

STATE OF NEW YORK

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THE ONE HUNDRED AND TWENTY FIFTH  
ANNUAL REPORT

OF

THE CORRECTIONAL ASSOCIATION  
OF NEW YORK

135 EAST 15th STREET, NEW YORK

1969



**ONE HUNDRED AND TWENTY-FIFTH ANNUAL  
REPORT OF THE CORRECTIONAL ASSOCIATION  
OF NEW YORK\***

March 9, 1970

Hon. Malcolm Wilson  
Lieutenant Governor and President of the Senate:

Hon. Perry B. Duryea, Jr., Speaker of the Assembly:

Sirs — In accordance with Chapter 163 of the Laws of 1846, we have the honor to present the One Hundred and Twenty-Fifth Annual Report of The Correctional Association of New York, and to request that you will lay the same before the Legislature.

Respectfully,

THE CORRECTIONAL ASSOCIATION OF NEW YORK

By Melber Chambers, President

Donald H. Goff, General Secretary

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\* The name of the Association was changed from The Prison Association of New York to The Correctional Association of New York on February 16, 1961 at a special meeting of the members.

## PREFACE

This is an official report of The Correctional Association of New York to the Legislature of the State of New York, which has been made annually since 1845, and constitutes the one hundred and twenty-fifth of the series.

Paragraph 6 of Article XI of the act incorporating The Correctional Association of New York provides that "the said executive committee" (of The Correctional Association) "by such committees as they shall from time to time appoint, shall have power, and it shall be their duty to visit, inspect and examine all the prisons of the State, and annually report to the Legislature their state and condition and all such other things in regard to them as may enable the Legislature to perfect their government and discipline."

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## THE CORRECTIONAL ASSOCIATION OF NEW YORK

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1970

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**THE CORRECTIONAL ASSOCIATION'S  
RECOMMENDATIONS  
TO THE 1970 LEGISLATURE  
STATE OF NEW YORK**

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*"The tragedy of our day is the climate of fear in which we live, and fear always breeds repression."*

ADLAI E. STEVENSON before the American Legion, 1952.

## A GLIMMER OF HOPE

"The tragedy of our day is the climate of fear in which we live, and fear always breeds repression."

These words spoken by Adlai E. Stevenson almost twenty years ago apply equally to our present time. Fear is an almost all pervading emotion in the country today. The causes are numerous, probably the most important being the extent and rapidity of change in all aspects of life. Crime — the overt, usually publicized, breaking of law — is one of the few causes of fear that is tangible. Criminals can be recognized as the perpetrators of their deeds and dealt with, an increasingly rare occurrence in this day of the anonymous, faceless "they."

Fear is generally unreasoning. Its overt manifestation is usually the repression or destruction of that which breeds it. Nowhere can this be better seen than in the whole area of "Crime in the Streets." People are afraid to walk the streets at night. They react by calling for more police and longer sentences. They do not realize that police can only apprehend those suspected of crime. They do nothing to change behavior of the individuals arrested. Increasing police without increasing other branches of the criminal justice system — probation, the courts, corrections — only results in a situation like the one with which New York City is presently faced. Detention facilities are dangerously overcrowded, running almost 200% of capacity. Probation is so understaffed and overworked that pre-sentence reports have almost become a farce. One probation officer was attempting to supervise 125 active cases. The suggested maximum is 35. The courts are so congested that even with the dispensing of "thirty second justice" the system threatens to stop entirely.

Once again court administrators are seriously suggesting suspending all civil actions so as to assign all existing judges and supporting personnel to work on the criminal back log. And this in the jurisdiction which has the highest instance of some of the most important civil litigation in the entire country.

Common reaction to the problem of crime at a time when almost everyone knows someone whose apartment has been burgled, whose purse has been snatched, or who has been mugged, is one of harsher sentences, mandatorily imposed. Once again there is a cry for the reinstatement of capital punishment. This in spite of the fact that capital punishment has not been known to deter murderers and that longer sentences only postpone the time when the individual will be returned to society. Without emphasis on treatment while an individual is institutionalized, imprisonment becomes merely punishment and societal revenge and makes a mockery of all talk of rehabilitation.



Commissioner Paul D. McGinnis of the New York State Department of Correction and Commissioner George McGrath of the New York City Department of Correction, both capable and experienced professionals, to the best of their ability have attempted to meet the problems squarely, but have been continuously thwarted and frustrated by the general lack of concern and interest in their problems.

But even in the midst of this time of repression there are glimmers of hope. Both the President of the United States and his new Chief Justice of the Supreme Court have shown that they recognize the extreme importance of the correctional process in true crime prevention. The State of New York is balancing the public cry for repression with the recommendations arising from the Temporary Commission of Revision of the Penal Law and Criminal Code for criminal offenders appointed by Governor Rockefeller in 1966.

The Governor incorporated those suggestions in his 1970 State of the State message calling for a coordinated department of correction which would result from the merging of the present Department of Correction and the Division of Parole. It is hoped that the activity and concern expressed by the political leaders will translate itself to the people which will engender the support necessary to permit New York City and New York State Departments of Correction to assume the leadership role that they once played in the United States.

## RECOMMENDATIONS TO THE 1970 LEGISLATURE

### RECOMMENDATION NO. I STATE REGULATION OF MORALITY

"Private sin is different from public crime, and only the latter lies in the province of man-made law." In accord with this quote from Aquinas, the Correctional Association of New York feels that the fact that certain conduct is considered immoral is not sufficient cause to justify making this conduct punishable by the criminal law. We believe that sin should not be equated with crime and that there should be a marked distinction made between moral law and statute law.

The Association believes that the province of the penal law includes matters of public order, public safety and public health. We deem it inappropriate for the government to attempt to control behavior that has no substantial significance except as to the morality of the actor. Such matters are best left to religious, educational and other influences. For these reasons, the Association calls for revision of those laws of the penal law which base their authority on the immorality of the acts committed and not on matters of public order, public safety and public health.

### A. ABORTION

*That the present highly restrictive abortion law be abolished so that the question of termination of pregnancy is removed from the control of the state and left to the personal conscience of the woman involved under the guidance of the medical profession.*

**COMMENT:** The right of a mature person of sound mind to have personal control over his body is fundamental. The present abortion law in existence in New York State is in direct contravention of this right. It would appear that a large number of women claim this right individually and extra-legally by their personal actions in obtaining illegal abortions. The present archaic abortion laws notwithstanding, one million abortions are performed in the United States yearly, the great majority of which are illegal.

Public support for removal of the bans on abortion is widespread, cutting across social, economic, racial and religious boundaries. Various reputable polls taken locally and throughout the country have continually reported that the majority of people polled — be they middleclass women, Roman Catholics, or doctors — favor changing the present law. At the end of 1969, two courts at opposite geographic ends of the country declared the abortion legislation in effect in their areas unconstitutional. The California Supreme Court ruling struck down the old law in that State which permitted abortions only for the preservation of the life or health of the mother. California passed a slightly more liberal law two years ago which was not affected by this ruling. The Federal Court for the District of Columbia held to be unconstitutional the same type of law as was held unconstitutional by the California Supreme Court, thereby making the Capitol the first jurisdiction in the United States with no legal control on abortions. Both decisions were based on the vagueness of the laws. Indeed, many legal experts believe that it is impossible to write an abortion law specific enough to be constitutional.

Many doctors state that the existence of abortion laws prevents a doctor from making a medical judgment based on his own technical knowledge. The legal tangle presently existing over abortion can best be exemplified by the paradoxical situation in which doctors in one state were brought up on criminal charges for having committed abortions on women who had contracted German measles during the first trimester and a jury in another state which awarded damages against a hospital for refusing to perform an abortion in the same circumstances on a woman who subsequently gave birth to a physically and mentally defective child. This ambiguous legal posture is forcing the doctor into either undesirable subterfuge, illegal action or extremely conservative behavior against his best medical judgment from fear of violating the law.

To abolish the abortion law in this State would simply allow individuals to follow the dictates of their own particular religious beliefs and personal consciences. It would not force any individual to have an abortion or any member of the medical profession to perform one. The matter would be, as it should be, resolved by the women involved guided by the advice of their chosen physicians.

## B. PROSTITUTION

*That the Legislature consider prostitution solely as a matter of public safety and public health and that a marked distinction be made between the religious and theological approaches to prostitution and the intervention of the state through the penal law (in questions of morality) so that the act of prostitution between competent, consenting adults be no longer criminal; that the state limit its concern only to the problem of open public solicitation when it constitutes a public annoyance and the accompanying offenses of recruitment for prostitution and exploitation of a prostitute.*

**COMMENT:** In its statement of legislative principles in 1968, the New York State Council of Churches stated:

"In matters of private morality, the state rightfully seeks to give protection of the law to the young, the innocent, the unwilling and the incompetent. However, while adultery, fornication . . . among competent and consenting adults violate the Judaic-Christian standards of moral conduct, we think the penal law is not the instrument for the control of such practices, when privately engaged in, when only adults are involved, and when there is no coercion. We favor repeal of those statutes which make such practices among competent and consenting adults criminal acts."

The Correctional Association of New York questions the right of the state to intervene in matters of morality when an impairment of public order, public safety or public health is not involved. The Association believes that such questions of private morality should be handled by religious institutions and the individual citizen devoid of governmental regulations. We therefore believe that prostitution, per se, should not be proscribed by the Penal Law.

On September 1, 1969, the maximum sentence for prostitution was raised from 15 days to three months. Six weeks later, one of this City's newspapers which had been most vocal in pointing out the need for such an increased penalty ran a feature article stating: "The impact of a stiffer penalty for prostitution . . . has failed so far to put any appreciable dent in the City's streetwalker population . . ."

Not only has the new increased maximum had no effect, but the office of the District Attorney of New York County has gone on record with the courts in opposition to the dragnet police arrests of prostitutes which account for 15 to 20% of the arrests made in New York County daily. The District Attorney's office characterized these arrests as "groundless and a denial of every Constitutional right of due process." The District Attorney's office further described the present situation as "an exercise in futility [that] accomplishes nothing." The police department explains that it has been put in the untenable position of enforcing a law passed by the State Legislature which the public prosecutors' office will not prosecute in court. At a time when the concept of respect for law is suffering attacks from every quarter, the Correctional Association of New York questions the continuance of laws which, in the words of the District Attorney's office, have "made a mockery and sham of our judicial system."

When, however, behavior threatens public order or public safety, that behavior ceases to be private and justly falls under the province of State control. Accordingly, we recommend that open solicitation when it constitutes a public nuisance should be proscribed by criminal statute (and propose that this offense be made a class B misdemeanor.) We also feel that the recruitment of the young for prostitution or exploiting a prostitute, both offenses being the exploitation of another person, should be prohibited by criminal law. The act of prostitution, itself, regardless of the question of its morality, is in the province of personal conscience and religion and is not a matter for evoking the penal sanctions of the State.

## C. HOMOSEXUALITY

*That the present law making sodomy between competent, consenting adults a crime be abolished.*

**COMMENT:** The American Law Institute, in a report issued nearly 15 years ago urged reform of the criminal law to eliminate punishment for sex practices performed in private between consenting adults. This report stated in part:

" . . . no harm to the secular interest of the community is involved by atypical sex practices in private between consenting adult partners. This area of private morals is a distinct concern of spiritual authorities. It has been recognized in a recent report by a group of Anglican clergy with medical and legal advisors calling upon the British government to re-examine its harsh sodomy law. The distinction between civil and religious responsibility in this area is reflected in the penal codes of such predominately Catholic countries as France,

Italy, Mexico and Uruguay, none of which attempt to punish private misbehavior of this sort. The penal codes of Denmark, Sweden and Switzerland also stay out of this area . . .

"As in the case of illicit heterosexual relations, the existing law is substantially unenforced and there is no prospect of real enforcement except in cases of violence, corruption of minors, and public solicitation. Statutes that go beyond that permit capricious selection of a very few cases for prosecution and serve primarily the interest of blackmailers. Existence of the criminal threat probably deters some people from seeking psychiatric or other assistance for their emotional problems; certainly conviction and imprisonment are not conducive to cures. Further, there is a fundamental question of the protection to which every individual is entitled against state interference in his personal affairs and when he is not hurting others. Funds for personnel in police work are limited and it would appear to be poor policy to use them to any extent in this area when large areas of atrocious crimes remain unsolved. Even the necessary utilization of police in cases involving minors or public solicitation raise the special problems of police morale, because of the entrapment practices that enforcement seems to require and the temptation to bribery and extortion."

In the instance of homosexual behavior as well as heterosexual acts, should such activities be accomplished with violence, constraint or fraud, punishment according to the type of violence, constraint or fraud committed should be meted out without the sexual element being considered a relevant or aggravating circumstance. The province of the law is to preserve public order and to provide protection against exploitation and corruption of others, especially those who cannot protect themselves. Otherwise, all acts committed between competent consenting adults in private fall outside the ambit of the penal law.

#### D. PORNOGRAPHY

*That there be no legislation controlling the creation and dissemination of written, visual, or auditory pornography to adults who solicit such material. That legislation be enacted to protect individuals from unsolicited pornography in a public place or through the medium of the mails.*

**COMMENT:** The Correctional Association believes that the right of the individual to be free from government control so long as he is not harming himself or others includes that which he voluntarily desires to see, read or hear in a private home or such other places as are closed

off from view by the general public and are entered only by persons seeking admission. In a 1969 ruling, the United States Supreme Court declared unconstitutional those laws which affect viewing of pornography in an individual's home. The Correctional Association feels that this should be extended to allow the publication and sale of pornographic materials to adults.

The basic reason for state regulation of individual action is to prevent the disruption of public order, and maintain public safety and public health. The Kinsey Institute for Sex Research has completed several studies on the effect of pornography on both the normal population and sex offenders. The conclusion reached was that pornography is not a cause of sex crimes.

In addition, Wardell B. Pomeroy one of the co-authors of The Kinsey Report and a leading researcher for the Kinsey Institute, has stated that pornography does not rank especially high as a source of sexual stimulus. Based on interviews with over 18,000 individuals, the conclusion was offered that sex offenders are less often aroused by pornography than the rest of the male population.

Preliminary indications from Denmark, which removed its controls on pornography in two steps in 1967 and 1969, show the possible beginning of a trend towards decreased sex crimes with the increased availability of pornographic materials.

Since there is no substantiated evidence that pornography contributes a threat to public order, public safety or public health, The Correctional Association of New York believes that the distribution of pornographic materials to those adults who solicit them should not be prohibited.

While the Correctional Association of New York believes that there should be no prohibition on solicited sales of pornographic materials to adults, it believes with equal strength that the State has the responsibility to protect individuals in public places from pornography which is not of their seeking since it may affect the sensitivities of a large number of people with a likelihood that mental disturbance — serious affront, shame, fear or disgust — will in fact result.

In this book, *The End of Obscenity*, Charles Rembar, chief counsel in the cases which established the legality of *Fanny Hill*, *Lady Chatterley's Lover* and *Tropic of Cancer*, argues that books (that is, the printed word in volume form) should be free of all governmental suppression (and that they have now achieved, or very nearly achieved, that state of freedom). He points out, however, that there is nevertheless justification for some restraints on expression.

"The right to express oneself freely (explicit in the Constitution) may collide with other rights, among them (probably implicit in the Constitution) a general right to be let alone.

"Here the concept of privacy and the concept of public decency mix. Words on a billboard are not the same as words in a book . . . Hanging a painting or photograph in a store window is not the same as hanging it in a gallery . . .

"Privacy is an element in the concept of public decency. There is nothing of paradox in this. When a public display offends, the right to be let alone is breached. An offensive letter sent to an unwilling recipient is not a public expression; neither is the obscene telephone call . . .

"But there is no inconsistency, and no hypocrisy, in the proposition that certain things which freely occur in private should not occur in public."

The statute suggested would be similar to that presently in force in Denmark. The Government of that country abolished the controlling laws on pornography in July of 1969 with the exception of one which protects individuals from any form of offensive public display which offends community standards. The police department is authorized to act upon complaint to require the removal of any such public display. Such a law would not deny to any individual the right to see that which he wants to see. It would protect every individual from seeing that which he does not want to see.

## RECOMMENDATION NO. II GUN CONTROL

*That legislation be enacted to require individuals to obtain a permit to possess or purchase a rifle or a shotgun in the state; that all firearms be registered in a central state registry; that ammunition be sold only to individuals with licenses for appropriate weapons; and that possession by private citizens of weapons firing a missile large than 12 mm. be prohibited.*

**COMMENT:** "How many more people have to get assassinated in this country?" Since that question was asked on the floor of the Senate in the midst of a heated debate on gun control after the assassination of President Kennedy, there have indeed been other major assassinations in the United States — those of Martin Luther King, Jr. and Robert F. Kennedy. There has not been truly significant gun control legislation.

The Correctional Association of New York urges the State to enact a gun control law similar to the one enacted in New York City and in the State of New Jersey. It is somewhat difficult to understand why New York State, with its strict Sullivan Law regulation on hand guns, does not have another equally strict statute on long guns which would bring all firearms under the control of the State.

Popular support has been demonstrated for firearms legislation time and time again. All the polls, local and national, show figures ranging

from 65% to 80% of the public favoring varying levels of gun control. In the last few years several major retail suppliers of firearms have voluntarily discontinued or curtailed their sale of guns. After the assassination of Martin Luther King, Sears Roebuck, the world's largest retailer of guns, and Montgomery Ward stopped their mail order sales. In New York City, Macy's, Gimbel's, and Abraham and Strauss, three stores which had discontinued all sales of guns and ammunition more than a year before the assassination of Martin Luther King, placed full page ads in the city newspaper urging readers to write their legislators demanding the most stringent possible gun laws.

The Correctional Association proposes that while no person of good character who is in good repute in the community should be denied a permit to purchase or possess a rifle or shotgun, we feel that it is not an inalienable right of all New York citizens to possess lethal weapons. We would propose that certain classes of individuals, such as convicted felons, minors, individuals with a history of drug addiction or mental illness, should not be legally authorized to own, possess or purchase a rifle or shotgun unless they can prove possession of firearms would not be dangerous.

We further believe that there is no valid reason for a private citizen to have in his possession any weapon capable of firing a projectile larger than 12 mm. Possession of such weapons should be restricted to governmental agencies and they should not be available to sportsmen and hunters.

A recent study of homicides in the *Law Review*, of the Law School of the University of Chicago, in pointing out that the majority of homicides result from emotional outbursts of friends or relatives of the victim, also stated that altercations involving knives result in a 2% fatality rate whereas altercations involving guns result in a 12% fatality rate. It can be concluded from this that if guns were not as readily available, there would be a reduction in the number of homicides in this country.

The Correctional Association of New York, in considering the matter, recognizes that since it is estimated that there are approximately 100 million guns in the United States at the present time, any legislation to bring rifles and shotguns under control must be looked at from a long range point of view. It also recognizes that in view of the number of weapons in the United States, an individual with serious criminal intent, regardless of legal controls imposed, could obtain a weapon illegally. Since, however, the great majority of homicides result from emotional explosions of a friend or relative, the ready availability of guns is undoubtedly affecting the number of homicides in this country. In the weak gun control cities of Dallas, Texas, and Phoenix, Arizona, 72% and 66% respectively of all homicides were committed with firearms. In New York City, with the most stringent gun controls of any major city in the United States, only 25% of the homicides are committed

with firearms. When one compares the overall murder rate, the results are even more striking. In four states with weak gun control laws — Nevada, Louisiana, Mississippi and Texas — the overall murder rate per 100,000 ranges from 9.1 to 10.8. In the four highly urban states of New York, New Jersey, Pennsylvania and Massachusetts, all of which have stringent hand gun controls, the murder rate per 100,000 ranges from 2.8 to 5.4, approximately one third that of the weak gun law states. The same comparison also holds true for assaults and armed robberies.

We would propose the following points be considered essential for an effective gun control law in the State:

1. Licensing of dealers of all firearms.
2. Requiring permits for the possession of rifles and shotguns, excluding certain individuals such as convicted felons, minors, individuals with history of drug addition, or confinement in mental institutions, except where they can prove possession of a firearm would not be dangerous.
3. A central State registry of all firearms.
4. Sale of ammunition only to those individuals with a permit for the appropriate weapon.
5. Outlawing all destructive devices such as mortars and anti-tank guns.

### RECOMMENDATION NO. III COMMISSION OF CORRECTION

*That the State Commission of Correction continue with its existing authority as provided by the Constitution and have its autonomy strengthened by removing the Commission from the control of the Commissioner of the State Department of Correction as stated in the Correction Law.*

**COMMENT:** Article XVII, Section 5 of the New York State Constitution provides there be a State Commission of Correction which shall visit and inspect or cause to be visited and inspected by members of its staff all institutions used for the detention of sane adults charged with or convicted of a crime.

Until 1895 there was no provision for a State agency responsible for the visitation and inspection of the various types of prison facilities. Enabling legislation (Chapter 1026, Laws of 1895) directed the Governor with advice and consent of the Senate to appoint eight persons, one residing in each judicial district of the State, for a term of eight years, to be known as "The Commissioners of Prisons" whose purpose it was to inspect and visit institutions in which individuals were being

detained by virtue of criminal process to prevent cruel and degrading practices and to assure that the physical surroundings in which individuals were held were not detrimental to the health of the individuals being detained.

