



From the Big House to the warehouse

Rethinking prisons and state government in the
20th century

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Bright, Charles (1994) *The powers that punish: prison and politics in the era of the 'Big House' 1920–1955*. Ann Arbor, MI: University of Michigan Press.

Cummins, Eric (1994) *The rise and fall of California's radical prison movement*. Stanford, CA: Stanford University Press.

Schrag, Peter (1998) *Paradise lost: California's experience, America's future*. New York: New Press.

Davis, Mike (1998) *Ecology of fear: Los Angeles and the imagination of disaster*. New York: Metropolitan Press.

The long lead-time required by complexly empirical research almost guarantees that the interpretive work of researchers will have a troubling theory gap. By the time such work is published, read, reviewed, responded to, chances are good that theoretical developments will call into question not just its conclusions, but even the choice and construction of objects. The existentially positive side of this for the researcher is the opportunity sometimes occasioned to look again at a subject of research and through the lens of subsequent scholarship, see it again as for the first time.

In my case the subject was the phenomenal growth of the California prison system in the 1980s. My study argued that prison growth was being driven in large part by the collapse of the internal narratives which had historically permitted parole to serve as an exit from prison and as an alternative to further imprisonment (Simon, 1993).¹ These narratives sustained parole agents in taking the risk of keeping known felons in the community by linking the agent to both sources of justification and to real deposits of power in the community. Both of these faculties were undermined starting in the 1970s, making parole far more vulnerable to political pressure for intensive use of imprisonment, pressure that grew dramatically in the 1980s.

In analysing this process my explanatory framework identified two key variables associated with venerable social science traditions,² changes in the conditions of the

working classes and changes in the mode of rationalizing state power. The growing gap between a relatively affluent working class and an underclass increasingly separated from the disciplines of labor, made it more and more difficult for parole to provide an account of how its parolees were to be kept secure in the community. At the same time, transformations in the legal context of parole increased the demand for rationality and transparency in the working of the control system. The combination of fewer social resources, and greater performance demands, forced the transformation of parole itself from a mechanism of community surveillance into a mechanism for returning parolees to prison.

This Marxist/Weberian framework (largely obtained through Foucault to the annoyance of not a few reviewers) had major problems that were only beginning to be apparent to me when the relentless logic of academic tenure forced the publication of the study. One of them, highlighted by the new institutionalism in organizational analysis (Powell and DiMaggio, 1991), and governmentality scholarship (Burchell et al., 1991) was the tendency to reduce political institutions to mere factors in favor of social forces and technologies (either material or ideological). A second, highlighted by post-colonial scholarship (Ashcroft et al., 1995) and cultural studies (Grossberg et al., 1992) was to prioritize the logic of power over that of resistance in the subjects of research (a mistake only compounded by vigorous valorization of resistance in the accompanying narratives). Because of this the study had two enormous gaps. Despite being a study of behavior controlled ultimately by state governments, it said virtually nothing about the state government as a set of institutions, interests, practices, or rationalities. Despite being a study of parolees being returned to prison, it had almost nothing to say about the forms of resistance by and organization of inmates and parolees such as gangs.³

Developments in the 1990s have only made these gaps more significant. Two consecutive decades of rapid growth in American penal populations and steady decline in public support for the federal government have made state governments and their penal practices a vital question for American government. State prison populations have produced the highest incarceration rate in the history of the United States and any other liberal democracy.⁴ The scale of the penal population, magnified greatly for some communities, makes the norms being promulgated in prison culture even more critical to the future governability of our society than before.⁵

In both respects it has become important to rethink the relationship between the enormously extended power to punish in the United States over the last two decades and the political problem of government at the state level in the United States. Four recent books have helped to make such a rethinking possible.

Charles Bright's (1994) *The Powers that punish* offers us a compelling framework for analysing the co-production of order in the prison and in state government. Bright's study looks at one (albeit very large) state prison during the transition from a state government based on a network of territorially based political machines (what I call here the 'Patronage State') to one based on a growing bureaucracy of administrators and experts as well as a media driven relationship to individual voters (which I call, following Bright, the 'New Deal State').⁶

Bright joins two traditions of scholarship on penalty that had long grown apart. Scholars like myself (Simon, 1993) influenced by Rothman (1971) and Foucault (1977)

tended to treat prisons as a function of society at a national level with little concern for the actual organization of administrative power at the state level in the United States. Scholarship on state prisons' history often ignored the analysis of prisons as political technologies in favor of administrative chronology and politics (Carleton, 1971). Bright's study of Jackson state prison in Michigan between the 1920s and 1950s presents a convincing picture of the Big House prison economy, with its rackets in goods and services, as an integral part of the Patronage State that dominated the Michigan state government in that era. The embrace of scientific rehabilitation, which Michigan began in the 1940s along with many other large industrialized states in the North and West, changed the internal narrative of prison management. The old rackets of economic exchange began to be supplemented if not replaced by new rackets in therapy, education, and compulsory self-narration.

Eric Cummins' (1994) *The rise and fall of California's radical prison movement*, independently takes up the story of the New Deal State and its relationship to penality, and moves the story to California. Cummins examines the circuits of knowledge and power that developed between California prisons under the management of the New Deal State and the politically conscious and educated public that the New Deal State had helped create through its universities and unions (especially an increasingly radical political Left). Inside the prison the new political technologies of rehabilitation made language practices the currency of a new kind of prison economy, one in which the writer came to operate as the ideal con. California convict writers like Caryl Chessman, Eldridge Cleaver, and George Jackson managed to impress their inmate audience simultaneously with a mass reading public. They demonstrated the validity of the transformational promise of rehabilitation, while simultaneously denouncing the state and its correctional establishment in particular. In the case of the latter two, both players in the Black Panther Party, the stream of prison writing ultimately called for violent revolutionary insurrection against the state.

Cummins' saga makes visible how the New Deal State was undermined by the unforeseen results of its very investment in two groups that perhaps most embodied its promise, university students and convicts. Street criminals, especially young men from welfare families, and unruly students, became highly visible rebukes to the New Deal State beginning in the 1960s. These classes became the favorite targets of a new breed of conservative politicians, most notably California Governor Ronald Reagan, who have succeeded in replacing the New Deal style of government at both the state and federal levels of US government.

