

STATE OF NEW YORK

THE ONE HUNDRED AND TWENTY SIXTH
ANNUAL REPORT

OF
THE CORRECTIONAL ASSOCIATION
OF NEW YORK

135 EAST 15th STREET, NEW YORK,
NEW YORK 10003

1970



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

May 4, 1971

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-Sixth 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

* 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 of the Legislature of the State of New York, which has been made annually since 1845, and constitutes the one hundred and twenty-sixth 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."

CONTENTS

	PAGE
Letter of Transmittal	3
Preface	5
Officers and Members of the Executive Committee, 1971	9
Standing Committees for 1971	11
Ad Hoc Appointments for 1971	13
Introduction	17
Recommendations to the 1971 Legislature	18
I. Rights of Prisoners	18
II. State Control Over Sentenced Prisoners	20
III. Merger of Probation Supervision and Parole	21
IV. Courts	22
A. Selection of Judges	22
B. Unified Court System	23
C. Statewide Budget	24
V. Commission of Correction	24
VI. Marijuana	26
VII. Gun Control	26
VIII. The Alcoholic Offender	28
IX. Abolition of New York City's Marshals	28
X. State Regulation of Morality	29
A. Pornography	30
B. Prostitution	31
C. Homosexuality	32
State	37
Legislation	37
Abortion	37
Commission of Correction	37
Governor's Package on the Creation of the Department of Correctional Services	37
Restriction on Solitary Confinement of Juveniles	38
Hearing on Family Visits	38
Deprivations Upon Conviction—Rights of Prisoners	39
Preparation for 1971 Legislature	40
Juvenile Detention—New York City	40
Volunteer Program	41
Direct Service	42
Multiith Trainees	42

	PAGE
Service to Inmates	43
Social Services in City Institutions	44
Criminal Justice Coordinating Council	45
Executive Director, Governor's Crime Council	45
League of Women Voters	46
Governor's Conference on Drugs	46
New Chairman—Narcotic Addiction Control Commission	47
Bar Association Meeting on Marijuana	47
Meeting on Drug Program	48
Parents Against Drugs	48
New York Federation of Women's Clubs	48
Institute of Public Administration	49
Handbook for Police	49
Law Committee Meeting Re Consensual Sodomy	49
Bail Fund	50
Second Institute on Criminal Justice—John Jay College	50
New York City Department of Correction Half-Way House	50
A Visit to Odyssey House	51
Meeting of Informal Group on Crime and Correction	51
Association of the Bar Symposium	52
Association of the Bar Meeting—How Good Are Our Prisons	52
Institute of Judicial Administration—N.Y.U.	52
Disturbances in Detention—New York City	53
Doctoral Dissertation	53
Cornell Employment Study	54
Parole Group Report	54
Floating Dormitory—Stevens Tech	54
Automotive Repair Training Program	55
Meeting with Consultant Re Rules and Regulations	55
Meeting with Governor's Counsel	55
Women's Bar Association	56
Night Court	56
Genesee/Finger Lakes Planning Commission	56
Monroe County—Alcoholic Offender	57
Havens Fund	57
Renovation	57
Annual Report to the Legislature	58
National	58
Centennial Meeting—American Correctional Association	58
National Council of Churches	59
Anglo-American Conference—Society and Crime	59
Volunteers in Probation (V.I.P.) Conference	60
Prison Visitors' Service	60
Congressman Koch	61

	PAGE
Rutgers Summer School of Alcohol Studies	61
Correction Officers in the State of New Jersey	62
New Jersey Wardens' Association	62
International	63
The Fourth United Nations Conference on The Prevention of Crime and Treatment of Offenders	63
Officer-in-Charge, United Nations Social Defence	64
World Council of Churches—Consultation on Penal Reforms	64
United Nations Fund for Drug Control	65
British Consulate	66
Foreign Visitors	66
Dr. Paul Cornil—Belgium	66
Ministry of Justice—Australia	67
English Magistrate	67
Italian Judge	68
Governor—British Borstal	68
Polish Attorney—Dr. Christophe Poklewski	68
The Correctional Association's Direct Services	71
Family Service Bureau	73
Employment and Relief Bureau	74
The Correctional Association's Legislative Activities	77
Appendix "A"—Rights of Prisoners	87
Financial Statement	105
Constitution and By-Laws	106

THE CORRECTIONAL ASSOCIATION OF NEW YORK

OFFICERS AND MEMBERS

of the

EXECUTIVE COMMITTEE

1971

President and Chairman of the Executive Committee

MELBER CHAMBERS

Treasurer

HARRY W. FOWLER

Associate Treasurer

WILLIAM B. MEYER

Recording Secretary

DAVID A. SCHULTE, JR.

General Secretary

DONALD H. GOFF

Vice Presidents

MRS. JULIUS OCHS ADLER

MRS. LUCIA H. BALLANTINE

HAROLD K. HOCHSCHILD

Class of 1972

MRS. ALLEN W. DULLES

OGDEN WHITE

EDWARD R. CASS

LONNIE MACDONALD, M.D.

JOHN L. HAWKINS

Class of 1974

ARCHIBALD S. ALEXANDER

MYRON S. ISAACS

GEORGE G. WALKER

LOUIS B. WARREN

WILHELMUS B. BRYAN, III

Class of 1973

DONALD AGNEW

GEORGE F. BAKER, JR.

HENRY L. PIERSON

MALCOLM MACKAY

BALDWIN MAULL, JR.

Class of 1975

MRS. STEVENS BAIRD

R. BRINKLEY SMITHERS

HAROLD P. WILMERDING

STANDING COMMITTEES FOR 1971

COMMITTEE ON LAW

ISAACS, AGNEW, HAWKINS, MAULL, JR.,
PIERSON, WARREN, MacKAY

COMMITTEE ON FINANCE

FOWLER, MEYER, WALKER, WILMERDING

COMMITTEE ON DETENTION

MRS. BALLANTINE, ALEXANDER, MEYER, SMITHERS

COMMITTEE ON NOMINATIONS

HOCHSCHILD, MRS. BAIRD, MRS. ADLER,
MEYER, WILMERDING, MAULL, JR.

COMMITTEE ON PROBATION AND PAROLE

MRS. ADLER, CASS, DR. MacDONALD, WILMERDING

COMMITTEE ON PRISON ADMINISTRATION

MRS. BALLANTINE, BRYAN, HAWKINS, SCHULTE

AD HOC COMMITTEE APPOINTMENTS FOR 1971

AD HOC COMMITTEE ON THE ALCOHOLIC OFFENDER

SMITHERS, MRS. BAIRD, CHAMBERS, ISAACS,
MRS. BALLANTINE, DR. MacDONALD, CHAMBERS, GOFF

**AD HOC COMMITTEE JUDGES &
PAROLEES CONFERENCE**

MRS. BALLANTINE, CHAMBERS, HOCHSCHILD,
DR. MacDONALD, MAULL, JR., WARREN,
CHAMBERS, GOFF

AD HOC COMMITTEE ON NARCOTIC ADDICTION

MEYER, MRS. BALLANTINE, BRYAN, DR. MacDONALD,
MacKAY, SCHULTE, CHAMBERS, GOFF

**AD HOC COMMITTEE ON OBSCENITY
ISAACS, MRS. BALLANTINE, CHAMBERS, FOWLER,**

DR. MacDONALD, SCHULTE, WILMERDING,
CHAMBERS, GOFF

**AD HOC COMMITTEE ON RECOMMENDATIONS
TO THE LEGISLATURE**

MRS. ADLER, CASS, CHAMBERS,
MacKAY, MAULL, JR., WILMERDING, CHAMBERS, GOFF

AD HOC COMMITTEE ON RELATIONS WITH MEMBERS

PIERSON, MRS. ADLER, BRYAN, HAWKINS, HOCHSCHILD,
CHAMBERS, GOFF

**THE CORRECTIONAL ASSOCIATION'S
RECOMMENDATIONS
TO THE 1971 LEGISLATURE
STATE OF NEW YORK**

INTRODUCTION

1970 saw a series of disturbances within correctional institutions in the State of New York. While a number of specific "causes" have been presented such as marked overcrowding, long delays in trial procedures and repressive practices, these only represent the catalysts of the more fundamental cause, namely the changed social climate in the entire United States brought about by the revolution of the powerless.

Correctional institutions do not function in a vacuum. They are markedly affected by the general social atmosphere of the total community in which they exist and must adapt as the social climate both inside and outside of correctional institutions changes. The rapidly accelerated pace of change of the last generation in the outside community has led to an equally accelerated desire for change inside correctional institutions.

The decade of the '60s can be characterized as the "revolution of the powerless". It has been a time when those groups which traditionally have not been in positions of power decided to obtain some control over their own destinies. The rallying cry has been "involvement". College students want to be involved in the administration of their universities. Local parents' groups in the traditionally silent low-income neighborhoods have demanded and won a greater voice in the operation of their schools. Women—particularly through the women's liberation organizations—have called for social and economic equality as well as control over their own bodies, especially in terms of the right to abortions.

This increase in the desire for involvement has grown out of a new awareness of the individual's rights. Women's Liberation is working to secure civil rights for all females. Homosexuals have organized to insist upon their civil rights. Court procedures have been radically overhauled to protect the rights of all individuals coming before them, particularly juveniles. Welfare recipients have organized to protect their rights. Constitutional infringement questions have been raised repeatedly through the courts and social and economic questions of rights have been raised through demonstrations and marches.

Combined with this revolt of the powerless in the outside community has been a greater contact between the middle-class and the administration of criminal justice. College students have been arrested for campus demonstrations. Children of affluent suburbia have been arrested for marijuana possession. Highly literate, verbal individuals who represented already entrenched power interests have

been sentenced to correctional institutions for violation of the draft laws. All these have tended to expose a population which in the past had little, if any, personal experience with the administration of criminal justice. The exposure to the criminal justice system of this group has both focused public attention upon it and tended to bring about serious questioning of many of the conditions which exist.

Inmate populations have changed in another way. Increasingly, individuals who are dedicated to changing the outside system are being convicted and sentenced and carrying their dedication with them inside the walls. Literate, organized, and with a clear goal, they form a nucleus for an ever-growing number of inmates who constitute a disadvantaged group which in the past has had little say over what happened to it. Demand for involvement in decisions affecting their lives had already begun prior to their arrest. They simply continued and expanded their concerns to include institutional treatment.

A new generation of civil libertarian lawyers is carrying cases involving what they consider to be violation of basic rights to the courts. When conditions inside the institutions do not change or when the courts are slow, explosions occur within the institutions.

Just as the pressure for restoration of rights has not abated in the general community, so will it not abate inside the correctional institutions until changes are made. If prisons do not change, then the courts and legislatures must change them. If no one will move, then prisoners will move themselves (for a fuller discussion of rights of prisoners, see Appendix A).

RECOMMENDATIONS TO THE 1971 LEGISLATURE

RECOMMENDATION NO. 1 RIGHTS OF PRISONERS

A. That the remnants of the civil death concept presently found in New York State statutes be repealed.

COMMENT: Civil death is the imposition of disabilities by the state that withdraw all the rights of the ordinary citizen. A common law concept long since abandoned in England, civil death still applies to individuals who receive life sentences in New York State penal institutions. Vestiges of it, such as the section of the Election Law which deprives anyone with a felony conviction of the right to vote, apply to all those serving felony sentences in prisons. The original 1799 statute still in force deprived the individual, among other things, of the right to institute suit, the right of parenthood and automatically annulled a marriage.

Developed as an alternative to the death penalty for nobles and

clergy, the civil death concept is today an anachronism. Any of the remnants presently in statute form should be repealed.

B. That statutory provisions be made to insure that prisoners have the rights of ordinary citizens to the extent consistent with the necessary orderly functioning of the institutions.

COMMENT: The one right which is removed by due process upon an individual's imprisonment is the right to freedom of movement. A prison inmate cannot go where he wants to when he wants to do so. All other activity which does not endanger the safety of the other inmates and staff or disrupt the necessary orderly functioning of the institutions should be allowed. There can be no valid reason for continuing such practices as reading of mail, limiting of correspondents and visitors, or banning of reading matter which can legally be mailed.

C. That the present statutory bars to employment of ex-offenders be repealed except for the provision that certain specific offenses directly related to the employment sought may be considered as a reason for refusing such employment; that a clearly defined process be instituted to hear appeals of cases where employment is denied on statutory grounds.

COMMENT: In New York State, every individual convicted of a felony incurs some legal disability for future employment. This hidden penalty in some instances is actually more severe than the sentence of imprisonment imposed by the court. The list of statutory prohibitions for ex-offenders includes over 50 occupations, professions, licenses, or privileges, including the right to vote. Among the licenses specifically prohibited by statute are those which have to do with any branch of medicine, including veterinary medicine, as well as undertakers and embalmers. The State Alcoholic Beverage Control Law specifically prohibits an individual holding a liquor license from employing anyone who has been convicted of a felony or certain specifically enumerated crimes, including vagrancy. This means that an individual with such a history cannot work in any capacity in a supermarket, as a truck-driver or helper for a trucking firm which transports alcoholic beverages, as a doorman, waiter, even dishwasher in a restaurant with an alcoholic beverage license. An individual with a felony conviction wanting a driver's license needs the permission of the Commissioner of Motor Vehicles following an investigation or a hearing. The application process is usually a long and frustrating one, often unrewarding.

The Correctional Association of New York believes that no individual should be denied employment—or licensing—solely on the

basis of a criminal conviction. The only exception should be if the crime had a direct bearing on the employment sought and the combination would constitute a threat to the public welfare. Even then, exclusion should be discretionary rather than mandatory with a clearly defined process of appeal from any such decision. Those crimes considered disabling for certain areas of employment should be enumerated specifically for the license which they affect. There should be complete removal of any ban on motor vehicle licensing or employment by an enterprise holding an alcoholic beverage license.

RECOMMENDATION NO. II STATE CONTROL OVER SENTENCED PRISONERS

That legislation be enacted which would place all sentenced individuals, regardless of the length of sentence, under the control of the State Department of Correctional Services.

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 1971, it is an anachronism. 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 release in upstate jails. The second result would be a reduction in the population in the New York City Department of Correction which reached the explosion level last year. Beds are available in institutions of the State Department of Correction. They are not available in the 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. III MERGER OF PROBATION SUPERVISION AND PAROLE

That the presently existing probation service be split into its two functional parts; that the function of pre-sentence investigation and Family Court services remain under the jurisdiction of the courts; and that the function of field supervision be merged with the Division of Parole of the State Department of Correctional Services.

COMMENT: There are presently in New York State 69 separate autonomous local probation departments servicing the Criminal and Family Courts. These departments exist under a confusing skein of administrative responsibility and financing. As an arm of the courts, the probation departments are responsible to the administering body of the State courts, specifically, the Appellate Division for the department in which they function. Ultimate authority and control is vested in the Administrative Board of the Judicial Conference. However, local probation departments also fall under the supervision of the State Division of Probation, a function of the State Executive. The Division has general supervision over administration of local probation departments, including establishing standards, rules and regulations, and procedures. This agency controls disbursement of state aid to the local probation departments. Financially, probation is supported by local governments reimbursed by the State. This means it is dependent upon budgets formulated by the local executive, and approved by the local appropriating authority. Ultimately probation is responsible to all branches of government, both on the local and state level. The result of the confusion of lines of authority is that local probation departments in reality function more or less independently. The President's Crime Commission, among many other experts in the field, concluded that "probation offers one of the most significant prospects for effective programs in correction." However, this essential service in the administration of criminal justice is allowed to exist on a fragmented basis with no overall coordination or planning, financing or staffing.

A functional analysis of the duties of probation reveals that it is in fact two separate units. One major division of duties is to provide pre-sentence investigation for the criminal courts, and necessary services for the Family Court. The other division is that which deals with active field supervision of individuals placed on probation. The first is a pre-dispositional court service. The second is a post-dispositional correction service, probation being a sentence imposed by the court. Once this split is exposed, it becomes obvious that both functions of probation cannot be administered properly if they are considered a single entity.

The Correctional Association believes that since the pre-dispo-

tion work of probation is a service directly and uniquely for the courts, it should remain under court administration. It strongly recommends, however, that the present Probation Department be split functionally and that aspect of probation which deals with field supervision be merged with the field supervision agency of Parole within the State's Division of Correctional Services. Such an administrative reorganization should allow for clearer lines of authority, better allocation of money and personnel, and a more equitable statewide probation service.

RECOMMENDATION NO. IV COURTS

A. 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 quality of the judiciary in large measure determines the quality of justice, and the method of selection does much to determine the quality of the judge. There are three methods of judicial selection currently in use in New York State: executive appointment (New York City Criminal Court and the Appellate Division); executive appointment with Senate confirmation (Court of Claims); and straight election for all the remaining courts.

The process whereby judges are appointed as candidates of a political party and required to electioneer and politic in the same way as candidates for political offices has not proved an effective system for attracting and selecting those best qualified to hold judicial posts. Far from removing the administration of justice from the political sphere, it has had the opposite effect, resulting in the open scandals of judges "buying" their judgeships or receiving them as rewards for faithful party service. Nor has the exercise of popular elections been any effective control on the selection of the judiciary. The people as a whole rarely have a say in choosing the names which appear on the ballot on Election Day. The results of several surveys show that most people don't even bother to vote for judges and of the ones who do, the majority cannot remember the names of those for whom they had voted. Too often, the only controlling consideration is the party under whose symbol the name appears.