The present Correction Law of the State, Article III, Section 46, lists specific functions of the Commission among others as:

"Aid in securing humane and economic administration and sanitary conditions of the institutions subject to inspection.

Investigate their management and conduct of their officials.

Improve or reject plans for renovation or construction.

Close any county penitentiary, county jail, county lockup, city jail or police station jail, town, county or village lockup, court detention penitentiary or hospital prison ward which is unsafe, unsanitary, or inadequate to provide for the separation in classification of prisoners as required by law or which has not adhered to or complied with the rules and regulations promulgated by the Commission."

The scope of the Commission's activities includes the inspection and visitation of the New York State Department of Correction facilities except the Reception Center and the two hospitals for the criminally insane. This is in addition to the institutions under the New York City Department of Correction, the New York City Police Department, precinct stations, the civil jail of New York City, the county penitentiaries, the county jails, the city jails, town, village and county lockups, court detention pens and hospital prison wards.

In its regular inspections, the Commission includes the buildings and equipment, personnel, records, administration, safe custody, food, medical service, classification as required by law, employment, cleanliness and sanitation. It endeavors to assist the officials in charge with their problems, to make helpful suggestions, to investigate complaints, to cause unhealthful and unsanitary conditions to be remedied promptly.

It becomes at once obvious that if an inspection service is to operate efficiently within the framework of statutory requirements, the service must approach the situation with a thoroughly *detached point of view*. This requires that the agency be in no way connected with the facilities subject to inspection either through the institutions themselves or the officials of the political sub-divisions of the State which operate and maintain them. The manner in which the Commission was initially proposed and established and the experience during the years of its existence points up the necessity for separating the functions of supervision and management from those of visitation and inspection.

While the Correctional Association has a great deal of faith in the ability, conscientiousness, and integrity of the present Commissioner of Correction of the State Department of Correction, Commissioner

Paul D. McGinnis, it feels that the principle of autonomy of an inspection service is of major importance and that that section of the Correction Law presently placing the operation of the Commission of Correction under the direction and control of the Commissioner of the State Department of Correction should be repealed. The Correctional Association does not believe that the direction and control of any autonomous body should be placed in the hands of the official who is responsible for the administration of the institutions and facilities which the autonomous body is charged by statute to visit, inspect and investigate.

#### RECOMMENDATION NO. IV STATE CONTROL OVER SENTENCED PRISONERS

*That the Legislature enact that aspect of the Preliminary Report of the Governor's Special Committee on Criminal Offenders which would place all sentenced individuals, regardless of the length of sentence, under the control of the State Department of Correction.*

**COMMENT:** For a number of years, The Correctional Association of New York has been urging that all sentenced prisoners be placed under the control of the State Department of Correction. This would mean that individuals presently serving sentences in local county jails or penitentiaries would be placed in State Correctional institutions where they can get the training and treatment they so sorely need.

The present distinction which sends those individuals sentenced to less than one year to the county and those for greater than one year to the State is an arbitrary one without meaning. In 1969, it is an anachronism. The Preliminary Report of the Special Committee on the Criminal Offender and the State's Investigation Commission Report of 1966 both clearly point out the urgent need for State control of all sentenced prisoners if there is to be any inroad in reducing the crime problem in New York State. It is extremely discouraging to see individuals serving short sentences held in enforced idleness in county jails upstate devoid of any personal counselling, vocational training or remedial educational programs. Likewise, it is extremely discouraging and frightening to see three men awaiting disposition in New York City jammed into a cell constructed for one because the urgently needed space is being used by prisoners sentenced to the City.

Were the State to take over all sentenced prisoners, two problems would be ameliorated simultaneously. The first, that of providing constructive rehabilitation programs for the men who simply wait out their time for relief in upstate jails. The second result would be a reduction in the population in the New York City Department of Correction which almost daily is breaking previously record highs. Beds are

available in institutions of the State Department of Correction. They are not available in institutions of New York City.

The Correctional Association of New York joins with the State Investigation Committee and the Governor's Special Committee on Criminal Offenders in urging that steps be taken immediately to bring about this change from local to state jurisdiction of all sentenced prisoners in New York State.

#### RECOMMENDATION NO. V BAIL REFORM RELEASE ON OWN RECOGNIZANCE

*That the Legislature provide funds to permit the staffing of special units in each county to review and recommend to the court those individuals who should be released prior to trial on their own recognizance without monetary bail.*

**COMMENT:** The Constitutional basis for permitting the posting of bail for an individual arrested for a crime but not yet convicted is to assure his return for trial. The assumption has been that with the posting of a surety, individuals fearful of losing this surety will be available and will not abscond. This system of posting monetary bail has acted to the detriment of those in the lower socio-economic levels and to the advantage of more serious offenders in organized crime (generally in the upper socio-economic level). In reality it does not permit equality of justice under the law and does not accomplish its intended purpose. Indigent individuals who have not yet been convicted and may be innocent of the crime for which they are charged are forced to remain in detention for weeks and months pending their day in court because they cannot meet the required bail, while at the same time more affluent offenders are free to live normal lives in the community.

The enlightened research project on the administration of the bail system in New York City begun in 1961 by the Vera Institute in cooperation with the New York University School of Law has resulted in revolutionary changes in the bail procedure in New York City and in upwards of a hundred other jurisdictions throughout the United States. The "Manhattan Bail Project" revealed that "a defendant is severely handicapped in preparing his defense. He is unable to point to employment and good conduct while on bail as grounds for probation; if found not guilty he has needlessly suffered the degradation of jail and his family has been punished as well. There are good grounds for suspecting that the outcome of his case, as to both judgement and sentence, is materially influenced as to whether he is in jail or on bail."

Further, and of equal importance, is that studies have indicated that there is greater likelihood that those individuals released on their own

recognizance after an investigation of their roots in the community are more likely to appear for trial than individuals released solely upon monetary surety.

The economic benefits both to defendants and the community at large are such that ROR should be State subsidized.

#### RECOMMENDATION VI EMPLOYMENT OF INMATES IN CORRECTIONAL INSTITUTIONS

*That the Legislature take action to meet the need for increased, meaningful productive employment of inmates who are presently being maintained in correctional institutions at the expense of the taxpayer.*

**COMMENT:** A serious problem facing correctional administrations and one with far reaching effects upon the public welfare situation in local communities is the meaningful employment of inmate bodies in correctional institutions. Failure to provide sufficient productive employment for inmates not only produces monotony and idleness which create discontent and is a breeding ground of trouble in prisons but also has a stultifying effect upon the individuals involved. When inmates are held in enforced idleness, engaged in grossly overmanned job assignments or given "made work," a public welfare problem is projected onto the local community upon their release. At the same time prisoners who do not earn at least the cost of their maintenance are an added burden to the taxpayer. The failure to instill proper work habits in incarcerated persons because of lack of employment possibilities within correctional institutions is bad basic training for the individual and tends to create an unemployable problem later on.

To deal with this vacuum and to bring modern training programs into correctional institutions of the State, we would propose that consideration be given to the creation of a correctional industries advisory council comprised of representatives from labor and industry to advise on means of expanding the industrial programs wherever possible and to provide work and training for inmates in keeping with the State's Constitution Article III, Section 24. The well demonstrated Federal Prison Industries Board and those of other states have clearly shown the value of such a council. This we feel will be a step toward ameliorating any dependency problem which developed as a result of demoralizing idleness because equipped work outlets are not provided in institutions.

We further believe that through such a correctional industries advisory council, industry would be encouraged to introduce vocational training programs with up-to-date equipment and machinery into correctional institutions to better equip inmates for productive, meaningful work upon their release.

#### RECOMMENDATION NO. VII THE ALCOHOLIC OFFENDER

*That the Legislature enact legislation to handle the chronic alcoholic under medical and social service auspices instead of the present practice of sentencing such individuals to short jail terms in accordance with the proposals submitted by the Interdepartmental Health and Hospital Council in 1967.*

**COMMENT:** It is estimated that throughout the United States 50% of the individuals in local county correctional institutions are alcoholics committed on public intoxication charges. The State of New York is no exception. A safe estimate is that 90% of all individuals committed to local county correctional institutions on public intoxication charges are ill with alcoholism.

We have already seen two United States Courts of Appeal declare unconstitutional the conviction and sentencing of these individuals to correctional institutions although these rulings do not apply to New York. It is expected that in the near future a new case will be presented to the United States Supreme Court contesting the constitutionality of criminally prosecuting an individual for displaying a symptom of his illness. Should the United States Supreme Court concur with the two Courts of Appeal decisions, New York State will no longer be able to sentence alcoholics to jail for being publicly intoxicated. The enactment of a civil commitment law, together with the development of appropriate facilities to deal with the esthetic and treatment problems involved with what at the present time constitute almost half of the jail population of the State of New York, is urgently needed to cope with this medical-welfare problem. It would be unfortunate for the State if it should find itself without legal means and facilities to handle those who in the past have been "serving life sentences on the installment plan" in county jails and penitentiaries of the State.

#### RECOMMENDATION NO. VIII ABOLITION OF NEW YORK CITY'S MARSHALS

*That the office of marshal in the civil court of the City of New York be abolished and its function be turned over to the sheriff.*

**COMMENT:** The office of marshal is an anachronism in the modern court system. Empowered to serve papers in certain civil cases — attachment of property, salary garnishes, and landlord-tenant disputes — marshals receive no net salary, depending instead on the five percent commission they receive on judgements collected. A study made by the New York City Office of Investigation showed that in one year eleven marshals had gross annual incomes from their marshal's fees alone of

more than \$70,000. One individual was found to have grossed \$167,000 in a single year.

Marshals are required as agents of the court to accept any and all processes. In practice the individuals with bulk business get preferential treatment while the small claims judgement of the average citizen gets ignored. There have been myriad complaints of excessive interest charged, illegal charges, and dispossession and eviction notices charged for but never delivered. One 84 year old marshal claims to have executed 2,000 papers during the first six months of one year, a claim which averages out to 15 services a day!

In what has been called a "puddle of political patronage," one marshal, appointed for his second six year term, has never served a paper of any kind. His district leader has asked him to "hold the bag" — keep the office in that particular club house to prevent it from passing on to another.

The Sheriff of the City of New York is the head of a staff of civil service deputies who perform identical services for the same court for the same fees (but payable to the City). He estimated that he could take over the marshals business at a profit to the City of \$750,000 a year.

Since 1961, some of the leading citizens groups of New York have urged the abolition of the office of marshals. Led by the Citizens Union, the Administrative Board of the Judicial Conference, the Legal Aid Society, the Association of the Bar of the City of New York, the Committee for Modern Courts, as well as Mayor Lindsay, have all backed legislation for this end. The office of marshal must be abolished leaving the sheriff with his civil service salary deputies to take over the function to the profit to the City and the benefit of the entire system.

#### RECOMMENDATION NO. IX SELECTION OF JUDGES

*That the present procedure of electing judges be abolished and an appointive process as is presently being used by other states and the Federal government instituted to insure the highest level of civil and criminal justice in the State.*

**COMMENT:** The 1968 Legislature passed a law creating 125 new judgeships for New York State. Of the 85 positions apportioned to New York City, 31 were filled by appointments made by the Mayor from recommendations by a non-partisan committee. The other 54 were to be elected from the slate decided on by the political parties. Owing to extreme public pressure, the parties decided to choose only from a list of recommendations made by a non-partisan committee headed by Bernard Botwin, then Presiding Justice of the Appellate Division of the First Department. Since this arrangement was purely voluntary, how-

ever, the parties were not bound to accept the recommendations of this committee, as in reality they did not.

The committee finally disbanded, not wanting to give an appearance of legitimacy to the parceling out of Supreme Court judgeships of annual salary of \$37,000 as rewards for faithful party service and contributions to party coffers.

The people of the State of New York are entitled to judges of the highest calibre. The present system whereby a few individual party leaders decide what names will appear on the ballots completely negates any question of individual merit and ability, substituting for it only partisan political considerations. An editorial in the New York Times stated:

"... the time has come to give a new objective to do away with the election of judges. Popular voting has proved as last November to be a very poor way to pick judges — except as a means to distribute political plums. All judges should be taken out of the election process and substituted instead a system of properly safe guarded executive appointment. We urge that proper steps be taken immediately to prepare for submission to the voters a new article for the Constitution which would establish such an appointive judicial selection process."

#### RECOMMENDATION NO. X MARIJUANA

*That the Legislature reduce the excessively high penalties for marijuana possession and sale.*

**COMMENT:** The present penalties for the possession and the sale of marijuana are exceptionally harsh. Under the existing law, a 19-year old college student who sells one marijuana cigarette to a 20-year old roommate can be sentenced to a 25 year prison term. The present laws make no distinction between heroin and marijuana, maintaining similarly severe penalties for simple possession for personal use of both. This we believe to be markedly wrong.

Without taking a position at this time as to whether there should be any criminal penalties at all for the possession of marijuana for personal use, the Correctional Association of New York strongly favors the reduction in penalties as proposed in the pending Federal legislation and supported by the Director of the Federal Bureau of Narcotics and Dangerous Drugs and the Assistant Secretary of the Department of Health, Education and Welfare for Medical and Scientific Affairs. We urge the enactment of legislation to bring about a reduction in these penalties as promptly as possible.



### RECOMMENDATION NO. XI NARCOTIC ADDICTION

*A. That the Legislature in its efforts to bring narcotic addiction in the State under control pay particular attention to the younger addicts under 16 years of age, that it provide the separate means for their treatment and establish programs to prevent youngsters from becoming addicted to narcotic drugs.*

**COMMENT:** When a 13-year old dies from an overdose of heroin after having been addicted for a number of years, it is time that the Legislature squarely confront the problem of juvenile drug addiction in the State. In its efforts to bring drug addiction among adults under control, many millions of dollars have been appropriated. But for the youth under the age of 16 no serious effort has been made to provide for treatment. The New York State Narcotic Addiction Control Commission has rightfully, following social welfare philosophy, turned over to the Department of Social Welfare those youngsters brought to its attention because of addiction but to no avail.

The report by the Citizens Committee for Children of New York in December, 1969, clearly points up the inability of that agency to cope with the specialized problems involved with youngsters addicted to narcotic drugs.

We would propose that the New York State Narcotic Addiction Control Commission be charged specifically, by legislation, with the responsibility of developing programs and facilities, under its own aegis, to deal with the evergrowing problem of narcotic addiction among youth.

*B. That the Legislature in its efforts to bring narcotic addiction in the State under control consider the Methadone Maintenance Program for adults as only one of a variety of treatment techniques and continue to regard it as in the research stage.*

**COMMENT:** Much publicity has been given to the success of the program utilizing methadone maintenance for drug addicts. Some individuals are suggesting legislation to mandate that methadone maintenance be markedly expanded. Others are proposing that it even be transformed into a general public health policy. While the evidence is clear that for some individuals, methadone has been highly beneficial, The Correctional Association of New York believes that the program must not be seen as a panacea and must continue to be regarded as in the research stage.

Since those individuals who have been successful in The Methadone Maintenance Program are in general older than their street peers, carefully selected volunteers, are well motivated, and receive a panoply of rehabilitative and supportive measures, before any conclusive judgment can be made, we must know its effect on a random selection of young

addicts including those who are not motivated. Studies must also be directed toward the effects of giving methadone alone without any other rehabilitation and providing all the intensive rehabilitative aids within the methadone maintenance program without using the methadone drug.

Before considering any legislation on methadone, the Correctional Association urges study of the report on the methadone program by The New York State Council on Drug Addiction. This report attempts to place The Methadone Maintenance Program in perspective.

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**THE CORRECTIONAL ASSOCIATION'S**  
**GENERAL ACTIVITIES**  
**STATE**  
**NATIONAL**  
**INTERNATIONAL**

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## STATE

### **LEGISLATION**

#### **ASSEMBLYMAN STAVISKY**

Following the news release on the Association's Recommendations to the 1969 Legislature, we received many telephone calls and letters from organizations and private citizens commending us on our forthright stand and requesting copies of the full report. Assemblyman Leonard Stavisky of Queens asked us to provide him with a list of bills we would like him to introduce and those on which we would like his support. The General Secretary met on a number of occasions with the legislative assistant of the Assemblyman, reviewing our recommendations and discussing the ones which might be introduced by Mr. Stavisky. Bills on the Commission of Correction, gun control, the alcoholic offender, and marijuana study were introduced by the Assemblyman for us.

#### **ABORTION**

Among those who contacted the Association as a result of its Recommendations was the Committee on Medicine and Law of the Association of the Bar of the City of New York which was considering its position on abortion law reform.

The General Secretary talked with the secretary of the Committee and regretted that we could not be personally present when the Committee met as we had been invited, but assured her that we would make available to each member of the Committee a copy of the Association's complete position.

Immediately after this Committee met, the secretary of the Committee advised us that they had officially espoused a position on abortion which was in complete agreement with our own position, and that our material had a major impact in having The Association of the Bar urge the removal of criminal sanctions from all abortions performed during the first six months of a pregnancy.

Adding the Committee on Medicine and Law of The Association of the Bar of New York City to the growing list of organizations calling for abortion law repeal is a major step forward and one for which The Correctional Association of New York can be justifiably proud, in that our philosophic discourse, "The State Regulating Morality," was a major factor in the action taken by this committee.

#### **NEW YORKERS FOR ABORTION LAW REPEAL**

During the last legislative session, the Association worked with and was a member of New Yorkers for Abortion Law Repeal, a group of

individuals pursuing the aim of complete repeal of the New York State Abortion Law. Put together hurriedly last January so as to have some effect during the 1969 legislative session, the group, at its June meeting, adopted a Constitution and By-Laws giving it a formal organization and voted on officers and members of a board of directors. The statement of purpose of the organization embodied in the Constitution not only pledges the group to work toward complete repeal of all abortion laws, but also puts it on record as being completely opposed to any intermediate reform bill. Not only will the organization work to support repeal, but it will also work to defeat reform. It is unfortunate that the absolute quality of this stand precluded from membership both Cyril Means and Dr. Christopher Tietze, members of the Commission appointed by Governor Rockefeller to study the problem of abortion.

Despite all indications that a modified abortion law would be enacted in 1969, a last minute change of mind resulting from an impassioned speech by one Assemblyman brought about the defeat of the Blumenthal bill on the floor of the Assembly. This is the third consecutive year that the abortion reform bill has been defeated. It is still our belief that in view of the number of organizations that have been formed and the public spotlight which has been focused on the matter, there will be eventual repeal of the abortion statute in New York State.

#### **MARIJUANA**

The bill to increase the penalty to a maximum of a life sentence for selling marijuana to an individual under the age of 21 (vetoed by the Governor last year) has been passed again by the Senate. It is believed that there are sufficient votes in the Assembly to prevent its ultimate passage. This is another example of the mood of the Legislature toward increased penalties in general.

#### **COMMISSION OF CORRECTION**

The Association was successful in having a bill introduced to remove the control and direction of the State Commission of Correction from the Commissioner of Correction of the State. This was the first time that such a bill had been introduced to increase the role of the Commission of Correction. While the bill was passed by the Assembly, it was killed by the Penal Institution Committee of the Senate. The Association intends to have this bill introduced again next year with better hopes for its success.

#### **GUN CONTROL**

In an attempt to bring about sound gun control legislation for the State of New York, and as part of the New York Citizens Committee for

Sound Gun Control Laws, the Association exercised pressure on legislators to bring rifles and shotguns under legal control. We also urged the citizens of the state to make their feelings known to their legislative representatives. We obtained the names of some 20,000 individuals in the State of New York who signed petitions favoring Federal restrictions on gun sales and ownership. We wrote to one thousand persons from the list, urging them to join the New York Citizens Committee for Gun Control Laws and to actively support good gun control laws.

In addition, we sent a kit of materials to some 700 organizations throughout the state which included a draft editorial, a list of things organizations might do to bring about tighter control on firearms such as contacting their radio and television stations for local spot announcements, making gun control a topic at their meetings, inviting speakers on gun control to local organizations, and contacting governmental officials on the need for sound gun controls in the state.

As a result of this mailing, we were contacted directly by the State Board of the Business and Professional Women's Clubs two days in advance of its annual meeting to decide programs for the forthcoming year. They asked for 200 copies of the gun control kits plus 200 copies of our January *Newsletter* which included our recommendations to the 1969 Legislature.

We are hopeful that these groups will not only actively support gun control, but will also join with us in other areas in which we are trying to bring about a more realistic administration of justice in the state.

In advance of the 1970 Legislative session, representatives of both the Community Service Society and the United States Attorney's office here in New York have proposed that the Association reactivate and reconstitute the New York State Citizens' Committee for Sound Gun Control Laws.

It is our studied opinion that at this time there is little public interest in gun control legislation in New York, and we feel that the energy of the Association could more profitably be used in other areas. While we have not entirely turned down the proposal that the Correctional Association assume leadership in organizing the Committee, no such move is anticipated at the present time. We are, however, remaining in contact with the various organizations and individuals who may be willing to join with us at a more appropriate time.