Two recent books from and about California examine the politics and new technologies of governing that have taken shape since the late 1970s, and which correspond to the beginnings of 20 years of growth in the California prison population. Although neither book takes penality as its major topic, both provide important insights about its role in the post-New Deal economy of power within states.

Peter Schrag's *Paradise lost: California's experience, America's future* (1998), provides an insightful and detailed analysis of one state's experience with the crisis and transformation of the New Deal style of state governance and the Fordist economy with which it was articulated. In less than 20 years California went from being the most ambitious and generous New Deal State, to one organized along lines long developed in the anti-New Deal deep South, including low wage labor markets, harsh prisons, and

poorly funded schools. Schrag is not interested primarily in penalty, but as a shrewd observer of California politics in the 1980s he could not miss the salience of crime.

Schrag's genealogy of the breakdown of the New Deal State points to the proliferation of ballot initiatives. Since their emergence as a popular law making format in the 1970s, popular initiatives in many states have embedded mechanical controls on fiscal policy, depriving the New Deal State of maneuverability and accountability. The trigger for this was California's adoption in 1978 of Proposition 13, a citizens' ballot initiative that rolled property taxes back to their 1975 level, and capped their growth at 2 percent a year for inflation (Schrag, 1998: 140). The initiative process also helped create a new circuit of power between political experts, mass media, and an increasingly disaggregated voting public that could compete successfully with the New Deal circuit of media, big government, and large quasi-corporatist associations.

Schrag shrewdly observes how prison construction filled the gap for conservative governors created by the de-legitimation of New Deal style public spending. Building a vast prison system gave governors in the post-New Deal era a new economy of material goods not unlike the old Patronage State, and a new symbolic good for the virtual or media created publics that the New Deal State helped form and left in its wake.

Mike Davis' (1998) *Ecology of fear* is a series of incredibly dark reflections on the spatial forms that governance increasingly takes in southern California, particularly Los Angeles. Davis' earlier book on Los Angeles, *City of quartz* (1990), gave considerable attention to the role of law enforcement and fear of crime in maintaining an increasingly fortress-like city of class and race segregated sectors. In his latest book Davis depicts crime as only part of the larger 'ecology of fear' in which contemporary southern Californians live. Social disorder like the Los Angeles riot of 1992 increasingly blends with natural threats like earthquakes, deadly canyon fires, and devastating floods to create a hybrid 'ecology of fear.'

Invoking Park and Burgess' (1925) famous sociological model of Chicago as a city of concentric zones of utility, Davis suggests that the spatialization of power in contemporary Los Angeles is now best represented as an 'ecology of fear.' Prisons, in this scheme, have become the ultimate bad neighborhoods, a 'gulag ring' that defines the outer orbit of the metropolitan structure. For Davis, the numerous prisons that have replaced universities as the major subject of state spending, are parts of a spatial governance policy aimed at increasing the security of some privileged sectors by concentrating high-risk individuals together.

In the remainder of this article I want to draw on these four books to offer an account of the rapid growth of state prison populations in terms of the breakdown of the New Deal State, and its replacement by a new model of governing which I call, following Schrag, the 'Initiative State.'

THE BIG HOUSE AND THE PATRONAGE STATE

Charles Bright's *The powers that punish* (1994) is an in-depth historical analysis of one prison over three decades and two quite distinct regimes of political power. Through a careful parallel reading of the history of the prison and the history of state government the study pursues the 'interconnection between the constitution of the political realm and the construction of carceral regimes' (Bright, 1994: 1). Drawing on prison records, memoirs, and newspaper accounts, Bright reconstructs the framework of power inside

the prison, and then carefully traces the circuits that linked carceral power to this political field.

The prison is constituted in and by these relations, and it retails them upon others. It is one position of power formed up in a field of combinations, rivalries, and alliances that make some more powerful than others and frame the terms of dominant discourse. (1994: 2)

The 19th century firmly established the centrality of the penitentiary to the constitution of the state. Existing states built penitentiaries, taking over functions long served by county institutions. New states entering the union recognized immediately that having a state penitentiary was part of being a state, much like having a constitution, a court system, and a flag. Once constructed, the prisons became an embodiment of the state. Building and operating a prison historically provided one of the larger enterprises under the control of state government. Counties typically paid for schools and courts. State universities were small affairs. Even state police were not common until the 1900s. In short, prisons were a big piece of the whole material body of the state.

Going beyond the typical history of political administrations, Bright identifies a fundamental shift in the style of state power during the period of his study. The earlier period was dominated by competition among territorially based (and small town dominated) party committees brought together in unstable alliances through the distribution of patronage. The activities of the state were most useful politically, for their potential to create jobs and public spending with which to cement solidarity. In the 1940s a new approach shaped by the influence of the federal New Deal changed the way Michigan governors sought election and how they governed in order to be re-elected. The New Deal style linked politicians directly to urban masses through media and the new forms of public spending unleashed by the federal 'New Deal.'

Bright argues that there is a strong relationship between the formation of these distinct political fields and the account that penal institutions give of how they exercise power:

The process of constituting a public sphere . . . a formal framework that disciplines discourse, contains the possibilities and congeals alliances for governing, is also simultaneously, the process of forging normative standards, deploying disciplinary forces, and bringing things to order behind the walls in an articulation of control strategies and correctional goals that offers a coherent account of what prison are doing to whom and with what results. (1994: 2)

If Bright is correct, then we need to look for more than an ideological relationship between state power and the prison. Rather than a question of whether a particular governor or party embraces a more punitive or rehabilitative approach to punishment, it is a question of how they exercise power, what kind of discourses and forms of expertise do they invest with judgment; and how they construct their subjects.

When construction on Jackson prison began in 1924 Michigan was dominated by the Patronage State. The Republican Party had once had a strong enough state-wide network to effectively reproduce itself by handing political power from one generation of candidates to the next. By the 1920s, that state-wide network had decayed leaving Michigan governors to personally hold together a highly uneven balance between

population and revenue heavy Detroit, and the portion of the rest of the state necessary to a stable majority in the legislature. The growing body of state public works provided the key to holding such networks together.

The main currency of reward inside this political machine was patronage. Controlling the office of governor, guaranteed the candidate and his partisans access to a large number of state jobs and state supply contracts. The distribution of this patronage sustained a chain of loyalty leading from individual activists, to local party bosses, up to the successful governor.