In order to secure the best qualified men to administer the laws of the State and to insure that they will be kept free from any political pressures or obligations, the Correctional Association of New York recommends that the elective system be replaced by an appointive one. Judicial nominating commissions made up of lawyers and laymen would submit a slate of carefully screened judicial candidates

from which the appointing authority—the Mayor for New York City and the Governor for the rest of the State—would make the final selection. There would be several such commissions in existence: one for the Court of Appeals, one for New York City, and several throughout the State to make recommendations for the Supreme Court as well as Family, district and county courts.

As lengthy tenure is considered to be indispensable to the establishment of a steady, secure, independent judiciary, judges would be appointed for terms of ten years, to be reviewed by the judicial nominating commission with its recommendations for reappointment or non-reappointment made to the appointing authority.

B. UNIFIED COURT SYSTEM

That the present court structure be simplified by elimination of courts of special jurisdiction with their duties to be absorbed by the State Supreme Court; by replacing the many local courts with unified District Courts; and by merging the Civil and Criminal Courts of the City of New York.

COMMENT: The court structure in New York State today continues to reflect the requirements and thoughts of an earlier age rather than those of the present. There are 16 different types of courts presently in existence in New York, resulting in duplication of administrative efforts, unequal distribution of judges and non-judicial personnel, differing standards and pay rates from one locality to another, and vastly differing standards of administration of justice. Several changes can be made in the present court structure which would reduce the number of courts to seven and greatly improve their administrative and judicial workings. First, and probably least controversial, is the elimination of the Court of Claims as a court of special jurisdiction. The functions of this court, a hangover from an earlier age, can be most profitably absorbed by the Supreme Court.

The Surrogate's Court can also be absorbed by the Supreme Court. There is basically no reason put forth for the further existence of this court as a separate entity other than the fact of its existence in the past. The efficiency of its excellent staff would not be lost as this staff would be adopted whole by the Supreme Court, a department of which the Surrogate's Court would become. Such a merger would afford better apportionment of judges and court personnel, remove the present conditions of limited jurisdiction which have resulted in having to bring different aspects of a single case before different courts, and end the flagrant usage of this particular court as a means of dispensing political patronage.

In order to insure high standards of performance and statewide uniformity in the administration of justice, the present multiplicity of

city, town and village courts should be replaced by unified district courts staffed by competent, legally trained judicial personnel. There is no logical justification for the continued existence of separate civil and criminal courts in New York City. These two courts should be merged into the single court of the City of New York.

C. STATEWIDE BUDGET

That the present system of local financing of court cases be replaced by a statewide budget.

COMMENT: To provide for the effectuating of the foregoing recommendations, particularly that concerning the establishment of district courts, the present patchwork method of court financing should be replaced with an overall statewide budget. Since central administration is effective only when it is accompanied by central fiscal control, statewide equality of justice can only be provided by a unified statewide judicial budget, prepared by the Judicial Conference and certified to the State Legislature for appropriation.

The Correctional Association believes that these reforms of the administrative and financial structure of the courts are necessary if the workings of the law in New York State are to be brought more closely in line with the principles of equality before the law and the impartial administration of justice—two cornerstones of the philosophic thought of this country.

RECOMMENDATION NO. V 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 Corrections 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, 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, 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 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 Commissioner of the State Department of Correction Services, 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. VI MARIJUANA

That the Legislature repeal the existing provisions of the Penal Law which make possession of marijuana for one's own use a criminal offense and either eliminate all penalties or make such possession a violation.

COMMENT: The Correctional Association strongly urges the removal of all criminal penalties, as distinguished from a violation, for the possession of marijuana for one's own use. The Executive Committee of the Association is divided upon the question as to whether no penalty at all should be provided or whether such possession of marijuana should be made a violation punishable only with a fine or maximum sentence of 15 days. Either the removal of all penalties or the reduction to a violation would avoid placing upon an individual the stigma of a life-long criminal record.

RECOMMENDATION NO. VII GUN CONTROL

That legislation be enacted to require individuals to obtain a permit to possess or purchase a rifle or a shotgun in this 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 larger 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 been no 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.

A recent study of homicides published 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 this 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 a history of drug addiction, 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. VIII 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.

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. IX 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 garnishees, and landlord-tenant disputes—marshals receive no set salary, depending instead on the five percent commission they receive on judgments 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 judgment 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 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 of the City and the benefit of the entire system.

RECOMMENDATION NO. X 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. 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 admissions. In a 1969 ruling, the United States Supreme Court declared unconstitutional those laws which affect viewing 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.

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.

B. PROSTITUTION

That the Legislature consider prostitution solely as a matter of public safety and public health; that it make a distinction between the religious and theological approaches to prostitution and the intervention of the state through the Penal Law; that the act of prostitution between competent, consenting adults be no longer criminal and 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: 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 prosecutor's 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 a 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. The 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 laws. The distinction between civil and religious responsibility in this area is reflected in the penal codes of such predominantly 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.

THE CORRECTIONAL ASSOCIATION'S

GENERAL ACTIVITIES

STATE

NATIONAL

INTERNATIONAL

STATE

LEGISLATION

ABORTION

The passage by both the Assembly and the Senate and the signing by Governor Rockefeller of the abortion repeal law for which the Association has worked for a number of years. Our active interest and support dates to the first abortion reform bill introduced by the then Assemblyman Percy Sutton patterned on the American Law Institute model. We were one of only 12 individuals who testified at the first hearing on this bill to be held in this state. Since that time we have worked together with various abortion repeal organizations, first in support of the Blumenthal reform legislation and finally this year for the repeal bill spearheaded by Assemblywoman Constance Cook and Assemblyman Franz Leichter.

COMMISSION OF CORRECTION

This bill to remove the "supervision and direction" of the Commission of Correction from the Commissioner of the State Department of Correction was passed by both the Assembly and the Senate but vetoed by the Governor for lack of administrative support. While the Association has long contended that an inspection authority should be autonomous from the administration of the institutions and facilities it inspects, last year was the first time a bill was introduced to divorce the Commission of Correction from the supervision and control of the Commissioner. We were successful in having the bill pass the Assembly only to see it die in Senate Committee due to lack of support. During the intervening year we met several times with Senator Dunne, in whose Committee this bill died last year, and finally prevailed upon him to support this measure.

GOVERNOR'S PACKAGE ON THE CREATION OF THE DEPARTMENT OF CORRECTIONAL SERVICES

With the exception of one bill, all parts of the Governor's package on creating a unified Department of Correctional Services passed both houses. Among other things, a Department of Correctional Services was created which has administrative responsibility for both the correctional institutions of the State and the field work of the present Division of Parole. The specific designation by statute of institutions as reformatory, prison, etc. is also removed so that all institutions in the State of New York will henceforth be correctional institutions, allowing the department maximum freedom

in assigning inmates and transferring them freely among all the facilities based upon the needs of the individual rather than upon age and the offense committed.

At the first hearing of the Governor's Special Committee on the Criminal Offenders four years ago, the Association called for an integrated Department of Correction. Since that time we have worked closely with the Executive Director of the Governor's Crime Council in bringing about such a department.

RESTRICTION ON SOLITARY CONFINEMENT OF JUVENILES

At the request of Assemblyman Stavisky, we arranged for a meeting with the Assemblyman and Counsel for the Citizens Committee for Children which had just published a report on conditions in New York State training schools. One of the items in the report called attention to the use of solitary confinement of the youngsters in the training school for inordinate lengths of time. At the Assemblyman's request we drafted a bill to prohibit the use of solitary confinement or isolation for any reason other than medical purposes for all youngsters committed to the training schools under the age of 13 and placed a limit of 24 hours of isolation for those above 13. We also drafted the memoranda which were circulated on this legislation.

The legislation was vetoed by the Governor, owing at least in part to opposition from the Community Service Society.

HEARING ON FAMILY VISITS

During the legislative session the General Secretary met with Senator John Dunne, Chairman, Senate Crime and Correction Committee and members of his staff to consider several bills that had been introduced to allow private family visits in correctional institutions of the State. The bills ranged from permitting private visits for a four-hour period in the visiting rooms of the institution, through visits with an inmate in private for at least 48 hours every six months. In addition, a bill was introduced to appropriate \$50,000 for a Commission to investigate the values of a family visiting program and to establish it if found valuable. It was finally agreed that the Senate Committee should hold public meetings on the entire matter of family contact with inmates in correctional institutions and the General Secretary was asked to organize such a hearing.

The General Secretary met on a number of occasions with members and staff of the Senate Penal Institutions Committee to develop the hearing on family visits. Data from the California experiment was obtained and given to the members of the committee so that they would be better aware of various family visiting programs already in

existence. We further provided data on family visiting in Mexico, Russia, Sweden and the State of Mississippi.

On May 27, 1970 the Senate Committee held a public hearing divided into two parts. In the morning following a key-note address by the General Secretary, five women and children provided by the Correctional Association from its Family Service Bureau testified on the importance of visiting to the family.

The afternoon session consisted of a symposium-like discussion by administrators, psychologists, chaplains, etc. on the topic of family visiting. Included were Commissioner McGrath, Warden McKendrick, Warden Thomas, Chaplain Bell, Dr. Bhestone, Mr. O'Leary and Mr. Goff.

If private family visits were held on the institutional grounds, no additional legislation would be necessary. It might be carried on simply through administrative directive. If such visits were beyond the confines of the institution, however, legislation would be necessary. Basically, the purpose of this hearing is to spotlight the human aspects of incarceration—the subtle impact of incarceration of the husband and father and the great impact upon the family left at home.

DEPRIVATIONS UPON CONVICTION— RIGHTS OF PRISONERS

For a number of years the Correctional Association has been decrying the numerous disabilities imposed by statute and rules and regulations upon individuals after they have completed their sentence, particularly in the area of employment. Such disabilities range from the Alcoholic Beverage Control Law which prohibits the employment of any individual convicted of a felony or certain misdemeanors and offenses from being employed in any establishment selling alcoholic beverages to section 50 of the Civil Service Law which prohibits an individual convicted of a felony or a misdemeanor or from taking an examination for Civil Service employment. In addition to these disabilities, a number of other disabilities occur upon conviction and imprisonment for a felony: loss of franchise; loss of rights of paternity or maternity during the time sentence is being served; and the loss of right to bring civil suit while incarcerated in a penal institution. The latter was brought forcefully to our attention by the British Consul who discovered that one of their nationals, imprisoned in the Westfield State Farm on a felony charge, could not bring civil suit. They pointed out to us that the concept of civil death was no longer in existence in the United Kingdom where it had originated.

In the spring of this year a Federal District Judge, ruling on the

cruel and unusual punishment of holding an individual in administrative segregation for over a year in a New York State institution, required the Department of Correction to submit for the court's approval rules and regulations concerning the rights of prisoners charged with institutional infractions. While the creation of the new Department of Correctional Services would have required the development of a new set of rules and regulations by January 1, 1971, the court decision, which was appealed, placed greater urgency on the matter.

During the summer months, Mr. Jacob Pfohl, a student at New York University, was employed under the work study program of the Federal Government to do intensive researching into court decisions, statutes and rules and regulations on the disabilities incurred as a result of conviction. The full report is printed as Appendix "A".

The Association met with a lawyer working for the NAACP Legal Defense Fund who is administering a grant received from the Ford Foundation to bring court cases on the question of legal rights of incarcerated individuals. He was extremely interested in the entire question of civil liabilities and believed there was an excellent chance to challenge its constitutionality in the courts. He hopes to work further with the Association on court cases involving prisoners' rights to be brought under this action grant.

PREPARATION FOR 1971 LEGISLATURE

The staff of the Association met with Assemblymen Leonard Stavisky from Queens and Oliver Kopell from the Bronx to discuss the possibilities of specific legislation to correct some of the existing inequities resulting from the civil death concept. Our summary *brief* was enthusiastically accepted and as a result of the meeting we are encouraged that we will be able to have specific legislation introduced into the 1971 Legislature. Of particular interest to Assemblyman Kopell, a Harvard Law School graduate whose special interest is estates and property, was the matter of civil suit rights relating to an individual's property. Of particular interest to Assemblyman Stavisky was the fact that a mother serving a felony conviction in Westfield Farms has lost her maternity rights so that her child could be adopted without the mother having any say so. Both of these individuals stated that they intended to either research the matter further themselves in their own particular area of interest or have their own staff research it for possible legislative action.

JUVENILE DETENTION—NEW YORK CITY

There has been a growing concern over the handling of juveniles being detained by the Family Court pending final disposition. District

Attorney Burton Roberts of Bronx County conducted a *Grand Jury* investigation into one of the juvenile detention centers which are operated by the New York City Office of Probation. A petition signed by 23 individuals including a number of City Councilmen and State Legislators requested the State Supreme Court to institute an official inquiry. As a result of the jurisdictional issue being raised, the Judicial Conference of the State directed the First and Second Departments of the Appellate Division to have an inquiry made into the management, operation and functioning of these juvenile detention facilities. A panel was appointed consisting of Judge Joseph Stone, Commissioner Robert Ruskin, (New York City Commissioner of Investigation) and Mr. Goff, the General Secretary. The panel was given subpoena authority and the right to take testimony under oath. The panel began its work the latter part of July and devoted several months to visiting the institution, reviewing records and interviewing individuals. All files and records were maintained in the Association's office which was used to interview witnesses and as headquarters for the Panel and Staff.

In addition to the investigation by the District Attorney of Bronx County, investigations have been carried on over the last three years by the office of the Deputy Mayor of New York City, the Joint Legislative Committee on Children and the Joint Legislative Committee on Penal Institutions.

It is the intention of the present Panel to report the facts directly to the presiding justices of the First and Second Departments by the end of the year.

VOLUNTEER PROGRAM

A program of volunteers to work with the clients of the Family Service Bureau was developed by the Ad Hoc Committee on Relations With Members. At the end of the year there were eight active members, representing four college campuses in New York City. Six of the volunteers are undergraduate students, representing academic majors of sociology, psychology, urban affairs, and geophysics. A professor of biology from N.Y.U. and his wife are also active in the program.

The program for the volunteers has three separate parts. The first is an orientation period during which the individual volunteer observes actual case interviews with the Director of the Family Service Bureau. After the interviews, each case is then discussed with the volunteer to give him a realistic idea of the problems which the Family Service Bureau clients face. Following the orientation, the volunteer will also be assigned to certain specific duties with individual families. One volunteer, Christine Lux, a senior in sociology at N.Y.U., Washington Square, who also is serving as Coordinator of

the volunteer program, has been working with a family of nine for the last three months. The family, like most of the Family Service Bureau clients, is one of multi-problems. Through her weekly presence in the home and frequent telephone calls, Miss Lux has been able to provide an outlet for the mother, a tutor for the younger children, and an informal consultant for the older children. She has been invaluable in communicating first-hand observations of the family's home life to the Family Service Bureau Director. Dr. and Mrs. Joseph Rubenstein have been working with a family of four, the husband and father of which is serving a life sentence. Originally assigned to deal with specific problems being manifested by one of the sons, the couple quickly discovered that the entire family, including the mother, could benefit by their presence. There have been science experiments performed in the home, a trip to the zoo, and two of the older boys brought down to Dr. Rubenstein's laboratory. Ann Woodland, a junior in Urban Affairs at N.Y.U.'s Heights Campus, has started working with a family of six, just at the time when the 16-year-old daughter had come to the Family Service Bureau office requesting help with problems she is having with her schooling and her personal life. Although she has just started with the family, Miss Woodland has already become involved in helping one of the children get information about art classes, and talking with the distraught teen-age daughter who is very happy to have her in the home. Pamela Chase and Sharon Feiner, Queens College freshmen in sociology and psychology respectively, are both going through orientation at the Correctional Association's office. In addition, Miss Feiner and her fiancé are providing primarily baby-sitting services to a family who lives close to her home in Queens. This has enabled the mother to attend school and neighborhood meetings for the first time since her husband was sent to prison. Miss Chase has been serving as a guide for a blind woman whose son is being held at Catskill Reformatory. Robert Graupner, a junior in geophysics from Columbia University and Dennis Drucker, freshman in Metropolitan studies at N.Y.U. (Bronx), are both in the orientation stage.

In addition to regularly assigned duties, the volunteers meet with the Director of the Family Service Bureau on a regular basis to discuss their individual families. There is also a twice-monthly seminar held by the General Secretary to discuss the broader picture of the administration of criminal justice. A trip has been made to night court and the detention pens, and future trips are planned for the House of Detention for Women and the reformatory on Rikers Island.

DIRECT SERVICE MULTILITH TRAINEES

One of the goals aimed for by the Association's Multilith Training

Program was to provide the trainees with a definition of self in terms of vocation. There are indications that this is indeed what happened. Several months ago the Association received a letter from a trainee who had successfully completed three months of the on-the-job phase when he was returned to Rikers Island for a technical violation of his parole. He was coming up for consideration for release and wished to know if the Association would aid him in seeking employment. We wrote assuring him that we would and when he was released he reported to his office. We were successful in placing him with a large printing company with a starting salary of \$100.00 a week to be raised by \$10.00 when he finishes a brief orientation program. His new employers were so impressed with him that they hope to be able to train him for an eventual supervisory position. Before entering our training program, this young man had only held jobs of the unskilled variety—messenger, stock boy, etc. He now considers himself and is considered by others an offset duplicating machine operator.