#### **SENATE COMMITTEE ON PENAL INSTITUTIONS**

To aid in preparing the legislative program of his committee for 1969, Senator John R. Dunne, Chairman of the New York State Senate Committee on Penal Affairs (and a member of The Correctional Association of New York), asked the Association for a detailed documentation on our proposal that the State assume control over all sentenced prisoners

who are presently serving their sentences in local county jails, county penitentiaries or in institutions in the New York City Department of Correction. He further requested that we provide his committee with all copies of recent testimony and papers the Association has given on the legal aspects of handling alcoholics. Subsequent to our providing him with the material and after talking with him on a number of occasions, the Senator publicly proposed reform in both of these areas. He has further proposed introducing legislation to bring about the necessary statutory changes (as well as to co-sponsor the bill which the Association was instrumental in introducing in the last legislative session) to make the New York State Commission of Correction an independent autonomous body, freed from the control of the Commissioner of Correction. The Senator's position on the latter issue is extremely encouraging in that it was his Senate Committee which killed that bill which had been passed by the Assembly.

While there have been repeated efforts in the distant past to have the State take over the operation of the sentenced aspects of the county jails and penitentiaries, the most recent move in this direction was initiated by the Association in public testimony presented to the Governor's Special Committee on Criminal Offenders at its first hearing with Governor Rockefeller in 1966.

On a later occasion, Senator Dunne met with the General Secretary in our office to review various concepts and programs in which the Senator is interested which were proposed by the Association. Senator Dunne had already contacted several individuals involved in preparing the Interdepartmental Health and Hospital Council report on handling the skid row alcoholic as the result of our suggestion. He had also met with the Governor's counsel in an effort to determine what funds can be made available in 1970 to implement the proposal to create detoxification centers and continued care units throughout the state to handle individuals who are now being committed to county jails because of alcoholism. The Senator had also discussed with the Governor's office our proposal relating to the Commission of Correction which would make the Commission an independent body not under the direction and control of the Commissioner of the State. He agreed to introduce on the Senate side the bill to strengthen the State Commission of Correction introduced last year on the Assembly side by Assemblyman Stavisky. Assemblyman Stavisky has also advised us that he will re-introduce the Commission bill into the 1970 Assembly.

#### **GOVERNOR'S SPECIAL COMMITTEE ON CRIMINAL OFFENDERS**

While the Governor's Special Committee on Criminal Offenders was technically out of existence, having become the Crime Council, the

former Executive Director of this Committee and principal draftsman of its Preliminary Report was commissioned by the Governor to develop a program for the implementation of parts of the Report.

The general plan will be to place in one department the state's overall rehabilitative services relating to all offenders. In general it would put all convicted individuals, whether or not in the past they would have been placed on probation or incarcerated, into a unified department which would then make custody evaluations based upon diagnostic workups done in regional facilities throughout the state. Changes in custody status of an individual would be determined by three boards appointed by the Governor. One of these would be to merge probation and parole into a single field service agency, removing that aspect of probation supervision presently under the judiciary and placing it in the new department.

The Association continued working with the former Executive Director in the preparation of this Report which was submitted to the Governor during the latter part of 1969. Two important aspects of the Report resulted from the proposals which the Association originally made in testimony before the Governor's Committee and subsequently urged in our contacts with both legislators and state officials. These are:

1. That probation be considered as part of the entire correctional process and be transferred from the jurisdiction of the courts to the Executive Branch of Government. Not only would such a move cut down the multiplicity of semi-autonomous probation departments with varying standards and work loads, but it would also tend to bring about a more integrated post adjudicatory system in the administration of criminal justice in the State.
2. The other proposal of the Association included in the report is that the State assume jurisdiction over all sentenced inmates who, receiving a sentence of one year or less, are sentenced to individual county jails or county penitentiaries. This has been one of the major recommendations of the Association for several years. Not only are the local counties unable to provide the proper programs and training for individuals committed to their jurisdiction because of lack of resources, but also the New York City Department of Correction, with a total resident population of approximately 14,000 individuals, has only enough beds to handle the City's detention population. If the State takes over all sentenced prisoners, except those serving extremely short sentences, and the present housing facilities used by sentenced prisoners on Riker's Island are used to handle detention cases, New York City's problem would be to a great extent solved. Having all sentenced prisoners under the jurisdiction of the State is completely in keeping with the principles expressed by the American Correctional Association repeatedly in the past and in its current *Manual of Correctional Standards*.

### **MONROE COUNTY DEPARTMENT OF MENTAL HEALTH**

Approximately a year ago, as an outgrowth of the Man on the Periphery study and our efforts to shift the handling of Skid Row alcoholics from the penitentiary to medical authorities, the Monroe County Department of Mental Health set up a program at County Hospital to handle the cases which previously had been committed to the county penitentiary. To complete the program, the county would like to create a *Halfway House* to be used for those individuals whom they receive on referral from the city courts. Since the county's quota of federal funds, both from the Safe Streets Act and Mental Health, have been used, a request is being submitted for state funds to operate such a facility following a suggestion of the State Director of Alcoholism programs. In order that there be flexibility of operation so that later such a halfway house might be used as a work release base for individuals convicted of minor offenses other than public intoxication, it is the sense of those involved that a private agency should administer the funds and operate the program.

At the suggestion of the Director of the Continued Care Unit of the County Mental Hospital, who is also Associate Warden of the County Penitentiary, the Director of Mental Health for the county asked the General Secretary to meet with him to discuss the possibilities of the Correctional Association handling the program should the state funds become available. Various approaches to the situation were discussed. One would be to contact the courts requesting them to place selected individuals on probation with the condition that they reside in the halfway house. A second was to approach the State Parole Board which has paroling authority over misdemeanants with sentences over 90 days and have them place individuals on probation with the condition that they reside in the facility. A very preliminary discussion was held on the possible role of the Correctional Association in this operation should state funds become available and should the Association be willing to undertake this project.

### **C.L.E.A.R.**

Dr. Douglas Evans, president and founder of the Citizen's League for Education and Rehabilitation, a group of individuals working in the Monroe County Penitentiary, met with the General Secretary and the present warden of the penitentiary to discuss the possible role of C.L.E.A.R. and the County Medical Society in the rehabilitation program in the new jail to be constructed in Monroe County. We suggested that the County Medical Society not press too hard to involve itself in the total rehabilitative program for the county, but rather focus its attention on developing the physical medical program for inmates committed to jail.

### **CONFERENCE OF JUDGES**

During a visit to Rochester meetings were held with representatives of the Rochester Bureau of Municipal Research and the Continued Care Unit of the Monroe County Mental Health Hospital to obtain reactions to the possibility of the Correctional Association conducting a conference involving judges, prosecutors, police, parole, correctional authorities, parolees and inmates. The idea was enthusiastically supported and a proposal made that such a conference be held in the Rochester-Buffalo area. Enthusiasm for the project went to the extent of the individuals suggesting the names of possible attendees.

### **USE OF SOLITARY CONFINEMENT IN JUVENILE TRAINING SCHOOLS**

The Association was contacted by Assembly Leonard Price Stavisky (Queens) for our evaluation of the report of the Citizens' Committee for Children in the training schools of the State. The Assemblyman was particularly interested in our reaction to the possibility of restricting through legislation the use of solitary confinement of juveniles. He further asked if the Association would arrange a joint meeting with the legislative representatives of the Citizens' Committee for Children, himself and the Correctional Association to consider other areas of possible legislation to improve the State Training School system.

### **PAROLE IN-SERVICE TRAINING**

The General Secretary met with the Director of Training for the New York State Division of Parole to encourage the Parole Division to include several hours on the problem of alcoholism and drug addiction in their in-service program. These two extremely important topics have in the past been only lightly touched by parole.

We further indicated our willingness to provide lectures on these topics for the next cycle of in-service training at which attendance of all parole officers is required.

### **COMMUNITY OBSERVERS**

Two briefing sessions and tours through the Manhattan Detention Pens were conducted for members of the Association who volunteered to be community observers in the event of a major emergency in the City. In addition to members of the Executive Committee, the Association has obtained some ten individuals who volunteered from the general membership. Included are two former Peace Corps men, four clergymen, and the teacher-in-charge of the Adult Training Division of the New York Board of Education.

While the City remained calm this summer and there was no need to call the community observers in, we will remain alert in the event an emergency does develop.

### **PREVENTIVE DETENTION**

A meeting was arranged with the Executive Director of the Temporary Commission on Revision of the Penal Law and Criminal Code, an Assistant United States Attorney interested in the problem of preventive detention, and a probation officer handling bail for a New Jersey judge to consider the pros and cons of President Nixon's preventive detention proposal. The Temporary Commission on Revision of the Penal Law and Criminal Code planned to include a section in the Criminal Code which would allow courts to hold individuals without bail if there was a strong indication that they would commit a crime if released on bail. As a result of the controversy created by the Nixon proposal, the Temporary Commission in the State of New York decided that the section on preventive detention should not be included in the total proposal revising the Criminal Code of the State, but should be submitted as a separate item for consideration by the Legislature. The Commission believed that if the preventive detention section was included in the total package, enactment of the remaining aspects of the revised criminal code might be jeopardized.

### **NEW YORK CITY DEPARTMENT OF CORRECTION**

The General Secretary met with Commissioner McGrath on several occasions as the result of several suicides in institutions of the New York City Department of Correction. We were further contacted by Senator Dunne, Chairman of the Joint Legislative Committee on Penal Institutions for our evaluation as to the causes of the suicides. It was our contention that while even a single suicide is to be regretted, the number of suicides in the City correctional institutions was not out of line with those in other correctional institutions throughout the United States, nor with the suicide rate for the same age categories in the general public.

As to a possible cause of suicides in the institutions, we pointed out that the crisis created by the population peak meant that the correction officers had many more individuals to observe and that the actual pressure for living space seriously curtailed activity programs, thereby allowing individuals to brood over their status.

To alleviate partially the overcrowding, the first of an eventual 1,000 inmates were transferred in the middle of August from Riker's Island to the New York Department of Correction after several months of negotiation. While the reduction of 1,000 in the sentenced population will help, with a continuation of the same population trend, the institutions of

the New York City Department of Correction will still be operating at 175% of capacity.

### **MARIJUANA CONFERENCE**

The Association was a community sponsor of a conference on marijuana held by Congressman Edward Koch to gain background information in support of a bill he introduced calling for the creation of a Presidential Commission to study the sociological, pharmacological and psychological aspects of marijuana usage. The bill was copied from two previous bills introduced in the New York Assembly through efforts of the Correctional Association of New York.

The panelists at this conference included Dr. Henry Brill of Pilgrim State Hospital, formerly of the New York State Narcotic Addiction Control Commission, and Chairman of the AMA Committee on Narcotics; Dr. Sidney Cohen, N.I.M.H.; Dr. Joel Fort, an expert on ghetto medicine from the University of California; Frederick Garfield, Federal Bureau of Narcotics; Harold Rothwax, Director of Legal Services of Mobilization for Youth; and Bardwell Grosse, National Student Association. These individuals addressed themselves to four questions:

1. Does the use of marijuana cause violent crime or aggressive antisocial behavior?
2. Does the use of marijuana produce conditions of dependence, psychosis or other harmful effects requiring medical treatment?
3. Does the use of marijuana lead to the use of heroin?
4. Are the current criminal penalties for the possession of marijuana appropriate?

### **OCEANHILL BROWNSVILLE DEMONSTRATION SCHOOL DISTRICT**

The Association conducted an orientation session for ten team leaders of the Push-Out Program, part of the Community Education Center of the Oceanhill Brownsville Demonstration School District. The Center, located in quonset huts in a school playground, is attempting to develop a comprehensive system of community education. Program Push-Out (so called because it deals with those individuals who have been "pushed out" of the educational system) is designed to use young men between the ages of 16 and 22 to work with others in the same age group in the community. The ultimate aim is to have those individuals in turn work with the younger children in the 8 to 12 group to keep them from reaching the critical 16 year old drop out or push-out stage. The team leaders will be responsible for coordinating their groups of approximately 8 individuals and giving what aid, counseling, support and loose direction they can.

The Association was asked to be present since most of the young men with whom the program is concerned will have some form of criminal history. In addition to giving general information on the problems and approaches in dealing with this particular group, the Association's direct service programs were stressed. One of the trainees from the Association's Multilith Program was also present at the orientation session. His presence was considered most effective as he was the living example of the accomplishment which most of the team leaders felt could not be reached. He was able to answer their questions as to his own thought, motivation and effect of this program on him. His very presence had a marked effect.

We hope to be able to work with this project in the future since it seems to be a very worthwhile one.

#### **E. R. CASS**

June 1969 marked the 56th anniversary of Mr. E. R. Cass with the Correctional Association of New York, 40 years of which he served as General Secretary. Coming to the Association for the first time on June 14, 1913, Mr. Cass, after nine years as Assistant Secretary, became the General Secretary upon the death of Dr. Orlando Lewis in 1922 and held that position until his retirement in 1962.

As a member of the Advisory Trustees of the G. Howland Shaw Foundation, Mr. Cass was again successful this year in obtaining a deeply appreciated unrestricted grant for the Association in the amount of \$7,000.

#### **NEW YORK FEDERATION OF WOMEN'S CLUBS**

The Correctional Association worked with the Federation of Women's Clubs of New York City throughout the year to supply speakers on topics of our choosing for their meetings. Harriet Pilpel, a founder, member, and counsel of the Association for the Study of Abortion, addressed a group of presidents of one hundred women's clubs on the topic of abortion law repeal. Vincent Broderick, former police commissioner of New York City and Chairman of the New York Committee for Gun Control Laws, addressed the same group on Gun Control Legislation. The General Secretary made two talks during the year, one on the topic "Should the State regulate Morality?" and another on the Association's position on unsolicited pornography sent through the mails.

The General Secretary further arranged for the President of the New York Federation of Women's Clubs, Mrs. Dorothy Prayder-Premier, to meet with Mrs. Nancy Banning, Public Information Officer of the Women's Unit of the Governor's office. They explored ways in which the Federation of Women's Clubs, the Women's Unit, and the Correctional

Association might work together for mutual benefit. As a result of this particular meeting, the topic of preventive detention was discussed at the following meeting of presidents of the City's Women's Clubs. The Association arranged for Mr. Lawrence Marcus, Council for the Judicial Conference and author of a study on the dangerous defendant which focuses on the constitutionality of preventive detention, to talk on that topic.

Mrs. Banning described the work of the Women's Unit in the Governor's Office headed by Kitty Carlisle.

As a by-product of the work with the Federation of Women's Clubs, the Association arranged for Assemblyman Leonard Stavisky, then Honorary Co-chairman of the New York City Citizen's Committee on Gun Control, to speak to the Women's Press Club on gun control.

#### **NEW YORK STATE WELFARE CONFERENCE**

As a member of the Program Committee of the New York State Welfare Conference, the General Secretary met in Albany to plan the sessions in correctional services for the November conference. We suggested that in view of the general upheaval and the pressure for greater involvement on the part of those who are receiving services, one session should devote itself to ways in which clients (in this case inmates, probationers or parolees) might become involved in decisions affecting themselves. In view of the movement toward school decentralization with greater community control, the movement to organize welfare recipients so that they may have greater say as to what happens to them, and the unrest on college campuses in which students are pressing for a greater participation in the affairs of universities, it is not unthinkable that similar movements might develop from correctional clients. In order that correctional administrators be prepared for such a possibility, thought must be given now to ways in which greater involvement and participation could be developed to prevent the confusion and disorganization presently going on on college campuses.

#### **NEW YORK CITY JUNIOR LEAGUE**

Two members of the New York City Junior League spent several hours with the General Secretary discussing the possibility of the League developing a "Project Misdemeanant" for the City of New York. Such a project would involve using voluntary trained professional personnel to relate and work with individuals convicted of minor offenses in the Criminal Courts of the City on a one to one basis.

The basic concept of "Project Misdemeanant" was developed in Royal Oaks, Michigan when a local lower court judge, Keith J. Leenhouts, expressed a belief that for the lesser offenders there was no legal alternative save fine or incarceration for short periods of time.



For these individuals, Judge Leenhouts felt a great deal of empathy and recognized the need for a personal relationship to aid in helping them solve some of their problems. Not having a probation staff available nor any other disposition except a fine for those who could pay it or a short jail sentence, and recognizing that the majority of the lesser offenders become involved in a conflict with the law because of their own personal inability to cope with situations, this judge conceived of the role of citizen involvement in the lower courts to help solve the problems of many of those who appeared before him.

With the support of the National Methodist Church, the idea of utilizing private citizens with misdemeanants grew until at the present time in some fifty cities throughout the United States private citizens are devoting their time, talents and energy to help those in authority deal with the problem of the lesser offender.

The General Secretary further arranged for a meeting involving himself, the two members of the Junior League, and the Administrative Director of the First Department of the Appellate Division to discuss a program to utilize volunteers as probation aids with cases placed on probation by the Criminal Courts of the City of New York. As a result of our meeting, such a project for New York City was given the green light in the First Department, constituting the Bronx and Manhattan. It is expected that the initial pilot project will be started in the Bronx within the year.

#### **WARDEN MILTON ROTH EDUCATION FUND**

At the suggestion of Commissioner George McGrath, Mrs. Milton Roth, widow of the late Warden of the New York City Reformatory on Rikers Island, contacted the Correctional Association to express a desire to establish a memorial to her late husband. She proposed that there be a fund created whose income would be used solely for the purpose of providing additional education or vocational training for young men released from Rikers Island Reformatory. Mrs. Roth proposed that such funds be held in perpetuity with only the income available for use. She indicated that she would start this fund with a contribution of from \$4,000 to \$5,000 and that she would continue to work to have other individuals add to the principal.

To insure the continuity of this fund, Mrs. Roth suggested that it be created as part of the endowment of The Correctional Association of New York. The General Secretary assured her that we would bring the matter to the attention of the Executive Committee and urge that it authorize the creation of such a fund.

Unfortunately, it was the decision of the Executive Committee that such an undertaking would not be feasible at this time.

#### **EXPERT WITNESS — SUPREME COURT TRIAL**

In keeping with the Association's position supporting the merit system for the selection of upper echelon personnel in the administration of justice, the General Secretary, as an expert witness for the City, was involved in a Supreme Court trial in which one individual who had taken a civil service test contested his grade on the examination.

The Honorable Judge Myles Lane, former Chairman of the State's Investigation Commission, presided over the trial. The expert called in by the petitioner was a teacher at the Deleahanty Institute, a cram school for civil service examinations.

The Association's interest in issues of this type goes back to its origin when concern over the qualifications of individuals responsible for correctional institutions was expressed. In this particular instance, an individual was attempting to obtain a position through civil service status which civil service felt was markedly above his ability.

#### **PERSONNEL POLICY**

It had been hoped that a serendipitous result of the Multilith Training Program would be a changing of companies' hiring policies toward ex-offenders. One of the companies contacted by the Association to employ a multilith trainee was the International Division of a large, well-known firm. The personnel interviewer became extremely interested in the Association's program and the idea of hiring ex-offenders. The company had never knowingly hired individuals with a criminal record. While he said there was no formal company policy to this effect, there obviously was an unwritten one. After two weeks of meetings with the upper echelon executives as well as the company's attorneys, the decision was reached to hire one of the trainees in the Multilith Program. It was felt that having gone through the decision-making process for this individual, it would not be necessary to repeat it for any further individuals with criminal histories being considered for employment by the company.

#### **PROFESSIONALS IN THE ADMINISTRATION OF JUSTICE IN THE CITY OF NEW YORK**

Renewing the practice which we started last year of meeting informally with the federal, state and local principals involved in the various aspects of crime in the New York City area, we held a luncheon meeting with representatives from the Federal Bureau of Prisons, the Federal Bureau of Narcotics and Dangerous Drugs and the State Division of Parole.

Since our last meeting in the spring of 1968, there have been major administrative changes within the old Federal Bureau of Narcotics. That bureau was transferred from the Treasury Department to the Department

of Justice and merged with the relatively newly created section of the Department of Health, Education and Welfare dealing with dangerous drugs. This change in departmental function and structure has brought about major personnel changes. Mr. George Belk, formerly Area Director for the Federal Bureau of Narcotics, is no longer with the Bureau, as well as other members of the top echelon staff in the New York District office. We took this opportunity to introduce the new staff members of the Federal Bureau of Narcotics and Dangerous Drugs to the others who were in attendance at this same meeting.

### BRITISH CONSULATE

The General Secretary met with the Counsel for the British Consulate General and the assistant director of the New York Office of the Federal Bureau of Investigation, to review the procedure whereby the Federal Bureau of Investigation and the Correctional Association work cooperatively with the law in the United States. The Federal Bureau of Investigation is tracing individuals from their arrest records through personal contacts with local police departments. The Correctional Association can locate an individual from the time of detention through ultimate release.

At this meeting, we learned that the individual who had originally set up this informal cooperative arrangement while he was the Consul General here, and with whom the Association had worked quite closely, had just been appointed Consul General in Geneva, Switzerland.

While at times our role in helping the British Consulate may involve a fair amount of work, we feel that this relationship is an extremely desirable one and we realize that the Association can generally obtain this information much easier and faster than the Counsel can by going through formal governmental channels.

### THE FORTUNE SOCIETY

The Fortune Society, an outgrowth of the play *Fortune and Men's Eyes*, is an organization of men who have served time in prison. It is becoming increasingly aggressive and critical of the administration of justice. The non-paid Executive Director of the Society is professionally the director of publicity for *Hair* and *Boys in the Band*. While apparently sincere, he has lacked the knowledge of how to bring about constructive change. The group is devoted entirely to public appearances of members of the Fortune Society on television programs, before church and college groups, and on its own weekly radio program on WBAI. It reaches approximately 3,000 people through a monthly *Newsletter*.

