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# The STATE EMPLOYEE



"The people of our State have cause to be proud of their employees. I have visited many offices and institutions throughout the State and everywhere have been impressed by the first-rate job they are doing. Time and again I have seen them turning out their work under the most trying conditions. One of the first lessons I learned in Albany was that Administrations have too easily taken for granted the work and the loyalty of their employees."

February  
1946

Volume 15  
No. 2

10  
Cents

# Why Belong?

## THE ASSOCIATION OF STATE CIVIL SERVICE EMPLOYEES OF THE STATE OF NEW YORK, INC.

BECAUSE

The  
Association

- Initiates progressive employment policies
- Promotes attention to employee welfare on the part of executive, legislative and administrative departments of government
- Defends employees' rights under Civil Service Laws
- Gives advice and assistance to State Employees through its officers and committees, and its paid staff of experts including legal counsel — throughout the entire year
- Supplies you directly and currently with every bit of factual information regarding your work and all employment matters
- Provides group life insurance and accident and illness insurance at reasonable rates and with convenient payroll deduction
- Assists in supplying credit union service with loans at moderate rates
- Aids in improving State service by cheerful cooperation with State officials and with all citizens
- Welcomes your participation in making the Association stronger and more effective in every way as the representative of State service and of State Employees

### THE ASSOCIATION OF STATE CIVIL SERVICE EMPLOYEES OF THE STATE OF NEW YORK, INC.

Organized in 1910 — Present membership 28,000 (the largest all-State employee organization in the United States) — located at seat of State Government — Dues \$3.00 per year — Less than a cent a day.

# THE STATE EMPLOYEE

Official Publication of  
The Association of State Civil Service Employees of the State of New York, Inc.

VOL. 15, Number 2

February, 1946

10c a Copy

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## This Month's Cover

"I RECOMMEND —"

The Legislature of the State of New York convenes every year, under the State Constitution, on the first Wednesday after the first Monday in January. At noon on that day, the Senate and Assembly meet in joint session to hear the Chief Executive present his annual message outlining his first recommendations for action by the Legislature.

This year, Governor Thomas E. Dewey presented a message of unusual interest to State employees, as evidenced by the quotation on our cover. The picture was snapped by our Staff Photographer.

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# GOV. DEWEY RECOMMENDS:



1. Salary increases for State employees of 14% to 30% on a temporary basis, which should become permanent.
2. Tax reductions of \$120,000,000, including 50% reduction in State income tax.
3. Expenditure from the State's \$485,000,000 surplus:
  - (a) \$95,000,000 to eliminate obsolete and firetrap public buildings and overcrowding in State Hospitals.
  - (b) \$255,000,000 for highways, parkways, grade crossings and canals.
  - (c) \$50,000,000 for conservation projects, for equipment purchases, flood control and other purposes.
  - (d) \$85,000,000 for other special purposes, including emergency for housing.
4. Stabilization of revenue the State collects and shares with localities at a higher level than in peacetime.
5. Repeal of war emergency laws, but continuation of New York City commercial rent laws and authorization of residential rent control.
6. Study of central school situation, additional help for classes for delinquent children, increase of number and value of Regents scholarships, examination of need for a State University, including professional schools, continuation of child care centers.
7. Continuation of pioneering work of State Youth Commission.
8. Continuation of exemption from State income tax of veterans' pay, veterans' bonus, creation of bi-partisan committee of Senate and Assembly to consider veterans' affairs.

# HIGHLIGHTS OF ANNUAL MESSAGE TO LEGISLATURE

As presented by Governor Thomas E. Dewey himself in a radio address over a statewide network of the American Broadcasting Company from the Executive Mansion, Albany, Wednesday evening, January 9, 1946.

Today the Legislature of the State of New York met for the opening of the 1946 session. As custom and the Constitution require, I delivered to the Senate and Assembly in joint meeting, a message on "the condition of the State," giving my recommendations for legislation to be enacted this year. Tonight I am happy to report to the people of the State.

For the first time during this State Administration your Legislature was able to meet without the overhanging clouds and horrors of war. We should thank Almighty God that the program before us at this session will be a program dedicated not to war but to peace. It is a program to speed reconversion and jobs, for the restoration and improvement of our State's services and the development of New York as a happier and better place in which to live.

I reported to the Legislature today that our surplus for the current fiscal year would amount to approximately 165 million dollars, giving us total war-time savings of 485 million dollars. I also reported that the State debt has been reduced during these past three years by more than a hundred million dollars. The financial condition of your State is sound.

For three years I have steadily opposed efforts to reduce taxes during the war. Such reductions would have served only to increase the dangers of inflation and would have deprived the State of the necessary funds to meet the long deferred services the people need. Now, with both the war and large government war-spending at an end, it is equally important to provide an impetus to the creation of new business and job opportunities and to attract new industries to our State. It takes savings and venture to make jobs. These we must now vigorously encourage.

Accordingly, I was happy to be able to recommend to the Legislature today, tax reductions of \$120 million. Eighty-eight million dollars of this cut will be for a 50% reduction in the State income tax. This means, if the Legislature approves, that when you make out your State income tax return next April, you figure the tax and divide it by two. Twenty-four million dollars of the tax cut is for repeal of the emergency 1½% business franchise tax and \$7 million for reduction of the unincorporated business tax — which is mostly on small business — from 4 to 3%.

At the same time that I recommended these tax cuts, I advised the Legislature that I shall submit a balanced budget for the next fiscal year.

Both our State government and our business community are in good shape financially, and have the technical skill and confidence to face the future boldly. Unless industrial strife and national policies make it impossible, the prospects for 1946 in the State of New York are bright for jobs at good wages for all who want to work in a prosperous and free economy.

Our surplus has not been easily acquired. The very individuals who tried to stage political raids on it during the war would now tell us how to spend it. You are entitled to know how I proposed to the Legislature that it be spent on essential services.

The first of these services deals with our state buildings. At the New York School for the Blind at Batavia, 175 blind boys and girls are being taught how to achieve a normal happy life and to earn a living. The main classroom building is 75 years old. It is largely of wood construction and much of the electric wiring is 40 years old. I have seen these blind children at their classes in that dangerous fire trap. It is utterly intolerable.

At Letchworth Village, our School for Mental Defectives, the capacity is 3177 but the population is 4063. Three hundred children are sleeping on mattresses laid end to end on the floors of day rooms. In one building designed for 96 patients there are more than 150.

In institution after institution the same conditions exist. Overcrowding is chronic and ranges up to 20 and even 30%. Tuberculosis patients in unfinished buildings; mental patients in buildings over a hundred years old; insufficient sanitary facilities; patients sleeping on mattresses on the floor; blind students in fire traps — this is the way the proud State of New York is forced to take care of those who are the first charges on its conscience — the more than 100,000 helpless human beings in our institutions.

These were the conditions I found when I became Governor and we have had neither manpower nor materials to cure them. Now that the war is over, I have today recommended to the Legislature that we spend \$95 million of the surplus to cure these conditions which are a disgrace to the State.

The same needs exist in our highways. They are the arteries of our economic and social life, as essential to our society as the arteries are to the human body. They carry the food and manufactured goods of our State. Without highways our State would degenerate into a collection of isolated dying communities. Moreover, our highways provide the necessary relaxation and travel to our thirteen million people both for week-ends and vacations.

During fifteen years of depression and war there has been no effort to make our highways adequate for mod-

ern traffic requirements. Take Route 20, for example. It crosses the United States from Boston to the Far West. It is a main route through the State of New York. In some portions it is a fairly modern highway of four lanes. Other sections have three lanes and some only two lanes of poorly surfaced roads. They are bottlenecks and road blocks right on a major means of transportation across the State. Similar conditions exist on many of our other highways and our farm-to-market roads are in worse shape.

Right now in this State there are 5912 grade crossings of which 846 are so dangerous as to require immediate removal. In our canal system we find obsolete bridges, lock walls crumbling and docks which have collapsed.

The State needs a Thruway from New York City to Buffalo and beyond, as a main traffic artery. I have proposed that we build it and make it toll free.

For highways, parkways, grade crossings and canals I recommend today that we expend from our surplus the sum of \$255 million.

A million and a half young men and women, home from the war, are going to need outdoor recreation as never before. Yet the State conservation facilities have never been adequate. These facilities should be worthy of the beauty and resources of the most beautiful state in the Union. We should build, immediately, additional fish hatcheries, such as the new Muskalonge Hatchery at Chautauqua Lake; we should develop the 350 miles of trout streams already acquired; a new game farm for Western New York; the proposed wild life conservation project in Bronx Park, and more camp sites in our forest preserves. We should develop the usefulness of our State parks for the millions of our people who visit them and need them for healthful recreation the year 'round. We must proceed immediately with our program of reforestation and of insect control, disease and fire protection.

I have today recommended that we spend for conservation projects, for equipment purchases, for flood control and other purposes, \$50 million.

All these items add up to \$400 million. The balance of \$85 million in the surplus is to be used for a

number of special purposes including temporary emergency housing for veterans.

For the past 15 years of depression and then war, there has been little building of new homes. At the same time, old houses have been deteriorating and abandoned and others have been destroyed by fire and other causes. Meanwhile our population is steadily growing.

Even while the war was on our state government pressed forward steadily in planning for new housing. When the war ended, 17 low rent state projects to cost more than \$120 million were under loan contract with local housing authorities. Three years ago I signed legislation planning widely for large development programs in our cities and for modernizing outmoded houses.

Unfortunately all this housing must wait for manpower and materials, neither of which are now available. Accordingly, and at the earliest possible moment, I took action to get possession of all available structures for conversion into temporary housing for veterans and their families. The war-time savings of the State will be used to take advantage of every opportunity to convert existing facilities. Because the housing problem is so important and far flung, I shall send a special message to the Legislature shortly, on the whole field of housing.

We have also planned broadly during the war to stabilize the financial condition of our cities and other units of government. Under the leadership of Comptroller Moore, a plan will shortly be proposed by which revenue the state collects and shares with the localities will be stabilized at a level higher than ever before in peace-time and will be distributed for the first time on the basis of population. On the expenditure side, the State will double its contribution to home relief costs, increasing the State's share of relief expense from 40 to 80%.

During all the war years our State had the smallest proportion of man hours lost from strikes of any industrial state in the Union. This is a tribute to the friendly attitude your State government has maintained toward both labor and industry and to the steady strengthening of our machinery for industrial peace. It is also a tribute to the maturity and patriotism of our labor leaders, a rec-

ord which I earnestly hope a few hot heads on both sides will not now spoil. Meanwhile, the State has pioneered in establishing a great, new School of Industrial and Labor Relations. If we are ever to develop sober, responsible management of labor relations, both labor and management must know more about each other's problems. New and better trained leadership is necessary on both sides. So, for the past two years, we have been planning and building a school for just that purpose. It was my pleasure to launch that school at Cornell University last fall, dedicated to producing a new generation of informed and responsible leaders in industrial and labor relations.