The Association was visited by another one of the individuals who completed its multilith training program last September. He is still employed with the company with which he was placed by the Association. After going through an initial breaking in period which included a certain amount of lateness and absenteeism, he states that he has settled in and is doing acceptably as testified to by wages which he has received. He has applied for acceptance in Bronx Community College under the SEEK program for the fall. A former addict, he had had no drug involvement since his release over a year ago. To paraphrase his own words, he is not doing well, he is not doing badly, he is just doing.

It is always very gratifying to receive visits from men who are doing well, thanks in part to the help they receive from the Association.

SERVICE TO INMATES

The problems an individual faces while in prison, especially while in a detention institution, are magnified greatly if he has no one on the outside to whom he can turn for assistance. The Association was contacted by an individual whom it has known for several years who was then in the Queens House of Detention facing multiple charges in different jurisdictions. He was greatly hampered in that he had no individual on the outside to whom he could turn. He had no private lawyer having been assigned Legal Aid counsel. He had money on account with a former lawyer with whom he had had dealings prior to his arrest, but could get neither money nor responses from that individual. He needed clothing and had no way of getting it. He wanted to get in contact with certain individuals but did not have the necessary information. The Association was able to act as a clearing

house for certain of his needs. The cash on hand with the lawyer as well as a savings account passbook were turned over to the Association and a special account was set up in his name from which regular deposits were made to his institutional account and money was expended to purchase necessary clothing. The Association has also been able to reach those individuals with whom he wished to communicate notifying them of his whereabouts and needs. We feel this is a very worthwhile service which the Association can perform for those individuals in prison who have no one on the outside.

SOCIAL SERVICES IN CITY INSTITUTIONS

In answer to the problems caused by the severe overcrowding in the City's detention institutions, the Association started a project to provide social services to inmates at those institutions.

The Manhattan House of Detention for Men—better known as "The Tombs"—has a rated capacity of approximately 900 and had a daily capacity of around 2,000 for most of the year. Most of these men are awaiting trial—they have not yet been found guilty of any crime. The government does not provide clothing for an individual in detention. Often he has only the clothes on his back at the time of his arrest. If he has no family or friend who is willing to help him he may have to live in those clothes for as long as a year. He will have to appear in court in a tattered shirt and split-open trousers. He will not have such amenities as a towel or a change of socks.

The Association started to provide clothing for those individuals who have no other source of supply. Twenty-five pairs of trousers and shirts were provided initially for allocation by the institution. The Director of the Employment and Relief Bureau spends two afternoons a week reviewing requests, interviewing men, and notarizing legal papers. As was anticipated, some of the needs go beyond requests for clothes. One individual was being held because he could not raise the \$100.00 for his cash bail. His only living relatives are an aunt and uncle living in Kansas City. He is sure they will put up the money but he only has their telephone number. He cannot write them and the institution is only authorized to make local calls. The Association was able to telephone his relatives and apprise them of his situation. Another was arrested before he could pick up a set of dentures, fully paid for, waiting at the dentist's office. The Association was able to get his dentures for him.

In addition to providing social services to inmates of the Tombs two days a week, we were asked by the Warden of the Bronx House of Detention to provide similar service in his institution. At the end of the year, the Director of the Employment and Relief Bureau was spending two half-days in the Manhattan House of Detention and two half-days in the Bronx House of Detention, providing emergency

services such as picking up dentures, making telephone calls, providing necessary clothing, and notarizing many legal documents. We have already received some indication that the City may pick up this function in all its detentions by providing personnel, which it has not in the past. If this is not done, the Association is considering expanding this work to provide services in Brooklyn, Queens and on Rikers Island for male detainees.

We are able to provide this service due to a drop in the caseload of the Employment and Relief Bureau. This has come about as a result of (1) the State Parole Division and Federal Probation and Parole obtaining positions in their tables of organization for employment counsellors and (2) after seven years of our efforts, the State Parole Division obtaining an appropriation for a revolving fund which can be used to lend parolees emergency money which we have been doing in the past.

CRIMINAL JUSTICE COORDINATING COUNCIL

The Association met with Terry Strauss, in charge of corrections programs for the Criminal Justice Coordinating Council, the regional planning commission for New York City for the purpose of receiving LEAA funds (Law Enforcement Assistance Act). Also present was Barbara Allen of the Fortune Society and a representative of VERA. The purpose of the meeting was to discuss various projects for female offenders.

The Fortune Society had submitted a grant proposal to the Criminal Justice Coordinating Council which included in it a position of female coordinator. While the original proposal included working with families of incarcerated individuals as part of the duties of the female coordinator, it was subsequently decided to limit such position to working with female ex-offenders. As a result of this, the Association has been requested by the Criminal Justice Coordinating Council to file a grant proposal on its own behalf for funding for a family service program.

VERA has been attempting to develop a comprehensive program to work with female ex-offenders which would include a residence, day care center for children, and full vocational and supportive counselling. They are unable to get such a program initiated at this time. They have had to begin with expanding the already existing court employment program to include females.

EXECUTIVE DIRECTOR, GOVERNOR'S CRIME COUNCIL

The General Secretary met with the Executive Director of the Governor's Crime Council after a meeting of the Ad Hoc Committee for the Conference with Judges and Parolees to discuss the possibility

of LEAA funds to conduct such a conference. Mr. Peter McQuillan, the Executive Director, expressed a great deal of interest in the concept, explaining the procedure to apply for such funding. He further suggested that we contact Mr. Thomas McCoy, Executive Director of the Judicial Conference, who had previously discussed with Mr. McQuillan such a conference. Due to lack of matching funds, the Judicial Conference could not undertake the project themselves. Subsequent to the meeting with Mr. McQuillan, we contacted the Judicial Conference and were informed that they would take the matter of joining with the Correctional Association in applying for LEAA funds to conduct such conference on a regional basis under advisement.

The idea for requesting funds for one pilot project, evaluating the conference, and if successful, holding similar conferences throughout the State was thought to be most feasible.

LEAGUE OF WOMEN VOTERS

The Association was represented at a meeting held jointly by the League of Women Voters and the Bar Association of the State of New York. Its purpose was to plan strategy in support of legislation calling for a statewide budget for all of the courts in New York State. For many years, The Correctional Association of New York has been deeply involved in the question of court reform in New York State. Integral to any system of reform is state funding of all courts to provide a truly equal system of criminal justice.

The Legislative activity outside of New York City will be coordinated by the local chapters of the League of Women Voters, as well as individual locals of the many unions who have joined for the purpose of supporting this legislation. Activities under consideration for the New York City area include a forum to be hosted by the City Bar Association, and a possible T.V. special on the crisis in the courts.

GOVERNOR'S CONFERENCE ON DRUGS

The General Secretary attended the annual Governor's Conference on Drugs held in Rochester. The theme of this conference for the first time focused on the hallucinogens, marijuana and so-called soft drugs rather than heroin. There was a consensus of those involved that there has been a marked increase in drug abuse, particularly among the very young, over the past ten years and that the degree of dangerousness of particular substances had to be determined for effective control. On the marijuana question, it was pointed out that THC, the intoxicant in the marijuana plant, had been isolated chemically only some four years ago and that research into the

dangerousness or lack of dangerousness were just now getting under way. The principal pharmacological observation made was that the strength of marijuana varied depending upon where grown and the part of the plant used. Some marijuana tested had such a low amount of THC in it that it did not have any real intoxicating effect while other marijuana contained as much as 80 times the amount of THC with major intoxicating effects.

There was a consensus that the penalty for simple marijuana possession was in most instances much too severe and socially damaging when applied to young people.

The Governor in his address re-emphasized the complexity of the drug problem and berated those who were looking for simplistic answers.

NEW CHAIRMAN—NARCOTIC ADDICTION CONTROL COMMISSION

The General Secretary was invited by the Governor's office to attend the swearing in of Mr. Milton Luger as the new Chairman, Narcotic Addiction Control Commission in the Governor's office here in New York April 28th. The Governor expressed his confidence in Mr. Luger and in the need for local communities to accept some of the responsibility for the treatment and prevention of addiction.

Mr. Luger has been long known to the Correctional Association. He is moving into the Narcotic Addiction Control Commission chairmanship after most of the physical construction of facilities have been completed and a staff obtained. He should be able now to shift the emphasis of the Commission into programming and prevention. We wish him all the success possible as he is faced with a monumental problem both within the Commission administratively and with the growing use of narcotics in the State.

BAR ASSOCIATION MEETING ON MARIJUANA

The President of the Association and the General Secretary attended a meeting sponsored by the Association of the Bar of the City of New York to discuss removing legal prohibitions on marijuana. Addressing the meeting were Dr. Margaret Mead, who received some publicity when she advocated "legalizing pot" before a Senate Committee hearing last year; Harold Rothwax, former counsel, Mobilization for Youth; Dr. Norman E. Zinberg, a co-researcher on the scientific study conducted at Boston University on the effects of marijuana on humans; and Mr. Gene R. Haislip, Special Assistant to the Deputy Director of the Federal Bureau of Narcotics and Dangerous Drugs. The sizeable audience was predominantly young and obviously in full support for removing legal prohibitions on marijuana.

MEETING ON DRUG PROGRAM

Following the Association's long held practice of meeting with any political candidate who requests information in our particular field, a representative of the Association attended a meeting called by Allen Dershowitz, head of Justice Arthur Goldberg's Committee on Drugs. The meeting was attended by representatives of Phoenix House, VERA, various methadone treatment programs, and two Democratic Assemblies.

The consensus of the meeting was that methadone maintenance should be viewed as one available treatment modality and not the answer to drug addiction. It was stressed by those involved in the program that methadone cannot be used without its full panoply of supportive services. It serves as medication which allows an individual to be receptive to necessary counselling and therapy. It was also felt that there should not be free prescription of methadone by any medical doctor nor the establishment of store-front dispensing units. Heroin maintenance was ruled out (at least at this time).

Unfortunately, the entire problem of involuntary commitment and treatment of the addict offender was completely ignored. It was felt by the campaign workers that this is much too difficult an area to get into.

PARENTS AGAINST DRUGS

Several times during the year we met with a Mrs. Germaine Smith, who had originally been referred to the Association by the United Nations for assistance in developing a community program in Harlem called Parents Against Drugs. Mrs. Smith, an extremely astute and conscientious woman, has been speaking on college campuses at her own expense and has developed a small nucleus of parents who are trying to educate the Harlem community on the drug problem. We arranged for Mrs. Smith to meet with the community education director of the State's Narcotic Addiction Control Commission and with the Women's Unit of the Governor's office. Efforts are being made to have the project funded through the Narcotic Addiction Control Commission.

NEW YORK FEDERATION OF WOMEN'S CLUBS

The Association continued its relationship with the New York Federation of Women's Clubs when the General Secretary addressed a meeting of the presidents of over 100 women's clubs at the Biltmore Hotel on narcotic addiction. In an effort to bring about a more realistic approach to the problems of drug addiction, particularly to marijuana usage, the General Secretary focused attention upon the

use of tranquilizers, barbiturates and amphetamines by the adult population. We further compared the use of marijuana by college students to adults' before dinner martini.

INSTITUTE OF PUBLIC ADMINISTRATION

The Association was approached by the Institute of Public Administration which had received a hurry-up request from the United States Department of Labor to present a plan to study manpower training in correctional institutions throughout the United States. The Institute was looking for technical consultation should the project materialize and asked the Association to act as senior consultant. We spent several hours with the senior staff director who was to prepare the project.

Regretfully time was against the Institute. There was simply not sufficient time to put a reasonable proposal together for submission to the Department of Labor.

HANDBOOK FOR POLICE

The Association continues to receive orders for copies of the Alcohol and Alcoholism Handbook for Police first published five years ago. During one month the Library of Congress ordered 100 copies for cataloging purposes. We will receive a Library of Congress file number in the near future for this publication.

In its December bulletin, the Mental Health Materials Center distributed to all of its subscribers (approximately 3,000) a full page review and resume of the Handbook which contained the following evaluation:

"Concise but definitive in its selection of essential topics and authoritative and well balanced in its handling of them. The booklet maintained its focus on the role of the police officer in dealing with this particular situation. This specificity also makes it helpful to others whose frame of reference may overlap his."

It is most gratifying that there continues to be demands for this 32-page Handbook which to date has had six printings totaling over 140,000 copies. Thanks to the initial grant by the Christopher D. Smithers Foundation, the Association has been able to produce and distribute this extremely useful document.

LAW COMMITTEE MEETING RE CONSENSUAL SODOMY

The Law Committee met on July 23, 1970 to consider a case emanating out of the State of Texas of a homosexual who had been

arrested and convicted of homosexual sodomy. The case was being picked up by a professor of the University of New Mexico Law School who is also acting as the representative of the North American Association of Homophile Organizations.

Innumerable telephone calls among counsel involved revealed a number of procedural problems. The Law Committee met and decided to take no action at this time owing to the questionable legal state of the case. The Association will stay in close contact with the principals involved in this case.

BAIL FUND

The Association was suggested by the Office of the Administrative Judge of the City's Criminal Court to administer a bail fund of \$1,000. The money was donated by an anonymous "philanthropic millionaire" who was appalled by what he read about conditions in the Tombs during the disturbance in August. He stipulated that his thousand dollars go to provide bail for those individuals held on cash bail of \$50.00 or less who had no other outstanding warrants, were not charged with crimes of violence, were not minors, and had no history of drug addiction.

The Association was able to act as administrator of this fund resulting in the release of 23 individuals from five of the city's detention institutions. At some future time, there is a possibility that the individual who donated this thousand dollars will be willing to set up a permanent revolving fund to be used for bail for individuals who meet the above criteria.

SECOND INSTITUTE ON CRIMINAL JUSTICE— JOHN JAY COLLEGE

The Association attended a one-day conference on criminal justice sponsored jointly by the New York Probation and Parole Association and John Jay College. The basic thrust of this conference was that of the need to coordinate the various stages in the administration of criminal justice in the city and state.

NEW YORK CITY DEPARTMENT OF CORRECTION HALF-WAY HOUSE

The Association was invited to address an orientation meeting at the Half-Way House run by the New York City Department of Correction at the Hotel Granada in Brooklyn. Residents of the Half-Way House are drawn from the New York City Reformatory. Supposedly there are no restrictions on eligibility but realistically an individual will not be accepted if he was known to be a drug addict.

Length of stay is generally around three months with the individual going out during the day to work or school and returning to the facility in the evening for a full program of activities. One of these ongoing activities is a series of sessions designed to acquaint the resident with the various programs in existence in New York City which can be of benefit to him.

A VISIT TO ODYSSEY HOUSE

After an Executive Committee meeting at which Dr. Judianne Densen-Gerber spoke, several members of the Executive Committee expressed an interest in visiting one of the Odyssey Houses for treatment of young drug addicts. Arrangements were made and eight members of the Executive Committee met with the staff and toured the Odyssey House facility at 430 East 87th Street. In addition to the members of the Executive Committee, Dr. Paul Cornill also joined the group. We were most impressed with the relaxed atmosphere and the forthrightness of the two young ex-addicts who together with the staff, explained the program. The physical surroundings though somewhat sparse were scrupulously clean. The staff appeared devoted and the residents forthright and sincere. The visit was most enlightening, inspiring and educational.

MEETING OF INFORMAL GROUP ON CRIME AND CORRECTION

From time to time the Association brings together for an informal unofficial meeting the principals involved in crime on a federal, state and city level in New York City. In the spring such a meeting was held involving among others, the Warden of the Federal House of Detention, the Special Agent-in-Charge of the Secret Service, the Assistant Area Director of the Federal Bureau of Narcotics and Dangerous Drugs, Area Director of the New York State Division of Parole, the federal probation and parole officers in charge of their respective judicial districts in Manhattan and Kings County, the officer in charge of the Social Defence Section of the United Nations, and the Director of the Division for Youth. Invitations had been extended to the Commissioner of the New York City Department of Correction, Administrator of the Courts, Second Department, and the Assistant United States Attorney, all of whom were unable to attend. The purpose of the meetings is to permit individuals involved in various aspects of the administration of criminal justice to meet one another. Strange as it may seem, several of those who attended did not know others at the meeting. The value of such get-togethers can be best attested to by the fact that the Special Agent-in-Charge of the New York Office of the Secret Service had heard of the meetings

and asked both Commissioner McGrath and Warden Fitzpatrick of the Federal House of Detention to ask the Association that they be included. In addition, the Director of the Division for Youth flew down from Albany specifically to meet with the group.

ASSOCIATION OF THE BAR SYMPOSIUM

The Correctional Association was invited to attend a two-day symposium sponsored by the Association of the Bar of the City of New York entitled "Is Law Dead?" chaired by Whitney North Seymour and under the direction of Eugene V. Rostow. The Advisory Committee for the Symposium put together a roster of some of the outstanding individuals in social sciences to speak on such matters as "The citizen's moral relation to law and a city society of consent," and "The capacity of the American social order to meet the changing demands for social justice through the methods of law." The meeting was given even more heightened immediacy by the fact that it took place on the Thursday and Friday immediately preceding the weekend Black Panther demonstrations at New Haven. Many of the speakers were on the Yale faculty and left immediately after their presentations to be with their students. No conclusions were reached by the symposium and while the exposition of the theory of law and society was excellent it was considered very unfortunate that at no time did the speakers really address themselves to the problems going on in the streets about them in 1970.