Since we felt that in many instances the Fortune Society was being unfair, we met with the Executive Director, who we know, to discuss

ways in which the Fortune Society could develop a more constructive approach and program. We suggested that before publicizing specific dramatic instances based solely on inmates' statements, that they contact us to check on the facts of the situation. This was acceptable to the Executive Director. As an example, the Fortune Society had been contacted by the mother of an inmate in the Bronx House of Detention who claimed that he was refused medical attention by the authorities following a fight with another inmate. The Correctional Association was able to find out that not only had the individual received medical attention within ten minutes of his fight, but subsequently had been seen by the staff physicians in the institution. As a result of his continuous complaints, he was then transferred to Bellevue Hospital where he was given a complete examination and transferred back to the institution with a "no injury" diagnosis. He was then transferred to the prison on Rikers Island where he remained for a week, was examined and studied by a third set of doctors who were also not able to find anything wrong. Rather than having denied him medical attention, the Department of Correction, investigation revealed, had bent over backwards to verify the reports of its own doctors that there was no injury by having repeated examinations by outside physicians. We are hopeful that in the future the Fortune Society will continue to contact us when a problem develops, rather than immediately trying to get maximum publicity for unverified stories.

There was dissension within the Fortune Society itself over the uncritical acceptance of inmates stories and a group of releases left the organization to form a new group which they claim will criticize only when they know the facts and when they are able to propose constructive alternatives to existing conditions. It is interesting that representatives of this splinter group independently had contacted us only three days before the General Secretary met with the Executive Director of the Fortune Society.

### ADVISORY COUNCIL ON ALCOHOLISM TO THE HEALTH SERVICE ADMINISTRATION OF NEW YORK CITY

Upon request of Mr. R. Brinkley Smithers, the Chairman of the Advisory Council on Alcoholism to the Health Service Administration of New York City, the General Secretary briefly addressed that group on current changes in methods of handling alcoholic offenders by the administration of justice in the United States. He pointed out that courts were not meeting out to the same extent traditional short jail sentences to skid row habits, but were attempting to find other alternatives with more promise for reclamation. For more serious offenders, special case loads have been set up by Parole Divisions to give closer supervision, better understanding and more pertinent counseling to offenders with alcoholic problems.

Despite this, punitive statutes still remain on the books and the sovereign state still continues to try to "punish away" a medical problem.

Inroads are being made with some legislators to bring about an entirely new way of dealing with individuals who in the past have been "serving a life sentence on the installment plan" solely because of their addiction to alcohol. In New York State, Assemblyman Stavisky and Senator Dunne both have been in touch with the Correctional Association for assistance in setting up a better legislative approach to the problem in the forthcoming legislative session.

### **STUDY ON RECIDIVISM**

The Association is acting as consultant to a study on recidivism being carried on by the Rutgers University Psychology Department under National Institutes of Health funding. The study has temporarily bogged down due to the breakdown of the Rutgers University computer. Raw data was collected on over 300 individuals admitted to the Adolescent Division on Rikers Island and the interviewing of all new admissions to that institution continued so that upon the availability of the computer, the data could be analyzed. One of the benefits of this study, in addition to its research value, is the fact that objective mental measurements test results are available to the classification committee at the institution and the Parole Board. This information has not been available in the past.

### **DIRECT SERVICE**

Seventeen year old Mark was sent to the Correctional Association by his grandmother. Mark had been in detention for six months. He had been unable to make bail, neither the original \$500 nor a subsequent reduced amount. As a result of the pressure of the overcrowding existing in the City institutions, Mark's case was re-reviewed and he was returned to his grandmother's address where he had been living six months previous at the time of his arrest and original probation report. During Mark's detention, however, his grandmother had lost her job, and she had moved illegally with a daughter living in a City project. When Mark came home he found that "home" had ceased to exist. He then went to his only other living relative, the aunt, and found his grandmother there as well. They were afraid to take him in since that would then make two people living there illegally. He was able to sleep at a friend's home one night and he spent the next night on the subway. He was living on quarters borrowed from people he knew.

Finally, the grandmother called the Correctional Association and made an appointment for Mark. The office was able to arrange for Mark to stay at St. Mark's Emergency Shelter. Because of his extreme youth,

it was felt that he had to be placed somewhere with supervision, even if it was of a limited nature.

### **FAMILY VISITS TO CORRECTIONAL INSTITUTIONS**

Among the major modifications in welfare grants and procedures made by the new Welfare Law which became effective July 1, 1969, one small but extremely important change to us is the deletion of grants to women on welfare for travel expenses to visit their husbands in correctional institutions. This has placed a heavy financial burden upon the Correctional Association in that we feel it imperative that family continuity be maintained while the husband is serving a sentence. The difficulty in maintaining family solidarity becomes almost insurmountable when prison visits cannot be made. We have been in contact with a long-time benefactor of the Association asking for his financial support to help cover some of the increased direct service expenses resulting from our efforts to provide funds allowing wives and children to visit their husbands and fathers in institutions. We have received some help but must squarely face the situation and decide whether we can continue to carry this additional financial burden without additional income.

It cannot be ascertained at this time to what extent the 1970 Legislature will modify the 1969 law. In any event, it can be anticipated that even with a statutory change in the next legislative session, the problem will continue at least until July of 1970.

### **PUBLIC RELATIONS**

The General Secretary met individually with two professionals in the field of public relations, Mr. Arthur Reef, Director of Public Relations for the American Metal Climax Company and Mr. William Moore, Director of Communication for the National Episcopal Church. The purpose of the meetings was to obtain ideas as to how to increase the involvement and interest of existing members and how to broaden the membership base of the Association.

Several very worthwhile suggestions were made by both of these individuals which will be considered by our Ad Hoc Committee on Relations with Members.

### **1969 ANNUAL REPORT**

The 1969 Annual Report was formally filed in both the Senate and the Assembly. Copies of our recommendations had been previously forwarded to each legislator shortly after the Legislature opened. After that time the Correctional Association was in constant contact with the Legislature about specific bills in our area of interest. We received

telephone calls and letters from the various legislators asking for our opinions on specific bills and we were also asked by the Governor for our comment on bills which have been passed and were awaiting his signature.

#### **ASSISTANCE TO STUDENTS**

It is not uncommon for the Correctional Association to receive requests from college students for written materials on the administration of criminal justice or to have students visit the office to talk to the staff concerning problems in the field. There were several such visits during the year.

Miss Jacqueline Johnson, a graduate student in Urban Affairs at Princeton's Wilson School, was working on a legislative program for abortion reform and demonstrated an interest in that topic beyond that of her class assignment. A meeting was arranged at the Correctional Association office with Mr. John Lasso, Executive Director of the Abortion Reform Association, and the Assistant to the General Secretary to discuss the history of the abortion reform movement as well as the basic reasons for reform. We also met with a graduate student in the N.Y.U. School of Social Work who was doing her year's paper on the community organization aspect of the abortion reform movement.

The Association met with a third year Columbia Law School student who had been assigned to write a thesis on ex-offender self help groups, using the Fortune Society as an example. We spent some four hours reviewing the "self help" concept and its evolution with this young student.

Among other points raised were the orientations of such groups. Some of the "self help" groups are oriented toward providing assistance to individuals released from correctional institutions. Others have taken it upon themselves to change the prison system by attacking the administration of institutions. While undoubtedly their motives are good, often the attack is directed against the wrong individuals and in many instances there are distortions of the true facts.

Two other students, independently, spent several hours with the General Secretary to obtain our viewpoint on drug taking among youths and vocational possibilities in the field of social disorganization. A third student, in architecture, after reading our recent *Newsletter* describing the community correctional facility of the New York City Department of Correction, decided that his senior thesis should be on community residential facilities for young adults. It is interesting that a number of young students are applying their particular skills to new correctional concepts. In this case the architecture student is working on the design for a physical plant based upon the desirability of keeping offenders in community residential facilities rather than housing them in massive isolated prisons.

The Association has for years worked with architects translating innovative concepts in correction into physical structure. Much of the development of the telegraph pole type of reformatory structure came from work that the then Prison Association did with an architect in the years around 1915.

### **NATIONAL**

#### **99th NATIONAL CONGRESS OF CORRECTION**

The Correctional Association was represented at the 99th Congress of Correction by Mrs. Stevens Baird, Mrs. John W. Ballantine and Mr. Goff. This annual meeting of professionals in the field of correction drew over 1,500 individuals and their families.

The first Congress developed from the efforts and work of Mr. E. C. Wines when, as General Secretary of The Correctional Association of New York, he was instrumental in organizing the first national meeting of individuals concerned with correctional institutions. This initial meeting led to the formation of the National Prison Association which later changed its name to the American Correctional Association.

While many of the topics and problems discussed at this 99th Congress had been considered in the past, several new ideas were considered. The problem of violence and general unrest in United States institutions as well as in the cities was the topic of several different meetings. The growing number of federally funded programs such as National Institute of Law Enforcement and Criminal Justice, the Law Enforcement Assistance Act, the Correctional Manpower and Training Commission, the Juvenile Delinquency Control Act of 1968 were examined and explained.

An All-Congress workshop on conjugal visiting and family participation held the last afternoon of this five day long meeting drew a large number of participants and received good publicity locally.

#### **100th CONGRESS OF CORRECTION**

The 100th Congress of Correction will be held in Cincinnati, Ohio, October 10th to 15th in 1970. It was on these same dates and in the same city that the 1870 National Conference on Prison Reform organized by E. C. Wines was called to order by Governor Rutherford B. Hayes.

Because of the role played by E. C. Wines, General Secretary of the then Prison Association of New York, in organizing the first National Prison Reform Congress in 1870, the Association has been asked to work with the Centennial Commission which is planning the program for the 1970 Congress. Among plans being considered is the reproducing of the proceedings of this first Congress. There are only three known

copies of the original proceedings, one of which is in the office of the Association at 135 East 15th Street.

### **E. R. CASS AWARD**

At the time of the retirement of E. R. Cass as General Secretary of the American Correctional Association in 1962, the Association created an annual award in his name to be presented to individuals for outstanding service to the field of correction. This year the award was presented to William T. Coulter of St. Paul, retired President of the Bruce Publishing Company, Mr. Gilbert Rodli of the John R. Wald Company of Pennsylvania, and Mr. A. A. McLaughlin, Director of Industries of Ottawa, Canada.

### **UNITED STATES SENATE SUB-COMMITTEE ON JUVENILE DELINQUENCY**

The General Secretary met with Carl Perion, Executive Director of the United States Senate Sub-Committee on Juvenile Delinquency (the Dodd Committee), and discussed with him pending legislation on pornography. Hearings are anticipated on several administration bills and it was suggested that the Correctional Association might want to testify. These bills will focus principally upon unsolicited pornography being sent through the mail. However, due to increased liberalism in publications, movies and plays brought about by Supreme Court decisions, it is anticipated that the hearings will cover more than the specific bills in question.

### **JUNIOR CHAMBERS OF COMMERCE**

Some four years ago at an international meeting in Canada of the North American Judges' Association, the Correctional Association of New York joined with that organization, the National Council on Crime and Delinquency, the Department of Social Concerns of the Methodist Church and the United States Junior Chambers of Commerce in setting up a correctional program for the United States Jaycees. In the several years that have transpired since this organizational meeting, the national organization of the United States Junior Chambers of Commerce has been successful in interesting a number of its local chapters in correctional institutions. At the present time, every institution of the Federal Bureau of Prisons has such a chapter and several have been established in state institutions throughout the United States to further encourage local New York State Jaycees in becoming interested in the plight of individuals released from correctional institutions. The General Secretary met with the President of the New York State Junior Chambers of Commerce. We also wanted to add another statewide group which would

support the Association's position on a number of matters relating to the administration of justice. The president of the New York Jaycees provided us with the mailing lists of the executives of all Junior Chambers of Commerce in the state, 1,200 individuals, and assured us that the present administration would cooperate to the best of its ability in helping us bring about reforms in the administration of justice.

As an indication of the interest of members of this organization in our work, we have already received requests from seventy-six Jaycee chapters in the state for additional material and for placement on our mailing list.

To extend the Jaycee correctional program internationally, we forwarded to our international correspondents material prepared by the national Jaycees describing those correctional programs which can be developed in Jaycee chapters. We have already been advised by the Executive Director of the Canadian Jaycees that he would like to investigate this program in greater detail. We have placed him in contact with the Executive Director of the John Howard Society of Ontario and Commissioner A. J. MacLeod, Commissioner of Penitentiaries.

### **FIRST NATIONAL CONFERENCE ON ABORTION LAWS**

In keeping with the Association's efforts to switch control over abortions from the penal law to medical authorities, the Association attended a national meeting on abortion laws in Chicago, Illinois. Some 150 individuals concerned over the existence of criminal sanction for abortion joined forces to organize the National Association of Repeal of Abortion Laws. In addition to representatives of the Correctional Association of New York, those in attendance represented among others, the National Organization for Women (NOW), the Episcopal Dioceses of Chicago and New York, the World Council of Planned Parenthood (represented by Dr. Alan Guttmacher), the Organizations for Abortion Law Reform and the Institute for Criminal Justice of the University of Chicago Law School.

At the end of this three-day meeting, during which the position of the Correctional Association was distributed, a national association was formed for the purpose of bringing about the ultimate repeal of any state statute relating to criminal abortions by licensed physicians.

While there was complete agreement that the ultimate objective should be repeal of all abortion laws, the selection of tactics to achieve this end caused some discussion. There was apprehension that those who violently oppose any legislation which stops short of complete repeal — such as the militant group which disrupted the legislative hearings held recently in New York City by the Lent Committee — would gain control of the session and put the conference on record as opposing any change other than total repeal. However, there was a sizeable group present which

assumed the more moderate position of the Correctional Association, namely, that while the ultimate goal is repeal, this goal may practically be achieved by the intermediate step of increasing the number of grounds for which legal abortions can be performed. This group was able to keep control of the conference.

### **INSTITUTE FOR CRIMINAL JUSTICE — STATE OF NEW JERSEY**

The General Secretary met with Dean Fairbanks of Rutgers University Law School and chairman of a commission created to propose the format for an Institute of Criminal Justice for the State of New Jersey. In a discussion of the orientations that such an Institute might adopt, we were able to point out various approaches that different institutes of criminal justice have taken. The Institute of the University of Sydney (Australia) Law School, for which we serve as one of the four international advisors, is primarily oriented around training and educating the police, prison officials, and probation and parole officers. The Institute for Criminal Justice of the Law School of the University of Chicago, headed by Dr. Norval Morris, former Director of the United Nations' Far East Institute, Tokyo, Japan, is oriented basically around criminal law reform; while the Institute at England's Cambridge University emphasizes academic research in the causes of crime and prevention of delinquency. We would be hopeful that the new Institute being created would be eclectic in its orientation, recognizing that criminal justice is a broad continuum beginning with delinquency prevention and law enforcement, extending through judicial administration, prosecution and detention, to imprisonment, parole and after care.

### **25th ANNIVERSARY DINNER — NATIONAL COUNCIL ON ALCOHOLISM**

The Correctional Association of New York was represented at the 25th Anniversary Dinner of the National Council on Alcoholism by Mr. Melber Chambers, Mr. Harry Fowler and the General Secretary. The former two were honored by being seated on the dais. This dinner, chaired by Mr. R. Brinkley Smithers, drew well over 600 notables, including Senator Harold Hughes of Iowa, Mercedes McCambridge and Dr. Mason Gross, President of Rutgers University. Its principle speaker was Dr. Roger Egeberg, Assistant Secretary for Medical and Scientific Affairs, Department of Health, Education and Welfare. The dinner was to honor Mr. Clifford F. Hood, Past President of the United States Steel Corporation and Mr. James F. Oates, Jr., Chief Executive Officer of the Equitable Life Assurance Society of the United States.

### **BOOK OF THE STATES**

The Association has again been asked to write the chapter on "Correction" for the bi-annual publication of the Council of State Governments, *The Book of the States*. This is a publication of the organization which sponsors the annual meetings of Governors, and formulates plans for and acts as the secretary to the various interstate compacts relating to probation and parole which allow the transfer of legal supervision over parolees from one state to another. It also is the secretariat for handling runaway children who cross state lines as well as many other state matters.

*The Book of the States* is the principle publication of this organization. It is used by state legislators and members of the executive branch as a source book on general trends in the United States in major state services such as correction, highways, welfare, conservation, and transportation, with a complete chapter devoted to each topic.

### **CONGRESSMAN EDWARD KOCH**

The Association was asked at a meeting with the Administrative Assistant to Congressman Edward Koch to help set up a series of meetings and visits for the Congressman during the Congressional recess, January 1-15, 1970. We suggested among other things that the Congressman become acquainted with the Teacher Corps-Vista Program presently in operation on Rikers Island but due shortly to expire. Further, we are in the process of arranging for the Congressman to meet with Chairman Lawrence W. Pierce of the Narcotic Addiction Control Commission and to visit some of the facilities of the Commission here in the City of New York.

It will be recalled that Congressman Koch picked up our proposal to the New York State Legislature for an in-depth study of the sociological, psychological, pharmacological and criminological effects of marijuana and introduced a similar bill into Congress. At the present time there are 66 co-introducers on this bill.

### **THE INSTITUTE ON MAN AND SCIENCE**

The General Secretary has been asked by the Program Director of the Institute of Man and Science to be a member of the planning council for this year's Precedent Conference of the Institute on "The Criminal, Prisons and Society." The Conference will be held from June 14th to July 3rd, 1970 at the Institute's Campus in Rensselaerville. The Institute is chaired by Everett R. Clinchy, formerly President of the National Conference of Christians and Jews.

Each year the Institute chooses for its Precedent Conference a critical social problem in which a dialogue can make a difference. These are

problems of widespread and deep concern. The program will focus upon New York State and the relevant problems.

The Conference is divided into three segments: (1) crime, apprehension and conviction, (2) the courts, and (3) prisons and society. A core group of 50 to 60 resident participants including State Senators, prison wardens, criminologists, judges, prisoners, police chiefs, etc. will meet in a structured program with a different group each week. The planning council at the present time consists of such individuals as Richard Bartlett, Chairman of the New York State Crime Control Council; the Honorable Stanley Fuld, Chief Judge, State of New York; Peter McQuillan, Director of the Crime Control Council; Peter Preiser, Consultant, Crime Control Council; Milton Rector, Director, National Council on Crime and Delinquency; Commissioner Paul D. McGinnis, State Department of Correction; Russell G. Oswald, Chairman, State Board of Parole.

## MASS MEDIA

### THE SUFFOLK SUN

As is our usual practice, at the same time that we forward our proposals to the Legislature, copies are sent to various newspapers through the state. The *Suffolk Sun* carried an editorial in its February 19, 1969 edition as follows:

#### LIMITS OF STATUTORY POWER

Should government power be used to enforce purely moral or religious standards? A private agency authorized by the state, The Correctional Association of New York, concludes that it should not.

The agency, in addition to advocating abolition of the state's abortion law, recommends elimination of criminal statutes covering prostitution and homosexual conduct between consenting adults.

Chances of such legislation passing in Albany this year might be improved if the word "amendment" were substituted for "abolition" or "elimination" of existing statutes. Nevertheless, the Association raises some valid points.

On the issue of prostitution, the Association asks that the state limit its concern to "open public solicitation when it constitutes a public nuisance" and to "recruitment for prostitution and living off the earnings of a prostitute," which it terms exploitation of another person.

Homosexual behavior, the agency says, should be treated as in heterosexual acts, with punishment meted out in cases of "violence, constraint or fraud . . . without the sexual element being considered a relevant or aggravating circumstance."

This thinking may seem advanced to some legislators, but public opinion is rapidly reaching the same conclusion.

Matters of public order and safety are the important ones to be considered in the state's criminal statutes. With crime in the streets on the rise, police have enough to keep themselves occupied without having to be concerned with "crime" in the bedrooms.

The law should limit itself to protecting people without infringing upon personal actions that do no harm to others.

### RADIO STATION WTFM

Several times a day, Fred Darwin, the news editor for WTFM, presents commentary on items of interest. Having seen the *Suffolk Sun* editorial and having obtained a copy of our recommendations, he devoted his commentary to the work of the Association and our stands on the state regulation of morality.

Subsequently, the General Secretary spoke with Mr. Darwin who assured us of his complete cooperation and support in publicizing our points of view on these controversial subjects. He further indicated a desire to meet with us for ideas on a book he is preparing on freedom for the *Free Press*.

### NEW YORK TIMES

Upon receiving a copy of our recommendations to the 1969 Legislature, the *New York Times* contacted the General Secretary in preparation for an article on our proposals. Of major interest to the reporter were our recommendations on the state regulation of morality. The reporter, who knew both Mr. Cass and Mr. Goff, expressed his personal agreement with our viewpoints and added his commendation on our willingness to take such a forthright stand on such controversial issues as prostitution, abortion, homosexuality and marijuana.

Principally as a result of an article he wrote which appeared in the February 13, 1969 edition, many individuals and organizations have contacted the Association, as noted in another section of this report.

### THE WALL STREET JOURNAL

As the aftermath of an exposé of the Philadelphia detention system, the *Wall Street Journal* decided to write a feature article on detention. The Association was contacted by the staff writer and we spent several hours with him reviewing the complexities of the problems of detention and sentenced institutions. The relationship between police activity, the size and efficiency of the prosecution staff, the availability and efficiency of defense for indigents, the orientation of arraignment judges and their

feelings about bail, the number of judges available to hear all affect the detention process. Added to these are such logistical problems as the location of the detention facility in relation to the courthouse, the number of men to be transported from detention, the number of correction officers available for supervision, and the physical structure of the detention facility itself.