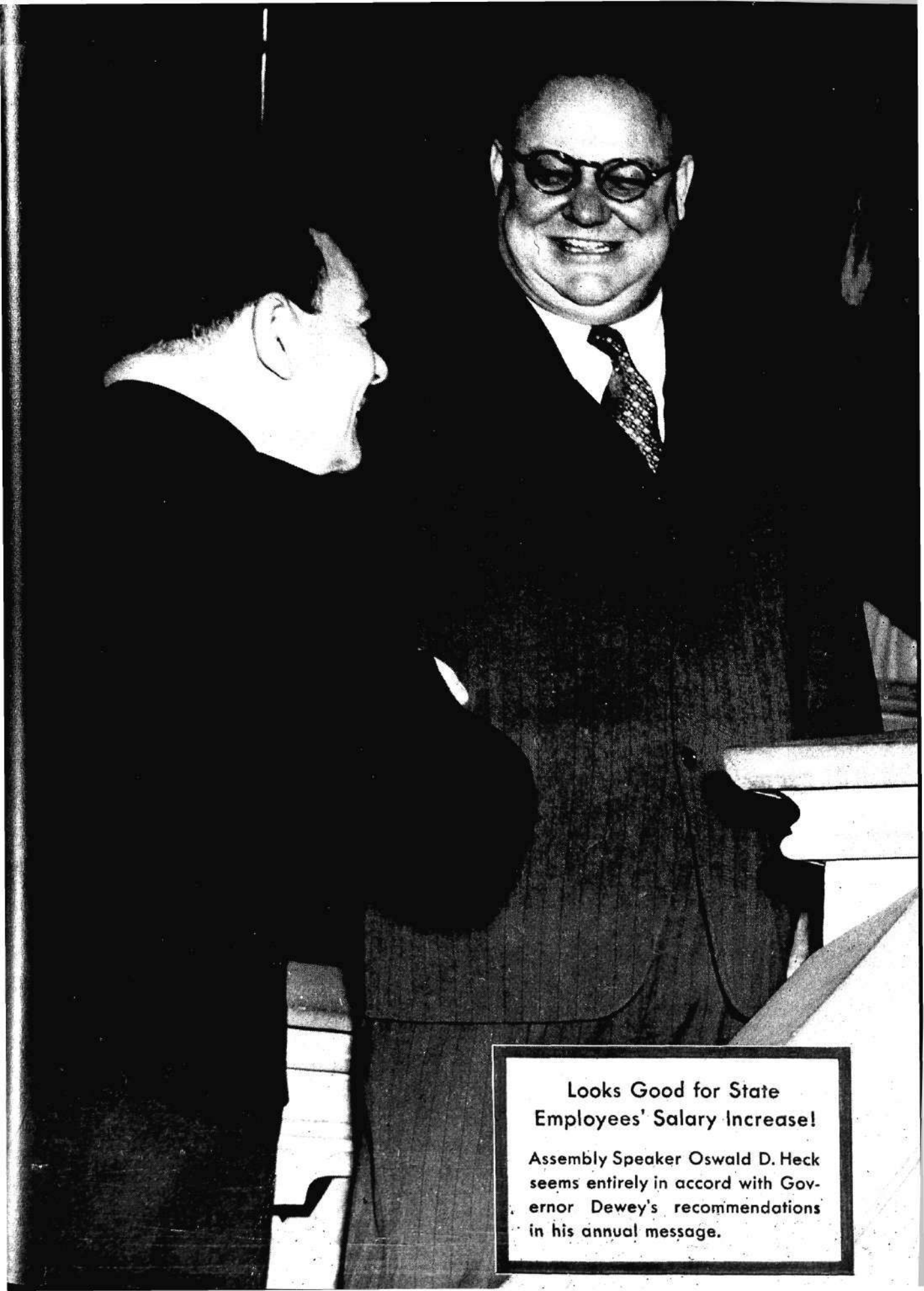
The hardworking members of the State Board of Mediation have rendered conspicuous service in averting industrial strife. I have recommended that the Legislature increase the number of permanent members from five to seven so the State will have expert mediators available at all times.

The end of the war finds us far ahead in the battle against discrimination. By one act we declared it the policy of New York that there must be equal pay for equal work regardless of sex. By another it was declared unlawful to discriminate in employment by reason of race, creed or national origin. Both laws were bitterly opposed by those who misunderstood them. They thought we were endeavoring to legislate personal habits, social lives, and other things not covered at all. Today, both laws are working well, and discrimination and intolerance in our State have been dealt body blows.

Many war emergency laws were passed in the State which I today recommend be repealed. But the temporary laws controlling the rent of commercial properties in the City of New York must be continued. They have operated efficiently and with fairness to both landlords and tenants and the need for rent control of commercial property is greater than ever.

If federal control of residential rents should come to an end, the State of New York must be ready to pick up the task. I have recommended to the Legislature that they enact a law at this session which will permit the State of New York to keep rent ceilings on if federal rent

(Continued on page 63)



**Looks Good for State  
Employees' Salary Increase!**

Assembly Speaker Oswald D. Heck  
seems entirely in accord with Gov-  
ernor Dewey's recommendations  
in his annual message.

# President Tolman on Annual Message

The News of January was, of course, the Governor's salary policy as contained in his annual message on the state of the State of New York.

The Governor recommends an increase of the present emergency bonus by 10% in the lower salaries down to 4% increase on salaries over \$4000.

The proposed emergency bonus of 4 to 10% will increase the take-home pay of prewar years as follows:

- Salaries to \$1500 yearly by 30%.
- Salaries \$1500-\$2000 yearly by 26%.
- Salaries \$2000-\$3000 yearly by 22%.
- Salaries \$3000-\$4000 yearly by 18%.
- Salaries \$4000 yearly by 14%,  
but not more than \$1000 increase in any salary.

These temporary adjustments are proposed for the fiscal year 1946-7 only. They become effective April 1, 1946. It is understood that "in view of the changes that have occurred in national economic conditions, it is necessary that our basic salary scales, originally fixed in 1937, be completely reviewed for permanent changes. For this purpose, I will recommend in my budget message a substantially increased appropriation for the Salary Board. The Legislature should plan to provide for these permanent salary changes in our basic pay scale at its next (1947) session.

As I view it, the proposed emergency bonus is not to be construed as anything more than a stop-gap. As such, I think it will serve in some measure the purpose of relieving hardships and suffering which thousands of state employees would otherwise face from skyrocketing prices. It will, as far as one can now foresee, help tide us over until the big job of establishing fair permanent basic salaries can be completed. For this the state employee is much indebted to the Governor.

I wish every state employee could have been present at all the conferences with the Governor and his close advisors at which the above agreement was reached. You would

have been impressed with the full and frank discussions with the Governor, the President of the Civil Service Commission, the Director of the Budget, the Governor's counsel and advisors. You would have profited from the wide informative and humanitarian point of view from which the difficult subject of wages was canvassed both from the standpoint of the administrators, the employee and the taxpayer. It was understood at the conference that the Association would draft and press for passage other salary bills which did not conflict in principle with the Governor's wage proposals.

Under this agreement, the Association plans to introduce a cost-of-living adjustment bill, a time service increment bill for extra increments after 5, 10, 15, 20 and 25 years service at the maximum salary, a time and a half for overtime bill, an equal pay for equal work bill, and bills for adequate pay for registered nurses, matrons and attendants at hospitals for the insane, etc.

The big advantage that comes from the agreement is that the Association now has the opportunity to do a thorough job in the scientific determination of a basic salary plan. This means a revision of the Feld-Hamilton schedules. Those schedules were originally written by the Association. The major amendments to the original schedules were written by the Association. Because of its intimate knowledge and through the continued work of its expert Salary Committee, the new proposed Feld-Hamilton schedules should be largely the work of the Association.

There are other matters in the message that are of interest to state employees, such as taxes, reorganization of state departments—Public Works, Veterans' Affairs, Education, Housing.

I would like briefly to refer to some of these proposals here.

The Governor first notes that 1946-7 will be the first full year of the peace. War restrictions should be

relaxed promptly except in such fields as housing and veterans' affairs, where controls are still needed. We should begin rebuilding a normal economy. We should as a State reconvert promptly.

## STATE FINANCES

"Our State is now in the strongest financial condition it has ever known." The Public Works Reconstruction fund including the current year surplus of 165 million dollars will aggregate about 485 million dollars. The public debt of the State has been reduced about 100 million dollars and by April 1, 1946 will amount to 388 million dollars. The State is not in the "red."

## TAXES

"The fiscal program for 1946-7 is not wholly completed, but—I can recommend substantial tax reduction." Tax decreases will aggregate 120 million dollars. The personal income tax will be reduced by one-half.

## POST WAR CONSTRUCTION

The State Highway System must be largely reconstructed and brought up-to-date. This includes feeder and market roads as well as thru-ways. A great new thru-way from New York to Buffalo will soon be begun and 846 grade crossings should be eliminated.

Obsolete and fire trap public buildings must be eliminated or reconstructed. Overcrowding in State hospitals is chronic. "We cannot, we must not permit these conditions to continue."

## CONSERVATION

Additional fish hatcheries to provide more fish, the development of some 350 miles of trout streams, a new game farm for Western New York, a wild life conservation project in Bronx Park, camp sites in the forest preserve, reforestation, the devel-

(Continued on page 65)



# Parallel Columns

The Association of State Civil Service Employees issued this news release for Monday afternoon, January 7, 1946:

Commenting on Governor Thomas E. Dewey's statement indicating a total emergency graduated salary increase of 14 to 30 percent for State employees for the fiscal year beginning April 1, 1946, Dr. Frank L. Tolman, President of the Association of State Civil Service Employees, said:

"I feel that the adjustment arrived at in conference with the Governor and his staff will assist substantially in relieving the distress in which many thousands of State employees find themselves because of sky-rocketing prices.

"It is understood that the present arrangements are emergency measures and that further measures will be required to arrive at a permanent salary policy for the future."

Dr. Tolman also said:

"The Association is gratified that Governor Dewey has accepted our proposal that the additional compensation should be credited for retirement purposes and that emergency increases for the past three years be credited for retirement purposes at the employee's option.

"I wish it might have been possible for every State employee to sit in at the full and frank discussions with the Governor, President of the Civil Service Commission, the Director of the Budget, the Governor's counsel and advisors. They would have been impressed with the fairness and frankness with which the difficult subject of salaries was canvassed from every angle."

The State, County and Municipal Workers of America, C.I.O. (New York District), issued a news release (without date) which began:

The State, County and Municipal Workers of America, C.I.O., today issued a bitter attack against Governor Dewey's proposed 4% to 10% wage increase, claiming it was unsatisfactory to State employees and charging that it was even less than the 10% adjustment offered by General Motors Corporation to the United Automobile Workers. The C.I.O. civil service union called upon the Governor to raise all state wages by a permanent \$700 adjustment.

In a statement issued by James V. King, New York District President of the SCMWA-CIO, it was charged that Dewey's plan was "designed to bolster the campaign of big corporations in the country, to lower real wages and to smash the living standards of the American people" and offered the opinion that political considerations were the Governor's main concern in making concessions to what he termed "low wage prophets."

King claimed that State employees have not received the average 15% Little Steel increases during the war period and that Dewey's proposals fell far short of their needs.

