20 *Cit*. R.H. Tawney and E. Power, *Tudor Economic Documents*, II, pp. 307-8.

The Privy Council responded favourably and in April 1553 the king acceded to the request. Legal formalities were not completed until 20 June of the same year and, as Edward was already on his deathbed (he died on 6 July), this grant was among the last of his reign.

The religious reformation had deepened and taken a new turn during Edward's reign. Mary's attempts to reverse these changes might, in time, have resulted in the revocation of the grant of Bridewell, as there is some evidence that she was unsympathetic to the project.[21] In any event, there was a delay of some three years before it was handed over, and the City did not take possession until February 1556. A levy upon the City companies defrayed the expenses on equipment and furniture, and in December 1556 Bridewell received its first prisoners.[22]

Although by this time the place of Bridewell in the City's system of poor relief appears to be reasonably well defined, closer examination shows that the new hospital in some respects acted as a stopgap and in others was made to fulfil a combination of tasks, strange even according to the thinking of the day. It was required to provide simultaneously shelter for the wilful and the hapless poor; succour for misfit children and destitute discharged prisoners; punishment and a reformatory stimulus for a motley lot of rogues, rascals, swindlers, petty criminals and drones. Bridewell was also a kind of social lazar house: it kept in limbo various petty offenders, and by keeping them apart from society – in a way in which whipping, stocks or pillory did not do – reduced, for the time of their confinement, scandal to the commonwealth and subversion of its moral solidarity.[23] And to add to these various advantages the inmates were to maintain themselves, at least in part, by the fruits of their labours.

The factor which linked these different categories of social miscreants was, in theory, the beneficial effects of their being taught, exposed to and compelled to labour. Bridewell was at once conceived as a place where inmates were made better, and as a work-offering

21 O'Donoghue, *op. cit.*, I, pp. 258-9. G. Salgado (*The Elizabethan Underworld*, pp. 187-8) notes that one contemporary suggestion for Mary's hostility was that the whores, under examination, would disclose too many scandals involving Roman Catholic priests. There probably were broader differences in policy, however, since an Act of Mary (2 & 3 Ph. & M., c.5) provided for the licensing of beggars – a direct reversal of the previous policy of prohibition.

22 Leonard and the Webbs are vague about the commencing date. The former is only able to put it before 1557 and the latter sometime between 1552 and 1557. O'Donoghue (*op. cit.*, I, pp. 119-30, *passim*) using detailed documentary evidence can pinpoint dates more exactly.

23 Little attention has been paid to the usefulness seen in such social segregation by Bridewell's innovators. The abhorrence with which public begging and social displacement generally was viewed was surely in large part stimulated by the moral and political threat thereby offered to the community. 'Out of sight, out of the public mind' should perhaps have been engraved over the gates of Bridewell.

touchstone which could distinguish the truly delinquent from the unfortunate, the evil-doer from the casualty.[24] Bridewell contained, tested, punished, trained and relieved, all in one go – or so its founders hoped.

Régime

How, then, were these diverse objectives to be achieved? Only one form of reformatory imprisonment had previously been tried – the penitential confinement of the monasteries. Rules of various monastic orders provided this penalty for grave offenders within the cloistered community. Monastic prisons isolated the malefactor, partly as duress and punishment, partly in order to reduce moral contagion, but also with the intention of curing the offender's physical and spiritual defects. Such prisoners were kept in silence, subjected to a special diet, and allowed only the distraction of approved books and conversation with their abbot or some designated elder brother.[25] These methods were to be revived for secular use in the late eighteenth century. As the Elizabethans were familiar with monastic practices, why did they not turn to this form of imprisonment for guidance in their attempts to design a reformatory régime?

Reflection shows this to be an unsubstantial question. Whatever elaboration of a Protestant view of poverty was still to take place, there was a strong antipathy towards popery in the Edwardian, Marian and Elizabethan City. Bridewell, after all, was founded at the height of the Edwardian Reformation and in the very powerhouse of that movement. It would have been inconceivable for London's Common Council to model their hospital upon institutions which had recently, with self-righteous zeal, been suppressed for waste and idleness and aggravation of the problem of poverty. The Protestant connection of monasteries with waste is emphasised by Hill:

> The reformers justified the dissolution of the monasteries because their inmates were idle and unproductive. Luther attacked monks, friars and beggars in the same breath; part of his original case

24 Describing the design of the nineteenth-century New Poor Law, the Webbs drew attention to the similarities between its 'workhouse test' and the testing function of Bridewell (S. and B. Webb, *English Prisons Under Local Government*, p. 13). Leonard makes a similar point: 'Bridewell as a place of punishment for idlers was the necessary counterpart of the new schemes for universal relief. You could not relieve and find work for everyone unless you had some means for coercing and punishing the "sturdy vagabond" ' *(op. cit.,* p. 39).