As an example of the inter-relationships in the administration of justice, we pointed out that because of its detention population, the New York City Department of Correction inmate census is at an all time high. This is probably due to a shift in the policy of the District Attorney's office in bargaining resulting in more individuals pleading not guilty and being held for trial. This in turn extends the time an individual will spend in detention institutions and thereby brings an increase in the population.

#### PARADE MAGAZINE

For several years, the Association has been working with *Parade* magazine which is a Sunday supplement with the largest circulation in the United States. We have succeeded in placing five articles in areas connected with the Association's work. In 1969, two more articles were published by the magazine.

The May 4th issue of *Parade* magazine carried an article describing the last week of the last man executed in the United States. In developing this article, the *Parade* reporter met on several occasions with the General Secretary to discuss the approach which would have the greatest impact on the general public. The Association was able to obtain the information for the magazine on the man who was executed and made arrangements for the writer to meet with the Commissioner of Correction of Colorado, the State in which the execution occurred.

Upon reading the completed article prior to publication, we were most impressed with its emotional impact and contacted a number of national organizations interested in the abolition of capital punishment to determine whether they would like reprints of this article. Because of our relationship with *Parade* magazine and the assistance we gave in the development of this article, the Editor provided us with 10,000 reprints to be distributed nationally and internationally.

A second article published by *Parade* at the suggestion of the General Secretary was on abortion. We had been trying for several years to have this magazine with its 30 million readers carry an article on abortion in an effort to help move public opinion in favor of abortion law repeal. We had proposed that the magazine send a staff writer with a middle class, married, respectable middle-aged mother of several children when she had an abortion. We asked a number of individuals to notify us when such a woman who was willing to have her story written became avail-

able. We were contacted by a member of the Clergy Consultation Service in another state and were told that such a woman was available and the Clergy Consultation Service believed she would be willing to cooperate. *Parade* magazine was notified and the Editor directed a staff writer to follow through. Arrangements were made by the Clergy Consultation Service for this woman to be aborted in Puerto Rico and the staff writer and the woman flew down the next day. The abortion was performed that same day.

The article describes the trip and the experience of this woman as well as describing the Clergy Consultation Services which have sprung up throughout the United States. These Clergy Consultation Services provide counsel and actually make the necessary arrangements for women desiring abortions.

#### INTERNATIONAL AMERICAN DITCHLEY FOUNDATION

The American Ditchley Foundation, recently created as an American counterpart of the Ditchley Foundation in England, has as its principal purpose the bringing together of small groups of knowledgeable experts from England and the United States to consider problems of mutual interest and concern to both countries. Such a conference is being planned on narcotic addiction for September of this year.

Representatives of the American Ditchley Foundation met with Mrs. Stevens Baird of the Executive Committee and Mr. Goff to consider individuals from the United States who are most knowledgeable in the sociological, psychological and legal aspects of narcotic addiction. They asked for our evaluation of specific individuals in the field together with our views on the various types of discipline representation which should attend such a highly restricted and intense conference. Some of the issues discussed were the attention that should be paid to "hard drugs" as compared to "soft drugs;" sociological theories on causation which might be applicable to a prevention program; compulsory versus voluntary treatment by the state; treatment programs emphasizing complete abstinence versus those utilizing substitute narcotics; and the amount of research necessary on the dangerousness of marijuana as compared to the criminal penalties for its possession.

#### ANGLO-AMERICAN CONFERENCE ON DRUG TAKING IN THE YOUNGER GENERATION

An Anglo-American Conference on Drug Taking in Youth, sponsored by the Ditchley Foundation and the American Ditchley Foundation, was held in Ditchley Park, Oxon, England, November 7th to 10th,



1969 to which 15 English experts and 15 American experts on Anglo-American narcotics problems were invited.

Those in the British delegation were:

- The Rt. Honorable William F. Deedes, Conservative Member of Parliament;  
 Mr. Arthur Blenkinsop, Labor Member of Parliament, President of the Social Commission of the Council of Europe, former Parliamentary Secretary, Ministry of Health;  
 Mr. Peter Beetle, Assistant Secretary, Drug Branch, Home Office;  
 Professor W. D. M. Paton, Professor of Pharmacology, Oxford University;  
 Mr. C. G. Jeffery, Chief Inspector, Drug Branch, Home Office;  
 Dr. Allen B. Taylor, Dean of St. Catharine's College, Oxford University;  
 Dr. A. A. Baker, Senior Principal Medical Officer, Department of Health and Social Security.

In addition to Dr. Lonnie MacDonald and Mr. Goff of The Correctional Association of New York, some of those in the American delegation were:

- John E. Ingersoll, Director, Bureau of Narcotics and Dangerous Drugs, United States Department of Justice;  
 Mr. Sanford D. Garelik, President Elect of New York City Council;  
 Dr. Sanford J. Feinglass, Program Director, National Education Association;  
 Mr. Thomas M. Campbell, Chairman, President's Advisory Council on Youth;  
 Dr. Howard S. Becker, Professor of Sociology, Northwestern University;  
 Dr. Sherman N. Kieffer, Director, National Center for Mental Health Services, Department of Health, Education and Welfare;  
 Dr. Donald B. Louria, Chairman, New York State Council on Drug Addiction;  
 Mr. Lawrence W. Pierce, Chairman, New York State Narcotic Addiction Control Commission;  
 Professor Louis J. West, Chairman of the Department of Psychiatry, UCLA;  
 Professor John Kaplan, Professor of Law, Stanford University.

Early in the Conference it became apparent that two polar points existed in the philosophy of the use of chemical substances for mood

manipulation or escape. The primary concern was the use and abuse by youth and others of the so-called soft drugs such as cannabis, barbiturates, and amphetamines as contrasted to the use of various morphine derivatives and cocaine. The issue of legalizing cannabis was continually raised and while there was almost a uniform agreement that the existing penalties for possession in both the United States and England were out of line and should be reduced, there was no consensus on completely legalizing and regulating cannabis as is the case in both countries with alcohol, another drug extensively in use in the United Kingdom and United States.

#### **ADDICTION RESEARCH UNIT, INSTITUTE OF PSYCHIATRY, MAUDSLEY HOSPITAL, LONDON**

The General Secretary met with the research staff and the head of the Addiction Research Unit of the Institute of Psychiatry, Maudsley Hospital to be briefed on a research project that unit has undertaken:

1. To discover the amount of illegal drug usage not registered with the Ministry of Health.
2. To follow as far as possible the intimate life patterns of heroin users.

Preliminary findings indicate that heroin use in the United Kingdom, based upon this one study, may be five times greater than the official statistics indicate. There were further indications that, contrary to past experiences, heroin users are now using multiple drugs and not remaining with one substance. This fact was also brought forth by those in attendance at the Ditchley conference. To obtain their information, the research unit has assigned three sociologists to live full time in the drug culture of a provincial town in England. While the unit is not providing the narcotics, they reported being present when 90% of their cases "shot up". This particular study is considered of such importance that the Ministry of Health has agreed to supplement its original grant to allow the study to continue.

#### **A VISIT TO THE UNITED KINGDOM**

In traveling to a conference on narcotic addiction at Ditchley Park in England, the General Secretary visited the Southern General Hospital in Glasgow, the center for the prevention and treatment of addiction for western Scotland. He spent most of the day with the Consultant Psychiatrist in charge, talking with addicts and staff members, and giving a lecture on the legal aspects of addiction in the United States to the psychiatric residents and senior registrars of the hospital.

As yet, narcotic addiction in Scotland has not reached an epidemic stage and appears to be limited to the severely emotionally disturbed

individuals who might have been considered psychopaths in the past. On the other hand, addiction to alcohol appears to be excessive in Scotland, particularly among the dockworkers.

While there is a slowly growing public recognition of alcoholism as a social problem, principally due to the efforts of Dr. Patrick Mullin, Consultant Psychiatrist in charge of addiction for western Scotland and the Glasgow Council on Alcoholism, one of the principle obstacles to public recognition is the importance of Scotch whiskey to the local economy. The situation is comparable to asking the R. J. Reynolds Tobacco Company to place signs in their factories reading "cigarette smoking causes lung cancer." Despite this, inroads are being made, as exemplified by the General Secretary's attendance at the dedication of the second hostel in Glasgow for alcoholics and ex-offenders. Prior to the creation of the Glasgow Council on Alcoholism and the establishment of a separate unit in the Southern General Hospital in Glasgow to deal with addicts two years ago, there were no rehabilitative facilities in western Scotland. Our talks with various probation officers revealed their acceptance and recognition that facilities other than local jails have been sorely needed for a long time. The Presbyterian Church of Scotland is operating both of these hostels.

#### **WORLD MENTAL HEALTH ASSEMBLY**

The General Secretary participated in a session on marijuana and a reception given by the Board of Directors of the World Mental Health Assembly in Washington, D. C., representing both The Correctional Association of New York and the International Council on Alcohol and Addictions. The meeting and reception were part of a week long conference of the World Mental Health Assembly bringing together individuals from 100 countries involved in mental health.

The Correctional Association's interest in this particular Assembly focused on the addiction area and the point that the Association has raised for many years that individuals addicted either to alcohol or to narcotics should be handled in a separate way from the ordinary offender and should not be committed for short punitive sentences to local correctional facilities throughout the world.

#### **INTERNATIONAL COUNCIL ON ALCOHOL AND ADDICTIONS**

In keeping with the long time effort on the part of the Association to remove the skid row alcoholic from the correctional system, the General Secretary presented the fifth annual paper on the criminal aspects of alcoholism before the International Council on Alcohol and Addictions in Budapest, Hungary. We were most interested to learn that on the day

in which the paper was presented a special delegation of six Soviet police officials attended the Conference.

#### **UNITED NATIONS — HUMAN RIGHTS COMMISSION**

Acting as the agent for the International Council on Alcohol and Addictions, the Association prepared a memorandum for the Human Rights Commission of the Economic and Social Council of the United Nations which criticized a previous study made by the Commission for failing to provide adequate protection of drug and alcohol addicted individuals. This study, entitled "The Right of Everyone to be Free From Arbitrary Arrest, Detention and Exile," failed to emphasize the need for separate procedures in the process of justice for handling addicts.

The original idea for interesting the Human Rights Commission in this topic came from Mr. Curtis Roosevelt, Head of the NGO section of the United Nations. It was through the cooperation of Mr. Roosevelt, the other members of the NGO section, the staff of the secretariat of the Human Rights Commission and Mr. R. Brinkley Smithers that we were able to draft the content of the memorandum, proceed through the intricate protocol and technical controls within the United Nations, and have the document translated, reproduced and distributed in time for the Geneva meeting, all in a six-week period. The memorandum, translated into three languages, was circulated to members of the Human Rights Commission in advance of their February meeting in Geneva.

It was considered and referred back to member nations for further study. The Commission suggested that an effort be made to interest the member nations of the United Nations in the proposal during the next two years. A further suggestion was that an application be made to the Human Rights Commission for a seminar on the legal aspects of addictions and that consideration be given to having such a seminar on the legal aspects of addictions in three years. It is believed that such a seminar, part of which would be funded by the United Nations, would be a most fruitful way of interesting the member nations of the United Nations in the topic of the legal aspects of addiction.

The Secretary of the Human Rights Commission also proposed that Mr. Goff contact the Social Defence Section to see if this topic might be considered for the agenda for the 1975 Quinquennial Congress on the Prevention of Crime and Treatment of Offenders. The agenda for the 1975 meeting will be worked on in 1972.

#### **UNITED NATIONS SEMINAR ON THE LEGAL ASPECTS OF ADDICTION**

As a result of the Association's work with the Human Rights Commission and the Social Defence Section of the United Nations in the past

year, and as an aftermath of the General Secretary's paper in Budapest, Hungary, the Government of the Netherlands is seriously considering offering to act as host nation to the Human Rights Seminar on "The Legal Aspects of Addiction." The ultimate goal, one which The Correctional Association of New York has worked on for many years, is to see the removal of alcoholics whose only offense is public intoxication — a symptom of their disease — from punitive handling by the government. In the instance of individuals addicted to narcotics, it is our firm belief that in certain geographical areas in the world such as New York City, the major property crime problem will not be ameliorated until the solution of the problems of prevention and treatment of narcotic addiction is found.

### **SOCIAL DEFENCE SECTION**

The General Secretary met with the acting officer in charge and two staff members of the Social Defence Section of the United Nations to determine ways in which the Social Defence Section might collaborate with the Human Rights Commission in bringing about more activity on the part of the United Nations in differentiating the handling of addicted individuals from the ordinary prosecutory procedures. It was agreed that at the 1970 Quinquennial Congress in Kyoto, Japan, the matter would be considered when the topic of Minimum Standard Rules was discussed. It was further agreed that the Social Defence Section would cooperate with the Human Rights Commission if we are successful in developing a United Nations seminar on the legal aspects of addiction.

### **FOURTH QUINQUENNIAL CONGRESS ON CRIME AND DELINQUENCY**

At the suggestion of the acting officer in charge of the Social Defence Section, the General Secretary met with Mr. Minoru Shikita, Special Social Affairs Officer from Japan assigned to the Social Defence Section to plan for the Kyoto, Japan meeting in 1970. Mr. Shikita was seeking suggestions as to ways to improve the quinquennial meetings. It was our position that in addition to the plenary sessions and the large meetings at which major papers are presented, the Congress should include small group meetings which would allow special interest groups to meet on an informal basis. It is recognized that there are a number of problems involved in having smaller group meetings, both of a political nature and in terms of cost since additional translators will be required. From the political point of view, if the small group meetings are considered officially part of the Congress, it would be possible for decisions and proposals coming from the smaller groups to be contrary to United Nations policy and to become part of the formal written proceedings.

All of these points were discussed and considered and it was our tentative recommendation that the host nation of Japan might arrange for facilities to be available for special interest groups who desire to meet but that conclusions not be officially part of the proceedings and not reported formally by the Principal Rapporteur of the Congress.

### **UNITED NATIONS QUINQUENNIAL CONGRESS ON THE PREVENTION OF CRIME AND TREATMENT OF OFFENDERS**

One of the foremost items on the agenda of the Fourth Quinquennial Congress on the Prevention of Crime and Treatment of Offenders to be held in Kyoto, Japan, August 19, 1970 is the minimum standard of treatment of prisoners. These standards established in 1955 are to be discussed and considered in light of new thinking. To provide the background material on these standards, the United Nations has asked the Criminal Law Education and Research Center of New York University under the direction of Gerhardt A. W. Mueller to prepare a study of the standard minimum rules for the treatment of prisoners with a possible redraft of these rules.

The General Secretary met on several occasions with the research associate conducting this study for the purpose of proposing modifications.

The General Secretary also met with Mr. Shikita, acting officer-in-charge of the Social Defence Section, at his request, to aid in the planning for this Congress. The most recent meeting focused on some of the mechanical aspects of housing and transportation for the delegates attending the Conference. Previous meetings were devoted to the development of small informal group meetings as part of the Congress when special interest groups might be able to get together to exchange information and ideas.

At the request of Mr. Alexander, the General Secretary met with the United States correspondent to the United Nations, Mr. William Clifford, Executive Secretary. The Fourth United Nations Congress on the Prevention of Crime and Treatment of Offenders, to discuss the development of the national paper for the United States. Since we were in the process of preparing the chapter on Correction for the bi-annual publication of the Council of State Governments, *The Book of the States*, it was suggested that this chapter might form part of the national paper for the United States at the Kyoto meeting.

### **THE INTERNATIONAL PRISONER'S AID ASSOCIATION**

As a member of the Board of Directors of the International Prisoner's Aid Association, the General Secretary attended the meeting of the Board to make preparations for the Quinquennial Congress conducted

by the United Nations. The IPAA holds consultative status as a Non-Governmental Organization with the United Nations, and to a great extent is responsible for having a section devoted to volunteers and voluntary organizations in the prevention of crime and treatment of offenders as part of the full United Nations Congress Agenda.

#### **UNITED NATIONS — NGO STATUS**

The General Secretary was advised by the NGO section of the United Nations that the status of The Howard League for Penal Reform, the organization the General Secretary represents in the United Nations, was up for review and that he should remain alerted to appear before the reviewing committee of the Economic and Social Council. We were subsequently advised that the status of the Howard League will remain as it has been in the past with category two representation.

This review of all NGOs in the United Nations resulted from disclosure that United States CIA money was being given to private organizations which might have United Nations status. Subsequently, the Near East situation created another reason why the socialist countries wanted to review all non-governmental organizations connected with the United Nations.

#### **ANGLO-AMERICAN CONFERENCE ON THE CRIMINAL LAW AND PSYCHIATRY**

At the suggestion of Mr. Louis Warren, member of the Executive Committee of The Correctional Association of New York and President of the American Ditchley Foundation, the General Secretary met with Mr. H. V. Hodson, Provost of Ditchley, and the Rt. Hon. William F. Deedes, Conservative Member of Parliament to propose an Anglo-American Conference on Criminal Law and Psychiatry. The idea of such a conference grew from the General Secretary's growing concern over conflicting points of view of criminal responsibility and the disposition of individuals with severe psychiatric problems convicted of criminal behavior. Both the Provost and the Conservative Member of Parliament expressed a great interest in the concept. The Rt. Hon. William F. Deedes cited the present situation in the United Kingdom on the issue of capital punishment. Since the temporary suspension of the death penalty in the United Kingdom, there has been a marked decrease in pleading of diminished responsibility by defendants charged with homicide. A finding of diminished responsibility automatically means commitment to a mental hospital for life. Since the criminal conviction for homicide carries as a maximum penalty a life sentence which in effect is only seven years in the United Kingdom, the Conservative Member of

Parliament feels that there may be a number of individuals who, to protect the community, should be in mental hospitals for the rest of their lives, who have been criminally convicted and will be released on parole after only seven years.

The Provost indicated the matter of such a conference would be brought to the attention of the board as a topic for 1971.

#### **THE WORLD COUNCIL OF CHURCHES**

The World Council of Churches is planning a consultation on "Penal Policies" in the middle of June, 1970 at the Chateau de Bossey, Switzerland. The aim is to bring together people concerned with different areas in penology, administration, chaplaincies, aftercare, psychology and criminology.

The National Council of Churches has asked the General Secretary to attend as an American representative from the National Council of Churches and the Correctional Association.

While the meeting will be of longer duration, the format follows that of the Ditchley Foundation in England where a small number of participants (approximately 50 international church related penologists) will be closeted for a week at the World Council's Institute at the Chateau de Bossey in Cefigny, Switzerland. As is the case in most international conferences there will be simultaneous translations in English, French, and German.

#### **RECRUITMENT OF CORRECTIONAL PERSONNEL IN JAPAN**

Minoru Shikita, Premier Japanese Prosecutor, presently on leave of absence as Acting Officer-in-Charge, Social Defence Section, United Nations, to work on preparations for the Fourth United Nations Congress on Crime and Delinquency, met at the request of his Government with the General Secretary for assistance in the recruitment of correctional personnel. Similar to the situation in the United States, there is little difficulty in recruiting law enforcement personnel in Japan, but problems are being experienced in obtaining qualified trained correctional workers. We explained some of the efforts being made here in the United States to bring better qualified individuals into the field and those training efforts to improve the quality of personnel already employed. We provided Mr. Shikita with publications of the Commission on Correctional Manpower and Training which succinctly described the correctional manpower situation in the country and proposed a number of steps to improve it.

## **FOREIGN VISITORS ENGLISH MAGISTRATE.**

The Association met with Mrs. Margaret Richardson, a Magistrate of London's Juvenile Court, whom we had previously met two years ago. At that time we had arranged a program of visitation to various drug centers, the Adolescent Division on Rikers Island and programs of the Division of Youth. The visits were interrupted unexpectedly by illness. Mrs. Richardson, who expects to be living in the United States for at least a year, would like to visit those facilities she was unable to see two years ago. She also asked the Association to recommend possibilities of doing voluntary work with this City's Correctional Department, preferably with adolescents.

## **SUPREME COURT JUSTICE FROM SOUTH AFRICA**

The Association was pleased to spend some time with the Honorable Mr. Justice Jan H. Steyn of the Supreme Court of South Africa discussing the narcotics problem and preventive techniques being used in the United States.

Since the closing of the Suez Canal, ships which previously used the Canal are now going around the Cape stopping at Capetown, South Africa. Many of these ships are carrying illegal drugs and as a consequence the authorities in South Africa are becoming concerned over an increased use of heroin in that country. The problem of marijuana has been in existence for some time principally among the South African Negro population. There are some indications that college age students are beginning to use marijuana. The big concern, however, is over the possible increase in heroin usage due to greater availability of the drug. Anticipating this situation, Judge Steyn is seeking help in developing a prevention program for his country.

We supplied the Justice with various materials on both the treatment and prevention of narcotic addiction after explaining that at the present time, because of the complexity of the problem there seems to be no simple answer either to treatment or prevention. We pointed out the growing interest in this country in the use of ex-addict to talk with high school students on their experiences with drugs in order to remove from the uninitiated some of the glamor surrounding drug usage.

Judge Steyn asked us to send him all the material we could obtain on narcotic addiction and to add him to our mailing list to receive Newsletters and other information which the Association distributes.