The statement maintained that State workers were bitter in comparing Dewey's wage offer with the 119 million dollar tax cut he recently announced for business and the Union leader reminded the Governor that the State's 500 million dollar surplus made possible what he termed a fairer wage policy.

## WHAT DO YOU THINK?

### Remember We Have A Letter Box!

# GOLDSTEIN RULES ON

*In the longest opinion ever issued by Attorney-General Nathaniel L. Goldstein, he gave interpretation to the Department of Civil Service of a score of problems connected with the Constitutional Amendment granting civil service preference to war veterans, which became effective January 1, 1946. We present herewith a summary of these rulings.*

The amendment is self-executing and applies to all lists from which appointments and promotions are made after January 1, 1946, including those already in existence.

The preference extends to both disabled and non-disabled veterans of any war, being limited as to non-disabled veterans to the period ending December 31, 1950 for those discharged or released before January 1, 1946, and to a period of five years from any discharge or release thereafter.

The right to preference does not arise until honorable discharge or release under honorable circumstances, which does not occur until the expiration of any period of terminal leave.

A release from active duty in the case of reserve personnel determines the period of eligibility even though not discharged from inactive reserve status.

World War I commenced on April 6, 1917 and ended on November 11, 1918 for purposes of determining war service and applying veterans' preference under judicial decisions based on the circumstances of that war. World War II commenced on December 7, 1941 but in view of the formulation of the amendment before hostilities ceased, existing circumstances in which there has been no formal termination of the state of war and the lack of opportunity for legislative action, no definite conclusion as to termination is now possible.

The term "armed forces" is now broadly applied to all organized parts of our military forces and does not require that an individual or his unit must be one who or

which actually employs weapons against the enemy. (The amendment grants preference to an honorably discharged "member of the armed forces who served therein in time of war.")

Conscientious objectors who were actually inducted for non-combatant services were members of the armed forces but not those who were opposed to any military service and who were assigned to civilian camps without induction.

The reserves of the United States Army, Navy, Marine Corps and Coast Guard are permanent components of the armed forces, but an individual member must have been ordered to active duty in order to have performed service therein in time of war.

Temporary members of the Coast Guard reserve, whose duty was on a gratuitous part-time basis, are not to be considered veterans.

Members of the WAAC, before its re-organization as the Women's Army Corps, were in the armed forces.

A member of the former United States Naval Auxiliary reserve called to active duty served in the armed forces.

Members of the Army Specialist Corps were uniformed civilians and not members of the armed forces.

The Commissioned Corps of the United States Public Health Service did not become part of the armed forces until so ordered by the President, pursuant to statutory authority.

The women's reserves of the Navy, Marine Corps and Coast Guard were parts of the armed forces.

Service in the Merchant Marine or as a member of the United States Maritime Service was not in the armed forces.

# VETERANS' PREFERENCE

Department of Civil Service,  
State Office Building,  
Albany, New York.

Attention Joseph Schechter, Esq.

Dear Sirs:

In your letters of December 21 and January 8, you have presented for my opinion several questions concerning the application of the veterans' preference amendment of Article V, Section 6 of the State Constitution, adopted by the people at the last general election, which became effective January 1, 1946, pursuant to Article XIX, Section 1, of the Constitution. These questions have arisen in the course of canvassing lists to determine whether eligibles thereon desire to claim veterans' preference so that it may be granted in proper cases. Such canvass and the questions raised in your original inquiry assume that the amendment itself necessitates granting the preference without enabling legislation and that

*Herewith we present the entire text of Attorney-General Nathaniel L. Goldstein's important opinion on veterans' preference.*

it applies to existing open competitive and eligible lists. Your second letter, however, specifically asks whether the preference applies to such lists established prior to January 1, 1946, which continue in existence thereafter.

The amendment granting veterans' preference is phrased in mandatory and specific terms. It constitutes an express direction that veterans within its application be preferred in appointments and promotions from "any list" and is not a mere general statement of policy. The language directing the Legislature to enact laws for the enforcement of the section of the Constitution amended by the provision in question is not a new direction applicable only to the subject of the amendment but a con-

tinuation of a pre-existing provision. Despite this language, it has been held that the general command of the Constitution for appointments in the civil service so far as practicable on the basis of merit and fitness determined by competitive examination is so far self-executing that, even if all statutes and regulations on the subject of civil service were repealed, the courts would be required, "in a proper case, to pronounce appointments made without compliance with its requirements illegal" (**Peo. ex rel. McClelland v. Roberts**, 148 N. Y. 360, 366). In a comparatively recent case it was held that an appointment in a rural school district made without such examination was not lawful even though the Legislature had failed to provide for it in such districts (**Palmer v. Board of Education**, 276 N. Y. 222).

There is clearly less need for legislative direction as to veterans' preference than in the manner of determining merit and fitness for the Constitution itself prescribes the method by which preference shall be granted. Disabled and non-disabled veterans are to be appointed and promoted in that order before any other upon any list from which such appointments or promotions are made, without regard to their standing thereon. The result of a constitutional direction so explicit must not only be that appointments in violation thereof are void, as in the **Palmer** case, but that no legislative direction is necessary in order to bring into operation the requirement that appointments and promotions be made as so prescribed. This is not to say that the Legislature is deprived of its duty to enact legislation safeguarding the rights granted by the Constitution nor of its power to make regulations governing the administration thereof and defining their scope. Indeed, a contemporaneous interpretation by the Legislature would be entitled to great weight upon questions of the intent and application of the provision (**Matter of**

(Continued on page 48)



## GOLDSTEIN RULES ON VETERANS' PREFERENCE

(Continued from page 47)

**Kolb v. Holling**, 285 N. Y. 104). **Matter of Madden v. Reavy**, 284 N. Y. 418, held that the courts would not intervene to compel extension of civil service by administrative officers to civil divisions of the State in the absence of evidence of unreasonable delay in a task of such magnitude. It did not disturb or limit the prior holdings of the court that the constitutional requirement itself deprived appointments of legality if not made in accordance with its terms.

This conclusion leads to your question concerning application of the preference to existing lists and indicates the answer thereto. The provision, which, as I have concluded, became effective on January 1, 1946, by its own force, requires appointments and promotions without regard to a veteran's standing "on any list" from which such appointments and promotions may be made. Inasmuch as many appointments and promotions will necessarily be made after that date from lists theretofore established, the requirement must be applied to such lists if its effective date is to be observed. No basis in terms or apparent intention can be found in the amendment for applying the preference only to such appointments as are made from lists subsequently established. If a veteran's merit and fitness are established by the appearance of his name on "any" list he "shall" be appointed before any other appointment is made therefrom on and after January 1, 1946. Legislative and administrative machinery for establishing eligible lists has long been in existence. Such lists are presently available for a great many of the positions which are now to be filled. The reference to "any list" in the amendment indicates that it was framed and adopted "with reference to existing laws, which were intended to give to its immediate practical operation" (*Peo. ex rel. McClelland v. Roberts*, 148 N. Y. 360, 369). A final clear indication that the amendment was designed to have immediate application by its own force to existing lists is found in the five-year limitation on the preference to non-disabled veterans. Such preference is accorded until "December thirty-first, nineteen hundred fifty, but in no

event for a period less than five years next following the honorable discharge or release under honorable circumstances of a member of the armed forces of the United States who served therein in time of war." The prescribed date is five years from the effective date of the amendment and the limitation is so phrased as to give all veterans preference for at least a five-year period from such effective date. This includes those who were theretofore discharged in World War II as well as after service in any prior "time of war" such as World War I. Those discharged or released after January 1, 1945, will have five years from the date of discharge or release. The others are limited to the period ending December 31, 1950. If application of the preference must await either legislation or the establishment of new lists, the prescribed five-year period would be cut down by the time consumed in accomplishing those actions. That is a result obviously not intended and plainly not permitted by the constitutional mandate.

Your supplemental inquiry also asks whether the amendment applies to veterans of World War I. That it does so is clearly evident from the fact that the only applicable specification made in the amendment is that service in the armed forces of the United States must have been "in time of war." This new phrase is used with respect to the preference accorded both disabled and non-disabled veterans. The language of the section prior to the amendment accorded the preference only to veterans disabled in the actual performance of duty "in any war." The new phrase is no more restricted than the old one. It refers to any period when the nation was or shall be at war and thus includes the first World War. The original veterans' preference amendment adopted in 1929 plainly granted a preference to disabled veterans of the first World War. It is certain that the amendment had no purpose to do away with that preference in the rephrasing of the language of the section so as to extend the preferences granted thereby. On the contrary it was intended, as heretofore observed, to grant a new preference for a five-year period to non-disabled veterans of previous wars. The use of the same phrase, "in time of war," with respect to the preferences now granted to both disabled

and non disabled veterans requires that they be extended to veterans of the first World War.

With respect to the meaning of the phrase, "following the honorable discharge or release under honorable circumstances," you ask whether a member of the armed forces on terminal leave may be granted preference while on such leave. The phrase you quote is used in the portion of the amendment giving a similar preference to non-disabled veterans after disabled veterans have been first preferred. In the provision relating to disabled veterans the definition of those to whom that preference is applicable includes any member of the armed forces who served in time of war and "was honorably discharged or released under honorable circumstances from such service" and was disabled therein. The intention of both provisions seems to be clearly the same and requires the conclusion that honorable discharge or release is a necessary condition precedent to obtaining the preference. I have been able to find no Federal statutory provision authorizing "terminal leave" and am compelled to conclude, therefore, that it has no different result upon the status of members of the armed forces than an ordinary furlough or leave, which is a mere incident of active service and does not discharge military personnel from all further obligation or release them indefinitely from an active duty status. The practice is recognized in the Act of November 21, 1945 (Ch. 489—Public Law 226, 79th Cong.—1st Sess.) permitting members of the armed forces "on terminal leave pending separation from or release from active duty" to receive military pay even though employed by the Federal government. I understand that terminal leave is merely a method of giving to military personnel prior to final discharge or release allowable furlough or leave with pay that they had not theretofore been given. This is confirmed by the Act of Congress above cited and no authority for such leave and payment of military compensation appears to exist after separation or release from service. I understand that the discharge or release certificates of those granted terminal leave give the date of such discharge or release as of the expiration of the terminal leave. Full

(Continued on page 65)

# Doctor Brooks Retires

*As of December 31, 1945, Dr. Paul B. Brooks retired as Deputy Health Commissioner, after 30 years of State service. For the Department's "Staff Bulletin" he wrote a typical farewell message to his co-workers which he called "Au Revoir But Not Goodbye." Part of it is repeated here, for its characteristic philosophy.*

By the time this reaches you John Conway and I will be on the retired list, he after thirty-one years in the department, I after thirty. He was one of the first six sanitary supervisors to be appointed, I one of the second ten. Of that first group of six, Dr. Conway and Dr. Charles Prest, now of the Brooklyn Tuberculosis Association, are the only survivors.

It may interest some of the younger district officers to know that it was not all "velvet" even in those good old days. The first men were appointed at salaries of \$4,000 but, within a few months, they were reduced to \$3,000. By being appointed later I was saved the embarrassment of having my salary reduced.

Dr. Brooks was deputy under three State Health Commissioners, the late

Dr. Matthias Nicoll, Jr., Dr. Thomas Parran, and Dr. Edward S. Godfrey, Jr.