ASSOCIATION OF THE BAR MEETING— HOW GOOD ARE OUR PRISONS

A meeting was held by the Association of the Bar on the topic How Good Are Our Prisons. Some two weeks before the meeting, Mr. James V. Bennett contacted us for ideas and material as he was to be one of the principle speakers. We were able to provide Mr. Bennett with the desired data as well as several reports of the Association.

In addition to Mr. Bennett, Commissioner George McGrath, Mr. Stanley Bass of the NAACP Legal and Education Fund; Mr. Wolfson and Mr. Jackson, both ex-convicts, spoke to a well attended meeting.

INSTITUTE OF JUDICIAL ADMINISTRATION—N.Y.U.

The Association was approached by the Institute of Judicial Administration of N.Y.U. for assistance in developing a newsletter on current happenings in the administration of criminal justice. We met with the editor of this newsletter and discussed with him at great length some of the areas which might be of interest to judges, correc-

tional authorities, police and prosecutors throughout the United States, pointing out that a major problem concerning the editor will be that of obtaining relatively current information. It was his desire to have data no more than a month old on new programs or projects relating to the administration of criminal justice. The newsletter will not emphasize court decisions but rather innovative programs. After clearing with the Council of State Governments, we provided the editor with a copy of the chapter on "Correction" we prepared for the bi-annual publication of the *Book of the States* 1970-1971.

Subsequent to the meeting, the General Secretary was asked to serve on an advisory committee for this newly created newsletter.

DISTURBANCES IN DETENTION—NEW YORK CITY

Shortly after the several disturbances in New York City Detention institutions, the Association was contacted by the Appellate Division regarding a proposal we had made that a judge be permanently assigned to ride circuit in the detention centers reviewing bail. The idea was thought to be quite sound but the need for a more pressing service was raised by the courts, namely, the providing of legal social services to the some 7,000 persons awaiting court action. It was suggested that the Association might want to provide personnel capable of reviewing bail set and of being able to explain to each individual in detention the status of his case. Because of the delicacy of the matter of relationship between client and attorney, the General Secretary tested the idea with several individuals and organizations. We met with the Director of the Center for Legal Education and Research for the New York University Law School which is presently running a legal social service project in the Federal House of Detention on West Street. The matter was further discussed with several members of the Law Committee. The delicate relationship of client to attorney became more clear and it was decided that the matter should not be explored further without a full review by the Law Committee of the Association.

DOCTORAL DISSERTATION

The Association is serving as advisor to a Ph.D. dissertation being done at the New School for Social Research. The individual originally was considering writing a paper on the effect of the long delay between arrest and adjudication on the personal life and attitude of the accused. After further discussion and at the suggestion of the General Secretary, he decided to direct this paper toward an examination of the bail system. He is especially interested in examining the various individuals who have a direct influence on the setting of bail.

His ultimate aim is to be able to draw a profile of the bail process. He has asked the Association to act as a reader for his dissertation.

CORNELL EMPLOYMENT STUDY

The Association met with Robert Gottlieb, a business major at the University of Cornell, who is doing a summer internship at that school's extension division in New York. His project is to set up an action program concerning employment of ex-offenders. Part of his project is to compile a full listing of employment liabilities imposed either by statute or administrative regulation on the employment of ex-offenders. He also hoped to be able to work through the already existing University sponsored seminars for both business and unions in order to open up employment opportunities for individuals with criminal histories.

PAROLE GROUP REPORT

At the request of Parole, the Association was represented at an evening group report. This concept, used as a supplement to the regular individual reports, is being attempted with the new youthful offender section in the Manhattan Division of Parole. A female parole officer with an extremely stable reporting pattern decided to attempt such a group report with her parolees and asked an Association representative to be present as an outside resource person. The session was extremely successful. The majority of the parolees remained for the entire two hour period and seemed to respond very favorably to the procedure.

FLOATING DORMITORY—STEVENS TECH.

The Association was invited to view a former cruise ship presently being used as a "floating dormitory" by Stevens Institute of Technology. The concept of using a decommissioned naval vessel or former cruise ship as a dormitory had been suggested to alleviate crowded conditions in the areas of juvenile detention, adult detention and incarceration, and residential drug programs. Individuals from the Citizens Committee for Children and the Criminal Justice Coordinating Council were present on the trip.

The total cost for purchase and conversion of the cruise ship to a useful dormitory was approximately half a million dollars. While it serves as an answer to the dormitory problems in Stevens, the staff of which were extremely helpful and cooperative, it was felt that the problems involved in turning this into any detention or treatment center would be insurmountable.

AUTOMOTIVE REPAIR TRAINING PROGRAM

The Association has been serving as a consultant on the formulation of a training program for ex-offenders in automotive repair to be held in the Ocean Hill-Brownsville, Bedford Stuyvesant areas of Brooklyn. Two partners in a successful automotive repair business who have lived their entire lives in these sections of Brooklyn have developed an idea for an on-the-job program to train ex-offenders from these communities in all aspects of automotive repair work. They have already obtained commitments from many individuals in the community to volunteer their services in the training program. They hope to make it at least partially self-supporting by doing repair work on city governmental vehicles for which they would bill the city at the going rate. They have received an enthusiastic reception from both the Models City Program and the Criminal Justice Coordinating Council and it is hoped that these two agencies will share the funding of the project.

MEETING WITH CONSULTANT RE RULES AND REGULATIONS

Continuing our long time relationship with Mr. Peter Preiser, former Executive Director of the Governor's Crime Council and chief draftsman of the new Penal Law, presently consultant to the Governor to draft rules and regulations of the new Department of Correctional Services, we were in contact on innumerable occasions both before and after our meeting with the Governor's Council on the promulgation of rules and regulations ordered by the Federal District Court. We will continue to meet until such time as the Legislature or the Governor's office orders an amelioration of unnecessary penalties upon institutionalized persons.

MEETING WITH GOVERNOR'S COUNSEL

In further preparation for the 1971 legislative session, the General Secretary met in Albany with the assistant counsel to the Governor to discuss an overall administration program to spell out by legislation and by executive rule and regulation the rights of prisoners. The meeting was extremely encouraging since counsel exhibited a great deal of exuberance over a topic he stated "has been long overlooked." At his request we left a four page brief summarizing some of the disabilities involved upon a conviction. He further requested that we send to him the entire study when it is completed and be prepared to develop a legislative program for the 1971 Legislature which he felt the administration would present.

WOMEN'S BAR ASSOCIATION

The Association was asked to address a meeting of the Women's Bar Association in Brooklyn on the question of prisoners' rights. The program chairman thought that the entire question of civil death and loss of civil rights, being a legal one, would be of great interest to her members. Also on the program were John Wallace, Director of Probation, and Paul Travers, Area Director of the Division of Parole, speaking on liabilities affecting employment of ex-offenders.

NIGHT COURT

The General Secretary escorted Executive Committee member Wilhelmus B. Bryan, III and a group of Correctional Association volunteers on a tour of the court detention pens and a session in night court. Since it was a weekday night, there were very few individuals being held, and few cases coming before the court. The majority of those cases involved such minor offenses as peddling, littering, disorderly conduct, and prostitution. The inadequacy of a system where a judge constantly dismisses individuals arrested by the police, a lawyer argues for a client with whom he has spoken only briefly, and proceedings average perhaps 30 seconds per person, was once again vividly pointed out.

GENESEE / FINGER LAKES PLANNING COMMISSION

Of the eight newly organized regional planning commissions in the State of New York, the Genesee/Finger Lakes Planning Commission is one of the most active and energetic. This group with its headquarters in Rochester has the responsibility for overall planning in 8 counties of the State. Since part of this involves planning to cope with social problems as well as physical land usage, matters in the general area of crime and delinquency on the local level come under their planning jurisdiction. The Commission asked the Association to meet with it to discuss juvenile detention which sorely needs improvement in Monroe County and the other seven counties in the region. In preparation for this meeting, the General Secretary discussed juvenile detention planning for the entire state with the Executive Director of the New York State Crime Council and the particular problem in Monroe County with the Center for Governmental and Community Research. Later he spent four hours with the staff of the Commission in Rochester in developing a set of guidelines for obtaining the data necessary for developing a juvenile detention plan and several alternatives the Commission might use relating to the detention of juveniles and the disposition of individuals adjudicated delinquent who are in need of training and treatment.

MONROE COUNTY—ALCOHOLIC OFFENDER

For some six years now the Association has been involved in the local Monroe County situation in handling the alcoholic offender. We have seen a major shift in that now some 65 individuals are being treated as medical-welfare cases under the aegis of the County Mental Health Association rather than being committed to the local county penitentiary.

One of our proposals two years ago to Mr. Gerald Sullivan, present Director of the Continued Care Unit, former Associate Warden in charge of rehabilitation of the County Penitentiary, was an outreach program in which staff members of the program would go into the streets of Rochester to entice the perennial skid row alcoholic into a detoxification center without utilizing the full force of the state through punitive threats. Such a program was first developed by Dr. David Pittman in St. Louis some years ago.

We have been informed that a local program in the Rochester area has received Federal funds and as a result the Correctional Association of New York has been asked to propose personnel who might fit into such a program. We have been able to send up the name and biographical sketch of one such individual to date.

HAVENS FUND

The Association attended a meeting of the Almoners of the Havens Fund, a foundation established 100 years ago by Charles G. Havens for the amelioration of inobtrusive need. The primary point of discussion at the meeting was the effect the new tax law will have on the disbursement of Havens Fund's grants. The foundation will be most affected by the restriction which states that no grants can be made for travel, study or "other similar purposes." They have engaged counsel to give them legal advice on this matter and are awaiting the promulgation of the IRS rules and regulations. In the interim, all Almoners have been instructed not to disburse any money for travel or study for any purpose which could be held to support either of the two. It is felt extremely unfortunate that these restrictions, meant to regulate the abuse of foundation grants, will severely hamper legitimate dispensing of such needed funds.

RENOVATION

The renovation of the office began in November, making it necessary for the entire staff to use only one floor of the building. The estimated time for completion is six months. Major improvements to be made include installation of central air conditioning, a new heating system, new electrical wiring, replacement of all windows and frames,

and fireproofing of the stairwell. This is the first major work on the building in many decades.

ANNUAL REPORT TO THE LEGISLATURE

On Monday, March 9th, the Report to the 1970 Legislature was submitted. This was the 125th such Report, representing an unbroken history going back to the founding of the Association in 1844. In advance of submission of the entire report, copies of the Association's Recommendations had been forwarded to each member of the Legislature. In addition, each member of the Legislature had received a copy of the January *Newsletter* which contained in abbreviated form the complete Recommendations.

NATIONAL

CENTENNIAL MEETING—AMERICAN CORRECTIONAL ASSOCIATION

In October 1870, as a result of monumental work by Dr. E. C. Wines, then General Secretary of the Correctional Association of New York, the first national Prison Congress was held in Cincinnati, Ohio. Attended by many experts and such national figures as Rutherford B. Hayes and Zebulon Brockway, the meeting started a series of annual get-togethers of those interested in prisons, correction and the administration of criminal justice.

1970 saw the 100th Anniversary of this first meeting with both Mr. E. R. Cass and Mr. Donald H. Goff in attendance.

On the opening night of the Congress a tableau was presented reconstructing the first meeting and, appropriately, Mr. Cass portrayed the role of his illustrious predecessor, Dr. E. C. Wines.

Until 1962, while the Boards of Directors were different, the staff of the Correctional Association and the national body were one and the same—Mr. Cass serving as General Secretary to both the Correctional Association of New York and the American Correctional Association for some 42 years.

Despite this long tie between our organization and the national organization there are growing feelings that the national organization may be becoming more rigid and less flexible and not keeping abreast with the rapid social change we have experienced in western civilization. We would be hopeful that this organization founded by the Correctional Association would continue the leadership role established 100 years ago and not become slow to changes in the administration of criminal justice.

NATIONAL COUNCIL OF CHURCHES

As a member of the Department of Pastoral Services of the National Council of Churches, the General Secretary attended the annual meeting of that body to report on the results of the World Council of Churches Consultation and the United Nations meeting in Japan. Not only were the conclusions reached at the World Council of Churches lauded but the General Secretary and the Director of Chaplaincy Services for the Lutheran Church of the U.S.A. were asked to distribute copies at the American Correctional Association Congress in Cincinnati. In addition, the Department of Pastoral Services will contact the various denominations in the National Council of Churches urging them to support and distribute the findings in order to develop greater support on the part of local churches for penal reform and thoroughly needed improvements in the administration of criminal justice.

It is regrettable that the one strong voice against unwarranted delays in trying offenders, markedly overcrowded detention facilities, and inadequate rehabilitation programs—namely the church—has been almost non-existent in the recent past particularly when one reviews the major role in penal reform churches played at the time of the formation of the Correctional Association of New York.

ANGLO-AMERICAN CONFERENCE— SOCIETY AND CRIME

Mrs. Ballantine of the Executive Committee and the General Secretary met with Provost Hodson of the Ditchley Foundation of England and Mr. William Kingsford of American Ditchley to discuss two forthcoming Anglo-American conferences in 1971 on crime.

1. Society and Crime—To examine the sociological causes such as mass disturbances and riots on campuses, the development of radical groups, bombing public buildings and the massive move on college campuses to break the drug laws. We were asked to suggest the names of persons who might be considered to attend or who might be able to provide ideas on content and format for the conference from the United States and England.
2. The second conference on Law and Psychiatry was originally proposed by Mr. Louis Warren, President of the American Ditchley Foundation and member of the Executive Committee of The Correctional Association of New York.

VOLUNTEERS IN PROBATION (V.I.P.) CONFERENCE

The Association was represented at the first nation-wide conference of V.I.P., the organization growing out of the Royal Oaks, Michigan, Project Misdemeanant. The success of that program in Royal Oaks and others like it using volunteers to provide court services that a community otherwise could not afford has resulted in wide-spread interest in use of volunteers of the criminal justice system. Represented at the conference were volunteer programs from communities as disparate as Royal Oaks and Los Angeles which now has two full scale volunteer programs in field supervision of both juvenile and adults. In general, however, and Los Angeles notwithstanding, the volunteer programs appear most successful in middle size cities of about 100,000 in population.

PRISON VISITORS' SERVICE

The Association met with three individuals from Lewisburg, Pennsylvania, who have formed a prison visitors' service for families visiting inmates at the Federal Penitentiary. The group, started last June, is composed of faculty and students from Bucknell University and Susquehanna College, as well as clergymen and community members.

They envision their program as being in three stages. The first, already being implemented as it requires almost no funds, is to meet the bus coming into Lewisburg (which arrives at 6:30 in the morning) and transport the women coming to visit at the prison either to a motel if they are staying or to a private apartment belonging to one of the members of the service where they can rest, clean up and have breakfast. The women will then be taken to the prison. Arrangements can also be made to be picked up at the prison and be taken to the bus stop. This represents an enormous savings in terms of cab fares. Future plans, dependent upon future funding, include renting or buying a "hospitality" house to be used for overnight stays as well as rest visits and a base of operations. They hope to be able to employ a worker who will assist the women with any problems which might arise on the visits and problems they might be having with either their husbands or the institution. Ultimately they also hope to be able to supply carfare to those families who ordinarily could not afford to make such a visit.

The group received a modest grant from the Association to enable them to continue their services in the fall. This is considered extremely desirable not only for the work of the project itself but also because many of the Association's clients in the Family Service Bureau visit their husbands in Lewisburg and Allenwood. The group is currently looking into the process of incorporation so that it can apply for

Federal funding under the Safe Streets Act. The Association hopes to be able to work very closely with the Prison Visitors' Service in the future.

CONGRESSMAN KOCH

It will be recalled that Congressman Edward Koch who presently occupies the seat in the House of Representatives, formerly held by Mayor Lindsay, introduced into Congress a Bill to study the effects of marijuana usage in the spring of 1969. The idea for this study came from our recommendations to the 1969 State Legislature.

At his request, the Association arranged for Congressman Koch to visit the Federal House of Detention on West Street and a narcotics addiction treatment facility of the State Narcotics Addiction Control Commission. During the tour of the West Street facility on which he was accompanied by the General Secretary, the obviousness of the overcrowding and the very poor physical structure were noted. The Congressman decided to give to each inmate a questionnaire asking them the effects of the building's physical condition and the overcrowding on the way they lived.

After his visit, the Congressman became interested in Federal legislation which would permit grants-in-aid to states for the construction of correctional facilities. He is most concerned that such grants be predicated upon the state reaching certain minimum standards for both detention and sentenced prisoners.