## **CANADIAN VISITOR**

The Association was visited by Martin Pinker, the Chairman of the Advisory Committee to the Minister of Justice, Ontario, Canada. Canada

is starting to implement a new program of work release and Mr. Pinker was interested in any material which the Association had on this subject. He was especially interested in specific administrative details such as what to do with the earnings of inmates in such a program. He was informed that usually earnings are held in escrow while the individual is in prison and his family continues on welfare. At the time of his release, there would be one reimbursement made to welfare from the accrued earnings.

## **ASSISTANT PROFESSOR, INSTITUTE OF CRIMINOLOGY, UNIVERSITY OF OTTAWA**

The Association was contacted by J. Alex Edmison, an Assistant Professor of the Institute of Criminology at the University of Ottawa who is presently working on a book on the history of the Canadian Prison System. He was interested in obtaining information on the early history of Auburn and its relationship to the development of the Canadian Penitentiary System. The Association was able to supply him with a great deal of specific information and written material as well as some old, rare volumes from the Association's library.

## **INSTITUTE OF LEGAL MEDICINE — GENEVA**

One of the Correctional Association's correspondents, the Fondation des Foyers Feux Vert, a Swiss organization providing residential treatment programs for juvenile delinquents, asked us to prepare a program of visitation for Dr. Jacques Bernheim. Dr. Bernheim, Professor of Legal Medicine of the University of Geneva and Chief Psychiatrist of the Swiss Correctional System, visited the Association to discuss the psychiatric treatment of dangerous offenders. Dr. Bernheim visited the Clinton Diagnostic Center at Dannemora and met with Dr. Fini, Director of the unit. We further arranged for Dr. Bernheim to visit the New Jersey Diagnostic Center at Menlo Park and to meet with Dr. Ralph Brancale, the Medical Director of that facility.

Dr. Bernheim expressed a great deal of interest in the work the Association was doing in the field of addictions, particularly our current effort to have the United Nations focus more attention upon separating addicted individuals from the present criminal prosecutory procedure.

## **GOVERNOR OF ENGLISH APPROVED SCHOOL**

Mr. G. E. Turner, Governor of an Approved School in Knotley Hall, England, spent several days with the Association and on visits and trips arranged by the Correctional Association. This was Mr. Turner's second visit to the United States and he wanted to update his knowledge of

facilities and programs being conducted for delinquents in this country. Visits were arranged to the Stanley Sheppard Home of the Division for Youth and a School for Boys in Brooklyn. Mr. Turner also sat in on proceedings in the Family Court and Night Court as well as a trial in Supreme Court. He commented on the great difference in courtroom decorum in the two city courts compared to what he was accustomed to in English courts.

At his specific request, Mr. Turner was also referred to a parole officer to accompany him on home visits.

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**THE CORRECTIONAL ASSOCIATION'S  
DIRECT SERVICES**

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### **EMPLOYMENT AND RELIEF BUREAU**

One of the three basic tenets on which The Correctional Association of New York was founded 125 years ago was "the support and encouragement of reformed convicts after their discharge by affording them the means of obtaining an honest livelihood and sustaining them in their efforts at reform."

While continuing in the attempt to achieve this goal through the efforts of its Employment and Relief Bureau, the Association added a new dimension to its work with ex-offenders.

### **MULTILITH TRAINING PROGRAM**

In spite of continuing bureaucratic problems with implementing the contract on the Association's training program in offset duplicating machine operation, twenty individuals had entered the program at the end of 1969. Because March 31, 1970 is the cut-off date for the state's fiscal year, and the total on-the-job-training is sixteen weeks, no more individuals can be trained under this contract.

Preliminary results of this program are quite encouraging. Of the twenty who started training, ten successfully finished the institutional phase. Two of the remaining ten found the program inappropriate and dropped out, two had to drop because of illness, and two were rearrested, one for a new offense and one for parole violation. The whereabouts of the remaining four are unknown. Of the ten who successfully completed the initial training phase, seven were placed on jobs. Of those, one had difficulty with his supervisor because of his criminal record and left to get a job of his own, one was rearrested as a parole violator although his work record was excellent, one simply could not adjust to the work required of him, and four are still successfully employed as multilith operators. The Association has further learned that among those individuals who did not successfully complete the Association's training program, one succeeded in obtaining an excellent job as a multilith operator through a referral made by the Correctional Association.

The General Secretary started discussions with the State Department of Labor on a multi-skill training program for ex-offenders to begin in the Fall of 1970. Such a program is especially necessary owing to the termination of the Division of Parole's highly successful Program Develop whose \$180,000 budget fell prey to this year's governmental economy move. Since individuals with criminal histories are automatically excluded from many, if not most, of the vocational training programs available, such a program conducted by the Correctional Association would fill a very pressing need.

EMPLOYMENT AND RELIEF BUREAU  
STATISTICAL REPORT

ANNUAL REPORT  
1969

Different men interviewed	869
New York State applicants	829
Probation applicants	14
Out of state institution applicants	15
Relatives of inmates	11
*Other interviews	953
Applicants provided with employment	44
Total night lodgings provided	125
Applicants given cash for carfare, tools, food, and shelter	1053
Total relief given for food, shelter, cash and employment	\$16,500.77

**FAMILY SERVICE BUREAU**

The Correctional Association of New York has long been aware that those who are truly punished when a man is sent to prison are the family members who are left behind. The man is clothed, fed, sheltered. Even his recreation is provided. The family, on the other hand, is usually left without any means of support, forced to depend on public welfare assistance. Often there are expenses which were incurred while the husband was home which have to be paid in some way from the welfare check. Most importantly, the woman is left alone with the total responsibility of preserving a family unit and with no one to draw upon for sympathy, understanding and support.

The Family Service Bureau has a two-fold function. In this time of shrinking welfare allotments and rapidly rising living costs, the Family Service Bureau provides small amounts of money to meet emergencies

\* Personal and telephone conversation with parole and probation officers and agency officials regarding applicants known to this office or releaseses requesting our assistance.

and to cover the items not included in welfare. Traditionally, the Association has considered it most important that the family be able to visit the man while he is in prison and retain some kind of continuity. With the change in the state welfare laws in June 1969, the supplemental amount to visit institutionalized relatives was eliminated. For a woman who does not have a friend who can drive her to the prison, this would mean being completely shut off from any personal contact with her husband. For the child, it would mean not seeing his father for years until he finally came home, by then a complete stranger. The Family Service Bureau has attempted to fill this need for its present clients by paying for prison visits ranging from once a week to an institution as close as Sing Sing to once a year for a visit to the Federal Penitentiary in Atlanta, Georgia.

The Family Service Bureau serves another and perhaps even more important function. It is in that office that the women can discuss problems which they can share nowhere else. It is here that they can talk about their fears, their doubts and their loneliness—for everyone of them is lonely. Problems that cannot be told to a husband (who is impotent to help), to friends who don't want to hear, and to families who too often disapprove and turn their backs, can be brought to the Family Service Bureau office.

In the 63rd Annual Report of the Association for the year 1907, Samuel J. Barrows, President of the International Prison Commission, wrote: "In spite of the fact that we profess not to punish the family for the acts of its members, that is what we are doing all the time. The prisoner's family not only has to bear the mental suffering which comes from the wrong doing of a member, an economic burden is often laid upon the family greater than it can bear. The prisoner himself is sure of plenty of food and shelter; he will not receive any notice to quit because he cannot pay his rent. It is the wife, the mother, the children, who suffer in this way. The family had been living close to the margin of comfort; it has no accumulated resources; it depends upon the labor of the husband or father, and when this is withdrawn, it is plunged into poverty and destitution.

"Under our present legal system we are punishing the family in many cases much more than we punish the offender."

The Family Service Bureau attempts to ease that mental and economic burden and to lessen the unsought, unjust punishment.



**STATISTICS FOR FAMILY SERVICE BUREAU  
FOR 1969**

Families in active category January 1, 1969	32
New Cases accepted	9
Cases reopened	3
Total number of cases during year	44
Cases closed	19
Families in active category December 31, 1969	25
Total amount of financial assistance	\$6,029.85
Families provided with Christmas dinner and toys (total of 56 persons)	13
Children sent to summer camps	8

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**THE CORRECTIONAL ASSOCIATION'S  
LEGISLATIVE ACTIVITIES**

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The Association has been analyzing and evaluating bills introduced into the Legislature relating to the administration of criminal justice throughout its 126 years of existence. Following the study of all bills embracing our field of interest, the Association may register support or opposition with the chairmen of the various committees to which the bills have been referred and with individual members of the Legislature. When a bill has been passed and forwarded to the Governor, the Association continues with written approval or disapproval.

From time to time we elicit the support of other organizations with a legislative interest or may join with them in a concerted effort of support or opposition.

This the Association has done throughout its history. 1969 was no exception.

On January 8, 1969, the 192nd Annual Session of the State Legislature was convened. The legislative work of the Association had started a number of weeks before examining many of the prefiled bills which numbered 1,003 in the Senate and 1,764 in the Assembly. By the time the session was adjourned May 2, 1969, over 5,701 Senate bills and 7,212 Assembly bills had been introduced. While a large majority of these were in areas outside the interests of the Association, it was necessary for us to review the summary of every introduced bill in order to determine those which were of concern to us. The actual bills of interest were ordered from the Legislative Index and studied in detail to determine whether or not the Association should include them in those on which a major effort was to be exercised. The following are some of the bills on which the Association focused its attention during the 1969 Legislature:

**ASSEMBLY INTRO. 19 STATE COMMISSION OF  
CORRECTION**

This bill, introduced on behalf of the Association provides that the State Commission of Correction be removed from the direction and control of the Commissioner of the State Department of Correction. Passed Assembly but died in State Penal Institutions Committee.

**SENATE INTRO. 4628 TEMPORARY COMMISSION ON  
REVISION OF THE PENAL LAW AND CRIMINAL CODE**

This bill continues the Temporary Commission on Revision of the Penal Law and Criminal Code until March 31, 1970. This the Association approved. Now Chapter 542 Laws of 1969.

**ASSEMBLY INTRO. 1310 ABORTION REPEAL**

This bill repeals the provisions prohibiting abortions. This bill the Association supported. Failed of passage.

**ASSEMBLY INTRO. 3473 ABORTION REFORM**

This bill amends the public health law and the penal law and adds a new section to the public health law to authorize physicians and surgeons to lawfully perform non-criminal abortions if approved by a hospital abortion committee or authorized by court order when there is medical evidence of a substantial risk that continued pregnancy will endanger the life of the mother, or would gravely impair her physical or mental health, or medical evidence of a substantial risk that the fetus would be malformed or have such abnormalities as to be permanently incapable of caring for himself or that pregnancy resulted from rape or incest or that the mother was unmarried and 15 years or less. This the Association approved. Defeated on floor of the Assembly at third reading.

**SENATE INTRO. 4646 WORK RELEASE**

This bill added article 26 to the Correction Law to require the Correction Commissioner to designate institutions for the conduct of work release programs wherein inmates eligible for release on parole or who will become eligible within one year may be granted the privilege of leaving the institution premises for the purpose of education, on-the-job training or employment. Supervision of the work release during participation to be by the Division of Parole. This the Association approved. Now Chapter 472 of the Laws of 1969.

**SENATE INTRO. 3714 CERTIFICATE OF RELIEF**

This bill amends the Correction Law to allow the court to issue a certificate of relief from disabilities to a first offender who had been certified to the care and custody of the State Narcotic Addiction Control Commission. It further authorizes the Commission to issue certificates of relief to first offenders who are in its care and custody pursuant to a sentence of the court. This the Association supported. Was recommended to Penal Institutions Committee for 1970 session.

**ASSEMBLY INTRO. 2425 LEGAL CUSTODY OF PAROLEES**

This bill amends the Correction Law to provide that persons on parole outside of prisons shall remain in the legal custody of the Board of Parole instead of the warden of the prison from which he was released. This the Association supported. Now Chapter 270 of the Laws of 1969.

**ASSEMBLY INTRO. 1383 SEX OFFENDERS**

This bill amends the Correction Law to provide that when a prisoner has been sentenced upon conviction of certain sex crimes against chil-

dren or assault with intent to commit rape, he shall not be released on parole except on recommendation of a psychiatric clinic which has examined him. This the Association disapproved. Passed Assembly. Died in Senate Penal Institutions Committee.

**ASSEMBLY INTRO. 6408 TRANSFER OF INMATES**

This bill amends the correction law to strike out the provision that only persons convicted of a felony may be confined in state prisons and that only persons under 30 years of age may be transferred from a state prison to a reformatory for education and treatment. This the Association supported. Now Chapter 319 of the Laws of 1969.

**ASSEMBLY INTRO. 2918 CRIME VICTIMS COMPENSATION BOARD**

This bill amends the Executive Law to authorize the Crime Victims Compensation Board to grant emergency awards. This the Association supported. Now Chapter 726 of the Laws of 1969.

**ASSEMBLY INTRO. 6641 GUN CONTROL**

This bill amends the penal law and adds a new section to create a rifle and shotgun control board to license and regulate sale, disposition, ownership and possession of rifles, shotguns and ammunition. It makes provisions as to licensing and licenses, an appeal board and declaration of ownership and certificates of registration. This the Association supported. Failed of passage.

**ASSEMBLY INTRO. 4919 NARCOTIC SALES**

This bill amends the penal law to make a person guilty of criminally selling narcotic drugs in the first degree when he sells narcotic drugs consisting of one or more preparations with an aggregate weight of 16 ounces or more containing heroin, morphine or cocaine, raw or prepared opium. The penalty is raised to a class A felony. This the Association supported. Now Chapter 787 of the Laws of 1969.

**ASSEMBLY INTRO. 4972 CRIMINAL POSSESSION**

This bill amends the penal law to make a person guilty of criminal possession of a narcotic drug in the first degree when he knowingly possesses a narcotic drug consisting of one or more preparations with an aggregate weight of 16 ounces or more containing heroin, morphine, cocaine, raw or prepared opium. Penalty is raised to a Class A felony. Eight ounces or more to be a Class B felony. This the Association approved. Now Chapter 788 of the Laws of 1969.

**ASSEMBLY INTRO. 5904 MARIJUANA**

This bill amends the penal law to except marijuana from the definition of narcotic or dangerous drugs and places a maximum penalty to be a fine of no more than \$15.00 for possession of marijuana. This the Association supported. Failed of passage.

**ASSEMBLY INTRO. 5478 DANGEROUS DRUGS**

This bill amends the Penal Law to include in the definition of dangerous drugs for the purpose of criminal possession or sale of marijuana and defines the weight of mixtures or number of cigarettes as the basis for various penalties. This the Association disapproved. Failed of passage.

**ASSEMBLY INTRO. 3351 SALE OF DANGEROUS DRUGS  
TO MINORS**

This bill amends the penal law to provide that a person is guilty of criminally selling dangerous drugs in the first degree when he knowingly and unlawfully sells a dangerous instead of a narcotic drug to a person less than 21 years of age. This the Association disapproved. Failed of passage.

**ASSEMBLY INTRO. 1813 MANDATORY PENALTIES  
FOR DRUG SALES**

This bill amends the penal law to require that when a person is convicted of a crime of criminally selling dangerous drugs in the first, second or third degree, the court shall fix a minimum sentence of at least 5 years and if convicted of the same offense for the second time, or of at least 10 years with no such person to be placed on probation or to be eligible for conditional discharge for the period of minimum sentence. This the Association disapproved. Failed of passage.

**ASSEMBLY INTRO. 1506 CRIMINAL SALES**

This bill amends the Penal Law to make a person guilty of criminally selling dangerous drugs in the first degree when he knowingly and unlawfully entices a person less than 21 years of age to use narcotic drugs and changes from a Class B felony to a Class A felony the act of criminally selling dangerous drugs in the first degree. This the Association disapproved. Failed of passage.

**SENATE INTRO. 1450 DEATH PENALTY**

This bill amends the Penal Law to require that when a defendant has been convicted by a jury of murder, the court shall promptly conduct a further proceeding to determine whether defendant shall be sentenced

to death in lieu of imprisonment for a Class A felony if satisfied that at the time of the commission of the murder the defendant was engaged in the crime of robbery or attempted robbery. This the Association disapproved. Failed of passage.

**SENATE INTRO. 1142 DEATH PENALTY**

This bill amends the Penal Law to provide the death penalty for a person convicted of murdering a fireman or volunteer fireman when the latter was in the course of performing official duties. This the Association disapproved. Failed of passage.

**SENATE INTRO. 910 DEATH PENALTY**

This bill amends the Penal Law to provide that where the victim of a crime was a person who was killed while aiding a police officer in the course of performing his official duties, the court shall conduct proceedings to determine whether the convicted defendant shall be sentenced to death in lieu of being sentenced to imprisonment for a Class A felony. This the Association disapproved. Failed of passage.

**ASSEMBLY INTRO. 1812 JURY RECOMMENDATION  
FOR LIFE IMPRISONMENT**

This bill amends the Penal Law to provide that when the defendant has been convicted by a jury of murder, the court shall sentence the defendant to death, unless the jury recommends life imprisonment. It also contains a provision to include causing the death of another by recklessly engaging in conduct creating grave risk of the death of another person. This the Association disapproved. Failed of passage.

**ASSEMBLY INTRO. 4463 ESCAPE FROM CUSTODY**

This bill adds a new section to the Penal Law to provide that when defendant has been found guilty of murder after a trial, and among other things, the defendant was in immediate flight from confinement or custody, he shall be sentenced to death instead of having the court conduct further proceedings to determine whether he should be sentenced to death. This the Association disapproved. Failed of passage.

**ASSEMBLY INTRO. 4897 JURY RECOMMENDATION  
FOR LIFE IMPRISONMENT**

This bill amends the Penal Law to provide that when the defendant has been convicted by a jury of murder in the first degree, the court shall sentence the defendant to death unless the jury recommends life imprisonment. This the Association disapproved. Failed of passage.

## SENATE INTRO. 3051 PROSTITUTION

This bill amends the penal law to make prostitution a Class A misdemeanor instead of a violation. This the Association disapproved. Failed of passage.

## ASSEMBLY INTRO. 1642 PENALTY FOR PROSTITUTION

This bill amends the Penal Law to make prostitution a Class B misdemeanor instead of a violation. This the Association disapproved. Now Chapter 169 of the Laws of 1969.

## ASSEMBLY INTRO. 5611 PROHIBITION OF PROBATION

This bill amends the Penal Law to provide that the courts shall not impose a sentence of probation when the defendant has been convicted of criminal possession of dangerous drugs in the first degree. This the Association disapproved. Passed Assembly. Recommended to Senate Codes Committee for 1970 Legislature.

## SENATE INTRO. 4342 PROHIBITS PROBATION

This bill amends the penal law to provide that the courts shall not impose a sentence or probation when the defendant has been convicted of criminally selling dangerous drugs in the second degree. This the Association disapproved. Recommended to Codes Committee for 1970 Legislature.

## SENATE INTRO. 2905 DRUG MAINTENANCE

This bill amends the mental hygiene law and the public health law to direct the mental hygiene commissioner to make rules and regulations for the certification of physicians competent to treat narcotic addicts and to certify physicians who shall have the power to describe and administer narcotic drugs to addicts. This the Association disapproved. Failed of passage.

## SENATE INTRO. 2903 DRUG MAINTENANCE

This bill amends the public health law to provide that restrictions on the sale of narcotic drugs shall not discourage or prevent a licensed physician from caring for persons in need of such drugs even though addicted to these drugs nor subject the physician to penalty, fine, discipline or forfeiture of license for prescribing drugs to addicts. This the Association disapproved. Failed of passage.

## ASSEMBLY INTRO. 5962 GUN CONTROL

This multi-sponsored bill amends the penal law and adds a new section to provide that no person shall own or possess a rifle or shotgun

unless he is the holder of an identification card which shall be issued for any lawful purpose to every eligible person over the age of 18. It specifies the qualifications which prohibit the issuance of such identification; it makes other provisions as to prohibiting disposition of rifles or shotguns to others than licensed dealers and those with identification cards. This the Association supported. Failed of passage.

## ASSEMBLY INTRO. 6351 GUN REGISTRATION

This bill adds to the Penal Law a new section establishing in the Division of State Police a central registration bureau for the registration of rifles and shotguns. It also prohibits persons from owning or possessing a rifle or shotgun unless he holds a registration certification therefore. This the Association supported. Failed of passage.

## SENATE INTRO. 2901 MARIJUANA

This bill adds a new section to the Penal Law to provide that crime of criminal possession of a narcotic or dangerous drug shall not apply to marijuana to the extent that such provisions provide for the classification thereof and punishments therefore with a person with a first conviction to be given a warning only and unless again convicted within two years from the date of the first conviction all records relating to the arrest resulting in such first convictions shall be expunged and destroyed. This the Association supported. Failed of passage.

## APPENDIX "A"

### PORNOGRAPHY

"... [There are] no inherent rights in the individual to voice his thought in public speech or in writing. When a man becomes articulate he must answer to the state, and if he be a Catholic, to the church. Consequently, the state and church may regulate the public expression of thought." From the *Catholic Encyclopedia*.

"Congress should make no law . . . abridging the freedom of speech, or of the press, . . . *First Amendment to the Constitution of the United States of America*.

Until the very recent past — the last 200 years — censorship's main use was to protect the established political and religious orders. Control of *pornography* was unknown.