\* \* \*

Like the Elevator Man, we had our ups and downs. It wouldn't have been life if we hadn't. But I never regretted my plunge from private practice into public health. In a pleasant environment, as one of a congenial group, at compensation sufficient to meet family needs and permit a little saving, I have been doing work which I liked. Why shouldn't I have been satisfied? So I am retiring with mingled feelings of pleasure and regret.

Habits of years are not easily broken and, unless they get an official "bouncer," I probably will be hanging around the department offices more or less. So it's "Au revoir but not Goodbye." Or, as Lowell Thomas says: "So long until tomorrow."

He was made acting director of the Division of Communicable Diseases in 1917 and two years later was appointed to the position of assistant director of the Division of Laboratories and Research which he held until 1923 when he was named deputy commissioner by Dr. Matthias Nicoll, Jr., who was then commissioner. During the past twenty-two

years, Doctor Brooks has played a prominent part in the development of department activities. He is best known perhaps for his contributions in the field of milk sanitation and for his characterization of "Doctor Jones," a stellar role in "The Health Hunters" plays, since the inception of the series twelve years ago as the Department's weekly radio program. He is the author of the "Doctor Jones' Says—" column which has appeared in "Health News" since 1937 and which has been widely read and quoted. A few years ago this feature was cited in the "American Journal of Public Health" as an outstanding contribution in the field of public health education. He has also written hundreds of other articles published in "Health News" on a wide variety of subjects.

Doctor Brooks served as secretary-treasurer and later as president of the International Association of Milk Sanitarians and, for several years, has been one of the associate editors of the Association's "Journal of Milk Technology." Through his writings on the subject of milkborne communicable disease, he was one of the first to translate the facts concerning the epidemiology of these diseases into terms readily understandable by milk sanitarians and the lay public.

Dr. John A. Conway, dean of District Health Officers, retired from State service with Dr. Brooks (center).



Dr. James E. Perkins succeeds Dr. Brooks as Deputy State Health Commissioner.



# ASSOCIATION RESUMES ANNUAL DINNER, SHOW AND DANCE

## Governor Dewey To Be Guest of Honor February 28th

The Twenty-Seventh Annual Dinner of the Association will take place on Thursday evening, February 28, at 7:00 o'clock, in the Crystal Room of the DeWitt Clinton Hotel, Albany.

During the worry-filled years of war the Association, in keeping with the times, decided to abandon its Annual Dinner, as such, with its accompaniment of fun and frolic. This year the fun will all be back again, including the dancing to the music of a good orchestra and, especially, the stunts which in the pre-war years had come to be such an outstanding part of these annual affairs.

Governor Thomas E. Dewey, as Guest of Honor, many legislative leaders, administrative state department heads, and other prominent public officials have signified their intention of attending.

For the same day as the dinner, President Tolman has called a special meeting and conference of Association officers, executive committee members, chapter delegates and special representatives of the Association throughout the State. An interesting and worthwhile program for the business meetings and conferences is being prepared.

The Social Committee, in charge of the arrangements for the dinner, appointed by President Tolman, consists of, Janet Macfarlane, Mental Hygiene Department, Chairman; Hazel A. Ford, Tax; Charles H. Foster, Executive; John Herring, Education; John Joyce, Audit and Control; Jesse McFarland, Social Welfare; Ann Quirk, Health; Elizabeth Schifferdecker, Public Works, and Thomas C. Stowell, Commerce.

The special show for the affair is being prepared by the Entertainment Committee headed by Joseph Horan, Commerce Department, assisted by Paul McCann, and Norman Gallman, Tax.

Reservations for the dinner will be limited, and must be rationed to the various departments on the basis of paid membership in the Association. See your department representative immediately about tickets if you expect to attend. Present indications seem to be that only the earliest applications can be filled.

Delegates to the business meeting should make hotel reservations immediately. The hotel situation in Albany, especially with the Legislature in session, is nothing short of desperate, according to reports and warnings from the hotelmen. Therefore, if you are a delegate to the meeting February 28, be sure to reserve your hotel accommodations at once.

(We make a radical departure from custom this month in filling our own Editorial Page with the reproduction of an editorial from The Knickerbocker News, Albany, January 9, 1946)

10-A

The Knicker

## Increases for State Employees Show Their Organization Alert And Administration Responsive

Preliminary to his message to the Legislature today, the Governor continues to spring a sensation-a-day. Unless he has a bombshell or two in reserve, the message could be post-climax, after the announcements on shared taxes and the proposed increases in pay for state employees.

Albany welcomes as the best of the news the announcement the Governor is asking the Legislature to advance the pay of the 47,000 state employees, of whom about 8,000 live in our community. The proposed increase runs from 10 per cent for those under \$1,500 a year to 4 per cent for those over \$4,000. It is added to the increases of 30 per cent already given under the Dewey administration to those in the lower brackets, making the total range from 30 per cent to 14 per cent.

The remuneration of public employes has always been an issue of immediate concern to your newspaper in this community where the official pay is vital in the arteries of prosperity. The public employe lacks the bargaining instruments of groups such as some of the trade unions, but the Association of State Civil Service Employes has been alert and active for the welfare of the membership, which is largely inclusive.

Doctor Tolman, head of the association, says quite accurately, "The adjustment arrived at in conference with the Governor and his staff will assist substantially in relieving the distress in

which many thousands of state employes find themselves because of skyrocketing prices." This is correct. It is moreover a healthy sign when the employes are well represented and their organization finds the state administration responsive to the realities of the economic situation. There is every hope it is a relationship that will continue to be effective.

To those who may impute politics to the Governor in this election year, after their comments are considered the fact will remain that the administration took its first action to raise state pay in 1943 after the preceding Governor had asserted the impossibility of granting advances through three years of an expanding war economy. All of which does not measure the adequacy of current compensation of our public servants, but it does convey a suggestion based on comparisons.

The impact of the Governor's proposals, because of the concentration of employes in the capital, benefits Albany possibly more than any other city except the metropolis. Our business community will welcome the added buying power. The municipality also is due to benefit about a half million a year through the altered system of shared taxes and the new welfare arrangement. It is possibly a political anomaly that this is a Democratic city and the majority of the state employes are of that party. The benefits may be accidental or incidental but they are none the less real and a very helpful influence in this first of the postwar years.

They would be bene-

# Civil Service Notes

by Theodore Becker

Department of Civil Service

## Action Must Be Timely

The old saw about a stitch in time was well illustrated in the case of **Kenny v. Maltbie**. Actions against appointing officers to obtain reversals of their determinations, if taken in the courts, must be commenced within the period of time specified in the applicable law. In the event of removal or demotion the period is four months. In the **Kenny** case, the employee, after his demotion had been effectuated, commenced negotiations to obtain restoration to his old job. These efforts resulted in failure after about two months. When he brought suit more than three months later, the court refused to consider the merits of the case, holding that more than four months had elapsed since the date when the right to sue first arose. The court decided that the attempt to obtain reconsideration could not extend the time within which to sue because "if that were permissible the statute (limiting the time to begin a court action) could be extended indefinitely by repeated applications for reconsideration and there would be a final and binding determination."

The limitation of time within which action must be taken applies to other matters besides court action. For example, there are time limitations on reinstatement after military duty; on requests for comparable promotion examinations missed while performing military duty; on appeals from examination ratings, classifications and service record ratings; and on appeal to the Civil Service Commission from disciplinary action.

## Court Will Not Rate Experience

In the case of **Bloch v. Conway**, that a candidate received in the subject of Training and Experience on an open competitive examination. In denying the petition for a higher mark, the Court indicated that even if it believed the reasons given in support of the rating were not persuasive and even if it thought the rat-

"No legislature, however infinite in its wisdom, can foresee all contingencies or adequately prejudice the conflicting interests of prospective litigants. The Legislature supplies the outline of the law in its statutes; the Judiciary supplies the details. The Civil Service Law, without the court cases construing its provisions in the light of actual real-life situations, would hardly present a full and well-rounded appearance.

"An awareness of judicial determinations being a prerequisite to a full appreciation of the meaning of the Civil Service Law, court decisions construing its terms should be carefully followed. A brief compilation of some of the more interesting of the civil service cases decided in 1945 are, therefore, presented herein."

ing should be raised, still these matters would not furnish sufficient grounds for revising such rating.

"Judicial interference," said the court, "is proper only if it may be found that the rating is so arbitrary that no reasonable person would say, upon the facts presented, petitioner should be given 87% or 84% for previous experience. A court cannot make civil service ratings. It can only correct grossly erroneous determinations in this field."

## Recency of Charges Immaterial

In a case involving removal from a State position on the basis of events that took place seven years earlier, the Court of Appeals sustained the disciplinary action. The result is that lapse of time does not eradicate acts of misconduct which can apparently be brought up years later to sustain removal proceedings. The title of the case is **Lanzer v. Moran**.

## Reinstatement After Resignation

In the case of **Baumet v. Lyons**, a State employee who had resigned from his position was denied the right to demand reinstatement to his old position within one year. The court held that State Rule XVI permits an appointing officer to reinstate an employee within a year after resign-

ation but does not require such reinstatement. Such reinstatement is discretionary unlike reinstatement after a leave of absence, which is mandatory.

## Supervision of Examinations By Courts

That courts will not burden themselves with the function of supervising the preparation of civil service examinations was reiterated in the case of **Furman v. Marsh**. In that case unsuccessful candidates for promotion contended that a certain question propounded by the New York City Civil Service Commission was not fair. The court disagreed, stating:

"Such a question appears to be relevant to the duties of the position for which the examination is held. In any event it may not be held to be palpably irrelevant to such duties. That being so the matter was one for the discretion of the Civil Service Commission and courts will not substitute their views for an authorized discretion reasonably exercised."

## Notice of Removal Necessary

In the case of **Mullaney v. Stebins**, the court reinstated a veteran who had been removed from his position after being served with charges. The reason cited by the court was the failure of the notice of the alleged charges to contain any intimation that the removal of the employee was contemplated. Lack of adequate notice is a serious defect in an administrative proceeding. In the case of proposed removal notice to that effect is essential.

## Limitation on Veterans' Rights

Although a war veteran is entitled to a hearing upon charges and a court review of a dismissal based on such hearing, the Court of Appeals has held that where the punishment

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# What's Doing in the Association



## TOLMAN FAVORS DEPARTMENT CHAPTERS

President Frank L. Tolman believes that chapters of the Association are needed in all departments as in all institutions. Pointing out that the Association now has more than 60 local chapters throughout the State, he declares that "We couldn't get on without these local units of the Association — just as the State government could not operate without cities, villages, counties and towns." Here is how he sizes up the situation:

"Many of our members live too far from Albany to get much direct service from here. The local chapter is much closer and better able to understand the particular problems and to give prompt and efficient aid to the members of the local chapter.

"It is sometimes claimed that this is not true of department employees. I think this claim is not true. An employee in New York, Syracuse or Buffalo who is an active member of the local chapter is closer to headquarters than the average State employee in Albany. Few department employees, relatively speaking, visit or write headquarters and very few take the active part in the Association program that the distant chapter members take.