The prison was well situated to produce numerous effects capable of being distributed at this local political level. Like highways, demand for which grew rapidly with the popularity of the automobile, prisons were a popular form of public spending in the 1920s. Jackson, the largest prison in the world when built, would provide a rich treasure to be divided for many years of construction, and then for jobs and supplies into the future. While Bright points out that several smaller prisons might have made it easier to distribute the patronage largesse across a wider variety of territorially based local political machines, the very scale of the project assured that there would be larger flows of capital from which to draw off rewards for political supporters and greater opportunity to hide the kinds of petty corruption that kept patronage systems together. It also represented an opportunity to cluster a great deal of patronage resources together, relatively close to all-important Wayne County, with its thriving automobile industry in Detroit. Once in operation, Jackson's numerous farms and manufactories produced an endless supply of goods and services that could be provided to political supporters of the governor. The darker side of this circulation of benefits from prison to political system may have even included assassination. Bright investigates the unresolved rumors that gangsters imprisoned at Jackson may have been deployed to murder a State Senator who was about to open investigations potentially embarrassing to the governor (Bright, 1994: 111).

The prison also provided symbolic goods appropriate to the small town values still prevalent in the Patronage State. At a time when cities like Detroit were experiencing high levels of prohibition fueled violence, much of it associated with immigrants (Eastern European Jews among others), the construction of Jackson signaled an intent to get serious about punishing and containing this criminal class. Its huge size reflected a direct capacity to absorb a burgeoning criminal class, and the staying power to see prohibition through with its indirect promise to discipline this dangerous new urban working class.

In a sense the 'Big House' prisons like Jackson were smaller scale versions of the Patronage State. In both cases, the background theme of industrial production served to support a parallel scheme of rackets and patronage. Bright suggests that similar technologies of power operated inside the prison. If Jackson sustained a variety of external rackets, it also contained a whole set of internal ones through which the wide variety of officially proscribed pleasures of life (from sex to food and alcohol). Jobs provided the most important rewards for the internal patronage system. Getting a choice job required cooperation with a prison leader with influence in the warden's office. Such jobs then typically provided access to various goods and services that could circulate in the underground prison economy. This system of interlocking rackets allowed the warden and his staff to assure the appearance of normality, and the smooth

operation of industrial work recognized as penologically appropriate and punitively hard, without having to rely constantly on violence and coercion to overcome inmate resistance. This system also promoted stable relations among inmates. The parole system which had come in at the turn of the century, gave inmates an incentive to work without resistance, while the rackets provided a role in the prison world with at least some promise of pleasure and camaraderie for those who accepted the customs and mores.

The prison was thus both a nodule within the larger patronage economy, and a patronage system all its own. When they operated smoothly these systems could produce a more or less reliable order with norms to control the nature of competition both inside and outside the prison. Of course, the Patronage State and the Big House, in addition to providing functional inputs to each other, also produced by-products that were dangerous to each. The prison, for example, inevitably produced scandals as the accommodations among prisoners and staff that produced its working arrangements occasionally came to light. Since prison wardens were so closely associated with governors, such scandals could pose an immediate threat to the governor. The sudden changes and crackdowns that scandals led to undermined order inside the prison as the forms of laxness and accommodation that created its necessary surpluses were withdrawn. The result was sometimes a riot, requiring extraordinary measures, sometimes state police, to suppress. Such riots were of course particularly major scandals.

Despite the potential for self-destabilization, the Patronage State and the Big House might have survived occasional cycles of scandal had their basic economic and social anchors remained strong. What truly undermined both regimes was the Great Depression that dried up the public spending surpluses and destroyed the profitability of prison industries that sustain the internal rackets and external petty corruption. When the Depression ended, a new model of power was available, one largely borrowed from the successful national regime of Franklin Roosevelt and the New Deal. By the 1940s Michigan governors could no longer rely on mobilizing party leaders and reached out for a mass constituency through new claims of professional governance and moral leadership promoted through a mass media directly to voters.

THE CORRECTIONAL INSTITUTION AND THE NEW DEAL STATE

Bright's study ends as the New Deal style of state government is being established in Michigan in the late 1940s and early 1950s. Although initially associated with the Democratic Party, ultimately both parties engaged in competition to promote new programs designed to solve social problems by mobilizing expertise and resources. Local machines continued to decline in significance and governors increasingly mobilized the state directly.⁷ This approach dominated politics at the national level until the 1980s, and in a good many states until the 1990s. Since then a new breed of politicians (first conservatives but more recently liberals as well) began to successfully challenge the structures of New Deal power, especially taxes and government spending and project a new model for governing.

The hallmark of the New Deal federal government was the proliferation of regulatory agencies and federal benefit programs that still dominate the administration of government in many respects. At the state level governors created smaller scale versions

of the same sorts of agencies and programs. New Deal oriented governors also invested heavily in public spending, especially on intellectual capital, mainly education at the primary, secondary, and higher levels, including grand research universities.⁸

The old Patronage State had relied on local party networks to mobilize voters who need have no particular interest in the candidate for governor but instead would look for rewards to be made available at the local level through loyalty to a winning electoral alliance. The crucial element of the New Deal style of governing was a direct relationship between the executive political leader (president or governor) and a largely urbanized population. The place of the old networks was taken in part by new mass organizations like unions that could mobilize the voters with respect to their mass interests rather than along geographic lines.

Another part of this relationship between the mass population and the political leadership was dependent on the mass media. Newspapers and later radio and television were critical for establishing a personal relationship between leader and mass public (Lowi, 1985). Media also helped shape the voter into a consumer of government services by relaying a steady stream of information about social problems and governmental solutions.

Science and professional expertise also played a prominent role in the New Deal style of governing along both dimensions. The institutional capacity to be able to access and make use of the best scientific advice in managing social problems was a critical feature of the New Deal style. Scientific discourse was critical to running the regulatory and benefit systems and helping to manage their relationship with the quasi-corporatist collective subjects of this state, unions, large corporations and the like. To some extent these subjects adopted the language of the social sciences as their own internal discourse (certainly economics, at certain high points in the New Deal era even sociology).