RUTGERS SUMMER SCHOOL OF ALCOHOL STUDIES

Because of the growing interest of people involved in the administration of criminal justice in the problems of the alcoholic offender, the General Secretary was asked to conduct a course on the topic at the 1970 Rutgers Summer School in Alcohol Studies. Among the 42 students attending these series of lectures was the Chief Administrative Judge of the District Court of the State of Alaska, together with five other judges from courts of limited jurisdiction throughout the United States; a captain from Military Police on Fort Bragg, plus two additional MPs of the United States Army; the research assistant of Dr. Donald Cressey, Professor of Criminology and co-author with E. H. Sutherland of several texts on criminology; plus police officials from Cleveland and St. Louis as well as a number of probation and parole officers from some eight states.

The principal thrust of the lectures was a reorientation to the disease of alcoholism particularly as it affected the alcoholic in conflict with the law. Of major emphasis was the need to develop alternative means of handling the skid row alcoholic who in the past has constituted 50% of the jail populations in the United States.

It was particularly encouraging to have the number of judges in the program because of the key role the courts play in handling this social medical problem.

CORRECTION OFFICERS IN THE STATE OF NEW JERSEY

The General Secretary was an expert witness at the hearing before an Appeal Panel of the New Jersey Civil Service Department on the salary and functions of correction officers in correctional institutions. A statewide review by an outside management firm recommended no increase in salaries for the correction officer positions in the state while recommending sizeable increases for superior officers. There was a resulting job action taken by these officers. An agreement was reached whereby an appeal of the recommendation was permitted by the Governor and the Appeal Panel created. The General Secretary testified specifically on the shift of functions of correction officers over the past 15 years and the need for the state to change the job description, require increased training, and make the position more desirable by increasing the salary range.

NEW JERSEY WARDENS' ASSOCIATION

The General Secretary gave the Keynote Address at the Annual Two-Day Institute conducted by the New Jersey Wardens' Association for wardens and superintendents of New Jersey correctional institutions. The general theme of the address focused on the marked social changes in the country and their impact upon the correctional process. While in the past there was never any serious concern over riots and disturbances in detention institutions, simply because individuals did not have time to organize, detention institutions now are holding many people who had already organized prior to being detained—they simply move their organization into the detention institution. Coupled with this is the increasing number of militants in both detention and sentenced institutions who insist upon their constitutional rights, which in many instances in the past had been denied. Another force which has brought about changes that have had an impact upon correction is the increasing involvement of the courts in the administration of correctional institutions. This has not only occurred in the State of New York, as in the *Sostre* case, but also in the state of Rhode Island and Missouri, where the courts have become directly involved in the disciplinary rules and regulations of correctional institutions.

In the group of some 60 wardens and administrative officers at this Institute, there were two local county jail wardens present who were at the time being civilly sued for having cut the hair of inmates in their respective institutions, who did not want their hair cut.

INTERNATIONAL

THE FOURTH UNITED NATIONS CONFERENCE ON THE PREVENTION OF CRIME AND TREATMENT OF OFFENDERS

The Fourth United Nations Conference on the Prevention of Crime and Treatment of Offenders was held in Kyoto, Japan with the Correctional Association being represented by Mr. E. R. Cass and the General Secretary, Mr. Goff. An examination of the roster of those present quickly revealed that Mr. E. R. Cass was the American participating with the longest attendance. He has attended every meeting since 1925. These quinquennial international meetings of experts in the field of crime and delinquency have been held since 1872 when the first was organized by Dr. E. C. Wines, former General Secretary of the Correctional Association of New York.

During the early years of these meetings they were sponsored by the International Penal and Penitentiary Commission, formed at the 1872 meeting, an international Non-Governmental Organization recognized by the major nations for its expertise in criminal matters. When the League of Nations was formed, the IPPC became an N.G.O. affiliate.

The quinquennial meetings continued even after the dissolution of the League of Nations, again under the IPPC. In 1949-50 the IPPC turned over to the United Nations the function of continuing these meetings. The first United Nations sponsored international meeting was held in Geneva in 1955, the second, London 1960, the third Stockholm 1965 and the latest Kyoto, 1970.

At the Kyoto meeting, as an N.G.O. representing the Howard League for Penal Reform and the International Council on Alcohol and Addictions, as well as the appointed liaison officer for the World Council of Churches and the National Council of Churches, U.S.A., the General Secretary addressed the Assembly on one of the major agenda items—the Standard Minimum Rules for the Treatment of Prisoners—a document prepared in 1955 and up for review at this meeting.

A second major agenda item which drew a great deal of interest was Citizen Involvement in the Prevention of Crime and Treatment

of Offenders. Here again the name of The Correctional Association of New York came up as an example of citizen involvement.

For over two years the Association has been working closely with the Social Defence Section of the United Nations, the section responsible for organizing the meeting. The General Secretary spent many hours with Mr. Minoru Shikita, Officer-in-Charge, advising on agenda organization, etc.

OFFICER-IN-CHARGE, UNITED NATIONS SOCIAL DEFENCE

Mr. Minoru Shikita, Officer-in-Charge of the Social Defence Section of the United Nations asked the General Secretary to meet with him for a general evaluation of the Kyoto meeting. Mr. Shikita will be remaining with the United Nations only for approximately two months to help Mr. William Clifford, Executive Secretary for the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders complete the documentation in detail before returning to Japan. He will be returning in the position of Counselor of Criminal Justice of his country with markedly extended powers over those which he previously held as chief prosecutor. The matters discussed not only included ways of improving the 1975 Congress but also the internal political position of the Social Defence Section within the United Nations Secretariat structure.

Mr. Shikita expressed his appreciation to the Association for all of the help it had given in preparation for the Kyoto Congress and the gracious hospitality it had extended to him through the several soirees he had been invited to attend. We will continue in contact with Mr. Shikita even when he leaves the country as he asked for a series of papers and positions the Association has prepared and to remain on our mailing list for future publication. At this time, his successor at the United Nations is unknown.

WORLD COUNCIL OF CHURCHES— CONSULTATION ON PENAL REFORM

The General Secretary was invited by the World Council of Churches to represent the National Council of Churches in the United States at a Consultation on Penal Policy held at the Ecumenical Institute at Chateau de Bossey, Switzerland. Approximately 50 international church related penologists were closeted for over a week to consider the general position of the World Council of Churches should take with regard to penal policies and the administration of criminal justice in general.

Among other conclusions the following is a brief outline of the



Donald H. Goff, General Secretary, addressing a plenary session of the 4th U. N. Quinquennial Congress on the Prevention of Crime and Treatment of Offenders, Kyoto, Japan, August 1970

position of the World Council of Churches developed at this conference.

The following immediate practical reforms should be considered:

- (a) improved police and judicial procedures;
- (b) compensation for victims of crime;
- (c) greater use of non-custodial sanctions;
- (d) a re-examination of the concept of "civil death";
- (e) the use of sentencing panels after judicial finding of guilt to decide the most suitable individual treatment; together with an improvement in the methods and availability of treatment;
- (f) the provision of prison visits as a right, and of correspondence without censorship;
- (g) the maintenance of the civil rights of prisoners in relation to the franchise; the right to the safeguards of legal defence in prison discipline offences; matters such as divorce;
- (h) defense of inmates against economic exploitation;
- (i) the provision of rehabilitation resources free of discrimination.

The final document will be circulated to all of the Christian churches throughout the world for local-national implementation. Among other Americans in attendance in addition to the General Secretary was the Director of Community Relations of the United States Department of Justice and the Director of Christian Social Concerns of the Methodist Church, U.S.A.

It is interesting to note that at the same time the Correctional Association of New York was in the midst of a research project on the rights of prisoners, the issue of civil death was one of the main points of discussion and deliberation at this Consultation showing that there is a growing international concern over many of the legal deprivations (in addition to freedom) imposed upon individuals convicted of criminal behavior. It is possible that this matter may be brought to the attention of the Human Rights Commission of the United Nations.

UNITED NATIONS FUND FOR DRUG CONTROL

The General Secretary as an NGO was briefed by Dr. Vladimir Kusevic, Director of the United Nations Division on Narcotic Drugs, on the establishment of a fund by the Secretary General to provide resources for the following activity:

1. Expanding research and information facilities within the Secretariat of the United Nations control bodies,

to gather data on all aspects of drug abuse in order to supply information to governments and the public and for the preparation of educational material.

2. Planning and implementation of the programs of technical assistance to countries in the establishment and improvement of national drug control administration and enforcement machinery and the training of needed personnel.
3. Enlarging the capabilities and extending the operation of the Secretariats of the United Nations Drug Control bodies by providing additional competent personnel.

BRITISH CONSULATE

Because of the relationship between the British Consulate and the Association, it has become routine for us to be asked to meet newly assigned senior staff members so that when a new Deputy Consulate General reports to the New York Office we are asked to a lunch to meet with him.

As an example of the service the Association performs in this field of international relationships with the British Government, upon receiving a letter from a British national being held in the Federal House of Detention on a serious drug charge, counsel for the Consulate immediately contacted the Association to determine whether it was possible that serious allegations made by this individual could be true. We were able to ascertain very quickly that the United States government had not prevented the inmate from having legal counsel and that his placement in a segregated area was of his own choosing. To further substantiate the facts, we arranged for the Consulate to visit with the inmate in question. The General Secretary personally met with him also. It was learned that the British national was being housed in close proximity to an individual strongly believed to be psychotic, charged with a series of bombings, including the bombings of army trucks outside the Armory on Park Avenue South and 32nd Street. There was a striking similarity between the observations made by this inmate to Congressman Koch and the General Secretary at the time of their visit to the Federal House of Detention and the wording of the letter the young British national forwarded to his Consulate regarding his treatment. The allegations were found to be untrue.

FOREIGN VISITORS

DR. PAUL CORNIL—BELGIUM

Before arriving in the United States for a United Nations briefing on the Fourth Quinquennial Congress on the Prevention of Crime

and Treatment of Offenders, Dr. Paul Cornil, former Secretary General of the Belgium Ministry of Justice, contacted the Association and asked for assistance in two areas. Dr. Cornil had been requested by his successor to look into traffic safety and also pornography in the United States. For the former topic, we arranged for Dr. Cornil to meet with Commissioner Theodore Karaghezoff of the Department of Traffic here in New York City. On the latter topic we arranged for Dr. Cornil to discuss pornography with Mr. Charles Rembar, the attorney who argued the *Lady Chatterley's Lover* and the *Fanny Hill* cases successfully before the United States Supreme Court. In addition, we provided Dr. Cornil with the Association's background paper on pornography, excerpts from studies of the Kinsey Institute on pornography and samples of unsolicited pornographic advertising sent through the mails and sex-oriented newspapers that are on sale at most New York City news stands and candy stores.

Dr. Cornil is long known to the Association and a good friend of several members of the Executive Committee.

MINISTRY OF JUSTICE—AUSTRALIA

The Director of Programming for the Ministry of Justice of New South Wales, Australia, Mrs. D. L. Wilhelm, met with the General Secretary to discuss the development of an in-service training program for personnel employed at the New South Wales Women's Prison. We obtained for her copies of several documents relating to correction officers' training and attempted to impress upon her the importance of developing constructive attitudes on the part of correctional personnel through the use of group discussion techniques.

Mrs. Wilhelm visited the Women's Reformatory at Framingham, Massachusetts and was markedly impressed with both the physical surroundings and the relaxed atmosphere in that institution by comparison with the more rigid atmosphere in Australian institutions.

At her request, we have forwarded information to the Minister of Justice of New South Wales on the "Theatre For the Forgotten." Mrs. Wilhelm had learned of this through our *Newsletter* and was attempting to interest the Minister of Justice in developing a similar program in her country.

ENGLISH MAGISTRATE

Mrs. Barbara Warburton, a Sitting Justice in the Juvenile Courts in England, who has visited us several times in the past, came to the Correctional Association for assistance in setting up a program of visitation and meetings for her on handling the juvenile drug problem. We spent a number of hours describing the dearth of treatment

programs here in the United States for youngsters under the age of 16 addicted to hard drugs, and escorted her on a tour of inspection of the Spofford Juvenile Detention Center in the Bronx so that she might get a better idea of the scope and magnitude of the problem.

While juvenile addiction to hard drugs is not common in the United Kingdom, it is growing and Judge Warburton explained that there is increasing anxiety over the rising number of juveniles under the age of 16 who are experimenting with drugs.

ITALIAN JUDGE

The Association was requested by the Social Defence Section of the United Nations to plan a program of visitation for Elio Jacomini, a Judge from the Court of Appeals in Rome, and his wife. We arranged for them to sit in on a trial being conducted in the Criminal Court. The Court made the services of their official interpreter available to the Judge, relieving his wife from the burden of translation. He was also able to meet the judges and speak with them in Chambers. It was also arranged for Mr. and Mrs. Jacomini to tour the Manhattan House of Detention for Men. One of the correction officers spoke fluent Italian and was able to act as guide and interpreter. The Judge was very interested in differences which he noted in the American Court system. He also noted the similarities between the detention facility here and the one in Rome which is also a high rise building in the midst of a large population area working at well over its registered capacity.

GOVERNOR—BRITISH BORSTAL

At the suggestion of the Director of Borstal After-Care of the United Kingdom, Mr. Frank Lieshing, Governor of HMB Dover visited the Association to discuss problems of mutual concern and interest. The Governor who was returning to his country after attending the Kyoto United Nations meeting had also attended the United Nations meetings in Stockholm and in London. We arranged for him to meet with the Social Defence Section of the United Nations and to send his proposals for improving the quinquennial United Nations congresses.

POLISH ATTORNEY—DR. CHRISTOPHE POKLEWSKI

The Social Defence Section of the United Nations asked the Association to help orient Dr. Christophe Poklewski, who is in this country preparing an issue of a law journal he edits in Poland, on comparative Polish-American legal systems. During his stay in the United States, in addition to working with the Correctional Associa-

tion, Dr. Poklewski is working with the Center for Legal Education and Research at New York University's School of Law, under the direction of Professor Gerhardt Mueller.

In view of the Doctor's knowledge of the legal processes in the socialist countries, we have asked him to prepare for us a compilation of the statutes in various socialist countries dealing with alcohol and drug addiction. In addition, he will be obtaining for us practices and procedures in dealing with addiction problems in these countries.

It is fortuitous that this attorney is here at this time, since we have been asked to submit a paper updating the one presented in London, England in 1964 on the laws dealing with public intoxication in various countries throughout the world for an international meeting in June, 1971.

**THE CORRECTIONAL ASSOCIATION'S
DIRECT SERVICES**

FAMILY SERVICE BUREAU

The Family Service Bureau has traditionally dealt with the wives and mothers of incarcerated individuals on a one-to-one basis in the Association's offices. This year, a new and different dimension was added to its work. Realizing that those individuals most seriously affected when a man is imprisoned are the children he leaves behind, the Family Service Bureau sought to find some way to ease the strain which these children feel. In the spring of 1970, planning was begun on a program to utilize non-professional volunteers to work in the community with the families—primarily the children—of incarcerated individuals. By the end of the year, there were 12 volunteers active in the program, seven of whom were working with individual families.

While the program was originally envisioned as being designed for college students, many non-student but university-affiliated individuals responded to the various ads and posters calling for volunteers. Among those working are a university professor and his wife, a registered nurse, and a commercially employed secretary. The ages ranged from 17 through 30. The numbers are approximately evenly split between male and female.

The program consists of three parts. The first part is an orientation which is conducted in the offices of the Family Service Bureau. A prospective volunteer participates in client interviews in the office to receive primary source knowledge of the needs of families in this particular situation. After a suitable period of orientation, the individual will be assigned to work with a specific family. The assignment will depend upon the needs of the active clients of the Family Service Bureau and the abilities of the specific volunteer. Duties performed include escorting a blind mother to visit her son incarcerated in a state institution; taking four children of a man serving a life sentence out on trips to the zoo, museums, drives in the country, etc; simple baby-sitting, comprehensive supportive service to the mother and children of a large family undergoing a series of disastrous crises; and taking six children to West Virginia to see their imprisoned mother whom they had not seen for a year and a half. In addition to the direct volunteer work, all volunteers take part in a series of field trips and seminars. Field trips have included visits to night court and the court detention pens, the adolescent remand shelter on Rikers Island and the Women's House of Detention. The seminars, conducted by the General Secretary of the organization, embrace the broader aspects of the administration of criminal justice in the attempt to give an idea of the total system within which the volunteers are working.

The program has had an enthusiastic reception from the mothers, children, and volunteers as well as the incarcerated men themselves. The benefit of the program seems to be the introduction into the severely disrupted lives of the children of a stable individual from outside the family unit. This is especially beneficial in the case of the males working with young boys who live in a world made up totally of women.

For the future, the Association hopes to be able to broaden its volunteer program by initiating a program of field trips and activities which will take in large groups of children rather than just individual families.

STATISTICS FOR FAMILY SERVICE BUREAU FOR 1970

Families in active category January 1, 1970	25
New Cases accepted	16
Cases reopened	3
Total number of cases during year	44
Cases closed	17
Families in active category December 31, 1970	27
Total amount of financial assistance	\$9,361.20
Families provided with Christmas dinner and toys (total of 99 persons)	24
Children sent to summer camps	21

EMPLOYMENT AND RELIEF BUREAU

One of the three basic tenets on which the Correctional Association of New York was founded 126 years ago was "the amelioration of the condition of prisoners, whether detained for trial, or finally convicted. . . ." In 1970, the Association, through its Employment and Relief Bureau, initiated a new program in an attempt to ease the intolerable conditions under which New York City jail inmates exist.