"The services of the proposed department chapters might well include, among other activities, the following:

1. Social affairs of all kinds, as

Christmas party, New Year's dance, etc. 2. Grievance. 3. Salary appeals — briefs and hearings. 4. Education and inservice trainings. 5. Care of sick. 6. Department rules and regulations. 7. Delegates to Association meetings. 8. Strengthen hands of Department Representatives.

"Headquarters has received a number of requests for State department chapters. Several departments are already actively organizing chapters. The State Laboratory people wish a separate chapter, so the question of special chapters for large groups of employees within a single department is involved. The field engineers in Public Works have several regional chapters. In my own thought, there is no reason why a chapter cannot be granted to any group of fifty or more members. But, I also realize that larger chapters for entire departments are often desirable."

## Association Counsel Gets New Aide

In order that he may be able to continue to handle efficiently the ever-mounting mass of legislative and legal work connected with his office, and to relieve him of some of the tremendous burden now imposed upon him, John T. DeGraff, Association Counsel, has been given a new assistant in John E. Holt-Harris of Albany.

Mr. Holt-Harris is 28 years old. He is a graduate of Albany High School, Cornell University and Cornell University Law School, getting a Bachelor of Arts degree from Cornell in 1937 and a Bachelor of Laws from the Law School in 1939.

He was admitted to the bar in New York State in 1939 and practiced law in New York City and Albany until June, 1942, when he entered the United States Navy.

In the Navy, Mr. Holt-Harris was in command of a Motor Torpedo Boat (PT) Squadron in the Aleutian campaign, Attu-Kiska, Central Pacific, 1942-1944. He was Instructor at Advanced Naval Intelligence School, Washington, D. C., 1944-1945, and Lecturer at Royal Naval Staff College, Greenwich, England, 1945.

Mr. Holt-Harris returned to the practice of law in December, 1945, associated with DeGraff and Foy in Albany. His duties with the Association will include general assistance to Mr. DeGraff in all matters affecting the Association and employees in the Legislature, in the courts, and before the various State departments.





# What's Doing in the Departments



## NEW APPOINTMENTS ANNOUNCED BY DEPARTMENT HEADS

Appointments and designations have been made recently in several State Departments. Included among them are the following:

**Health Department**—Dr. Hollis S. Ingraham of Ulster Park, as Director of the Division of Communicable Diseases.

Dr. Ingraham who succeeds Dr. James E. Perkins, recently appointed Deputy Health Commissioner, has been associated with the Health Department for 12 years with the exception of the past three and one-half years spent in the Navy.

He was graduated from Harvard College in 1930 with an A.B. degree, received his M.D. degree from the Harvard Medical School in 1933 and earned his Master of Public Health degree from the Harvard School of Public Health in 1935.

Dr. Ingraham first came to the State Health Department as Epidemiologist in Training in July, 1934. In 1935 he became Assistant Epidemiologist and a year later was appointed Epidemiologist. In the Fall of 1938 he was named District Health Officer and assigned to the Kingston District.

In June, 1942, Dr. Ingraham was commissioned a Lieutenant in the

Naval Reserve and was later promoted to Lieutenant Commander. He was attached to the Naval Medical School at Bethesda, Md., where he taught preventive medicine, and was engaged in research work on the prevention of respiratory infections in submarines, and at Naval training stations. In 1944 he was assigned to overseas duty and attached to the United States of America Typhus Commission at Cairo working on the control of typhus epidemics in Egypt, French Morocco and Saudi Arabia. His last assignment with the Navy was in research on relapsing fever, also conducted at Cairo. He returned to the States January 1 and entered on terminal leave January 4.

Miss Ruth Rives, former District Supervising Nurse at Glens Falls, as Assistant Director of the Division of Public Health Nursing.

Miss Rives has served continuously in the Glens Falls District since entering state public health nursing in June, 1940. She was graduated from the Philadelphia General Hospital in

1925 and holds a certificate in communicable diseases given for a course of study at Willard Parker Hospital in New York City, a Bachelor's Degree in Science and a Master's Degree in Art from Teachers College, Columbia University.

From 1925 to 1935 she served as Assistant Instructor in Nursing at Philadelphia General Hospital; Educational Supervisor, Willard Parker Hospital, New York City, following a course in communicable diseases at that hospital; Assistant Superintendent of Nurses, St. Luke's Hospital, Jacksonville, Florida, later being promoted to Superintendent of Nurses there.

Miss Rives began her public health nursing career in March, 1935, when she accepted a position with the Instructive Visiting Nurse Society, Washington, D. C., where she was employed first as staff nurse and later as supervisor until October, 1938, when she entered Teachers College, Columbia University, full time to work for her Master's Degree.

**Department of Taxation and Finance**—George P. Klein, Albany, as Director of the State Income Tax Bureau and Deputy Tax Commissioner, to succeed the late Roy H. Palmer.

Mr. Klein, a career man in the Tax Department, has been in State service for nearly 29 years—26 years in the Income Tax Bureau. He has been



Dr. Hollis S. Ingraham →



← Miss Ruth Rives

Assistant Director of the Bureau for the past three and a half years.

He is a native of Albany and was educated in schools there, being graduated from Albany High School and Albany Business College. A veteran of the first World War, he served 13 months in the air service, attached to the 86th Aviation Squadron.

Mr. Klein entered State service in July, 1917, as a clerk in the Comptroller's office. After returning from military service, he was transferred to the Tax Department as an auditor in May, 1920.

Since then, he has earned successive promotions in the Income Tax Bureau: to senior auditor in 1925; to head income tax audit clerk in 1932; to chief income tax audit clerk in 1934; to income tax administrative supervisor in 1936, and to assistant income tax director in 1942.

**Department of Public Works**—Major Bernard A. Lefevé of Wynantskill as Director of the newly formed Bureau of Research and Statistics.

Major Lefevé was born in Danemora. During the war he served as Assistant Post Engineer at Pine Camp during parts of 1942 and 1943. Between tours of duty at Pine Camp he was on special assignment at Hyde Park. From May 1943, until he was discharged from the Army on December 20, 1945, he was Post Engineer at the Suffolk County Army Air Field at Westhampton Beach, L. I., where he was in charge of procurement, construction and maintenance of the post's facilities.

Major Lefevé is a graduate of Danemora High School and Rensselaer Polytechnic Institute. He later was employed at RPI as instructor in Civil Engineering. For the next five years he was Assistant Engineer for the Division of Research and Tests for the Port of New York Authority. In that capacity he did considerable research on structural behavior of the George Washington Bridge, the Bayonne Bridge, Lincoln Tunnel and other related subjects.

For two summers he was employed at the Watertown District Office of the State Department of Public Works and was later assigned to the main office of the Department in Albany where he did bridge design work.

**Department of Labor**—Rev. Oscar C. Maxwell, Jr., Assistant pastor of New York City's Mount Olivet Church, appointed by Governor Thomas E. Dewey to membership in the State Unemployment Insurance Advisory Council, succeeding Eugene Knickle Jones, also of New York City, who resigned. The Rev. Maxwell was appointed for a full six-year term which will terminate May 24, 1951.

He is a native of Memphis, Tenn., and studied at the University of Minnesota; Northern Baptist Theological Seminary, Chicago; and Union Theological Seminary, New York. He is a member of the Baptist Ministers Conference of Greater New York.

**Joint Hospital Board**—Dr. John J. Bourke, Albany, as Director of the State-wide survey of hospital facilities now under way. Dr. Bourke, former Deputy Director of the State Legislative Health Preparedness Commission, is on terminal leave as Coast Guard commander after a year's service in the Pacific theatre.

His headquarters will be in the offices of the State Postwar Public Works Planning Commission, Governor Alfred E. Smith State Office Building, Albany. The Joint Hospital Board, which is acting for and

with the Planning Commission in making the survey, consists of: Chairman, Commissioner Robert T. Lansdale, Department of Social Welfare; vice chairman, Commissioner Frederick MacCurdy, Department of Mental Hygiene; Commissioner Edward S. Godfrey, Jr., Department of Health; Assemblyman Lee Mailler, advisor.

**Liquor Authority**—Alvin McKinley Sylvester, New York City, as Counsel.

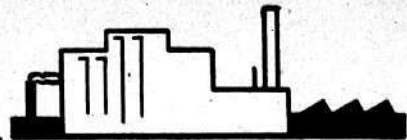
Mr. Sylvester, who is a member of the law firm of Parker, Chapin and Flattau, succeeds Elvin N. Edwards, who resigned to return to his private law practice. The new Counsel was born in New York City, and was graduated from Columbia College in 1923 and from Columbia Law School in 1925.

In August 1925, Mr. Sylvester was appointed Assistant United States Attorney, serving in that capacity until January 3, 1934 under United States Attorneys Thomas E. Dewey, now Governor, George Z. Medalie, at present a Judge of the Court of Appeals, Charles H. Tuttle and Emory Buckner. Mr. Sylvester handled many mail fraud, bankruptcy

(Continued on page 70)



# What's Doing in the Institutions



## Farm Managers Learn Ways To Better Crops

More than 100 men who manage farms at the State's institutions returned to their work after three days of meetings at Albany given over to discussion of improvements in farm practices. The gathering was sponsored by the Bureau of State Institution Farms of the State Department of Agriculture and Markets.

Most of the speakers were representatives of the State College of Agriculture. Their topics covered insect control, pasturing, poultry, dairy practices, swine and vegetables.

Welcoming the farm superintendents to Albany, Commissioner C. Chester Du Mond of the Department of Agriculture and Markets called upon them to realize the importance of the food they produce. He directed attention to the research work of the State College of Agriculture and urged the farm managers to apply those findings in methods of more economical production.

"The main objective of the Bureau of State Institution Farms," Commissioner Du Mond said, "is to be of help to you. From my experience in 35 years of farming, I know there are times anyone needs all the help he can get."

Likewise participating in the meetings were Commissioner John A. Lyons of the Department of Correction, Commissioner Robert T. Lansdale of the Department of Social Welfare, and Dr. Frederick MacCurdy of the Department of Mental Hygiene.

Commissioner Du Mond introduced 14 of the visiting superintendents at a dinner and complimented them on high production records attained by farms under their management. They were Leslie S. Ware, superintendent of the Letchworth Village farm at Thiells, for producing 98,143 pounds of pork, 13,790 pounds of

milk per cow and obtaining an average of 218 eggs per hen this year; William S. Massie of the New York State Vocational Institution, Coxsackie, for producing 90,269 pounds of pork and 13,088 pounds of milk per cow; E. A. Onsrud, Kings Park State Hospital, 95,379 pounds of pork and 13,055 pounds of milk per cow.

Also, Glen F. Peterson of Pilgrim State Hospital, Brentwood, 145,159 pounds of pork; Howard C. Van Scoy of the Rome State School, 128,414 pounds of pork; Leonard I. Collier of the Woodbourne Institution for Defective Delinquents, 256 bushels of potatoes per acre; John Kennedy, Institution for Male Defective Delinquents, Napanoch, 235 bushels of potatoes per acre; Lee Fess, Gowanda State Hospital, 221 bushels of potatoes per acre; Frank E. Strong, Binghamton State Hospital, with an average of 209 bushels of potatoes from each acre.