Two recent books (Cummins, 1994; Schrag, 1998) shed light on New Deal government in California in ways that permit a parallel analysis to that which Bright (1994) has provided for the start of the New Deal period in Michigan. In many respects California in the 1960s and 1970s was the successor to Michigan. Its economy, driven by the advanced sector of industrial manufacturing from automobiles through aerospace, took industrial society to its highest level of affluence yet. Detroit was the coming city of the 1920s with its relatively high wage auto jobs and its driver friendly neighborhoods. Los Angeles, and its freeways, became that in the city of the 1960s from where it seemed to offer the dominant model of the future. In universities, schools, and freeways, California led a national pattern of heavy investment. Led by a progressive Supreme Court, it also expanded welfare, health, and education entitlements for the poor. And significantly, the California Department of Corrections was clearly the national leader in commitment to a scientific model of expertise and a rehabilitative penology.⁹

California governance in this period reflects many of the features Bright attributes to the New Deal model. The Governors from 1958 to 1978, Pat Brown, Ronald Reagan,¹⁰ and Jerry Brown, were all media oriented politicians, far less dependent on a decentralized state party organization than earlier governors. Their ability to mobilize political support was tied to the masses of voters through images of expert leadership over production of highly popular government services and the mediation of the press, large unions, and big business. The legislature, which in many states remained rooted in

earlier structures of local party networks, developed in California along the same New Deal lines with high profile and media savvy members, a large and highly professionalized staff, and an emphasis on popular public spending.

The University of California system, and the even larger systems of state universities and community colleges, were the crowning glory of this regime and reflected all these virtues. By providing nearly free access (at the beginning) to a world class grade of education, higher education offered a highly attractive benefit to the economically mobile and ambitious families that moved the state in large numbers during those years. The elite schools also provided researchers and graduates for the state's high technology industries.

Administering resources like the university systems bathed state government in the glow of technical competence, economic growth, and scientific progress. Pat Brown oversaw the expansion of the University of California system from two to nine campuses. And while costs began to rise in the late 1960s and 1970s, even conservative governors like Ronald Reagan protected the funding of higher education, a pattern that continued into the 1980s.

In both Michigan and California, New Deal influenced governors saw the prison system as an immediate area to establish the virtues of a scientifically informed activist government. In the 1950s, where Bright leaves his story, Jackson prison's regime was being reconfigured around this new model. The riots at Jackson in 1952 served as an occasion for a major reworking of the official rhetoric and the staffing of Michigan prisons in line with rehabilitation and psychotherapeutic treatment. The physical structure of the Big House remained, but the new model of classification reshaped routines and individualized treatment carried out by a staff supplemented by new corps of treatment professionals. While the talk of rehabilitation had continuities with 19th-century ideas of reform and discipline, it promoted a very different narrative of punishment, and was realized in a distinct practical regime. From the 1950s through the 1970s Jackson's inadequate work supply was supplemented and ultimately displaced by education and therapy.

Prisons in California began to be reshaped as early as 1944 when Governor Earl Warren reorganized the Department of Corrections and placed Richard McGee at its helm (Simon, 1993). While its glory days lay ahead, California prisons in the late 1940s and early 1950s began to feel the changing narrative of punishment toward rehabilitation, and toward a claim to control the prison through individualized management of the offender in the context of his psychological and behavioral needs.

In both Michigan and California, New Deal government very much altered the nature of the state's claims in rehabilitation. The 'Big House' prison promised to reform inmates by submitting them to the discipline of hard labor and a life bereft of distractions. But its legitimacy never depended on reform. It was enough that government kept offenders safely behind bars where they were exposed to deserved hardship. If reform came, it was through the personal transformation invited but not demanded by the routines of industrial life that the prison self-consciously¹¹ sought to mimic. The 'correctional institution' in contrast staked the government's capacities squarely on the rehabilitation of offenders. Routines would not simply scrub rogues clean of their bad habits, but reach inside with scientific techniques to address deep individual pathologies.

New social science promised not only to provide necessary treatment programs, but to provide monitoring to see whether the state achieved what it promised. The prisons built by the New Deal State in the 1950s and 1960s looked strikingly like the schools and college campuses that New Deal governors were also building at brisk clip to educate the baby-boom generation that was emerging as the prime beneficiary of the New Deal State.

Eric Cummins' (1994) book highlights California's radical prison movement, which for a time during the late 1960s and early 1970s came as close as anything to forming the center of the New Left at the height of its power. This remarkable moment is a reminder of how different the politics of prisons was only 25 years ago. But Cummins' most important contribution is situating the radical period in a larger history of the circuits of knowledge and power that developed between California prisons (especially San Quentin) and California's political public from 1950 to 1980. Cummins' analysis greatly expands Bright's picture of New Deal penalty, and allows us to see how profoundly important the prison became to the New Deal style of governing. This dependence would form a vulnerability that politicians of the New Right would use successfully against New Deal style candidates in the 1980s and 1990s.

Cummins suggests that the heart of California's new rehabilitative penology was a set of political technologies aimed at increasing the capacity of the prisoner to govern their own 'self' as an object in the social world including group counseling, education, and 'bibliotherapy.' Reading and writing were especially important given the relative dearth of treatment professionals. Cummins rediscovers the fascinating history of the San Quentin library which at its peak in the 1950s held over 30,000 volumes (few of them law books) (Cummins, 1994: 28).¹² The librarian of San Quentin in that era noted that 90 percent of his inmates patronized the library compared with a mere 45 percent of the general public, and he calculated that the inmates borrowed from 45 to over 100 books per year (1994: 28). Perhaps more remarkably, prisoners wrote manuscripts they hoped to circulate in the free world with a seriousness more associated with graduate students. In 1947 almost 400 prisoner manuscripts were submitted to the San Quentin librarian in the hope that they could be published – a number that rose to almost 2,000 by 1961.¹³

Cummins' work supports Bright's argument that the rehabilitative era brought new forms of governance to the prison and not just rhetoric. Just as parole had provided the incentive for convicts in the Big House to participate in the official economy of labor (and subordinate their further resistance to the unofficial economy of the rackets), parole provided the key incentive for inmates to play along with rehabilitation. If it is in some sense a 'game' to them (Cummins, 1994: 19), like its Big House counterpart rehabilitation provided viable roles and plausible scripts to work toward easily shared goals (getting out, getting some pleasures while in).