While clothing is provided for individuals after they have been sentenced, a person who may spend two years awaiting disposition of his case in a detention institution will have only the clothes in which he was arrested. If he has family or friends on the outside, they will provide him with a change of clothing during the time he is in detention. However, a large number of the individuals who are detained pending trial are the homeless, friendless indigents. There is no one on the outside to know or care where they are. For this individual it means appearing in court in the same clothes in which he has been living every day for the entire period of the incarceration. While the Association feels that it is the province of government to

supply needs for individuals whose liberty it has taken away, it realizes that economic reality in New York City in 1970 dictated no budgetary appropriation for such a purpose. As a result, it set up a program in two of the city's institutions to provide clothing on request to indigent individuals. In addition to providing clothing, the Director of the Employment and Relief Bureau spends two days a week in each of these two institutions for the purpose of notarizing inmates' legal papers. This work had heretofore been done by prison officers assigned to the task. The presence of the Association representative meant that these individuals could be freed for urgently needed line duties and that a greater volume of papers could be notarized. The third aspect of the Association's service program for the detention population consisted in assisting the social service officers in caring for some of the routine problems of the inmates. These included making telephone calls to out-of-state relatives to inform them of a man's whereabouts, picking up dentures from the dentist, getting eyeglasses fixed, etc.

Contributing to the buildup of frustration and anxiety of individuals awaiting disposition of their cases is the feeling of utter impotence. A man sitting in jail can do nothing for himself. The Association believes that anything that is done to ease this frustration also concomitantly eases the pressure on that individual and lessens the problems of the institution itself.

EMPLOYMENT AND RELIEF BUREAU STATISTICAL REPORT FOR 1970

Total number of individuals to whom service was provided	1044
in institutions	201
upon release	843
Releasees given financial assistance for food, housing, carfare, tools, employment fees	843
Amount of cash relief given for year	\$13,646.27
Number of individuals in institutions provided assistance other than notary service	97
Amount of financial assistance provided to individuals in institutions (clothing, dentures, etc.)	\$740.27
Legal papers notarized	312

**THE CORRECTIONAL ASSOCIATION'S
LEGISLATIVE ACTIVITIES**

Throughout its 127 years of existence, the Correctional Association has been analyzing and evaluating bills introduced into the Legislature relating to the administration of criminal justice. Following a 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 may elicit the support of other organizations and will join with them in a concerted effort of opposition or of support.

This the Association has done throughout its history. 1970 was no exception.

On January 7, 1970, the 193rd Annual Session of the State Legislature was convened. The legislative work of the Association had started a number of months before, re-examining some 5,701 two-year Senate bills (bills introduced by the Senate during the 1969 legislative session and carried over to the 1970 legislative session and deemed automatically re-introduced) and the pre-filed bills which numbered 289 in the Senate and 817 in the Assembly. By the time the session was adjourned on August 20, 1970, 9,515 Senate bills and 6,838 Assembly bills had been introduced. While a large majority of these are in areas outside the interests of the Association, it was necessary 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 1970 Legislature:

SENATE INTRO. 9086 DEPARTMENT OF CORRECTIONAL SERVICES

This bill abolished the State Department of Correction and the Division of Parole in the Executive Department and transferred functions and powers to a new Department of Correctional Services. It established a Board of Parole within the Department of Correctional Services with the same powers as the Board in the abolished Division of Parole. This the Association approved. Now Chapter 475 Laws of 1970.

SENATE INTRO. 9097 PROBATION DIVISION

This bill repealed the provisions relating to the establishment and

operation of the Probation Division and Probation Commission within the Department of Correction, and established a new Probation Division and Commission within the Executive Department. This the Association approved. Now Chapter 479 Laws of 1970.

**SENATE INTRO. 9088 CLASSIFICATION OF STATE
CORRECTIONAL INSTITUTIONS**

This bill amended the correction law relating to the designation of specific types of institutions within the Correction Department. This the Association approved. Now Chapter 476 Laws of 1970.

**SENATE INTRO. 8804 DEPARTMENT OF CRIMINAL
JUSTICE**

This bill established a Department of Criminal Justice to include State Police, Department of Correction, Parole and State Identification and Intelligence System. This the Association disapproved. Failed of passage.

**SENATE INTRO. 2285 UNIFIED STATEWIDE COURT
BUDGET**

This bill required the entire cost of operating the statewide unified court system with the exception of the operation of town and village courts and of the city courts outside of New York City, to be paid for wholly by the State with the budget to be prepared by the Administrative Board of the Judicial Conference. This the Association supported. Failed of passage.

ASSEMBLY INTRO. 2724 DIVISION OF ALCOHOLISM

This bill was to establish within the Mental Hygiene Department, a Division of Alcoholism to assist the Department in management and operation of state facilities for the treatment and rehabilitation of alcoholics and to encourage research into the causes and treatment of alcoholism. Approved by the Association. Failed of passage.

SENATE INTRO. 8556 ABORTION

This bill amended the Penal Law to define abortion as a justifiable act when committed upon a female by a duly licensed physician within 24 weeks from the commencement of pregnancy without reasonable belief that it is necessary to preserve the mother's life, as is now required for justifiable abortion. This the Association approved. Now Chapter 127 Laws of 1970.

ASSEMBLY INTRO. 4459 GUN CONTROL

This bill provided 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 an eligible person over 18 years of age. The bill contains specific provisions for eligibility, application and investigation. Approved by the Association. Failed of passage.

**ASSEMBLY INTRO. 4461 CENTRAL REGISTRATION
BUREAU FOR RIFLES AND SHOTGUNS**

This bill provided for the establishment in the State Police of a central registration of rifles and shotguns, and prohibited persons from owning or possessing rifles or shotguns unless they hold a registration certificate. Approved by the Association. Failed of passage.

ASSEMBLY INTRO. 2782 MARIJUANA

This bill to exempt marijuana from the definition of a narcotic or dangerous drug provided that a person who knowingly violated the Public Health Law relating to the possession of marijuana shall have committed an offense with the maximum penalty to be a fine of not more than \$15, and if convicted he shall not be fingerprinted or a record thereof kept. This the Association supported. Failed of passage.

SENATE INTRO. 2550 BILL REFORM

This bill revised the practices relating to bail to assure that persons regardless of financial status would receive equal treatment, and that no person would be detained unless required by public interest, nor shall persons be needlessly detained pending appearance when it serves no ends of justice or public interest. This the Association disapproved. Failed of passage.

SENATE INTRO. 1436 RIGHT OF JURY TRIAL

This bill provided that a defendant accused of an offense punishable by imprisonment of more than six months but not more than one year shall be tried by a jury of not less than six persons, except that he may waive the jury trial. This the Association approved. Failed of passage.

SENATE INTRO. 8603 SPEEDY TRIAL

This bill required that in criminal action, wherein a defendant is being detained pending determination of charges, he shall be entitled to bail for 180 days or longer. This the Association approved. Now Chapter 1039 Laws of 1970.

SENATE INTRO. 9099 PREVENTIVE DETENTION

This bill provided that where a defendant in a criminal action for a dangerous felony or a defendant appellate upon appeal from the judgement of conviction for a dangerous felony may be considered and determined a danger to society by the court and held in detention without bail based on such determination. This the Association opposed. Failed of passage.

ASSEMBLY INTRO. 1231 STATE COMMISSION OF CORRECTION

This bill provided that certain functions of the Commission of Correction shall be in coordination with the Commissioner of Correction, instead of subject to his direction and control. Approved by the Association. Passed Assembly and Senate. Vetoes by Governor.

ASSEMBLY INTRO. 4310 FAMILY VISITS

This bill provided that the husband or wife of an inmate confined in a state correctional institution might visit the inmate once a month for four-hour periods with private visiting rooms to be available without supervision of employee of Department. This the Association opposed. Failed of passage.

ASSEMBLY INTRO. 2099 CRIME VICTIMS COMPENSATION BOARD

This bill would extend the time for filing a claim before the Crime Victims Compensation Board to a period not exceeding two years instead of the present year after occurrence. This the Association approved. Failed of passage.

SENATE INTRO. 8730 CRIME VICTIMS COMPENSATION BOARD

This bill provided that the award by the Crime Victims Compensation Board will be reduced by the amount of payments received by the claimant as a result of injury under an insurance contract where

claimant is insured or beneficiary with the allowable deduction to apply only to those amounts received by claimant as result of injury.

This the Association approved. Now Chapter 376 Laws of 1970.

SENATE INTRO. 5915 STATE CORRECTION COMMISSION

This bill required that the State Commission of Correction establish a basic correctional training program for personnel employed by local correctional institutions. This the Association supported. Now Chapter 809 Laws of 1970.

SENATE INTRO. 8125 CORRECTION MEDICAL REVIEW BOARD

This bill provided for the establishment in the Department of Correction of a Correction Medical Review Board to review and investigate the death of any person under sentence or being held in any state or local correctional institution. This the Association approved. Failed of passage.

SENATE INTRO. 3714 CERTIFICATE OF RELIEF

This bill would allow the court to issue a certificate of relief of disabilities to first offenders after certification to the care and custody of the State Narcotic Addiction Control Commission, and authorize the State Narcotic Addiction Control Commission to issue certificates of relief for first offenders who are in its care and custody pursuant to the sentence of the court. This the Association approved. Failed of passage.

SENATE INTRO. 5232 WORK RELEASE PROGRAMS

This bill required the Commissioner of the Department of Correction to designate institutions for work release programs wherein inmates eligible for release on parole within one year might be granted the privilege of leaving the institution premises for the purposes of education, on-the-job training or employment with supervision to be provided by the Division of Parole. This the Association disapproved. Failed of passage.

SENATE INTRO. 8227 SEX OFFENDERS

This bill provided that where a prisoner has been sentenced upon conviction of certain sex crimes he shall not be released on parole except upon recommendation from a psychiatric clinic which has examined him. This the Association disapproved. Failed of passage.

SENATE INTRO. 6082 FAMILY VISITS

This bill permitted a prisoner serving a sentence of a 5-year minimum to be visited by his wife and children during the last year of the sentence to be served, with the number of visits to be determined by the warden but not to be less than one weekend visit every six months. It required the warden to provide facilities to allow the family to be alone together at least two nights. This the Association disapproved. Failed of passage.

ASSEMBLY INTRO. 2723 ALCOHOLISM

This bill extended the duties of the Mental Hygiene Information Services to include the study and review of admissions and retention of alcoholics and changed generally the provisions relating to the custody, care, treatment and rehabilitation of alcoholics within the Department of Mental Hygiene, including granting of power to the Commissioner to provide funds to assist local authorities or voluntary agencies in the operation of services and facilities for the treatment of alcoholism. This the Association supported. Failed of passage.

SENATE INTRO. 6729 RELEASE MONEY

This bill authorized the director of the Reception Center to provide each inmate on discharge therefrom suitable clothing adapted to the season not to exceed \$50 in value, and \$40 in money and transportation to the county of conviction or to such other place as the Commissioner of Correction might designate. Approved by the Association. Failed of passage.

SENATE INTRO. 9110 CITY PRISONERS IN STATE INSTITUTIONS

This bill required that the Commissioner of the New York City Department of Correction should certify to the State Commissioner of Correction when the number of inmates in the City's correctional institutions reached the maximum that can be properly cared for, and that within 72 hours the State Commissioner of Correction shall certify to the City Commissioner whether or not facilities are available in State institutions. This the Association disapproved. Failed of passage.

SENATE INTRO. 9111 NEW YORK CITY INMATES IN STATE CORRECTIONAL INSTITUTIONS

This bill required that upon certification by the New York City Department of Correction Commissioner that there are as many inmates in the City correctional institutions as can be cared for properly, the Commissioner of the State Department of Correction shall lease to New York City all or part of any state correctional institution to be used as part of the institutions of New York City. This the Association disapproved. Failed of passage.

SENATE INTRO. 9096 LOCAL PRISONERS IN STATE CORRECTIONAL INSTITUTIONS

This bill authorized the Commissioner of the State Department of Correction to enter into agreement with counties or New York City to provide for the custody by the State Department of Correction of persons receiving definite sentences of imprisonment with terms exceeding 90 days who would otherwise serve such sentences in local correctional institutions maintained by the locality. This the Association approved. Now Chapter 478 Laws of 1970.

ASSEMBLY INTRO. 3340 NEW YORK CITY MARSHALS

This bill abolished the office of the New York City marshal and continued such marshals and their employees in city employment without competitive examination under the jurisdiction of the City Sheriff. This the Association approved. Failed of passage.

ASSEMBLY INTRO. 4658 SOLITARY CONFINEMENT OF JUVENILES

This bill prohibited the use of solitary confinement or isolation in New York State training schools of inmates below the age of 13, except by authorized medical personnel for medical reasons. For those inmates who were 13 years or over, isolation was permitted for a period not to exceed 24 hours without a written order from the Commissioner of the Department of Social Services wherein the period could be extended to 48 hours. Approved by the Association. Passed Assembly and Senate. Vetoed by Governor.

ASSEMBLY INTRO. 4484 EDUCATION IN STATE TRAINING SCHOOLS

This bill would require the Commissioner of the Department of

Education to have general supervision and be responsible for the educational and instructional program in the state training schools, and prescribe regulations governing the licensing of teachers employed therein and to contract with any school district for the education of any children in state training schools to regularly attend instruction in the local school district. This the Association approved. Failed of passage.

SENATE INTRO. 9262 JUVENILE DETENTION

This bill required that the detention facility receiving a child from a peace officer who took child into custody shall inform the parent or other persons responsible for such child's care and the Family Court of its action. This the Association approved. Failed of passage.

SENATE INTRO. 9340 JUVENILE DETENTION

This bill provided that the place to which a police officer may take a child after taking him into custody shall be designated and approved by the Department of Social Services as a detention facility for the reception of children instead of being designated by rules of the court for the reception of children. This the Association disapproved. Failed of passage.

APPENDIX "A"

RIGHTS OF PRISONERS*

"You Are Alive at Your Disadvantage Only"

"With living men regarded as dead, dead men returning to life, and the same man considered alive for one purpose and not another, the realm of legal fiction acquires a touch of the supernatural under the paradoxical doctrine of civil death."

"Civil Death Statutes: Medieval Fiction in a Modern World,"
Harvard Law Review, Volume 50,
p. 968

Civil death is the imposition of disabilities by the state that withdraw all the civil rights of ordinary citizens. A New York State statute, first passed by the Legislature in 1799, applies civil death to all those incarcerated in a state prison.¹ The law, presently contained in § 79, the *Civil Rights Act*, 1967, imposes "forfeiture of all public offices, and suspends, during term of sentence, all the civil rights, and all the private trusts, authority, or powers of, or held by, the person sentenced . . ." for a period of less than life. Section 79-a states that "a person sentenced to imprisonment for life is hereafter deemed civilly dead." All disabilities under these sections are determined by place of imprisonment, i.e., whether a convict is sent to a state prison, or to any other kind of correctional institution, at which places the law does not apply.

The story of the civil death statute has its origins in feudal law where it was the common law penalty called attainder, defined as "the extinction of the civil rights and capacities of a person consequent upon sentence of death or outlawry."² The penalty applied to all those cases of "person professed, abjured, or banished from the realm."³

An individual's position as a nobleman or member of the clergy might waive the imposition of the death penalty, but he would still be considered dead to the world in terms of his rights as a citizen. The present practice of civil death is based on this concept.

* Prepared by the Correctional Association of New York November 1970

¹ New York State, *Civil Rights Act*, § 79 (1967). See Appendix.

² Webster's *Third New World International Dictionary* (unabridged).

³ Jay, "The Rights of Prisoners While Incarcerated," *Buffalo Law Review*, Vol. 15, p. 397 (1965).

Historical sources indicate that the law was plagued with inadequacy from its feudal inception, and a survey of its application to the modern law form shows the consequent anomalies, inconsistencies, and failure of the law.⁴ To make the law applicable, "judicial interpretation expanded the law far beyond its original concept."⁵ It came to be applied to all felons whom the state no longer felt justified in executing, gathering an ever increasing number of men to which the fiction had to be applied. Men would no longer be hung for stealing silver spoons, but now the thief became treated as a nobleman—he was physically alive, yet dead to society.

The wider application of the law brought about several inconsistencies. Since all felons aren't sent to state prisons, some felons are subject to the disability, while others are not, even though they be convicted of the same crime. The application of the law is not uniform, and it raises serious questions by operating as a law affecting a class of persons. Another oversight by the writers of the modern law is that the law does not apply to those sentenced to death. A man on death row, therefore, retains all his rights, while those convicted of a lesser offense lose all of them.