Also William F. Quinn, Valatie Farm Colony, 14,694 pounds of milk per cow; Elbert Johnson, Harlem Valley State Hospital, Wingdale, 13,337 pounds of milk per cow; Walter Jenner, Syracuse State School, 228 eggs per hen; Gilbert Smith, Wassaic State School, 215.8 eggs per hen, and William P. Corrigan, New York State Training School for Boys, Warwick, 215.2 eggs per hen.



Albany Phones 5-4574 and 5-4575

## Mental Hygiene Honor Goes to Dannemora Man

Included among four new members elected to the National Committee for Mental Hygiene, as announced by Dr. George S. Stevenson, Medical Director, is Major Harry L. Freedman, M.C., member and active worker in the A.S.C.S.E. for many years, and since May 31, 1941, on military leave from the Department of Correction, where he is Director of Classification Clinic at Clinton Prison, Dannemora. The other appointees are Dr. M. R. Hanover, New York; Mrs. Ethel Maddel Stern, Washington, D. C.; and Dr. Grosvenor B. Pearson, Pittsburgh, Pa.

Major Freedman's election was based on his outstanding and original contributions to military psychiatry and mental hygiene. His citation states in part:

"Major Freedman spent ten years as a social psychiatric worker at Clinton Prison, Dannemora, N. Y., before entering the Army. His first assignment in the Army Medical Corps was at Fort Monmouth, N. J. Here he organized the first Mental Hygiene Unit in the Army where civilian social workers worked with psychologically trained enlisted men to care for emotionally disturbed soldiers. Under Major Freedman's leadership in the first year, 4,000 men referred to the Unit were processed with 85 per cent of men treated returning for duty. This Unit became an outstanding proponent of mental hygiene practice in the Army. Dr. Freedman is now on duty at the Port of Embarkation, Camp Plauche, New Orleans, La."

# New State Publications

**"The Adjustments of the Child with Defective Vision in the Regular Classroom."** Bureau of Physically Handicapped Children, State Education Department. 1945. 11 pp.

Suggestions as to adjustments can be made so that children with serious eye defects can be aided without being sent to school for the blind. Covers legislation, types of pupils in need of sight-saving assistance, sight-saving classes, and adjustments in the regular classroom.

**"Applied Music for Pupils of Secondary Schools."** State Education Department. 15 pp.

An explanation of the conditions to be met and procedures to be followed to earn Regents Credit in various music courses in the secondary schools of the State. Sets up the courses for piano and violin.

**"Basic Issues in Secondary Education."** George M. Wiley, Chairman. State Education Department, 1945, 79 pp.

A report of a consultative committee of the State Education Department, appointed June 10, 1944 to consider postwar problems in secondary education. The report is a further recognition of the pressing problems of youth in so far as they relate to the high school program. The report asks, discusses and partially answers the following questions:

- 1) How many constants should there be in the secondary school program?
- 2) What is the relation of the system of Regents examinations to the holding power of high schools?
- 3) What is the relation between vocational and general education at the high school level?
- 4) What is the place of work experience in the school curriculum?

5) As a result of the war experience, what changes should we undertake with respect to such matters as health and physical education, mathematics and technical subjects, foreign languages, humanities, art and the social studies?

6) How can we achieve a unity of educational philosophy and a harmonious working arrangement as between local boards and school authorities, on the one hand, and the State Education Department, on the other?

7) How shall we establish better public relations in the field of secondary education?

8) What can be gained by an analysis of certain statistical trends in secondary education?

9) What policies and practices should be established in the field of guidance and counseling?

10) What changes are desirable in the school year, with special reference to the utilization of the summer period? If the school year is extended, what modification should be made in terms of curricular offerings?

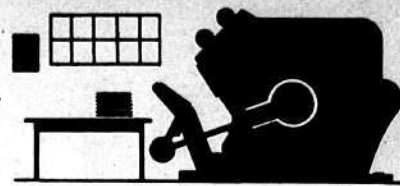
11) What is the relation of non-school experience to programs and outcomes in school—for example, in such matters as health, civic participation, character and recreation?

12) What may be gained by comparative inquiries into education in other states and in foreign countries?

13) Should there be a compulsory school-leaving age extending to age 18 or to high school graduation (with exceptions based on case histories)?

14) What are the plans for articulating the work of the new Institute of Applied Arts and Sciences with high school programs?

15) What changes in buildings, fixtures, equipment and materials are necessary if new pro-



grams are to be properly provided for?

16) How shall we select, train and upgrade teachers to take care of improved school services?

17) What changes in the local and state financial structure are indicated?

**"Contributions to the Flora of Central New York."** Stanley Jay Smith. New York State Museum Bulletin, Number 338. State Education Department. August, 1945. 74 pp.

This bulletin deals with new, rare or otherwise interesting elements in the flora of Central New York. It revises the Flora of the upper Susquehanna and includes in a comparative treatment the flora of the Finger Lakes region. Its contents include:

- 1) The persistence and establishment of cultivated types.
- 2) New and rapidly spreading weeds.
- 3) Some natives, rare and otherwise.

**"Scholarships to Meet the Needs of New York Youth for Higher Education."** State Education Department. 1945. 39 pp.

This is a graphic presentation of statistical data indicating the application of the Regents plan for postwar education in New York State with reference to scholarships for secondary school graduates. It presents comparative data to show how New York State stands in comparison with other states respecting opportunities for higher education. It covers the percentage of youth attending college in the various states, higher education as related to higher income and standards of living, college costs borne by students and by state governments; New York State's ef-

(Continued on page 69)



## The Letter Box



The communications in our LETTER BOX this month were addressed to individuals on our "staff," the first to President Frank L. Tolman, the second to Miss Isabel Beardsley.

Perhaps we are rather presumptuous in characterizing the President of our Association as a member of OUR staff. Rather, we are all members of HIS staff. Furthermore, it was at his own insistence that the name of the President of the Association was removed from our title and contents page as "Editor" of THE STATE EMPLOYEE. But President Tolman certainly writes our most important editorials, many articles and makes other vital contributions. Perhaps, then, he will permit us the satisfaction and honor of listing him on the "staff" of THE STATE EMPLOYEE.

As to Miss Beardsley, as long as she makes the regular monthly contribution "How's Your Health?" surely she, too, will permit us to place her as a staff member.

ED.

State College of Forestry  
Syracuse University  
Syracuse, N. Y.  
December 21, 1945

My dear Dr. Tolman:

I have just received your letter of November 5 to Association members stating that the Travelers Insurance Company has allowed the Association an additional \$250 of insurance for the policy year beginning November 1, 1945.

Personally, I feel that I should be very much remiss if I did not express appreciation for the efforts of the Association and the Travelers Insurance Company for their far-sighted planning in considering the welfare of the Association members who have taken advantage of the Association Insurance Program.

I noticed that the dues have been increased to \$3. Frankly I am very pleased that the Association had the courage to plan for an increase in the dues and to plan for a more complete service for members of the Association.

I want to particularly congratulate you on your fine article which appeared in the December issue of the STATE EMPLOYEE. This article carries with it a

splendid spirit that I am sure will increase the confidence of the members in the leadership which we have, and their desire to plan for the general welfare of employees in the Civil Service Association as well as the general welfare of the citizens of the State of New York.

Best wishes for a very successful term as President of the Association.

Sincerely yours,

FLOYD E. CARLSON,  
Assistant Professor in  
Forest Extension

Albany, N. Y.  
Jan. 13, 1946

Dear Miss Beardsley:

It seems the Public Health Division would begin with Public Health publications in our press. The problem of crowded buses, no windows open in winter and hardly in summer. Buses are crowded and people don't realize the importance of a window open. They don't want fresh air.

In the large offices, where many people work together, they refuse to have fresh air. These pale and sickly-looking employees try to work in warm stuffy offices.

Colds, and infections from colds, are expensive. Colds are not only expensive to the pocketbook and health but shorten lives. Children in block houses live with little fresh air. At school, they look pale and sickly.

Women wear no pants; can't buy them. Sleeves are too short for winter comfort. The men in offices must work in offices at 90° to please women sleeveless and pantsless.

It seems the press would have a health column for Hygienic teaching.

Yours truly,

A READER OF "STATE EMPLOYEE"

## In Memoriam

The Association notes with sorrow, and with sincere sympathy for the relatives and friends, the death of the following members, as reported from November 18, 1945, to January 1, 1946:

Name	Department	Title
Floyd J. Mateer	Mental Hygiene	Nurse
Nora G. Bingham	" "	Charge Attendant
George L. Pardee	" "	Attendant
Joseph Schmitt	" "	Attendant
Morris Frankel	" "	Cook
John J. Mol	" "	Attendant
Dalmer J. Colman	" "	Attendant
Claude S. Mason	Public Works	Truck Driver
John W. Gould	" "	Head Account Clerk
Eugene H. Smith	" "	Asst. Architect
Jaros Kraus	" "	Senior Architect
John F. Lyons	" "	Jr. Civil Engineer
Fred R. Ladd	" "	Electrician
Leland C. Boynton	Social Welfare	Asst. Accountant
James Clancy	" "	Supervisor
Patrick Mulligan	Correction	Guard
Howard J. Ashford	"	Guard
Edine Andreoli (June '45)	"	Senior Launderer
Robert S. Lee	Conservation	Superintendent
Mary E. Armstrong	Executive	Sr. File Clerk
Louis Jablonsky	Insurance	Examiner
John J. Manning	State	Asst. Director

# Post-War Trends

As indicated by news releases from State Departments

## Employment Up In Construction

Employment in construction industries throughout the State maintained higher than usual levels in the closing months of 1945, Industrial Commissioner Edward Corsi, head of the New York State Department of Labor reports. During September and October the industry showed greater than usual employment gains. In November, when a decrease normally occurs, there was a slight rise instead. The month of December showed no change in the number of workers employed at construction sites.

## Basic Wages Hold For Office Workers

Basic wages of office workers in New York State factories have not declined, Industrial Commissioner Edward Corsi, head of the State Department of Labor, declares. A report by the Department's Division of Research and Statistics indicates that the main reason for the decline in earnings of such workers is elimination of overtime work. In addition, Mr. Corsi said, certain factory jobs

at higher rates of pay—created during the war for the most part—have been eliminated.

## Pay For Factory Workers Rises

Increases in employment and wages in New York State factories during December were reported by Industrial Commissioner Edward Corsi.

Despite automobile strikes and seasonal slumps in food and apparel industries, factory employment rose 0.6 per cent over November figures and payrolls increased 2.4 per cent. Average weekly earnings advanced to \$46.61, a gain of 25 cents over the previous month. These figures are based on a report of the Labor Department's Division of Research and Statistics which checked 2,641 factories throughout the State.

## Motor Fuel Sales Below Pre-War Levels

Taxable motor fuel sales increased about 27 percent in November, compared with sales one year earlier, but

were less than the October gallonage and far below prewar November, 1941.

Alger B. Chapman, President of the State Tax Commission, reports that November sales of taxable gasoline totalled 122,565,772 gallons, compared with 96,314,035 a year previously, 127,666,712 one month previously and 149,029,406 in November, 1941.