Cummins focuses his main attention on a number of convict writers in California, Caryl Chessman, Eldridge Cleaver, and George Jackson, whose celebrity as writers brought them power in the prison, and fame and influence outside of it. For Cummins these figures are the contact points for his primary interest in the circuit between the political Left and the prisons in this era. But Cummins also points to the way that these famous figures operated as real examples for other prisoners and icons of the promise of New Deal governance as penology.

In some sense these writers became for the correctional institutions, what racket bosses were in the Big House, the key convicts around which the master narratives of penal control have to fit, and with whom the actual operation of the prison will be negotiated. In the former respect these writers were an enormous success, carrying to millions of baby-boom readers the message that rehabilitation worked (and with it the message that the New Deal state really could wield science to accomplish social progress on demand).¹⁴

Cummins also suggests that the effort to recast the subjectivity of prisoners through investing in the compulsory production of language, was part of the New Deal State's governing strategy. The new language practices were intended to influence the increasingly endangered normative order of inner city poverty communities, undermined by the deindustrialization of American cities that began almost as soon as World War II was over. In this respect, rehabilitative penology was more than just a good ideology for the New Deal style of government to promote its forms of power mainly to be channeled through other means. For an important segment of the urban population, the circulation of prisoners and their new discursive practices would be a direct form of New Deal governance. Rehabilitation was a way of establishing a relationship between the state and what we have now come to call the 'underclass.'

These new technologies of power inside the prison fit well with a New Deal governmental rationality that emphasized investment in education and the production of academic expertise at research universities for both government and industry. They also began to establish a real circuit of power and knowledge between prisoners encouraged to write and a public eager to read about criminal lives and willing to believe in the possibility of dramatic transformation. This was particularly true of the baby-boom kids who would be the first and only generation to be wholly raised up by New Deal State governments. Exposed to the best capitalized public education system in the world, California youth were quite open to a critical rereading of the moral status of the welfare state that raised them.

THE PRISON AND THE CRISES OF THE NEW DEAL STATE

Between the late 1950s and the 1970s, Cummins shows a spiral of writing and reading between increasingly militant convict writers and an increasingly radicalized youth population that helped shape the dramatic student protest movements of that era. In a very real sense these two groups (both privileged by New Deal forms of governance) would become the threat around which a reaction against the New Deal State would form. Cummins argues that convict writers and their radical student followers led each other into a period of terrorism (both inside and outside the prison) that helped discredit the New Deal State as well as destroying any mass political appeal for the Left.

Crime, especially violent crime by repeat offenders is the greatest possible rebuke to the New Deal style of government. Violent crimes like robbery, rape, and homicide, strike at just those places where the New Deal's preferred approaches to social problems, regulation and redistribution, are least effective. Insurance (perhaps the most important New Deal political technology) cannot reach the harms most feared from violent crime. The victims of violent crime, and those who empathetically project themselves into that subject position, experience themselves as outside the protections of the New Deal State in this sense. Their own loss is both a complete separation from the common ground of

the state, and a condemnation of that state's incompetence in failing to protect you in the most direct possible way. To the extent that people imagine themselves or people they love as likely to experience violent crime they partake of the same distancing.

Violent crime has also become associated with the very populations that *appear* to be the primary beneficiaries of the New Deal State (although this is a gross misrecognition). This is the heart of the neo-conservative critique of the New Deal State in its 1960s and 1970s versions. State sponsored social policy, e.g. desegregation, entitlement expansion, due process reforms of criminal justice, unleashed the violent crime wave of the 1960s and 1970s. The maintenance of that culture could be blamed as well for the crime surge in the mid-1980s since 'crack' cocaine, widely blamed for the increase, was identified with the recipients of federal anti-poverty benefits based violence proliferated in the same populations.¹⁵

These vulnerabilities began to become critical in the 1970s when a stagnant national economy and inflation made the capital intensive political technologies of New Deal governance increasingly ineffective and costly. In the backlash that followed the very mechanisms by which state government raises revenue and decides to spend it were altered. The attack on the New Deal State was led by New Right politicians, like Ronald Reagan, and took place largely within the Republican Party. In the 1990s, however, both parties have begun to compete to produce post-New Deal governance. Not surprisingly, given the history that Bright has provided, the prison serves as a central resource for shaping a new approach to governing.

It was also fed by a number of popular electoral initiatives introduced into California in the late 1970s that attacked the New Deal State at its source and helped coalesce an alternative politics.

THE WAREHOUSE PRISON IN THE INITIATIVE STATE

California government since 1980 presents a striking case of the transformation in the rationalization of state power in the New Deal State. Peter Schrag describes the new governing approach as a 'southward shift' (Schrag, 1998: 95) toward strategies of governance that have long dominated the southern states, which resisted and in good measure avoided the developments of the New Deal (in both state craft and penology). Schrag's (1998) portrait of California politics in the 1990s shows it to be different from the New Deal State on almost every level. The legislature as an organ has been decimated by some of the most severe term limit rules in the country which virtually assure that no elected representative will have the experience to really lead the body. This absence of leadership has only intensified a strong trend toward ideological partisan representatives with little interest in practical programs around which compromises might be struck. Even if the legislature and governor could formulate new policy initiatives their ability to spend money has been fundamentally altered by a series of fiscal initiatives, beginning with the (in)famous property tax initiative, Proposition 13, in 1978. Subsequent measures intended to prevent governments from manipulating around Proposition 13 ties the overall growth of state spending to a formula based on population and inflation. Other measures have reactively sought to guarantee funding for various purposes, including prisons and education, and leaving little room for spending agreed to through representative government.

Proposition 13 directly attacked the capacity of the New Deal State to govern. Its

most immediate effect was to impede revenues.¹⁶ As Schrag persuasively argues, its more damaging and longer term effect was to disaggregate California property owners from the body of New Deal constituencies (and even from future property owners). In this sense it also reflected a new kind of political solidarity, one based on a shared fear of the consequences of government itself. The problem of protecting individuals from a state whose revenue needs were fundamentally adverse to the interests of that individual, helped establish a new politics based on pervasive mistrust of government.