25 For a fuller discussion of monastic imprisonment see Ralph B. Pugh, *Imprisonment in Medieval England*, Ch. 18.

against indulgences had been that they led to the squandering of men's substance.[26]

Monasteries epitomised so many of the evils that Bridewell was intended to eradicate that had they been used at all it would have been as a negative rather than a positive example.

But what need to look for inspiration further afield than the City, where men were made rich, contented and good by their honest endeavours? And, indeed, from the outset it was intended that there should be the closest links between the productive life of the community and the activities of Bridewell. The petition to Edward promised that cap-making would be carried on, together with the manufacture of feather mattresses and 'wool-cards, drawing of wire, spinning, carding, knitting, and winding of silk, and other profitable devices: and the stubborn, and fouler sort, shall be exercised in making of nails and other iron-work'. Furthermore

certain godly and honest citizens will deliver matter in stock, whereof the idle shall be set on work; as wool, yarn, flax, wire, leather, etc. And when the same shall be wrought, to receive the same wrought wares in satisfaction of the stock, allowing for the workmanship thereof; and always as the wares are wrought to renew the stock. And thus shall there never lack matter whereon the idle shall be occupied.[27]

By 1579 twenty-five trades were carried on there.[28] A considerable number of apprentices were trained; orphaned sons of City freemen were received at Bridewell; parish overseers sent children, and yet other children were taken up by Bridewell beadles from the streets. By 1631 there were sixteen tradesmen teaching their various crafts to a total of 106 apprentices.[29]

But labour at Bridewell was not exclusively productive; some activities were undertaken specifically for their penal value. Male prisoners deserving of punishment were set to clean the city ditches (a loathsome task, as ditch and sewer were one); females picked rags and waste paper for the government monopolist, or were set to beat hemp.[30] In 1591 the daily task to be completed by prisoners in the hemp-house

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26 Hill, *op. cit.*, p. 263. Hill also cites a seventeenth-century condemnation of popery which asserts, *inter alia*, 'monks, nuns and friars live in idleness, making no contribution to national production . . . friars and other mendicants live especially on the alms of the poor, and so the latter can never rise above a mean condition' (*ibid.*, pp. 128-9).

27 *Cit.* Tawney and Power, *op. cit.*, pp. 308-9, *passim*.

28 Van der Slice, *op. cit.*, p. 51.

29 Leonard, *op. cit.*, pp. 217, 354-5.

30 O'Donoghue, *op. cit.*, II, p. 12.

on pain of restrictions on their diet was twenty-five pounds.[31] By Stuart times escorted parties of prisoners were being sent out to sweep the streets.[32] Treadmills were in use from the earliest days and a special hand and foot mill was invented (by a certain Payne!) so that vagrants who had lost a hand or foot should not thereby evade labour.[33] Idleness was discouraged by torture and whipping, besides dietary punishment.[34]

The penal side of Bridewell was further emphasised by the preliminary flogging of certain categories of new prisoners – chiefly prostitutes and vagrants. This punishment was inflicted in public – either at a cart's tail or in Bridewell's whipping-room. Only after this induction did these prisoners pass on to the industrial parts of the prison. Retributive and reformative ends were thus jointly served.

Sentences were generally of short duration, probably averaging about a month. There were many instances, however, in which sentences of several years, or even life, were imposed, particularly for religious offences or incendiarist libels.[35]

Administration

Administration combined both existing and new practices in line with the way in which the system as a whole had been constructed.[36] Two principles were fundamental: there was to be a radical break with the profit-based financial system of the gaols, and a detailed code of regulations was to be drawn up and enforced by regular independent inspection. As has been pointed out, the *raison d'être* of gaols was purely custodial; and provided that security was maintained the gaolers needed no further regulation. With so much latitude allowed, gaolers

31 *Ibid.*, I, p. 221.
32 *Ibid.*, II, pp. 21-2.
33 *Ibid.*, I, p. 239. The mills ground corn, and could be used for up to eighteen vagrants at a time (Judges, *op. cit.*, p. lxii).
34 Prisoners might, for example, be placed in 'Little Ease', a cell so designed that both standing and sitting were impossible. Alternatively they might be subjected to the 'scavenger's daughter' – a set of rod-mounted manacles that bent and compressed the body causing excruciating pain. Prisoners were also suspended by their hands (O'Donoghue, *op. cit.*, pp. 222-3).
35 O'Donoghue, *op. cit.*, II, pp. 29, 40. The prison accommodated about two hundred inmates and had an annual turnover of about two thousand.
36 Leonard well expresses this balance between continuity and change in her general comment that

> There was no sudden break with the older system. St Thomas's, St Bartholomew's and Bedlam (Bethlehem) had all been hospitals for centuries. They had been saved from destruction, improved and enlarged; but essentially the same work was done in the same places. . . . Bridewell was the greatest innovation and the most characteristic institution of the new system (*op. cit.*, pp. 38-9).

engaged in a great variety of relationships and transactions with their prisoners. However, when prisons were given the additional reformatory task, relationships between staff, prisoners and public had to be structured in such a way as to exclude undesirable activities and experiences and inescapably to expose prisoners to other experiences and desirable activities. Hence the need for a system of finance not based on profits. A keeper who drew remuneration solely from the exercise of initiative in dealings with prisoners could not possibly be an agent of the new régime. The reformatory prison was financially and administratively the antithesis of the purely custodial gaol.