## Must Have Smoked A Lot More Than You Thought

Remember the cigarette shortage?

Well, it's hard to believe, but New York State smokers burned up more cigarettes in 1945 than in any previous year on record.

Overcoming a mid-summer deficit by steadily mounting consumption in the closing months of the year, smokers in 1945 managed to light up 26,145,626,000 cigarettes, according to Alger B. Chapman, President of the State Tax Commission. The previous record was 26,100,332,000 cigarettes in 1943. Consumption in 1944 had dropped to 24,988,490,000.

## COST OF LIVING

CONSUMERS' PRICE INDEXES (1935-1939=100) IN LARGE CITIES COMBINED, NEW YORK AND BUFFALO  
JANUARY 1944-NOVEMBER 1945

Month	Large Cities			Month	Large Cities		
	Combined	New York	Buffalo		Combined	New York	Buffalo
1940	100.2	100.8	101.0				
1944				1945			
January .....	124.2	124.7	125.2	January .....	127.1	127.9	127.4
February .....	123.8	124.2	125.0	February .....	126.9	127.4	127.6
March .....	123.8	124.7	124.8	March .....	126.8	127.1	127.2
April .....	124.6	125.3	124.9	April .....	127.1	127.4	127.1
May .....	125.1	125.8	125.8	May .....	128.1	128.5	127.8
June .....	125.4	125.9	126.3	June .....	129.0	129.7	129.4
July .....	126.1	126.5	126.6	July .....	129.4	130.6	129.3
August .....	126.4	127.2	126.3	August .....	129.3	130.0	129.4
September .....	126.5	127.1	127.1	September .....	128.9	129.5	128.5
October .....	126.5	127.1	127.1	October .....	128.9	129.3	128.6
November .....	126.6	127.3	126.7	November .....	129.2	130.2	129.3
December .....	127.0	127.9	127.1				

# HOW'S YOUR HEALTH

By Isabel Beardsley

Like a sneak thief — insidious, stealthy, it creeps up on its victim until — a chest X-ray announces Tuberculosis. Suddenly your life has run off the track. But the track is still there and you can get back in running order — not through tears, or idle wishing, but through finding out what caused your tuberculosis — where you got it — how it can be cured.

Your tuberculosis, like all tuberculosis, was caused by a germ, the tubercle bacillus. Don't be misled into supposing that you inherited it — you didn't. You caught it. You can only get tuberculosis from someone who has it. It is spread from one person to another by the mouth spray. Through coughing, sneezing, talking, laughing, each tiny droplet laden with tuberculosis germs, unconsciously the tuberculosis person spreads the disease from one member of his family to another — to his best friend — his fellow workmen. Anyone can get tuberculosis — nobody **can't** get it!

Tuberculosis is curable. While more people recover from it than die of it, still it remains the disease that causes more deaths than any other between the ages of 15 and 45, the most promising years of life. What to do? Ask your physician. Cooperate with him. He will tell you to rest — medical rest in bed, and to try to keep a calm and hopeful mind.

The well-equipped sanatorium, with specially trained doctors and nurses, is the best place for you to get over your tuberculosis. If your case has been diagnosed early, your stay in the hospital will be accordingly short. Seek the best medical advice obtainable, then let your doctor direct your course. If your funds are low, remember that tuberculosis clinics are available in practically every community and that well equipped hospitals are provided for your care.

Help yourself to live longer. The Health Department has a pamphlet — "What You Should Know About Tuberculosis." It is free on request.

## Drink Receipts At New December High

December receipts from the alcoholic beverage tax set a new record for that month, Alger B. Chapman, President of the State Tax Commission, reports. The December collections, which represent the tax on November sales, totalled \$4,469,753, compared with \$3,831,904 a year ago. The record for collections from this source in a single month was established in January, 1941, when receipts totalled \$4,703,606.

## Neary Sees Trend In Veteran Affairs

Edward J. Neary, Director of the New York State Division of Veterans' Affairs, has announced that 34,778 veterans' inquiries were handled by the Division's local directors and counsellors during December, bringing the overall total of services rendered to veterans during the past three months to 81,515.

The December report emphasized important trends in veterans' affairs as revealed by a detailed study of the problems brought in by veterans, Mr. Neary said. The lack of opportunities for high wages and the general tightness of employment is reflected by a diminished interest in job place-

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ment and a definite increase in requests for counsel about education, particularly vocation and "On-the-Job" training.

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# GROUP PLAN OF ACCIDENT AND SICKNESS INSURANCE

"Thank you" letters are continually being received by the Association and Ter Bush & Powell in connection with the Group Plan of Accident and Sickness Insurance.

Recently an employee of the State School at Industry wrote in part as follows:

"Your adjuster was very prompt in submitting information regarding proper handling of my case. Also in submitting payment of my claim in minimum time and I am proud to state that it is my desire to continue my policy in force because of such splendid cooperation."

From the University of the State of New York, Education Department, Albany, comes a letter reading in part as follows:

"This is the first opportunity I have had to thank you for the benefit check I received under the Group Plan of Accident and Sickness Insurance following my recent accident."

An employee of Rochester State Hospital writes:

"During the past two years it has been my misfortune to experience considerable sickness with long periods of complete disability. The silver lining to this cloud has been my good fortune in having loyalty group insurance. May I at this time express my apprecia-

tion for the courteous and prompt manner in which you have handled my claim. To be assured of such fine treatment is a real comfort at such a time."

From an employee of one of the departments in Albany comes the following information:

"Received the additional check today covering my illness. I wish to thank you for the fine cooperation given me. It is certainly a pleasure to do business with men of your caliber. I might add, the promptness with which you handle your cases is surely worth mentioning and I think that this insurance is a wonderful protection."

From one of the departments in upstate New York comes the following letter reading in part as follows:

"You may rest assured that my friends in this department will hear about the wonderful treatment, the prompt attention, and payments that I received from your Company. I mailed the doctor's certificate in on Saturday and received my check on Wednesday. What more could anyone ask for?"

The above are only a few of the more recent testimonials received. With around \$20,000 per month going to State employees all over the State, it is quite natural that most people would realize the benefit of receiving a check every month when you are disabled due to illness or accident. Any person in State Service who is under 59 years of age and in good health can take out this insurance today and every person who is not insured and comes within those qualifications should write for applications at once. These may be obtained at Ter Bush & Powell, 423 State Street, Schenectady, New York or from the Civil Service Association, Room 156, State Capitol, Albany, New York. If you have a group of friends who might be interested in this insurance write to C. A. CARLISLE, JR., c/o Ter Bush & Powell at the above address and he will be glad to meet with your group, explain any questions that are in your mind or mail to you a group of circulars and applications for your own consideration. Remember some of your associates are today receiving benefits under this insurance. You also should get these benefits. Why not get the information now and apply for the insurance so when you need it most it will be ready for you.

## HIGHLIGHTS OF ANNUAL MESSAGE

(Continued from page 42)

control ends. With a national housing shortage, we must not risk rent gouging and wholesale evictions, with all the hardship they would entail.

In the field of public education, we have once again, within the past year, resumed our forward progress. For the first time since 1926 we revised the basic Friedsam Formula, adding \$18 million to state aid for education.

I further recommended to the legislature today, the study of the situation of central schools and additional help for special classes for delinquent children. In addition I asked that the 3,000 Regents scholarships be increased from \$100 to \$350 a year and that an additional 1200 scholarships of \$350 each be added to the 2400 veteran scholarships we now have.

Our schools of higher education are now crowded and the state has for years been adding tuition-free colleges to existing universities in piecemeal fashion. We should examine the needs for a State university including professional schools, in order to equalize educational opportunities throughout the State.

To help care for the children of working mothers your State has contributed to 262 child care centers where more than 10,800 children were enrolled. While this was a war-time service, it is still needed for the children of working mothers, and the widows of war veterans and the wives of men still overseas and I have asked that the service be continued.

We have likewise pioneered among the States in a frontal attack on juvenile delinquency with the new State Youth Commission created last year. This is frankly an experiment. Every new effort must be, but it has made remarkable progress in this first year in stimulating, with State aid, local efforts to reach children in trouble before it becomes serious, not after. The work should be continued and I have so recommended to the Legislature.

In service to its million and a half veterans, New York State has consistently led every state in the nation. As early as the first part of 1944 a State Veterans Commission was cre-

ated to plan the service and when the war ended, we were ready with a new division exclusively devoted to serving the veterans. Today, veterans' counsellors and veterans' service agencies are at work in every county, effectively bringing to the veterans the services of the various departments of the state government.

We were in advance of the federal government when in 1944 our state provided for unemployment insurance for returning war veterans. I recommended today that legislation be passed carrying out the provisions of our new Constitutional amendment giving preference to veterans in public employment.

At Mt. McGregor we have the finest veterans' rest service center in the United States. With more than 70 buildings situated on 2,000 acres, it is a haven for recuperation of veterans including those discharged from federal hospitals but still unable to take up their normal life at home. The people of the State will be proud of its work.

For the past 3 years members of the armed forces have been exempted from state income tax on their pay

and I have recommended that this exemption be continued.

There will undoubtedly be many proposals for bonuses and other benefits to veterans. The first consideration I urged upon the legislature is that they recognize that the veterans of this war do not wish to be considered as a class separate and apart. In fact, they are the people of the State. Before long, the million and a half veterans with their wives, parents, children, brothers and sisters and other relatives will constitute 8 out of every 10 people in the State of New York. Every proposal for their benefit should, I have insisted, be bi-partisan and decided solely in the interest of the veterans themselves.

This subject is too vital to the future of 13 million people to allow it to be made a political football. Our sentiments of loyalty and obligation to veterans must not be degraded to competitive bidding for votes. No one may claim a monopoly on the gratitude we all feel to those who so gloriously won freedom for us and for the world. Accordingly, I advised the legislature today that I am unalterably opposed to any injection of

(Continued on page 64)



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## HIGHLIGHTS OF ANNUAL MESSAGE

(Continued from page 63)

partisanship in veterans' affairs and urged that all proposals be referred to a joint bi-partisan committee of both houses so that they may be studied in an atmosphere free of partisan politics.

We now have some evidence of how misleading partisanship can be in veterans affairs. A great many people were very bitter on the subject of the New York soldier voting law and there was much controversy. Now we have the record. The figures show that when the votes were in, New York State swept far ahead of every state, almost doubling the number of ballots returned by the second largest state, Pennsylvania, and exceeding every large state in the Union in the proportion of service men who voted. I have recommended that the law be continued for the coming year.

These are only a portion of the subjects dealt with in my message today. The whole field of public health is so important that I intend to send a special message on that subject later as I shall also do concerning our firemen. I think few people realize the great work done by all our firemen in the face of serious difficulties throughout the war. My own farm home was twice saved from loss by the quick action of a volunteer fire company and I think I know of the tremendous service they have rendered all over the state. We must establish regular State training courses for our firemen at the earliest opportunity.

Agriculture in our State faces its own serious reconversion problems. Throughout the war the State was able to render widespread services through the Emergency Food Commission, in supplying farm labor, avoiding transportation tie-ups, and shortages of feed and keeping old farm equipment in repair. Meanwhile, both the cost of farm labor and of feed have more than doubled. The problems our farmers are facing are so complex and varied that I intend to address a message to the legislature devoted entirely to the subject of New York agriculture.