All moral standards are relative to a given society and a given point in time. That which is immoral is that which a particular society defines as immoral. Such a code of behavior is binding only upon those over whom that society exerts jurisdiction. "It was a technical impossibility to be [pornographic] in Chaucer's time. [Pornography] is a violation of social taboos, and 500 years ago those taboos did not exist with a sufficient degree of intensity or strength to make their violation criminal."<sup>1</sup>

Until the 16th century censorship of any type was sparse and sporadic. It was exercised primarily by the Roman Catholic Church which has been for a thousand years the leading political as well as religious force in western civilization. Official Christian censorship began at the Council of Nicea in 325 and continued through various councils and papal decrees which banned certain books and teachings. These were without exception issues of heresy directed against such individuals as Abelard, Wyclif, and Huss.<sup>2</sup>

The growth of censorship exactly parallels the growth of printing and a literate middle class. The official rigid Roman Catholic censorship dates from the Counter-Reformation Council of Trent followed in 1557 by the Index Librorum Prohibitorium, a list of books which the

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<sup>1</sup> John P. Frank, "Obscenity: Some problems of values and the use of experts," *Obscenity, the Law and the English Teacher*, two papers by John P. Frank and Robert F. Horgan. Champaign, Illinois, National Council of Teachers of English, 1966.

<sup>2</sup> Norman St. John Stevas. *Obscenity and the Law*. (Secker and Warburg, 1956) p. 260.

faithful could not read or possess which is still in existence today.<sup>3</sup> Secular rulers exerted their power of censorship through the means of licensed printing companies. Both the Church and the state were exercising a form of "censorship in advance." All printed matter had to be approved *before* it was printed. In England, every book required at least the approval of the Royal Stationer's Company and the Archbishop of Canterbury.<sup>4</sup> It is important to note, however, that neither the Church nor the crown was interested in regulating matters of sexual morality in writing and art. A secular ruler looked after the stability of his throne. The Church, still at this time the legal custodian of morals, was interested in heresy. One of the classics of pornography, Boccaccio's *Tales of Decameron Nights* was banned not for obscenity but for blasphemy — the author had attributed greed, mendacity and incontinence to members of the clergy. When he changed the names of his characters from bishops and nuns to knights and queens, he received Church approval.<sup>5</sup> The first recorded governmental control of obscenity came in 1613 with the Puritan Interregnum in England. This censorship did not concern itself only with obscenity in print but with anything that would contribute to sensual pleasures.<sup>6</sup> These stringent censorship laws elicited one of the most famous tracts ever written on freedom of speech. In *Areopagitica*, John Milton wrote:

"If we think to regulate printing, thereby to rectify matters, we must regulate all recreations and pastimes, all that is delightful to man. No music must be heard, no song be set or sung, but what is grave and doric. There must be licensing dancers that no wrong gesture, motion or deportment be taught. . . . It will ask more than the work of 20 licensors to examine all the lutes, the violins, and the guitars in every house; they must not be suffered to prattle as they do, but must be licensed what they may say and who shall silence all the airs madrigals, that whisper softness in chambers?"

Milton continued to condemn censorship as:

"... the greatest discouragement and affront to learning and to learned men. It hinders the discovery of new truths and makes existing truths heretical. It enslaves not only the citizens but the enslavers themselves and in seeking public unity

<sup>3</sup> Robert Downs (ed.), *The First Freedom*. (Chicago: Chicago Press, 1960) p. 2.

<sup>4</sup> Alec Craig, *Suppressed Books* (Cleveland: Cleveland World Publishers, 1963) p. 18.

<sup>5</sup> David G. Loth, *The Erotic in Literature*. (New York: T. Messener, 1961) p. 65.

<sup>6</sup> *Ibid.* p. 83-84.

through uniformity rather than diversity of thought, it destroys the very hallmark of a free society."<sup>7</sup>

The restoration of the Stuart monarchy brought with it a restoration of the pre-Puritan moral code and the licensing law was allowed to lapse.

The effects of public opinion are often difficult to locate. In the area of legal control of morals, however, the controlling force is obvious. When the political and moral excesses of the restored Stuart kings exceeded what the public would allow, those kings were deposed and others invited to take their place. "The role of a large and literate middle class as part of the industrial revolution in England . . . heralded the popular reaction against the literary freedom of the two previous centuries."<sup>8</sup>

The shift in popular attitude brought along with it a shift in legal interpretation. In 1708, the first case concerning obscenity in print was heard. The government argued that obscenity was a common law crime. Judge Sir John Holt, sitting in this case, declared that obscenity was not punishable under either common or statute law. If it existed as a crime anywhere, it was probably under ecclesiastical jurisdiction.<sup>9</sup> Seventeen years later in 1725, the case of *Rex v. Curl* stated that obscenity was punishable by the courts as a common law crime in that it violated the king's peace and threatened public order.<sup>10</sup>

In spite of these cases, the only prosecution during the 18th century was a bookseller for selling an unauthorized version of *Fanny Hill* which had been blurred in reverse by the addition of some highly descriptive pictures.<sup>11</sup>

The force of the changing public opinion, however, continued to make itself felt. "During the 18th century a 'literary' reading public emerged and replaced the private patron as the arbitrator of taste."<sup>12</sup> This had the effect of controlling plays performed in the theatre and books published and sold through withdrawal of patronage and lack of a consuming public.<sup>13</sup>

*Fanny Hill*, which enjoyed a period of intensive popularity for several decades after it was published in 1748, was finally driven under-

<sup>7</sup> John Milton, *Areopagitica*. (New York, Payson and Clarke, Ltd., 1927). p. 16.

<sup>8</sup> Hartford Montgomery Hyde, *History of Pornography*. (New York: Farrar, Straus and Giroux, 1965), p. 12.

<sup>9</sup> Loth, *Erotic in Literature*, p. 105.

<sup>10</sup> American Law Institute, *Model Penal Code Tentative Draft No. 6*, p. 5.

<sup>11</sup> Loth, *Erotic in Literature*, p. 104.

<sup>12</sup> St. John-Stevass, *Obscenity and the Law*, p. 18.

<sup>13</sup> Loth, *Erotic in Literature*, p. 103-104.

ground by public opinion.<sup>14</sup> It is interesting to note that it was public opinion, and not the law, which accomplished the suppression of the book. Indeed, John Cleland, the author, was granted a pension of 100 pounds a year by the Privy Council on the condition that he would never write anything similar to *Fanny Hill* again, but the book was only intermittently prosecuted.<sup>15</sup>

An important influence on the changing public opinion was the growth of Evangelical religion in England during the century. By 1781, Methodism had become powerful enough to achieve the prohibition of Sunday evening amusements. There was also a strong Evangelical movement within the Church of England led by Bishop Wilberforce.<sup>16</sup>

In 1802, the very first Society for the Suppression of Vice was established.<sup>17</sup>

Over 100 years after the courts had discovered that obscenity violated the common law, Parliament enacted a statute to that effect. The Obscene Publications Act of 1857, also known as Lord Campbell's Act, "intended to apply exclusively to works written for the single purpose of corrupting the morals of youths, and of a nature calculated to shock the common feelings of decency in any well regulated mind."<sup>18</sup> A definition of what was obscene was not included in the act. This came eleven years later in the case of *Queen v. Hicklin*. The conclusions laid down in this case established the criteria for obscenity for almost 100 years.

The "Hicklin Rule" formulated by Chief Justice Lord Cockburn was interpreted to mean that obscenity could be determined by a single passage and the determining factor for obscenity would be the effect a book would have on the mind of a susceptible individual into whose hands the book might fall.<sup>19</sup>

"I think," Judge Cockburn said, "the test of obscenity is this, whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort may fall."<sup>20</sup>

<sup>14</sup> *Ibid.* p. 117.

<sup>15</sup> Robert Astbury (ed.). *Libraries and the Book Trade*. (London: Clive Bingley, 1967). p. 121.

<sup>16</sup> St. John-Stevens. *Obscenity and the Law*, p. 30.

<sup>17</sup> Roman Theisen. *A Moral Evaluation of American Law Regarding Obscenity*. (Rome: Catholic Book Agency, 1957). p. 21.

<sup>18</sup> Robert Downs (ed.). *The First Freedom*. (Chicago: Chicago Press, 1960). p. 50.

<sup>19</sup> Theisen. *A Moral Evaluation*. p. 29.

<sup>20</sup> *Regina v. Hicklin*, L. R., 3 Q.B. 359.

The first obscenity case in the United States was the *Commonwealth (of Penn.) v. Sharpless* in 1815 which involved the exhibiting of obscene paintings in private homes.<sup>21</sup> In 1821, the United States formally adopted the English common law. The first case involving printed material tried under this law came in Boston in the same year and involved the classic of pornography, *Fanny Hill*.<sup>22\*</sup>

In 1840, the first Tariff Act in the United States authorized Customs officers to confiscate obscene material being brought into the United States from abroad.<sup>24</sup>

The first obscene literature suppression statute to be enacted anywhere in the United States came out of New York State at the behest of the YMCA in 1868. This law attracted the attention of Anthony Comstock who volunteered his services to the Y to insure its enforcement.<sup>25</sup> By 1873, Comstock was head of the Society for the Suppression of Vice and was successful in lobbying for the Federal Anti-Obscenity Law which bears his name. (This is the only law in the history of the United States Congress to bear the name of an individual, not an elected member of government.) While the first paragraph of the law has to do with "every obscene, lewd, lascivious, or filthy book, pamphlet" etc., the next five paragraphs have to do with articles "for preventing conception or abortion, or for any indecent or immoral purpose." All such material was to be banned from the mails.<sup>26</sup>

In 1879 the United States Courts adopted the Hicklin Rule as a definition of what was legally obscene.<sup>27</sup>

In the same period, the Roman Catholic Church which had historically been more concerned with printed heresy than with obscenity, formally updated the Index Librorum Prohibitum. In the *Officiorum Ac Munerum*, the constitution concerning the prohibition and censorship of books promulgated by Pope Leo XIII in 1897, the church said:

<sup>21</sup> Loth. *Erotic in Literature*. p. 120.

<sup>22</sup> Downs. *The First Freedom*. p. 81.

\* The first attempt to use the United States mails as an agent of censorship occurred during Andrew Jackson's Presidency and had nothing to do with pornography. The abolitionist movement was extremely strong and the President, who considered their tracts an outrage, felt that they should not be carried by the United States mail. Congress refused to pass the suggested bill which would have allowed the Post Office to refuse to deliver and even destroy certain mail. <sup>23</sup>

<sup>24</sup> James C. Paul and Murray Schwartz. *Federal Censorships Obscenity in the Mail*. (New York: The Press of Glencoe, 1961). pp. 77-78.

<sup>25</sup> Loth. *Erotic in Literature*. p. 143.

<sup>26</sup> *Ibid.* p. 121.

<sup>27</sup> 17 Stat. 598 (U. S. Code). c. 258.

<sup>28</sup> Charles Rembar. *The End of Obscenity* (New York: Random House, 1968). p. 22.



"Chapter IV — All obscene books.

9. Books which profess, treat of, narrate, or teach lewd or obscene subjects, are entirely prohibited since care must be taken, not only of faith but also of morals, which are easily corrupted by the reading of such books."<sup>28</sup>

The first revision of the Hicklin Rule came in 1913 in a decision written by Judge Learned Hand in a case involving the mailing of a novel *Hagar Revelly*. Hand felt that the concept of obscenity was a relative one and that no absolute criteria could be laid down for measuring it. He stated:

"The rule as laid down, however consonant it may be with mid-Victorian morals, does not seem to me to answer to the understanding and morality of the present time. . . . If there be no abstract definition, such as I have suggested, should not the word 'obscene' be allowed to indicate the present critical point in the compromise between candor and shame at which the community may have arrived here and now?"<sup>29</sup>

He continued to say, "[the rule] does not seem to me to answer to the understanding and morality at the present time. . . . It is no longer necessary to reduce our treatment of sex to the standard of a child's library."<sup>30</sup>

The second major adaptation of the Hicklin Rule involved another Judge named Hand. In the famous case of the *United States v. Ulysses* in 1933, Judge Wolsey stated and Judge Augustus Hand on appeal confirmed that a book must be judged as a whole, not merely by isolated sections; that it should be judged according to the effect it had on the average person; and that the intent of the author had to be taken into consideration.<sup>31</sup>

With the exception of *Ulysses*, all activity was directed towards continuing and strengthening the already existing laws of pornography. This period also saw an increase in the reading public and in the availability of books. The paperback revolution following World War II brought books within the reach of many who previously could not afford or would not have been exposed to them.<sup>32</sup>

In 1953, at the same time that Congress legislated the Post Office Act which strengthened the already existing Comstock Law, President Eisen-

<sup>28</sup> Apostolic Constitution of . . . Leo XIII concerning The Prohibition and Censorship of Books. *Officium ac munus*. 1897.

<sup>29</sup> U. S. v. Kennerley. 209 Fed. 119.

<sup>30</sup> *Ibid.*

<sup>31</sup> 5 FS 182; 72 F 2d 705.

<sup>32</sup> Paul, *Federal Censorship*. p. 83.

hower said in an address at Dartmouth College on the subject of decency:

"Don't join the book banners. Don't think you are going to conceal faults by concealing evidence that they ever existed. Don't be afraid to go into your library and read every book, as long as that document does not offend our ideas of decency."<sup>33</sup>

The revolution in the field of legal control of obscenity can be dated from a 1957 Supreme Court decision known as the Roth Opinions. The question posed was whether or not the government may ever punish the publication of obscene writing. A majority of the court answered yes. (Mr. Justice Black and Mr. Justice Douglas both believe that the First Amendment to the Constitution is absolute and that there fore no laws may be made under any circumstances to control either speech or writing.)<sup>34</sup> The majority opinion, written by Mr. Justice Brennan, stated that the First Amendment was not intended to protect every utterance and that obscenity was outside such protection. It concluded "we hold that obscenity is not within the area of Constitutionally protected speech or press."<sup>35</sup> However, an idea was introduced in this decision which laid the framework for the ensuing revision of legal control of obscenity. Mr. Justice Brennan stated "all ideas having even the slightest redeeming social importance — unorthodox ideas, controversial ideas, even ideas hateful to the prevailing climate of opinion — have the full protection of the guarantees. . . ."<sup>36</sup>

By 1966, less than ten years after the Roth case, the Hicklin Rule had been totally overthrown. For all intents and purposes there was no such thing as illegal written pornography. This revolution was accomplished through three cases involving D. H. Lawrence's *Lady Chatterly's Lover*, Henry Miller's *Tropic of Cancer*, and John Cleland's *Memoirs of a Woman of Pleasure or Fanny Hill*. In the decision on the last case, the one involving *Fanny Hill*, Mr. Justice Brennan, speaking for the majority, stated that:

"A book cannot be proscribed unless it is found to be utterly without redeeming social value. This is so even though the book is found to possess the requisite prurient appeal and to be patently offensive. Each of the three Federal Constitutional criteria is to be applied independently; the social value

<sup>33</sup> Rembar. *The End of Obscenity*. p. 7.

<sup>34</sup> *Ibid.* p. 47.

<sup>35</sup> U. S. v. Roth. 354 U. S. 476.

<sup>36</sup> *Ibid.*

of the book can neither be weighed against nor cancelled by its prurient appeal or patent offensiveness.<sup>37</sup>

At the same time that the Court handed down a decision on *Fanny Hill*, it also entered a caveat in a case regarding Ralph Ginzburg. Ginzburg had been convicted of publishing obscene materials based on three of his magazines, one of which was *Eros*. The Court upheld the conviction, not on the quality and content of the magazines, but because of the way in which the publications were promoted. The "pandering concept" was not a new one. The way in which a book was sold had for a long time been deemed relevant in obscenity cases. However, the pandering concept would apply only when the material itself was on the edge of illegality. "The context of the circumstances of promotion, sale and publicity [might be considered] as an aid to determining the question of obscenity. . . ."<sup>38</sup> The majority decided that "since the publishers of the material 'proclaimed its obscenity,' the court below had made no error when it accepted the defendant's own evaluation at its face value. . . ."<sup>39</sup>

Pornography in the United States is a flourishing business. The Chief Inspector of the United States Post Office estimated that one hundred million objectionable publications went through the mail in 1966.<sup>40</sup> Old shibboleths have fallen at an astounding rate. *I am Curious (Yellow)* is a far cry from the old Hays office regulation that if two individuals were shown on a bed one of them had to have at least one foot on the floor. (While there has not been a final court decision on this film, it is being shown in many states across the country.)

The sex novels of Harold Robbins and Jacqueline Susanne can be read with impunity by any small town ladies club member. The New York legitimate stage features nudity and simulated copulation in show after show. *Che* (which was raided) and *Oh! Calcutta!* (which was not) are two of the most famous. Productions like these are lucrative enterprises: seats in the front two rows of *Oh! Calcutta!* cost \$25.00 a piece!

Twenty-five cent nude peepshows are found in approximately fifty establishments throughout New York, concentrated heavily in the Times Square area.<sup>41</sup> Sixteen mm. stag films are advertised freely in the newspaper and can be seen in any number of movie houses. Topless dancers are old hat and bottomless ones recently won a court case in California.

<sup>37</sup> *Memoirs v. Mass.* 383 U. S. 413.

<sup>38</sup> *Ginzburg v. U. S.* 383 U. S. 463.

<sup>39</sup> Rembar. *End of Obscenity*, p. 484.

<sup>40</sup> O. K. Armstrong. "Damning Case Against Pornography, Reader's Digest, LXXXVII (December, 1965), p. 73.

<sup>41</sup> *New York Times*, June 6, 1969.

The sexual freedom and underground newspaper movements merged with a large dollop of hardheaded capitalism thrown in, in the publication of tabloid-style New York newspapers devoted to sex. The executive editor of *Screw*, the first of this field, estimates a circulation of 128,000 copies a week. Court cases are still pending on the legality of these papers.

The problem being considered here is not to define "obscene" or determine whether there is any such concept as obscenity. It is a much broader problem of what the position of government should be in this question. The theory behind criminal law has been stated many times. A thousand years ago St. Thomas Aquinas said, "private sin is different from public crime, and only the latter lies in the province of man made law."<sup>42</sup> The American Law Institute has stated that "criminal law is not, and cannot be, a code of defining right behavior."<sup>43</sup>

The proponents of government regulation of pornography base their arguments on the threat to public order and safety and danger to society presented by obscene materials. Obscenity is believed to produce "impure" thoughts and engender corrupt attitudes damaging to society; to foster criminal or anti-social sexual misbehavior among adults; to have an adverse effect on susceptible individuals; to present an outrageous offense to many individuals through public exposure of itself.<sup>44</sup>

Those who argue against government control of pornography observe that "the only kind of morality the legislature seems to be interested in (is) sexual morality."<sup>45</sup> Of the seven deadly sins only Lust has known government regulation. Opponents argue that any censorship is a pernicious evil to be guarded against. In his book describing the trials of *Lady Chatterley*, *Tropic of Cancer* and *Fanny Hill*, Charles Rembar, the leading attorney in all of those cases, stated: "Sex and literature provided the fields on which the struggles recounted in this book took place, but the war was wider. The true censor has objectives beyond the masking of the erotic and the indecent."<sup>46</sup> This argument can be illustrated by an action of a superintendent of public instruction in California. Both *Soul on Ice* by Eldridge Cleaver and *Dutchman*, a play by LeRoi Jones, were removed from a suggested reading list to be used in a high school elective course on black authors. The reason given for their removal was that any teacher suggesting these books

<sup>42</sup> Cited in Rembar. *End of Obscenity*, p. 199.

<sup>43</sup> ALL. *Model Penal Code*, p. 8.

<sup>44</sup> Paul. *Federal Censorship*, pp. 191-202. *passim*.

<sup>45</sup> Rembar. *End of Obscenity*, p. 306

<sup>46</sup> *Ibid.*, p. 173.

would lose his credentials on the grounds that he had "assigned obscene and pornographic reading."<sup>47</sup>

The Kinsey Institute has done several studies on the effect of pornography on both the normal population and on sex offenders. The conclusion reached was that pornography is not a significant cause of sex crimes. Indeed it was found that in terms of his reaction to pornography an individual convicted of a sexual offense had more in common with a normal adult on his same socio-economic level than with another sex offender from a different level. The control seemed to be level of education.<sup>48</sup>

Wardell B. Pomeroy, one of the co-authors of the Kinsey Report and a leading researcher for the Kinsey Institute, stated in testimony in one of the *Fanny Hill* prosecutions that pornography does not rank especially high as a source of sexual stimulus. Based on interviews with over 18,000 people, the conclusion was offered that sex criminals were less often aroused from pornography than the rest of the male population.<sup>49</sup> The Kinsey Report concluded that the group most susceptible to arousal from erotic literature was the adult male especially in the upper social class.<sup>50</sup>

When dealing with the effect of pornography on the "average" adult, the English historian, McCauley, stated "we find it difficult to believe that in a world so full of temptations as this, any gentleman whose life would have been virtuous if he had not read Aristophanes and Juvenal, will be made vicious by reading them."<sup>51</sup>

One of the primary concerns is the effect of pornographic material on youth. "The rationale for the legal suppression of obscenity . . . is built upon the belief . . . that the consumption of obscene matter by children or adolescents has deleterious psychological effects on their development."<sup>52</sup> There seems to be no existing documentation to support this belief. In a study done by the New York University Research Center for Human Relations reviewing the existing literature in this field, it was concluded that "in the vast research literature on the causes of juvenile delinquency there is no evidence to justify the assump-

<sup>47</sup> New York Times, August 26, 1969.