It took years and many further initiatives for the Proposition 13 effect to really alter the capacity of California's New Deal State government, but as a political technology its effects were much quicker. The success of Proposition 13 helped establish the ballot initiative not only as a primary vehicle for political decision making, but as a model for how to govern. Just as New Deal governors operated through streams of public spending, linked through media attention to election cycles, the initiative process has created its own cycles of fundraising, mass television advertising, and its own networks of pollsters, fundraisers, and political consultants. The role of mass publics like unions, university students, and the other client groups of the New Deal, has been taken by a circuit of direct advertising to a public sliced up into so many small demographic slices; an inert public of individuals moved together in short term bursts of empathy by mass advertising and professionally managed news coverage of the sort politicians now take for granted.¹⁷

Schrag (1998: 15) suggests that one effect of this Initiative State has been to preserve the power of California's shrinking white non-Hispanic plurality of residents. Because this group continues to be a majority of state-wide voters, initiative politics is ideal for projecting their power. Ballot initiatives are voted on by the state as a whole, and they trump the power of locally elected representatives whose traditional methods of interest group bargaining would predictably transfer more power to the state's growing majority of minorities. The cumulative effect of numerous successful ballot initiatives is to have set sweeping restrictions on the ability of cities and counties, and their local majorities, to set policies (Schrag, 1998: 224).

Criminal justice legislation has been a central example of this. Criminal laws allow state-wide electoral majorities (more suburban, whiter, older, and wealthier than the state's resident majority by a wide measure) to establish and enforce norms for urban populations in cities they long ago abandoned for the suburbs. This allows them to exercise moral authority without having to share other aspects of government with the minority and poor populations of the city, including schools, neighborhoods, or risk sharing systems. Mandatory sentencing legislation of the kind so popular today further exacerbates this by giving county prosecutors enormous power over the fate of inner city community residents whose interests are unlikely to be represented in a winner take all county-wide office as most prosecutors offices are organized.

While California's constitution makes it initiative friendly, Schrag suggests that underlying social changes have sustained the rapid rise of initiative government.¹⁸ Perhaps most important has been the shift of political allegiance from occupational, class, and racial/ethnic solidarities to interests defined by domestic experience. It is not surprising in this respect that it is property tax relief that provided the opening moment of the initiative age in California. The mobility friendly New Deal style government that California elected in the 1950s and 1960s was leveraged in large part on the high

wage increases of the aerospace industry, itself a cold-war public subsidy, and the relatively low cost of housing in California. As housing prices began to soar in the late 1960s and 1970s, property tax increases became a real and painful index of social transformation for many middle class property owners, especially those at or near the end of their income growth.

The sheer growth of California's population and urban media markets, has driven a segmentation of California into a number of geographically distinct city-states, which themselves fragment into increasingly class defined enclaves. Schrag points to the problem this posed to a New Deal style of politics. Mobilizing support through the prestige of something like the University of California system required a sense of identity at the state level. Even after Pat Brown's massive expansion of the system, it still only had seven comprehensive campuses, and specialized medical and law facilities in San Francisco.

The initiative process has proven itself to be a successful politics in these changing circumstances in part because of more specific political technologies, like direct mail fund raising, political consultants, and advertising. These technologies, now also embedded in campaigns for political office, were capable of finding and linking the complex pattern of identities and solidarities that composed California's voters. The logic of citizenship that has emerged in this new regime is a peculiar one. While initiatives aim at empowering citizens by reflecting directly majority will, they have also helped construct a public that is largely passive and inert, depending on the machinery of initiatives to mobilize them. The new fiscal and political structures have created a series of public concerns that emphasize security for current assets against economic growth and social change.

The Initiative State shares with New Deal government a circuit of power running from mass public to the media and to political figures. Increasingly this circuit moves in such swift cycles that no enduring political forces or collective identities seem to coalesce. At the same time the Initiative State shares with the old Patronage State a significant stake in the distribution of resources, particularly money to run the expansive media campaigns required. Here the prison is playing its old role but on a far larger scale. The California Correctional Peace Officer's Association, the main union for parole agents and correctional officers, has become the second biggest contributor to California state elections, just behind the California Medical Association and more than twice as much as the California Teachers Association (Schrag, 1998: 135). The union has aggressively tied its cause to a war-like vision of the crime threat. Prison staff are described as working the 'toughest beat in the state' (Schrag, 1998: 136).

The Initiative State has been most effective at mobilizing support around two issues, reducing taxes and regulations and increasing the severity and scope of the criminal law. The selection of these two are no accident, rather, they form the central sources of what Schrag describes as 'neo-populist' politics (Schrag, 1998: 18). Like the populist movements that influenced state governments at the end of the 19th century, the new politics is strongly distrustful of expertise and the idea of government efforts to reshape private life. Unlike the traditional populists, however, the new politics is not about permanently empowering citizens to control politics. Instead, the ideal promoted is a kind of abolition of politics where some mythically simple system of rules allows individuals to pursue pure self-interest without any sustained attention to politics. Thus

the fascination since the 1970s with legislation providing various kinds of mechanical formulas like property tax caps imposed by Proposition 13 and the whole panoply of mandatory sentencing rules including ‘Three-Strikes’ laws. Schrag describes this new politics as

A parody of the Newtonian system of checks and balances written by the framers into the U.S. Constitution, a mechanical device that’s supposed to run more or less by itself and spares the individual the bother and complexities of any sort of political engagement. (Schrag, 1998: 18)

In this new configuration it is not surprising that punishment has become even more central to political authority. Like property taxes, fear of crime is particularly rooted in a sense of domestic location and the vulnerability to social changes beyond the control of ordinary people. Just as rapidly inflating real estate prices might involuntarily force someone to sell their home, rapidly rising crime by directly threatening the household and family could require flight. At the same time, crime as a subject of extensive mass media coverage lends itself to the kind of virtual or imaginary California (or Florida, or New York) which is where the constituency of the Initiative State lives.

Certain crimes did rise rapidly in California during the 1980s, especially violence associated with young males in the inner cities of the kind that were being savaged by the economic dislocation of the sort that had undermined the New Deal State (Davis, 1998: 400). Most of this crime did not directly threaten suburban white voters who dominate the Initiative State. But the dangers of ‘breakout’ were highlighted in a number of incidents that generated significant media attention. A noteworthy example of the 1993 kidnapping and murder of 12-year-old Polly Klaas from her northern California edge-city home (Schrag, 1998: 227–8). The incident galvanized the electorate in time to reelect a conservative Republican incumbent in the teeth of California’s deepest recession in decades, and found expression in a classic act of the Initiative State, the ‘Three-Strikes’ law which was placed into the California Constitution by initiative despite the fact that the legislature had adopted the exact same law. The Los Angeles riot of 1992 was another breakout event. It was more violent than any of those that haunted the New Deal State at the height of its power in the 1960s and reached farther into the white community (Davis, 1998: 369–77).