The law has been further interpreted so that it may be violated when it is to the disadvantage of the prisoner. "Dead men" are brought to life so that they can be sued, although they have lost the right to institute suit, or any other proceeding, by the terms of the statute.⁶ A prisoner thus sued, however, is allowed to defend himself in court. Other contradictions bear out this tendency of the court to preserve the liability of the prisoner, while stripping him of his rights, occasionally in violation of the statute. A man imprisoned for life can also be "brought back" so that he can institute a suit that would not be to his advantage, but provide restitution for the victims of his crime.⁷ Although it has been held that a man could not bring proceedings to clear away indictments, it has been determined that a man imprisoned had to fulfill his obligation with regard to contracts he had established before he was imprisoned.⁸ In another case, it was held that a prisoner had no right to compensatory damages sustained while in prison, but his wife (whose marriage is

⁴ Pollack and Maitland, *History of English Law* (2d), Vol. 1, p. 435. Even in feudal times, the law was applied with difficulty. "A fiction, however, which would regard a living man as dead must find that limits are set to it by the material world. A monk does wrongs or suffers wrongs, we cannot treat the case as though wrong had been done to a corpse or a ghost. . . . Our law did not say a monk could not sue or be sued, it said he could not sue without his overseign."

⁵ Jay, p. 398.

⁶ New York, *Civil Rights Act* (1967), note 38.

⁷ Jay, p. 401.

⁸ *Ibid.*

terminated "ipso facto" by the sentence) was entitled to receive posthumous benefits.⁹

§ 79 also prevents a prisoner from engaging in any kind of business or contractual enterprise. Since a man does not lose his property, a right too fundamental to Americans, the illogic of the law led to the creation of Correction Law, § 320-5, and § 350-5, which provide for the handling of the prisoners' estates by committees and trustees.

Numerous other laws embody the civil death concept. The prisoner is deprived of the right to vote by the *New York Election Law*, § 152, on conviction of a felony. This law, as translated through § 79, applies only to state prisoners. Prisoners sent to Elmira Reformatory, to which the Civil Death Statute does not apply, are also eligible to vote even if convicted of a felony.¹⁰ Here again the law acts arbitrarily on a class of persons.

One other very important civil deprivation is written in the *Domestic Relations Law*, § 111, which provides that consent for adoption is not required of a parent who has been deemed civilly dead, or has lost his civil rights. § 170 of the *Domestic Relations Law* provides that a sentence for up to three years is a ground for divorce, while under § 79 those imprisoned for life have their marriages terminated immediately.

A final irony concerning this law is the existence of the *Federal Civil Rights Act* under which prisoners may seek redress for deprivation of constitutional rights and unfair prison practices. The Federal courts have scrupulously maintained the right of a state prisoner to institute suit in the protection of his federal rights to the ironical extent that a prisoner may be civilly dead but maintain a civil rights action.¹¹

That civil death is an historical and legal anachronism seems clear. "Palpable anomaly inevitably results from attempting to attribute civil death, not only to persons about to be executed, but also, to persons who may remain physically alive for many years and also may be paroled or pardoned. Still greater anomaly results from attempting to transplant the fiction of civil death to a land which has neither attainder, forfeiture, nor corruption of blood."¹²

⁹ New York, *Civil Rights Act* (1967), note 6.

¹⁰ 1931 Op. Atty. General 231. See *N.Y.S. Election Law*, § 152, note 6.

¹¹ *Siegel v. Ragen*, 88 F. Supp. 996 (1949). While a New York State court found that the civil death statute violated neither Article I, section 9, of the Constitution (prohibiting bills of attainder) nor the 14th Amendment [*Harrell v. State*, 188 N.Y.S. 2d 683 (1959)], its logic is being challenged on the basis that the law is applied arbitrarily, imposing disabilities on one group of felons while excluding another.

¹² *Shapiro v. Equitable Life Assurance Society of U.S.*, 45 N.Y.S. 2d 717, 719 (1943).

II

The Courts

1. A Paradoxical Case History

- a. The Hands Off Doctrine, Jurisdiction, and the Right of Access.

The Destructive Maintenance of Two Opposing Principles.

2. The Emerging Pattern of Judicial Intervention.

- a. The Case for a Standard of Clear and Imminent Danger.

"... a prisoner retains all the rights of an ordinary citizen except those expressly, or by necessary implication, taken from him by law. . . . When a man possesses a substantial right, the courts will be diligent in finding a way to protect it."

Coffin v. Reichard
143 F. 2d 443, 445 (1944)

"Courts are without power to supervise prison administration or to interfere with ordinary prison rules or regulations."

Banning v. Looney
213 F. 2d 771 (1954)

The history of court decisions in the area of prisoners' rights is one of paradox and dichotomy, marked by a seemingly irrational contest of conflicting principles. It has only been in very recent years that a semblance of design has seemed to appear. A reading of the case history in the area of prisoners' rights reflects the same change of perspective evident in the entire question of basic human rights. It is felt by many that "the granting of rights to many minority groups and to the disadvantaged individual is characteristic of our times. Prisoners have to some extent come to be included in this movement."¹

The beginning of the dichotomy of judicial reasoning was delineated in the landmark decision of *Coffin v. Reichard* for two opposing principles were contained within its language.² The decision maintained that a prisoner had rights because conviction does not deprive a person of his citizenship, and citizenship requires that a person maintain all the rights and liabilities that are part of government by rational accord. Yet it also maintained that the law had the ability to withdraw those rights, either directly, or by "necessary implication." The rights withdrawn were not a question of debate as long as

¹ G. Richard Bacon, "Rights of Prisoners in Confinement in the U.S." *The Prison Journal*, Vol. XLVIII, No. 1 (1968), p. 2.

² *Coffin v. Reichard*, 143 F. 2d 443 (1944).

the phrase "necessary implication" provided that official discretion had to be maintained. The U.S. Supreme Court affirmed this principle in a later case, stating: "Lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system."³

Until recent times, the enforcement of these two principles created a log of diverse and confused logic. The courts are responsible to the Constitution in that they must protect the rights guaranteed, and are also responsible in their function to remain apart from interference with executive and legislative authority. Often the courts openly stated the paradoxical situation in which they were placed:

"It is hard to believe that persons awaiting deportation or even persons convicted of crime are at the mercy of the executive department and yet it is unthinkable that the judiciary should take over the operation of the places of detention and prisons. There must be some middle ground between these extremes. The courts have proceeded very slowly in defining it."⁴

The principle of non-interference in matters of administrative discretion was contained in the "hands off doctrine." It was originally formulated in a decision which denied the claim of a prisoner who wanted to register a patent without first obtaining permission from the Bureau of Prisons.⁵ It has been reiterated in numerous cases in which the courts have maintained that they had no right to interfere in matters of prison policy.⁶

At the same time that the courts were affirming a policy of non-interference in prison administration, they were stressing the importance of the right of access to the courts on questions concerning prisoners' rights.⁷ The U.S. Supreme Court stated as early as 1941 that: "the state and its officers may not abridge or impair the petitioner's right to apply for a writ of habeas corpus."⁸

The Federal Civil Rights Act of 1964 broadened further the jurisdiction for prisoners' claims.⁹ Judicial interpretation of this act established the Federal Court as the first forum for prisoners' rights, deny-

³ *Price v. Johnston*, 334 U.S. 266, 285 (1948).

⁴ *The U.S. ex. rel. Yaris v. Shaughnessy*, 112 F. Supp. 143, 144 (1953).

⁵ *Banning v. Looney*, 213 F. 2d 771 (1954).

⁶ See *Stroud v. Swope*, 187, F. 2d 850 (1951); *Powell v. Hunter*, 172 F. 2d 330 (1949); *Aragon v. Wathen*, 352 F. 2d 77 (1965).

⁷ *Monroe v. Pape*, 365 U.S. 167 (1961), and *Sewell v. Pegelow*, 291 F. 2d 196 (1961).

⁸ *Ex Parte Hull*, 312 U.S. 546, 549 (1941).

⁹ 42 U.S.C.A. (1964), Section 1983.

ing a long argued exhaustion principle that original jurisdiction belonged to the state.¹⁰

Once they reached the courts, individual cases of flagrant abuse of authority would receive a sympathetic hearing. However, the practice of "hit and run"—deciding a case narrowly on its own merits and not applying it to a general category—allowed the principle of administrative discretion to go virtually unchallenged. Such practice is notable in cases involving the right to use law materials, and treatment so brutal as to violate the 8th Amendment proscription on "cruel and unusual punishment."¹¹ In a similar strain, a court of appeals stated, "The Attorney General and other officers in the line of authority over penal institutions do not have the power arbitrarily to deny a prisoner communication with the outside world, but they do have wide powers of control over such communication."¹² The conflict in principle as presented here is the same as that originally posed in *Coffin v. Reichard*. The prisoner is assured that he has an unknown right; the prison officials have been assured that they have wide powers of discretion.

The Emerging Pattern of Judicial Intervention.

Historically, those rights considered inviolable reflect the interest of the majority of the society at that particular time. As general concern with the rights of men in the "outside" society increased, so followed litigation in the courts in the interest of the incarcerated.

Court decisions have never denied the basic rights of prisoners. One example of many such avowals is from a second circuit decision which stated "we must not play fast and loose with basic constitutional rights in the interest of administrative efficiency."¹³ The beginning of court intervention seems to have arisen from a change in the interpretation of the 8th Amendment which prohibits "cruel and unusual punishments." There was a growing realization that "the

¹⁰ *Cooper v. Pate*, 378 U.S. 546 (1964).

¹¹ See U.S. ex. rel. *Mayberry v. Prasse*, 225 F. Supp. 752 (1963); *Johnson v. Dye*, 175 F. 2d 250 (1949); *Wright v. McMann*, 387 F. 2d 519 (1967). This practice was noted in "Prisoners' Rights under Section 1983," *Geo. Law Journal*, Vol. LVII, p. 1270 (June 1969). See also Kirschkop and Millemann, "The Unconstitutionality of Prison Life," *Virginia Law Review*, Vol. LV 795, 820. "Without guidelines applicable to a wide segment of the prison population of the United States, the courts can only strike out at practices which are utterly irrational and completely inhuman—an approach that is simply inadequate to protect basic human rights."

¹² *Dayton v. McGranery*, 201 F. 2d 711, 712 (1953).

¹³ U.S. ex. rel. *Marcial v. Fay*, 247 F. 2d 662, 669 (1957). See also *Sewell v. Pegelow* supra: "It has never been held that upon entering a prison, one is entirely bereft of all his civil rights and forfeits every protection of the law."

words of the [8th] Amendment are not precise and their scope is not static."¹⁴ The same court decision continued, "the Amendment must draw its meaning from the evolving standards of decency that marked the progress of a maturing society." Further, judicial interpretation tied 8th Amendment protections directly to administrative acts. "Where the lack of effective supervisory procedures exposes men to the capricious imposition of added punishment, due process and Eighth Amendment questions inevitably arise."¹⁵

The shifting away from unchallenged administrative discretion moved through the stage of enunciating certain "preferred freedoms." Rights dealing with access to and jurisdiction of the courts had been assiduously protected.¹⁶ Growing out of this case came the right for an incarcerated individual to have legal materials which was applied to an ever growing number of jurisdictions.¹⁷ Always included under "preferred freedoms" was the First Amendment right to religious belief. It was the broadening of the interpretation of this right which led to a growth in those freedoms considered "preferred."

It took some time for the courts to determine that Black Muslims had equal rights to exercise their religion and that the Muslim religion could be construed as a faith which has the constitutional guarantees of other faiths.¹⁸ This also led to the opinion that officials must accept at face value the assertion that an organization is religious even though its activities and emphasis and teachings are not exclusively religious.¹⁹ The Black Muslims posed problems which differed greatly from anything faced in the past. It is a vocal religion which refuses to separate the external world from its interest. The boundary between political and religious expression becomes very thin. The acceptance of this religion by the courts led to one of the most important of the decisions constituting a change in the concept of "preferred freedoms." In a case dealing with suppression of religious literature, a Federal Court in the Third Circuit decided that "Mere antipathy caused by statements derogatory of, and offensive to, the white race is not sufficient to justify the suppression of religious literature even in a prison."²⁰ This decision was closely followed by others which divorced freedom of expression from freedom of religion and further reflected the changing society outside the prisons.

¹⁴ *Trop v. Dulles*, 355 U.S. 86, 100-101 (1958).

¹⁵ *Landman v. Peyton*, 370 F. 2d 135, 141 (1966).

¹⁶ The right to bring suit under 42 U.S.C.A. 1964 (Section 1983), for Eighth Amendment questions and any other constitutionally protected right.

¹⁷ U.S. ex. rel. *Mayberry v. Prasse*, supra.

¹⁸ See *Brown v. McGinnis*, 225 N.Y.S. 2d 497 (1962); *Sewell v. Pegelow*, 291 F. 2d 196-198 (1961); *Sostre v. McGinnis*, 334 F. 2d 906 (1964).

¹⁹ *Sostre v. McGinnis*, supra.

²⁰ *Long v. Parker*, 390 F. 2d 816 (1968).

In rapid succession there was the decision that prison regulations could not limit subscriptions to periodicals in such a way as to discriminate on the grounds of the race of the subscriber.²¹ Another case ordered officials to admit *Ebony*, *Sepia*, and the *Pittsburgh Courier* into prisons on the grounds of the First and Fourteenth Amendments.²² The court stated that in "areas of arbitrary, official action in the administration of prisons which involves constitutional rights of inmates to be free from racial discrimination, and to enjoy 'preferred freedoms' (including right to subscription) of the First Amendment, courts will not shrink from scrutinizing administrative actions." The following year another jurisdiction held that the black plaintiffs had the First Amendment right to receive and read *The Panther*, a politically oriented magazine, although officials were granted discretion in the question of general distribution.²³

At the very time that it was being enunciated, the criteria of "preferred freedom" was already being superseded by the test of "clear and present danger." "Thus, the abandonment of the 'hands off' policy and the adoption of the 'reasonableness' test has not resulted in guaranteeing inmates the same rights as ordinary citizens."²⁴ Therefore, it seems a "clear and present danger" analysis should be adopted by the courts to protect the prisoners' First Amendment rights. This standard has been incorporated in several of those decisions which dealt with preferred freedoms. As early as 1964, in a decision which permitted Black Muslim worship at the Washington, D.C., Youth Center, the court maintained that "to justify the prohibition of the practice of an established religion at the Youth Center, the prison officials must prove by satisfactory evidence that the teachings and practice of the sect creates a 'clear and present danger' to the orderly functioning of the institution."²⁵ In another decision on religious literature, the court found that statements could not be proscribed on the "mere speculation that [they] may ignite racial or religious riots."²⁶ The court held that a statement would have to be of "clear and imminent danger" to the institution before it could be suppressed.

One court, at least, has stated the matter in the simplest of terms:

"The question is—what rights should be restricted or even

²¹ *Rivers v. Royster*, 360 F. 2d 593 (1968).

²² *Jackson v. Godwin*, 400 F. 2d 529-535, 541 (1968).

²³ *Shakur v. Commissioner of Correction*, 69 Civil 4493 (1969) (Slip Opinion)

²⁴ Notes, "Problems of Modern Penology—Prison Life and Prisoners Rights," *Iowa Law Review*, Vol. LIII, p. 671, 675 (1967).

²⁵ *Banks v. Havener*, 234 F. Supp. 27 (1964).

²⁶ *Long v. Parker*, supra.

taken away entirely? Our statutes restrict those rights demanding of their very nature free movement of the body. Thus it would seem that the primary punishment of a prison is restriction of movement. A natural consequence would seem to be that the prisoner is entitled to those same rights as any other citizen which are not in conflict with the order of the court restricting the free movement of the body."²⁷

III

The Administration. A Time for Action.

1. Execution of the Doctrine of "Clear and Present Danger"
 - a. The Development of Institutional Rules and Safeguards
 - b. A Prisoners' Bill of Rights
- a. *The Development of Institutional Rules and Safeguards*

*** (A)bove all, prison wardens have the right to depend on habit, custom, intuition, common sense not reduced to express principles, and other forms of judgement based more on experience than logic, though not arbitrarily. Life requires in some aspects another sovereign than reason. To rule is not to opine . . .

Nolan v. Scoffati, 306 F. Upp. 1 (1968)

The President's Commission on Law Enforcement and Administration of Justice warned strongly that the correctional area "is not *sui generis*, but another administrative agency which requires its own administrative law if it is to make its maximum contribution harmoniously with the values of the general order in which it functions. . . ." It further noted that correctional administration has too long considered itself to be closed from outside scrutiny. The time is rapidly approaching when if correction does not put its house in order, another branch of government will.

Missouri and Rhode Island offer two examples of cooperation between the correctional authorities, the courts, and the inmate who had instituted suit to draw up detailed procedures for disciplinary matters. The correctional administration in Missouri, in answer to a suit filed by state inmates but not yet decided by the court, instituted a program for the retention of basic rights of prisoners in disciplinary cases including the right of cross examination and retention of

²⁷ *State v. Cabbage*, 210 A. 2d 555 (1965).