<sup>48</sup> Paul H. Gebhard, et. al. *Sex Offenders*. (New York: Harper and Row, 1965), p. 671.

<sup>49</sup> Rembar. *End of Obscenity*, p. 385.

<sup>50</sup> Alfred C. Kinsey, et. al. *Sexual Behavior in the Human Male* (Philadelphia: W. B. Saunders Co., 1948), p. 363.

<sup>51</sup> Rembar. *End of Obscenity*, p. 333.

<sup>52</sup> Joint Committee on Continuing Legal Education of the American Law Institute and the American Bar Association. *The Problem of Drafting an Obscenity Statute*, Philadelphia, 1961, p. 67.

tion that reading about . . . sexual matters . . . leads to delinquent acts."<sup>53</sup>

The arguments against government control of pornography rest on the first amendment principle of Constitutional protection of freedom of speech. It is believed by some that a balancing argument can be found in the Constitutional protection of the individual's right to privacy — the right to be free from intrusion itself. "The Common Law recognizes the need in its doctrine of nuisance; certain activities that are loud or smelly or unsightly will be enjoined."<sup>54</sup> Mr. Rembar continues:

"If speech is free, we are bound to hear some things we do not like. But we should not be too tightly bound. We ought not to be defenseless against every impact.

"Privacy may be invaded by the speaker as well as by the listener, and while we are abroad as well as at home, it is not only a man's home that is his castle; it is also his nervous system. . . . We also want some defenses against the man with a sales pitch, public address systems, neon signs, skywriting, letters addressed to Occupant.

"The right to express oneself freely (explicit in the Constitution) may collide with other rights, among them (probably implicit in the Constitution) a general right to be let alone.

"Here the concept of privacy and the concept of public decency mix. Words on a billboard are not the same as words in a book. . . . Hanging a painting or photograph in a store window is not the same as hanging it in a gallery. . . .

"Privacy is an element in the concept of public decency. There is nothing of paradox in this. When a public display offends, the right to be let alone is breached. An offensive letter sent to an unwilling recipient is not a public expression; neither is the obscene telephone call. . . .

"But there is no inconsistency, and no hypocrisy, in the proposition that certain things which freely occur in private should not occur in public."<sup>55</sup>

A study conducted by the Institute of Legal Research of the University of Pennsylvania Law School on Federal censorship and obscenity in the mail stated that its "proposal is that the law concern itself more with *anti-social conduct* in the circulation of obscene forms of com-

<sup>53</sup> Marie Jahoda. *The Impact of Literature: A Psychological Discussion of Some Assumptions in the Censorship Debate*, N.Y.U. Research Center for Human Relations, 1954. Cited in *U.S. v. Roth*, 237 F. 2d 196.

<sup>54</sup> Rembar. *End of Obscenity*, p. 509.

<sup>55</sup> *Ibid.*, pp. 509-511.

munication and less with the idea that obscene creations . . . must be totally expunged from the face of the earth."<sup>56</sup>

Their recommendation was as follows:

"*Assaulting people with obscenity* is one possible area of prohibition. In more precise terms, this conduct is the intentional use of obscene expression to shock people or subject them to emotional distress, against their consent, without justification, and under circumstances transcending community standards and involving a likelihood that mental disturbance — serious affront, shame, fear or disgust — will in fact result."<sup>57</sup>

The study continues:

" . . . illegality must depend on the degree of obscenity of the expression, the nature of the audience exposed, the actors relationship to it, his intent . . . and the justification, if any, for his actions."<sup>58</sup>

The study also recommended controlling the sale of pornography to minors. It felt that "while there may be little evidence linking the viewing of things obscene to juvenile crime or to sex crimes in particular, the spectre of a purveyor standing outside a school building is an extreme example of conduct which American communities simply will not tolerate."<sup>59</sup>

Perhaps the best conclusion to the whole problem of obscenity regulation is the following excerpt from Charles Rembar's *The End of Obscenity*:

"The current uses of the new freedom are not all to the good. There is an acme on our culture. Books enter the best-seller lists distinguished only by the fact that once they would have put their publishers in jail. Advertising plays upon conspicuousness in ways that range from foolish to fraudulent. Theatre marqueses promise surrogate thrills, and the movies themselves, even some of the good ones, include daring scenes — 'dare' is a child's word — that have no meaning except at the box office. Second-hand Freud gives the film director a line on which to hang his heroine's clothes; psychoanalytic clichés create his reputation as philosopher-poet, while shots of skin insure his solvency. Television commercials peddle sex

<sup>56</sup> Paul, *Federal Censorship*, p. 217.

<sup>57</sup> *Ibid.*, p. 214.

<sup>58</sup> *Ibid.*, p. 215.

<sup>59</sup> *Ibid.*

with an idiot slyness. We approach a *seductio ad absurdum*. . . .

"This is indeed a lip-licking damp-palmed age. My objection is perhaps different from that of the Citizens for Decent Literature. I consider all this anti-sex.

"But it will pass. It will pass because it is not the freedom itself, but the taboo it displaces, that sets the stage for prurience. . . . The truest definition of pornography requires that the act of reading itself be sinful, or illegal, or authority-defying, or at least sneaky. . . . The response cannot be the same when no book is forbidden. The long refusal to permit honest treatment of sexual subjects has conditioned a nation of voyeurs. As the courts move on their present path, they hustle pornography off the scene, a billy in its back.

"A change, I believe, is already observable. It is the grown-ups who provide most of the adolescent reaction. . . . It is they and not their juniors, who are most likely to be aroused (to sexual response or to moral indignation, or to both) by the sudden release of forbidden books. The younger generation is much less excited by the new freedom in literature — in both senses: it is less alarmed and it is less titillated.

"If writing will remain free for a sufficient time, some balance will be restored. . . . The present distorted, impoverished, masturbatory concentration on representations of sex will diminish as the restraints on expression recede. Pornography, which is in the groin of the beholder, will lose its force. . . .

"With the lifting of legal restraint, the kind of response in the reader — shocked or aroused or guilty — that marks what we are accustomed to call obscene will begin to disappear.

"There will always be things obscene in a deeper sense, things that have a special kind of ugly evil. But obscenity as the term has been commonly understood — the impermissible description of sex in literature — approaches its end. . . . So far as writing is concerned, that not only in our law but in our culture, obscenity will soon be gone."<sup>60</sup>

<sup>60</sup> Rembar, *End of Obscenity*, pp. 491-3.

## APPENDIX "B"

### COUNTRIES

With few exceptions, the laws on pornography presently existing throughout the world differ only in degree and means of enforcement rather than in kind. French law makes it "an offense to make, possess, transport, distribute, sell, import, or export for commercial purposes any writing or pictures '*contraires aux bonnes moeurs*'."<sup>1</sup> The laws of Belgium and Switzerland are similar.<sup>2</sup> The Canadian law comes from their Criminal Code of 1959: "For the purpose of this act, any publication a dominant characteristic of which is the undue exploitation of sex, or of sex and any one or more of the following subjects, namely crime, horror, cruelty and violence, shall be deemed to be obscene."<sup>3</sup>

Ireland, Australia and New Zealand all have very rigid censorship with active censorship boards. The Irish cannot read George Orwell's *1984*.<sup>4</sup>

The statute currently in force in England is the Obscene Publication Act of 1959 which states: "For the purposes of this act an article shall be deemed to be obscene if its effect . . . is, if taken as a whole, such as to tend to deprave and corrupt persons likely, having regard for all relevant circumstances, to read, see or hear the matter contained or embodied in it."<sup>5</sup> However, it is understood that a bill to suspend all obscenity laws (except those protecting children and prohibiting offensive public display) for a trial period of five years will be introduced in the next session of Parliament. This is the result of a report by a committee of the government-financed Arts Council which concluded that "repression can deprave and corrupt."

World-wide publicity has been given to the decision of the government of Denmark to lift all restrictions whatsoever on obscene materials. The laws were amended in two steps, the last one being in July of 1969. The result is that there is no law whatsoever controlling the production and distribution of pornographic materials in that country. There is a law, however, which protects individuals from any

<sup>1</sup> Alec Craig, *Banned Books of England and Other Countries* (George Allen & Union Publishers, 1963) p. 185.

<sup>2</sup> *Ibid.* p. 189.

<sup>3</sup> *Ibid.* p. 133.

<sup>4</sup> Michael William Adams, *Censorship: The Irish Experience*. p. 250.

<sup>5</sup> Obscene Publications Act. 7 and 8 Elizabeth 2 (1959).

form of offensive public display. Pornography cannot be sold to an individual under the age of 16 and films are graded in three categories: suitable for those over 16 years of age; between 12 and 16; and under 12.<sup>6</sup>

<sup>6</sup> "Legislation Concerning Pornography: Status, July 1, 1969," Consulate General of Denmark.

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**THE CORRECTIONAL ASSOCIATION'S  
FINANCIAL STATEMENT**

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THE CORRECTIONAL ASSOCIATION OF NEW YORK GENERAL FUND  
STATEMENT OF INCOME AND EXPENSES  
YEAR ENDED DECEMBER 31, 1969

INCOME

Donations — Special Purposes		
The Greater New York Fund .....	\$ 4,375.00	
Shaw Foundation .....	7,000.00	
125th Anniversary Dinner .....	10,000.00	
Other Funds .....	4,036.32	
Total .....	<u>25,411.32</u>	
Donations — unrestricted .....	<u>21,682.86</u>	\$ 47,094.18
Endowment Income		
Dividends .....	26,257.70	
Interest .....	31,324.94	
	<u>57,582.64</u>	
Income Earned on Legacy .....	<u>1,284.91</u>	58,867.55
Sale of Publications .....		919.84
Miscellaneous Income .....		121.29
Total Income .....		<u>107,002.86</u>
EXPENSES—General Administration .....	33,682.81	
Direct Services		
Financial Aid — Prisoners and Families (Cash, food, clothing, etc.) \$22,762.78		
Family Service Bureau — Administration .....	9,988.19	
Employment Bureau — Administration .....	<u>9,588.51</u>	42,339.48
Publications .....	5,715.55	
Travel expenses .....	3,405.16	
Equipment, supplies, printing and stationery .....	1,778.12	
Postage .....	1,833.20	
Telephone and telegraph .....	1,165.65	
Professional and legislative services .....	905.83	
Investment custodian fees .....	4,550.75	
Membership, periodicals and miscellaneous .....	2,948.67	
House maintenance .....	6,857.61	
Pensions .....	10,924.74	
Employee's retirement plan .....	3,359.38	
U.S. Old Age Benefits tax .....	1,966.54	
Disability and workmen's compensation .....	296.20	
125th Anniversary Dinner .....	<u>10,567.34</u>	
Total Expenses .....		<u>132,297.03</u>
Excess of Expenses over Income .....		<u>\$ 25,294.17</u>

AUDITORS' OPINION

We have audited the books, accounts, minutes and other records of The Correctional Association of New York for the year ended December 31, 1969. In our opinion the statement of income and expenses shown above presents fairly the results of the operation of the General Fund for that year.

New York, New York  
April 30, 1970

WEBSTER, HORNE & ELSDON  
Certified Public Accountants

## CONSTITUTION AND BY-LAWS

An Act to Incorporate The Correctional Association of New York.\* Passed May 9, 1846, by a two-thirds vote. (as subsequently amended.)  
*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. All such persons as now are and hereafter shall become members of the said association pursuant to the constitution thereof, shall and are hereby constituted a body corporate by the name of The Correctional Association of New York,\* and by that name have the powers that by the third title of the eighteenth chapter, of the first part of the Revised Statutes, are declared to belong to every corporation, and shall be capable of purchasing, holding and conveying any estate, real or personal, for the use of said corporation, provided that such real estate shall never exceed the yearly value of ten thousand dollars, nor be applied to any other purpose than those for which this corporation is formed.

§ 2. The estate and concerns of said corporation shall be managed and conducted by its executive committee, in conformity to the constitution of the said corporation; and the following articles that now form the constitution of the association shall continue to be the fundamental laws and constitution thereof, subject to alteration in the mode therein prescribed.

### ARTICLE FIRST

The objects of the association shall be:

1. The amelioration of the condition of prisoners whether detained for trial, or finally convicted, or as witnesses.
2. The improvement of prison discipline and the government of prison whether for cities, counties or states.
3. The support and encouragement of reformed convicts after their discharge by affording them the means of obtaining an honest livelihood and sustaining them in their efforts at reform.

### ARTICLE SECOND

The officers of the society shall be a president, four vice-presidents, a recording secretary, a corresponding secretary, and a treasurer, and there shall be the following committees, viz.: a finance committee, a

\* FORMERLY, The Prison Association of New York. At a special meeting of the members, the name was changed on February 1, 1961 to The Correctional Association of New York and this change was duly recorded with the Secretary of State.

committee on detention, a committee on prison discipline, a committee on discharged convicts and an executive committee. The number of the executive committee shall consist of not more than thirty-five, of whom not more than ten shall be officers of the society, and not more than twenty-five shall be persons other than officers.

### ARTICLE THIRD

The officers named in the preceding article shall be *ex-officio* members of the executive committee, who shall choose one of their number to be chairman thereof.

### ARTICLE FOURTH

The executive committee shall meet once in each month, and keep regular minutes of their proceedings. They shall have a general superintendence and direction of the affairs of the society, and shall annually report to the society all their proceedings, and such other matters as shall be likely to advance the ends of the association.

### ARTICLE FIFTH

The society shall meet annually in the city of New York, at such time and place as the executive committee shall appoint, and at such other times as the president, or in his absence, one of the vice-presidents, shall designate.

### ARTICLE SIXTH

Any person contributing annually to the funds of the association not less than five dollars shall, owing to such contribution, be a member thereof. A contribution of five hundred dollars shall constitute a life patron; a contribution of one hundred dollars shall constitute an honorary member of the association for life, and a contribution of fifty dollars shall constitute a member of the association for life. Honorary and corresponding members may, from time to time, be appointed by the executive committee.

### ARTICLE SEVENTH

A female department shall be formed consisting of such females as shall be selected by the executive committee, who shall have charge of the interest and welfare of prisoners of their sex, under such regulations as the executive committee shall adopt.

### ARTICLE EIGHTH

The officers of the association shall be chosen annually at the annual meeting, at which time such persons may be elected honorary members as shall have rendered essential service to the cause of prison discipline.



## ARTICLE NINTH

Any society having the same objects in view may become auxiliary to this association by contributing to its funds and cooperating with it.

## ARTICLE TENTH

The executive committee shall have power to add to any of the standing committees such persons, as, in their opinion, may be likely to promote the objects of the society, and shall have power to fill any vacancy which may occur in any of the offices of the association, intermediate the annual meetings.

## ARTICLE ELEVENTH

This constitution may be amended by a vote of the majority of the society at any meeting thereof, provided notice of the amendment has been given at the next preceding meeting.

The officers elected for the current year, under the constitution shall continue to be the officers thereof until others shall be duly chosen in their places.

And it is hereby further enacted that no manager of said society shall receive any compensation for his services.

§ 3. The said executive committee shall have power to establish a workhouse in the county of New York, and in their discretion, to receive and take into the said workhouse all such persons as shall be taken up and committed as vagrants or disorderly persons in said city as the Court of General Sessions of the Peace, or the Court of Special Sessions, or the Court of Oyer and Terminer, in said county, or any police magistrate, or the commissioner of the almshouse may deem proper objects, and the said executive committee shall have the same powers to keep, detain, employ and govern the said persons as are now by law ordered on the keepers of the bridewell or penitentiary in said city.

§ 4. The said executive committee may, from time to time, make by-laws, ordinances and regulations, relative to the management and disposition of the estate, and concerns of said association and the management, government, instruction, discipline, and employment of the persons so as aforesaid committed to the said workhouse, not contrary to law, as they may deem proper and may appoint such officers, agents and servants as they may deem necessary to transact the business of the said association, and may designate their duties. And the said executive committee shall make an annual report to the Legislature and to the corporation of the city of New York, of the number of persons received by them into the said workhouse, the disposition which shall be made of them by instructing or employing them therein, the receipts and expenditures of said executive committee

and generally all such facts and particulars as may exhibit the operations of said association.

§ 5. The said executive committee shall have power, during the minority of any of the persons so committed to the said workhouse, to bind out the said persons so being minors, as aforesaid, as apprentices or servants, with their consent during their minority, to such persons and at such places, to learn such proper trades and employment as in their judgment will be most conducive to their reformation and amendment and future benefit and advantage of such persons.

§ 6. The said executive committee by such committees as they shall from time to time appoint, shall have power, and it shall be their duties to visit, inspect, and examine, all the prisons in the State and annually report to the Legislature their state and condition and all such other things in regard to them as may enable the Legislature to perfect their government and discipline. And to enable them to execute the powers and perform the duties hereby granted and imposed, they shall possess all the powers and authority that by the twenty-fourth section, of title first, chapter third, part fourth of the Revised Statutes, are invested in inspectors of county prisons and the duties of the keepers of each prison that they may examine shall be the same in relation to them, as in the section aforesaid, are imposed on the keepers of such prisons in relation to the inspectors thereof; provided, that no such examination or inspection of any prison shall be made until an order for that purpose to be granted by the chancellor of this State, or one of the judges of the Supreme court, or by a vice-chancellor or circuit judge, or by the first judge of the county in which the prison to be examined shall be situate, shall first have been had and obtained, which order shall specify the name of the prison to be examined, the name of the persons, members of the said association, by whom the examination is to be made, and the time within which the same must be concluded.

## BY-LAWS\*

I. There shall be a stated meeting of the executive committee on the fourth Thursday of each month, and special meeting shall be held on the requisition of the Chairman or any three members of the executive committee. The call for a special meeting shall, in all cases, state the business to be transacted at said meeting. The annual meeting shall be held on the fourth Thursday of January in each year at an hour and place to be designated by the executive committee.

\* As amended by the Executive Committee of the Association, December, 1931, February, 1938, May, 1954 and May, 1961.

The number of members composing the executive committee exclusive of the officers of the association, is hereby fixed at twenty-four, and divided into four groups or classes as follows: At the election held at the annual meeting of the year 1916, there shall be elected, to serve from that date, six members for the term of one year, six for the term of two years, six for the term of three years, six for the term of four years. At each annual meeting thereafter six members shall be elected for the term of four years in place of those whose terms of office then expire. Any vacancies in the membership of the committee by death, resignation or otherwise, may be filled either by the association at any annual meeting or, in interims between the annual meeting, by the executive committee.

II. At every meeting of the executive committee five members shall be necessary to constitute a quorum.

III. The order of business at the annual meeting shall be as follows:

1. Election of chairman and secretary.
2. Reading of minutes of the last meeting.
3. Report of committee on nominations.
4. Election of officers.
5. Report of corresponding secretary on work of year.
6. Annual report of the treasurer.

IV. The order of business at every other stated meeting shall be as follows:

1. The reading and approval of the minutes of the last preceding meeting.
2. Report of treasurer.
3. Report from standing committees.
4. Report from the corresponding secretary.
5. Reports from special committees.
6. Report from the general agent.
7. Miscellaneous business.

At a special meeting no other business shall be transacted than that for which the said meeting was called.

V. The chairman shall appoint all standing and special committees and decide all questions of order, subject to an appeal; and the rules of order shall be those embodied in Cushing's manual so far as they are applicable.

VI. The recording secretary of the association shall be the secretary of the executive committee; and it shall be his duty to keep the minutes of the proceedings of said committee, to record them in a book provided for that purpose, and to give due notice of all meetings of the committee.

VII. The corresponding secretary shall conduct the correspondence of the executive committee and of each of the standing committees; and shall act as the general financial agent of the association, and shall report at each stated meeting of the committee.

VIII. The treasurer shall have charge of the funds of the association, and shall give such security as the executive committee may require. His duties are more fully defined in by-law X.\*

IX. There shall be at least the following standing committees: executive; finance; law; detentions; nominations; probation and parole; prison administration. Such committees in addition to any powers or duties conferred by these by-laws shall severally possess the power and be subject to the duties designated from time to time by the executive committee. Furthermore, the committee on probation and parole shall function as the committee on discharged convicts mentioned in the constitution, and the committee on prison administration shall function as the committee on prison discipline mentioned in the constitution.

The duties of the above named committees, not otherwise provided for in the constitution or by-laws, are as follows:

It shall be the duty of the committee on detentions to inquire as far as may be practicable or necessary into the causes of commitment of persons held in institutions of the Department of Correction of the City of New York, and, when deemed desirable, to adopt available measures for procuring the discharge or providing for the defense of such as shall appear to be entitled thereto. It shall further be the duty of the committee, when arrangements are made therefor, to extend its work to jails, penitentiaries, reformatories and prisons outside of the City of New York and within the State of New York.

It shall be the duty of the committee on nominations to consider the qualifications of persons available for election as vice-presidents or available for membership on the executive committee of the association, and to make recommendations thereon to the executive committee for final action.

It shall be the duty of the committee on probation and parole to be associated with the operation of the probation, parole and employment bureaus of the association, and, from time to time, to make recommendations in respect thereto.

It shall be the duty of the committee on prison administration to consider the internal organization and management of county jails, penitentiaries, reformatories and State prisons, and the welfare of persons confined therein.

\* The position of Associate Treasurer was created by the Executive Committee at its meeting in May, 1961.