But if crime has been a powerful source for mobilizing a voting public for the Initiative State, it also helps sustain a political foundation for imprisonment as a central platform for exercising governmental power in the Initiative State. It is in the context of what Mike Davis calls ‘the ecology of fear’ that we can see how prisons operate as important sources of public order in the Initiative State. Davis’ (1998) analysis of the new spatial order of governance in Los Angeles provides us with another angle on the Initiative State. Schrag, a former editorial-page editor of the major newspaper in California’s capital city, focuses on formal politics of initiatives, governors, and elections. Davis, a geographer and long-time observer of southern California captures the way initiative government looks from the ground. If the Initiative State replaces politics with mechanistic decision rules, the spatial order of contemporary Los Angeles replaces the functionally integrated order of the industrial metropolis with a quilt of unrelated segregated spaces controlled by private governments and obsessed with security.

In Davis' (1998) analysis, California's many new prisons, a remote 'gulag ring' that surrounds the greater Los Angeles metropolis at a great distance serves as a kind of waste containment facility designed to lower the short term risks of crime in other places. In this sense, prisons provide a public good that is theoretically consumable by the whole state. Each prison cell built adds to the capacity of judges everywhere in the state to send more offenders to prison for longer. Since the 1980s, California has been dominated with conservative Republican governors for whom increasing imprisonment has been essentially the top priority (Schrag, 1998: 94). During this time the legislature adopted more than 400 bills increasing criminal sentences (1998: 94).

Not untypical was Governor George Deukmejian's January 1990, State of the State Address, at the start of his final year in that office after two terms. Deukmejian compared California at the dawn of the 1990s with the state as he found it in 1983. With nods toward the remnant structures of the Patronage and New Deal States, Deukmejian began with some comments on the general condition of things in the state. He mentions recovery from earthquakes and recessions. He mentions the record sums of money in line that budget cycle for public expenditures on highways and other 'infrastructures.' In his very first comment on his government's program, before he gets to anything about the environment, AIDS, homelessness, and highways, Deukmejian says this:

In 1983, California had just 12 state prisons to house dangerous criminals. Since then, we have built 14 new prison facilities. That has enabled us to remove an additional 52,000 convicted felons from neighborhoods to send them to state prisons.¹⁹

This logic has helped make growing the prison population a positive project of state power. The size of the prison population was not important to the New Deal State, other than the danger that expensive prisons could prevent other public spending. Transforming delinquents if successful is a powerful source of prestige to the state whether it is being done on tens of thousands or hundreds of thousands. The Patronage State had some interest in growing prisons, as Bright's analysis of Jackson suggests, yet the industrial form of the Big House was also important. The Initiative State has made its capacity to simply hold a large population, or warehouse them, the crucial test of its competence.

The prison's internal regime reflects this new governing mandate of the Initiative State. In Davis' (1998: 364–5) new imaging of urban morphology Park and Burgess' functionally differentiated urban zones (downtown office buildings, zone of transition, working men's rooming house quarter, etc.) has been replaced by zones defined by risk. In this mapping prisons exist on the far end of the risk distribution but with its variation along the same lines. Like other communities, prisons in California vary in the intensity of their security regime. The super-max prisons, with their total isolation and high technology systems resemble the gated suburbs. The intensely overcrowded medium security prisons are more like the badly decayed inner ring suburbs that have become dangerous crime zones as they are denuded of commercial and industrial opportunities.

In place of the rackets of the Big House and the compulsory self-narration of the correctional institution, the public order of the warehouse prison increasingly relies on coercive regimes of total segregation to isolate the most threatening inmates. Ironically

the practice of administrative segregation began in the New Deal State where it was used to separate those deemed too threatening to the rehabilitative practice of the prison. Parole release, which played a crucial role in motivating inmate performance in both previous regimes, has been abolished in many states (an especially marked tendency in those governed under the logic of the Initiative State). The warehouse prison lacks the industrial or discursive circuits of power and knowledge that joined prison and community in the Patronage and New Deal States. Its interior no longer reflects any imperative of order other than concentration in space and containment. Because of this it has increasingly come to rely on technology and a militarized guard force to manage a population permanently in what both the Big House and the Correctional Institution would have considered a state of emergency (Haney, 1997; Human Rights Watch, 1997).

It is too early to predict when and if this will become a crisis for the Initiative State. Because penalty is a co-producer of public order, the absence of a coherent correctional narrative to requalify the now massive population of prisoners and recently released prisoners for a place in the public order may ultimately endanger the Initiative State. Just as the universities and prisons ultimately weakened the New Deal State that had invested so much in them, the Initiative State may find itself producing political subjects and institutions that it can neither govern nor get rid of permanently. The political vulnerabilities of that strategy should begin to come visible in the next decade as the fiscal costs of aging prison populations and the economic costs of sustaining a criminalized underclass in urban America both grow.

CONCLUSION

When I began studying the growth of the California population in the 1980s it seemed uninteresting to make the point that prison populations were rising because current California governors were seeking to increase the prison population. I was looking for deeper social explanations for this apparently political decision. Political pressure for imprisonment was surely nothing new, even if greater in the 1980s, so why did the rhetoric of law and order now lead to burgeoning prison populations? My efforts at explanation emphasized the collapse of the internal narratives that had supported efforts to supervise felons outside of prison. I argued that the crucial change was not the politics of law and order (Scheingold, 1984), but the internal organizational rationality of corrections whose twin social and epistemological crises had undermined its historic capacity to self-regulate. Later Malcolm Feeley and I, co-reflecting on our independent work on court reform and parole developed the new penology idea to describe the technocratic managerialism that was increasingly organizing criminal justice institutions (Feeley and Simon, 1992, 1994; Simon and Feeley, 1995).