¹ The President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Corrections*, p. 83.

counsel at disciplinary hearings.² Cooperation also took place in Rhode Island. In answer to a suit filed on behalf of all the inmates of all of the institutions of that state, the Department of Social Services (in charge of corrections), and the lawyers for the inmates, working under the jurisdiction of the court formulated a system of rules governing all inmates and a due process system for disciplinary proceedings.³

In New York, the Administration has been enjoined by a federal court decision to draw up express procedures and present them for the ratification of the courts.⁴ Although this action was long in coming, and is on appeal, it nevertheless reflects "the obvious neglect in this area which, as in police procedures, will force the courts to write their own rules."⁵

In Residence Attorney

Rehabilitative measures, with guaranteed rights to the prisoner, are considered an essential part of prison regimen, law and practice. In Wisconsin, where no civil death statute exists to withdraw the rights of prisoners to file any civil proceeding, such activity had been thought impossible because "counsel was unavailable." In a special program of the Wisconsin Judicare Service, such counsel became a reality. The following are illustrations of the types of cases dealt with.⁶

1. The inmate was owed money by his last employer for the pay period preceding his arrest. The amount undisputed but the employer would simply not forward the money.
2. The inmate received a notice from a Michigan court that it was considering placing his son up for adoption. The inmate maintained he was unaware his son was in Michigan and wished to oppose the adoption and have his son returned to Milwaukee.
3. An inmate with several children was served a divorce summons. The grounds alleged were not revealing, as usual. The inmate was concerned that he was unfairly accused, and that in the event of a divorce appropriate custodial and financial arrangements be made.

² *Burns v. Swenson*, 288 F. Supp. 4 (1968).

³ *Morris v. Travisono*, R. I. Civil Action No. 4192 (1970).

⁴ *Sostre v. Rockefeller*, 69 Civil 4058 (New York).

⁵ *Wright v. McMann*, supra.

⁶ James A. Jablonski, "Resolving Civil Problems of Correctional Inmates," *Wisconsin Law Review*, Vol. 1969, 575, 578.

Resolution of many such problems was made possible because the administration had taken some concern for the "rights of the incarcerated." This kind of successful operation exists in other states and has worked to relieve one of the greatest worries of prisoners—the welfare of their families, properties, marital and other questions of a civil nature.⁷ Regarding claims against authorities, it has been reasoned:

A resident attorney in the prison might fill a gap in existing legal services by providing the help and counselling necessary to discover and raise legitimate claims. Equally important, the attorney could provide the initial counselling that is essential in deterring groundless claims.⁸

An in-residence attorney can serve a two-fold purpose. He can provide aid in the types of civil cases already discussed. He can also serve to represent inmates in institutional hearings on disciplinary matters, changes in types of confinement, and other institutional practices which an inmate would desire to challenge. This would then free the courts to act only in an ultimate appellate capacity, saving a great deal of time and expense for all those involved.

Business Activities

It is clear from the experience of many jurisdictions that arrangements can be made to insure the protection of both civil and constitutional rights of prisoners without disrupting the orderly function of the institutions. The ability to contract is one such civil right which has not caused any such disruption. In many states, such as Kansas, inmates are allowed to send business letters.⁹ Numerous arguments have been put forth regarding the worth of such preoccupation by prisoners:

Consideration should be given to allowing limited business correspondence. Any wealth derived in conducting an enterprise could be paid to the inmate's family or held until his release. . . . It would seem that allowing the prisoner to carry on legitimate business, publish books, or patent inventions would reduce family hardships created by imprisonment and might have some rehabilitative effects on the inmate.¹⁰

⁷ Thomas W. O'Brien, "Legal Services for Prison Inmates," *Wisconsin Law Review*, Vol. 1967, 514, 529. See also Linde, "Correctional Service of Minnesota Legal Aide," *Proceedings of the American Correctional Association* (1962), 124.

⁸ *Ibid*, p. 531.

⁹ Bacon, p. 32.

¹⁰ R. P. Vogelmann, "Prison Restriction—Prisoners' Rights," *Journal of Criminal Law*, Vol. 59, p. 389.

Restriction and Censorship of Correspondence

More and more institutions are coming to the conclusion that censorship of inmate mail is unnecessary. Recently, the New York City Department of Correction abolished censorship of any mail except for occasional watches in difficult cases.¹¹ The envelopes of incoming mail would be checked for contraband but the letters unread. This would save desperately needed man hours for duties vital to the running of the institution. Some institutions "have practically eliminated the need for screening personnel by investigation of only about 10% of the inmates' outgoing mail and have found the procedure to be equally effective."¹²

Since the reason for restricting the amount of mail that an inmate could send or receive is the number of officers available to censor that mail, once censorship is abolished all restrictions can be abolished as well. It would also seem unnecessary to continue the practice still in existence in many jurisdictions of having "authorized correspondents." With all of the means available to an inmate to get messages out of prison, it seems extremely unrealistic to continue censorship and restriction of mail in order to safeguard the security of an institution.

Freedom of Expression

Among other basic freedoms that can be guaranteed to inmates without harm to the administration of the institution is freedom of expression. The inconveniences that might be posed by exercise of such freedom are little in proportion to the benefits gained. The effect of curtailing them might quite possibly be negative. "Since writing and speech are two of the few expressive outlets a confined person may practically be able to enjoy, stifling them may seriously affect the basic human desire and need of individual fulfillment. . . ."¹³

Freedom of speech within an institution should be subject only to the same limitations as applied to freedom of speech in a free society. Under the clear and present danger doctrine, an individual can be restrained from shouting fire in a crowded theatre since it would result in injury to others. Equally in a prison, "When expression endangers the order of society to such a degree that there are no reasonable alternatives to prevent disorder, interference with free expression is justified."¹⁴

¹¹ New York City Department of Correction, General Orders No. 17, July 1, 1970.

¹² American Correctional Association, *Manual of Correctional Standards* (1959), p. 407.

¹³ R. P. Vogelman, p. 389.

¹⁴ Comment, "Right of Expression in Prison," *So. Cal. Law Review*, Vol. 40, 407, 411.

It should be stressed that such danger to the running of the institution must be "imminent" and judged on the basis of individual acts. There should not be an umbrella classification which would include types of acts which might possibly, under certain conditions, at certain times, constitute a threat to the institution. Following the concept that the test for curtailment of rights of an incarcerated individual is the same as that for the curtailment of rights of a free individual, the New York City Department of Correction changed its policy on periodical subscriptions. An individual being held in any of the institutions in New York City may subscribe to any magazine generally available to the public which does not violate postal regulations.¹⁵

Right to Vote

Of great impact is one standing disability which is unnecessary and serves as a constant reminder that a prisoner is not a man in the eyes of society. The right of franchise within the prison itself could be arranged without difficulty. The prisoner could be allowed to vote in elections not based on apportionment, or by absentee ballot for his local representatives. The act of voting itself would assure him of his place in society—a place that gives some essence and identity to men who are still citizens. The Model Penal Code advocates that the disability be dropped when a man leaves a prison, but there seems no unalterable barrier that would prevent the exercise of this right by the men inside—or in better terminology, for a man rehabilitating and taking a place in the world.¹⁶

Every source, all the expertise, cases and decisions declare a growing definition of the accountability and freedom of every man—in union with his effort to grow and function. An interest in law and order has brought us the news and correction must become the bearer of a redefinition of misused justice, a redefinition of the language a man uses when he commits a crime.

A substantial portion of our population is affected by the law in this area. Approximately 1.3 million people are at any one time subject to correctional authority; untold millions have criminal records. There is increasing doubt as to the propriety of treating this large group of persons as, in varying degrees, outcasts from society. And there is recognition that such treatment is not in the ultimate interests of society.¹⁷

¹⁵ New York City Department of Correction, General Orders No. 17.

¹⁶ American Law Institute, *Model Penal Code*, section 306.

¹⁷ President's Crime Commission, p. 82.

Recognition of all the rights these men deserve can harm no one. Denial, it seems, would be based on the unholly illogic that tells a man to be something which he is prevented from being at every attempt. A man cannot be rehabilitated and at the same time be held from the basic freedoms, responsibilities and rights that constitute rehabilitation.

BILL OF RIGHTS

- I. "*Freedom of movement*" is a right which no longer pertains to a prisoner as a result of his incarceration. No such restriction can be cruel or unusual, and cannot be applied, according to degrees of severity or kinds of imprisonment or condition, arbitrarily. All other rights obtain to the prisoner as obtain to the ordinary citizen except those which present a "clear and present danger" to the necessary orderly functioning of the institution. In accordance with this standard, the following are the rights of incarcerated individuals:
- Ia. *Freedom of expression.* No form of expression guaranteed to the ordinary citizen can be suppressed or denied except for bodily movement.
 - Ib. *Exercise of religion.* Exercise of religion is to be held without restriction, as applies to ordinary citizens.
 - Ic. *Mails.* No restriction on mails, the use of, reception of, or access to, shall be made.
 - Id. *Articles, newspapers, literature.* Prisoners have the right to subscribe to any periodicals or written materials, or purchase any literature legally available to the general public.
 - Ie. *Visits.* All prisoners have the right to receive visits. Such visits shall be open contact visits, in as much as they do not represent a "clear and present danger" with regard to the prisoner involved and the necessary orderly functioning of the institution.
- II. *Civil Freedom*
- Iia. No prisoner shall be deprived of the right to institute suit, or commence any legal proceedings available to the ordinary citizen.
 - Iib. A prisoner shall retain his rights of parenthood, and no deprivation shall exist except those which may pertain to the ordinary citizen.
 - Iic. All outstanding charges shall be speedily disposed of.
 - Iid. The prisoner has the right of franchise in accordance with the regulations governing absentee ballots.

Iie. The prisoner has the right of due process in any disciplinary hearing and any change in degree or kind of confinement. This right of due process, at any hearing shall include:

1. Written rules and regulations shall be distributed to every inmate.
 2. A written statement of charges, or notice of change of condition of confinement shall be supplied to the inmate. Any such notice will have stipulation that an appeal within forty-eight hours of decision will entitle a prisoner to a hearing.
 3. Representation, by request, at all hearings involving disciplinary charges or change in degree or kind of confinement.
 4. The right to summon and cross examine witnesses.
 5. The right to be judged impartially, by parties other than those involved in the immediate charge.
- III. All necessities that are impossible to obtain as result of incarceration are the responsibilities of the state (e.g., clothing, medical or psychiatric care.)

NEW YORK STATE CIVIL RIGHTS LAW

§ 79. FORFEITURE OF OFFICE AND SUSPENSION OF CIVIL RIGHTS

A sentence of imprisonment in a state prison for any term less than for life or a sentence of imprisonment in a state prison for an indeterminate term, having a minimum of one day and a maximum of natural life, forfeits all the public offices, and suspends, during the term of the sentence, all the civil rights, and all private trusts, authority, or powers of, or held by, the person sentenced; but nothing herein contained shall be deemed to suspend the right or capacity of any of the following persons to institute an action or proceeding in a court or before a body or officer exercising judicial, quasi-judicial or administrative functions, with respect to matters other than those arising out of his arrest or detention:

- a. A person sentenced to state prison for any term less than for life or a person sentenced to imprisonment in a state prison for an indeterminate term, having a minimum of one day and a maximum of his natural life, on whom sentence was imposed and the execution of the judgment suspended, while the execution of the judgment remains suspended;

- b. A person sentenced to state prison for any term less than for life or a person sentenced to imprisonment in a state prison for an indeterminate term, having a minimum of one day and a maximum of his natural life, while he is released on parole, or after he has been discharged from parole.

§ 79-a **CONSEQUENCE OF SENTENCE TO
IMPRISONMENT FOR LIFE**

1. A person sentenced to imprisonment for life is thereafter deemed civilly dead; provided, that such a person may marry while on parole, or after he has been discharged from parole, if otherwise capable of contracting a valid marriage. Such capability shall be deemed to exist where the marriage of a person sentenced to imprisonment for life has been terminated by divorce, annulment, or subsequent remarriage of a former spouse. A marriage contracted pursuant to this section by a person while he is on parole, without prior written approval of the board of parole, shall be ground for revocation of the parole.

2. This section shall not apply to a person sentenced to imprisonment for an indeterminate term, having a minimum of one day and a maximum of his natural life.

3. Nothing in this section shall be deemed to suspend the right or capacity of a person sentenced to imprisonment for life, while he is released on parole, or after he has been discharged from parole, to institute an action or proceeding in a court or before a body or officer exercising judicial, quasi-judicial or administrative functions, with respect to matters other than those arising out of his arrest and detention.

4. Nothing in this section shall be deemed to preclude the issuance of a certificate of good conduct by the board of parole pursuant to the executive law to a person who previously has been sentenced to imprisonment for life.

**THE CORRECTIONAL ASSOCIATION'S
FINANCIAL STATEMENT**

THE CORRECTIONAL ASSOCIATION OF NEW YORK GENERAL FUND
STATEMENT OF INCOME AND EXPENSES
YEAR ENDED DECEMBER 31, 1970

INCOME

Donations — Special Purposes		
The Greater New York Fund	\$ 2,574	
Shaw Foundation	7,000	
Other Funds	5,032	
Total	<u>14,606</u>	
Donations — unrestricted	<u>25,271</u>	\$ 39,877
Endowment Income		
Dividends	19,949	
Interest	<u>36,116</u>	
	56,065	
Income Earned on Legacies	<u>2,309</u>	58,374
Sale of Publications		832
TOTAL INCOME		<u>\$ 99,083</u>

EXPENSES

General Administration	39,879	
Direct Services		
Financial Aid — Prisoners and Families (Cash, food, clothing, etc.) ..	\$24,871	
Family Service Bureau — Administration	9,481	
Employment Bureau — Administration	<u>10,242</u>	44,594
Publications	6,031	
Travel expenses	6,662	
Equipment, supplies, printing and stationery	2,393	
Postage	880	
Telephone and telegraph	1,703	
Professional and legislative services	1,344	
Investment custodian fees	5,467	
Membership, periodicals and miscellaneous ..	4,221	
House maintenance	9,292	
Pensions	10,924	
Employees' retirement plan	2,770	
U.S. Old Age Benefits tax	2,563	
Disability and workmen's Compensation	573	
TOTAL EXPENSES		139,296
EXCESS OF EXPENSES OVER INCOME		<u>\$ 40,213</u>

AUDITOR'S OPINION

We have audited the books, accounts, minutes and other records of The Correctional Association of New York for the year ended December 31, 1970. 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
MAY 3, 1971

PUSTOMINO, PUGLISI, BEHAN & CO.
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.

* 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.

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 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 bylaws, 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 situated, 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 second Thursday of each month, and special meetings shall be held on the request 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 such meeting. The annual meeting of members of the association shall be held on the second Thursday of January in each year at an hour and place to be designated by the executive committee.

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 a quorum shall consist of five members plus one additional member for every ten members, or fraction thereof, in excess of fifteen.

At the annual meeting and at every other meeting of the association a quorum shall consist of the lesser of the members entitled to cast 100 votes or one-tenth of the total number votes entitled to be cast at the meeting.

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:

* As amended by the Executive Committee of the Association, December, 1931, February, 1938, May, 1954, May, 1961, February, 1971 and March, 1971.

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

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

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.

X. The committee on finance shall be charged with the duty of raising and caring for the funds.

The funds of the association shall be divided into two parts to be known as

1. The endowment fund.
2. The general fund.

The Endowment Fund.—The endowment fund shall consist of such contributions as shall be given with the restriction that the income only shall be used for the purpose of the association, and all legacies.

The Endowment and General Funds. The endowment and general funds shall be under the immediate direction and control of the committee on finance, and all investments of the endowment fund shall be ordered by the committee, of which the treasurer shall be a member and chairman.

The securities belonging to the association shall be kept in a custodian department of an institution selected by the members of the committee on finance.

The executive committee may in their discretion draw upon such portions of the endowment fund as are unrestricted, for the general purposes of the Association.

The General Fund.—The term "general fund" shall cover all receipts of the association not constituting a special fund or specified for the endowment fund, the intention being that all the income,

except legacies, including donations for general purposes, and income from endowment fund, shall be credited to the general fund to which the authorized disbursements of each activity of the association shall be charged at the close of the fiscal year.

The treasurer shall notify the corresponding secretary immediately on receipt by him of any sum for the account of the association that such receipt may be entered at once to the credit of the proper account on the books of the association.

The corresponding secretary shall be the general disbursing agent of the association, the object of the provision being to keep in the central offices of the association, all receipts for payments by him for the association of any kind, nature or description and to have in the central offices immediate record of all his disbursements.

All donations received by the corresponding secretary shall be entered by him upon the proper books of the association and then deposited in such bank as directed by the treasurer to the credit of the association. Whenever the executive committee shall make an appropriation out of the general fund the corresponding secretary shall send to the treasurer a copy of the resolution making the appropriation, certified by the recording secretary, which certified copy shall be the treasurer's authority for transferring the appropriated amount of the corresponding secretary.

The treasurer shall keep an account covering the general fund in the name of the association. All bank accounts of the Association, except the bank account of the corresponding secretary for current disbursements, shall be subject to the check of such members of the Committee on Finance as shall be designated by the executive Committee.

The corresponding secretary shall keep a bank account in the name of the association, subject to his check as corresponding secretary for current disbursements, and shall deposit to the credit of said bank account all moneys he may receive from the treasurer drawn from the general fund.

The committee on finance shall arrange for annual audits of the accounts of the treasurer and of the corresponding secretary.

At each regular meeting of the executive committee the treasurer shall make a detailed statement of the receipts and disbursements for the preceding calendar month. He shall make a statement showing the investments and the receipts and disbursements of the endowment fund; he shall make, at the annual meeting of the association, a detailed statement of receipts and disbursements for the fiscal year.

XI. It shall be the duty of the committee on law to examine and report from time to time upon the penal legislation of the State, with their suggestions for the amendment thereto, to consider questions relating thereto which are under discussion in the press or the legisla-