The new administration had to be run by an independent, capable body of regulators, whose close engagement in the activities of the prison had no financial incentive and whose loyalties were owed only to the City. To meet these requirements a corporation of governors was established, sixty-six strong, which jointly served London's four royal hospitals. These governors were instructed by the City's 1557 enactments[37] and were subject to biennial elections, whereby only half of the body were elected in any one year, thus ensuring continuity. Fourteen of the total were to be aldermen, the rest 'grave commoners'. Of the highest ranking aldermen two were to be appointed as comptroller and surveyor respectively of all the hospitals. The rest of the governors were distributed equally between the four hospitals, although, despite these specific appointments, all retained authority and responsibility for the hospitals as a whole.[38] Out of the sixteen allocated to each establishment an alderman was to be elected president and a commoner treasurer. Other governors were given departmental responsibilities in keeping with their interest and expertise; the nail-house at Bridewell, for example, was supervised by governors drawn from the Company of Ironmongers. Thus, although amateur administrators, some at least of the governors could be expected substantially and practically to

37 The ordinance stated:

> As the Governors of the other hospitals and Bridewell are all incorporated and made one body, and whosoever is Governor of one of them, is also Governor of them all; and yet, for order sake the said Governors are divided to the several government of the said houses; so in like manner are ye appointed to the government of Bridewell ('Ordinances and Rules . . . for the good government of Bridewell, 1557', *cit.* William Waddington, *Considerations on the Proper and Original Objects of the Royal Hospital of Bridewell*, pp. 5, 6, 7).

38 Van der Slice, *op. cit.*, p. 51. In theory one should have spoken of the five royal hospitals, but Bridewell and Bethlehem were co-joined for administrative purposes. This 'joint and several' responsibility of the governors further emphasises the fact that together the hospitals were seen as a *system* of relief, with each playing a dependent and important part.

contribute to successful management.[39]

Governors were collectively responsible for payments and accounts and generally were empowered to 'comptroll and rebuke' the employees as they thought fit.[40] In the discharge of their duties they checked and counterchecked each other, as it was ordained that 'Nothing shall be given, paid, nor ordered, but six at least of the said governors shall first give their consent thereunto, and two of the six shall be aldermen'. But, combining this caution with practicality, executive responsibility for finances was given to one person:

> Among those governors, one of the worshipful, and wisest
> personage, and credible, shall be treasurer for one year and no more.
> And he to have the charge, as well of the sums of money that are to
> be received and paid, as also of such stock and wares, as in the said
> house shall be wrought and unwrought, and to account for the
> same. . . .[41]

Regular audits and personal inspections were undertaken by the governors to ensure that subordinate staff complied with the regulations and did not corruptly divert any of the considerable flow of revenue and stock of the prison. This was essential if the prison were not to relapse into the ways of the gaols, an especially likely eventuality, as staff could only draw their expectations of institutional life from contemporary practices and these dictated that each public office had particular and immediate rewards.[42] O'Donoghue sardonically notes that 'the officers of the house in the sixteenth century were not always animated with the same sentiments as their absent masters – a jealousy for the good name of Bridewell, and a sense of devotion towards a cause. . .'.[43] That many of the staff were residential only increased, in some respects, the problems of supervision and control. Drunken carousals and other misbehaviour were probably not infrequent. One such incident resulted in orders from the governors placing the offending staff in the 'hole' until the pleasure of the treasurer was known.[44] Despite difficulties of this kind Bridewell does not seem to have had

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39   It is . . . requisite for the good order of the said house, that the Governors
     be divided to the oversight of several charges: as some to the oversight of
     cloth-making; and others to the Smithy and nail-making. And some to the
     Mill-house and Bakehouse, etc. to the intent that every one of them in
     their several charges, may shew themselves before God and the honourable
     City, as worthy and good Governors of the same (*cit.* Waddington, *op. cit.*,
     p. 57).

40 Leonard, *op. cit.*, p. 37.
41 Tawney and Power, *op. cit.*, pp. 309-10.
42 Even before Bridewell became properly operational, staff and workmen were
     detected in corruption and theft (Salgado, *op. cit.*, p. 187).
43 O'Donoghue, *op. cit.*, I, pp. 205-6.
44 *Ibid.*