This explanation dramatically diminished the role of governors and their policies in shaping the actual prison population. Was I wrong? In some sense clearly yes. Recent research using multiple regression techniques to look across states and prison populations, suggests that in otherwise quite similar states, the views of the governor on prison has a large influence on relative imprisonment rate (Davey, 1998). Recent research also suggests that the war on drugs and its promises of lengthy prison sentences for thousands of small time drug criminals was mobilized primarily by politicians who led rather than followed public opinion on this (Beckett, 1997).

Bright's (1994) framework for thinking about state government and penalty offers a way of seeing the relationship between the two accounts. Bright's analysis suggests that penal narratives are not simply the ideological superstructure of some more basic structure of state government or politics, but rather a highly important site for the co-production of successful strategies for governing states in the 20th century. In recent work I have described this as 'governing through crime' (Simon, 1997). The new penology in that sense is not simply the penal rhetoric of the Initiative State but part of its governing style. Governors who have openly governed on the numbers of new prison cells built, and the construction by a simple province of a nation state of a world class penal system, have governed through the new penology. Likewise, our new prisons represent many of the same political technologies of segregation and surveillance that are becoming common aspects of American society from gated communities to drug testing in suburban high-schools. Studying this space will call for something which combines the sociology of punishment (Simon, 1993) and political sociology (Beckett, 1997) along the lines that Stuart Scheingold has recently dubbed 'political criminology' (Scheingold, 1998).²⁰

Seeing that imprisonment is a function of the way states are governed (and not simply the sociology of institutions or elections) underlines the potential for stasis and change in our now historically gargantuan system. State governments present potentially very different perspectives on imprisonment than the national policy debate that has dominated both media and academic thinking about the prison crisis (Scheingold, 1991; Lyons and Scheingold, 1999). Some states have remained remarkably free of massive investment in prison populations, institutions, and cultures. In most states, minority communities (who are typically the most hard hit by the social costs of the Initiative State's penal strategies) have the capacity to bring concentrated political pressure to bear on government in a way nearly impossible at the level of national politics. The works canvassed here suggest that we also need to conduct careful analysis of individual states, not just for the ideology of their governors but for the organization of political power in the state. Not every state is on its way to being an Initiative State as that ideal type has been developed here. Many other political forms operate in states, some remnants of Patronage and New Deal orders, some parts of strategies as yet unrecognized.

Notes

- 1 The research of Sheldon Messinger, John Berecochea, Richard Berk, and David Rauma (Messinger et al., 1983) on the patterns of growth in this system laid a foundation for analysing the rapid spike of the 1980s. Their 1988 report (Messinger et al., 1988) published by the California Department of Corrections revealed the source of the growth in parole revocations. My doctoral thesis attempted to explore the logic of parole revocations in terms of the history and social context of parole. The thesis was revised as Simon (1993).
- 2 For a discussion of these traditions and other social-theory frameworks used to study penalty see Garland (1990).
- 3 In my work I tend to hang out in the office with power, I read Elijah Anderson (1999) or Philippe Bourgois (1996) like I read Jon Krakauer (1997) to go to places I'm afraid to.

- 4 I do not mean to ignore the federal government which has made a significant contribution to the growth of the national prison population both directly through the enforcement of federal criminal law and indirectly through pressure on states to increase prison sentences. Nor has this movement been uniform among states. The two states with the highest rate of prisoners per 100,000 resident population, Louisiana and Texas, come in at near or over 700. The two lowest states, Minnesota and North Dakota were well under 200 in 1997 (Maguire and Pastore, 1998: 4).
- 5 In the absence of many close-up empirical studies of American prisons by scholars of the quality of Donald Clemmer (1940), Gresham Sykes (1958), or James B. Jacobs (1975), we know little about those norms. What evidence there is suggests a very grim world marked by deep racialized divisions and frequent recourse to violence.
- 6 The former had its origins in the great 19th-century political clubs. The latter was a product of Franklin Roosevelt's New Deal and the Democratic Party which carried its strategies to the state level (Bright, 1994: 128).
- 7 This was far from a uniform development. In my own home town of Chicago, a classic urban machine remained powerful through the 1970s, negotiating openly with New Deal presidents and governors for a share of their wealth to sustain its traditional patronage networks (see Royko, 1971).
- 8 This came as largely supplementary to the traditional spending on highways that nourished the old-fashioned patronage networks.
- 9 Elsewhere (Simon, 1993) I have described the parole end of the correctional strategies during this period.
- 10 Reagan is the most enigmatic since he was both a classic New Deal governor (and President in many respects) and the great denouncer of the New Deal Doctrine (Government is not a solution to a problem, it is the problem).
- 11 Bright notes that Jackson's gigantism as a prison owed something to the nearby Ford River Rouge plant which was both an automobile factory, and a complex of related industrial processes required for automobile manufacturing (1994: 92).
- 12 In contrast, San Quentin in the early 1990s had fewer than 10,000 titles, the vast majority legal texts (Cummins, 1994: 28).
- 13 California law at the time defined loss of copyright power as part of the 'civil death' undergone by a felon (Cummins, 1994: 24-5).
- 14 The contradictions became poignant at times as California's greatest New Deal Governor, Edmund 'Pat' Brown, was forced by circumstances to preside over the execution of Caryl Chessman while thousands of young Californians protested on the new university campuses Brown had built (including Brown's college aged kids, future governor Edmund 'Jerry' Brown, and future Democratic gubernatorial nominee Kathleen Brown).
- 15 Poverty relief has become a condensation symbol for the much more complex investments of the New Deal State.
- 16 Ironically property taxes were mainly going to fund counties which were marginal to the central organs of New Deal State government. It was only later when the State's ability to make up these funds was reduced by economic stagnation that it really began to challenge the New Deal State's capacity to govern. As a constituent of one of its most costly assets (the University of California at Berkeley) I remember the transformation quite well.

- 17 Polling has been critical to this dynamic. The internet seemed fabulously situated to register this kind of public in all kinds of unpredictable ways.
- 18 The same social changes have produced similar governance choices even where initiatives are less influential in shaping the political landscape.
- 19 Text of Governor's Last State of the State Message, *The Los Angeles Times*, Wednesday, 10 January 1990, Part A, Metro.
- 20 Hall et al. (1978) and Garland (1985) succeed in doing this kind of analysis for different periods of British government. One reason US scholars have had less success is the complexities of the federal system as it plays out in criminal justice.

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