In all these years of war, with the urge for government to take more

and more power, we have steadfastly refused to follow that easy course here in Albany. Instead, we have steadily advanced the area of human freedom in every direction. As we emerge from the war, the people of our State are earning the rich rewards of that basic philosophy. There has been no regimentation of the individual or of his job or of his business. On the contrary, the rights and opportunities of every man, regardless of his race or religion have been enlarged. The opportunity of every individual to lead his own life is more firmly guaranteed. The tax burdens on our people are being lifted. The security of the individual through workmen's compensation, unemployment insurance and all the welfare services is greater. The rights of labor have been preserved and strengthened. The rewards of enterprise have been increased and prospects for steady employment and new opportunities are brighter than ever before.

This is not the result of the labors of one man or group of men. The fine, cooperative attitude of the legis-

lature and its leaders contributed mightily. The men who head the state departments and your 50,000 State employees have labored hard and successfully. But in the last analysis, you, the people of the State, have yourselves shaped these policies. You are profoundly devoted to the principles of free, progressive government. You have maintained them through a great war. God willing, they shall forever be preserved.

The End

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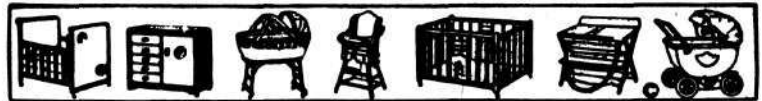
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## PRESIDENT TOLMAN ON ANNUAL MESSAGE

(Continued from page 44)

opment of State parks—these are the chief recommendations in the conservation field. A gigantic program for the expansion of State parks and parkways is well advanced.

Rent control should be continued for another year. Housing will be the subject of a special message. The State Mediation Board should be enlarged.

### EDUCATION

The State Aid program should be completed by including or amending aid to central rural schools, bus transportation, delinquency classes under suitable formulas. The Technical Institute programs should be forwarded. More aid should go to higher education by increasing both the number and the value of the Regents Scholarships.

"We should examine the need for a State University, including professional schools in order to equalize educational opportunities throughout the State."

Child care centers should be continued through 1946 and funds should be provided for Migrant Labor Camps next summer.

### PUBLIC SAFETY

A State-wide Safety conference representative of all groups interested in safety will be called this Spring to organize an integrated State safety program.

### VETERANS

New York is leading the nation in consideration of the needs of the veteran for employment, housing and education. "We have the finest veterans' rest-center at Mt. McGregor." A separate bi-partisan joint committee should advise the legislature and its various regular committees on all legislation affecting veterans.

"We have today both tasks and opportunities almost without parallel in the history of the State—. We have created a solid foundation and now stand in a position, with God's help, to erect upon it a substantial structure of well being, material and spiritual for the people of the State of New York."

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## GOLDSTEIN RULES ON VETERANS' PREFERENCE

(Continued from page 48)

discharge or release to inactive status in the case of reserve personnel is not, therefore, attained until terminal leave has expired without cancellation or other change in the orders granting such leave. It follows that the right to preference does not arise until terminal leave has expired. It cannot be known until the end thereof whether the term of active service has been honorably completed.

With respect to the same phrase in the amendment, you next inquire when the five-year period of preference eligibility arises in the case of a non-disabled officer who has not been discharged but has been placed on "inactive status." This is the situation which, in my opinion, was intended to be covered by the words "released under honorable circumstances" since it will normally arise in the case of all reserve and National Guard commissioned personnel, as well as enlisted personnel whose reserve enlistments run beyond the end of their active war service. One who joins a reserve component of the armed forces is not thereby placed on

full time active military duty. He is in an inactive status, free to follow his normal civilian pursuits but subject to the obligation of responding to orders to active duty as authorized by law (see *Matter of Williams v. Walsh*, 289 N. Y. 1). Upon completion of such duty, if ordered, he is not discharged but returned to his inactive reserve status, if his enlistment or commission in the reserve has not meanwhile expired or been otherwise terminated. The date for determining eligibility for preference in all such cases, therefore, is that of release from active service, as distinguished from furloughs and leaves of limited duration which are incidents of active duty, even though an inactive reserve status is still retained.

For the purpose of determining those who come within the phrase, "a member of the armed forces of the United States who served therein in time of war," you ask what are the commencement and termination dates of World War I and World War II. There seems to be no doubt that the former began on April 6, 1917, upon declaration by Congress, nor that the latter commenced on December 7, 1941, by the Japanese

(Continued on page 66)

## GOLDSTEIN RULES ON VETERANS' PREFERENCE

(Continued from page 65)

attack and simultaneous declaration of war, recognized as an existing state of war by Congress on December 8, 1941 (1942 Atty. Gen. 299). The coincidence of the dates of the commencement of hostilities and the formal declarations and recognition of a state of war in those instances raises none of the questions involved in actual hostilities without declaration, sometimes called "imperfect" or "limited" war (see 1930 Atty. Gen. 426).

A question does arise, however, with respect to the termination of a war within the meaning of a civil service preference provision based on war service. A formal state of war may continue to exist for a long period after actual hostilities have ceased because of the failure for any reason of Congress, or of the President under delegated power, to terminate it or because of delays in the treaty of peace. (See Act of July 6, 1945—Chap. 275; Public Law 135, 79th Cong. 1st Sess.—authorizing medal for members of armed forces serving on active duty between Dec. 7, 1941, and the "date of the termination of hostilities in the present war"; Also Servicemen's Readjustment Act of 1944, 38 U.S.C.A. 697b, defining "termination of the present war" for the purposes of that Act as the termination as declared by Presidential proclamation or concurrent resolution of Congress.) This was so in the first World War when the treaty of peace was not ratified by the Senate until July 2, 1921. Hostilities had, of course, ceased by reason of the armistice on November 11, 1918. Two decisions by New York courts have squarely held that entry into military service after the latter date but before July 2, 1921, did not entitle a civil service employee to protection against removal given to veterans of the "World War" by Section 22 of the Civil Service Law (Matter

of *Baade v. City of Glen Cove*, 263 App. Div. 999; *Zinno v. Marsh*, 36 N.Y.S. (2d) 866). The *Zinno* case takes notice of the different dates fixed for varying purposes of Federal pension statutes ranging from November 11, 1918, to July 2, 1921, but hold that the Legislature used the words "world war" in the sense in which they were commonly employed and universally understood to mean the conflict during the period ended by the armistice of November 11, 1918, citing *Scott v. Commissioner of Civil Service*, 272 Mass. 237; 172 N. E. 218. The *Scott* case reviewed public statements by the President and the Governor of Massachusetts, which treated the armistice as ending the war, and hold that a 1919 amendment of Massachusetts civil service provisions, defining a veteran as one who "served in time of war," must be construed in reference thereto and, consequently, did not include one who enlisted on November 13, 1918.

Section 22 of our Civil Service Law was amended to include "world war" veterans by Laws of 1920, Chapter 833, and the original constitutional amendment granting preference to disabled veterans of "any war" was not adopted until 1929. These were both initiated after the armistice. The Legislature in enacting Section 21 of the Civil Service Law (Laws of 1930, Chap. 374) to implement the 1929 veterans' preference amendment of Constitution Article V, Section 6, used the phrase "any war" but did not specify by dates the period of any war and cannot be deemed to have used that phrase as including the World War with any different meaning than it used the words "world war" in 1920. The courts have determined that that conflict ended on November 11, 1918, for the purposes of the 1920 provision of the Civil Service Law. While these determinations were not made until 1942 and the cases were not taken to the Court of Appeals, I cannot now advise you to the contrary in the absence of any interven-

ing action by the Legislature or of any factor which does not appear to have been considered by the courts and in view of your own long standing administrative interpretation.

By analogy to the basis upon which the end of World War I was determined, the end of World War II, for purposes of civil service preference, occurred upon the signing of the surrender documents by the Japanese in Tokyo Bay when all hostilities ceased. I am clearly of the opinion that the German surrender cannot be deemed the end of the war as to a portion of the armed forces any more than the events which eliminated Italy as an active combatant. Inductions thereafter were not for service in particular places. We were still engaged in actual fighting until the surrender of Japan, and transfers from the European to the Pacific theatre were still in progress.

It is to be observed, however, that the present amendment of the Constitution was initiated in the Legislature in 1944 while the struggle was still being waged and before the manner of its end could be known. It was a providential eventuality that the vote of the people was not cast until after the guns were silenced. There was not available, therefore, prior to the formulation of the amendment either the official or popular attitude or understanding of events bringing hostilities to a close of the kind which governed the determination of the end of the first World War. Moreover, the Legislature, in which body the terms of the amendment originated for submission to the people, has not yet had an opportunity to enact legislation to secure and regulate the enforcement of its provisions. If such legislation should contain definitive provisions, the construction thus put upon the amendment would be persuasive of its meaning (Matter of *Kolg v. Holling*, supra, pp. 112-3, and cases cited). For these reasons I now refrain from expressing any final conclusion as to the termination of World War II. Many present circumstances differ

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from those of the earlier world conflict. While fighting there ceased as a result of an armistice, this time there were complete surrenders. On the other hand, we are now continuing to conscript men for military service as a result of legislation enacted in 1940 because of the emergency which culminated in the war.

It should be noted that since the amendment applies to service during the time of any war in which the nation shall have been or shall be engaged, each separate conflict raises its own peculiar problems, as to which legislative action is clearly appropriate. While I have said that the amendment is self-executing insofar as it prescribes a specific preference and directs the manner of granting it by its own terms, it must be repeated that this forecloses neither legislative consideration of questions of interpretation as to the scope of its broad classification nor regulation of its administration.

The foregoing observations are equally applicable to your final series of questions as to whether specified organizations are parts of the "armed forces" of the United States and, if so, within what dates. The phrase

"any member of the armed forces of the United States" was adopted in the present amendment in place of the former phrase "soldiers, sailors, marines or nurses of the army, navy or marine corps of the United States." The new term does not purport to identify the organizations within its scope so explicitly as did the old and, since it is descriptive and inclusive rather than categorical, it can hardly be said to have any narrower meaning. No doubt it was adopted in accordance with the developing concept that the organization of military power is not necessarily confined to the traditional services and with provisions for making non-military services a part of the military forces in time of war and for organizing new branches thereof. The term is one that has come to be used by Congress when it wishes to refer generally to the forces organized to exert our military power (see Selective Training and Service Act of 1940, § 1; Servicemen's Readjustment Act of 1944; also Executive Order 8937, C.F.R. Cum. Supp. Book 1, p. 1022).

It should be observed initially that the term cannot be construed to require either that the individual or his

particular unit must be utilized or organized to use weapons against the enemy. Many staff units of the combat forces, such as medical personnel, are not intended to be active combatants. It is enough that the organization be part of the services established to bring force of arms to bear upon an enemy or that it be an adjunct of those forces which is itself established under military control and governed by normal military procedure and discipline.

The reserve forces of the United States Army, Navy and Marine Corps are without question parts of the armed forces since these are permanent components of the three main branches of the military establishment and are designed to secure a reserve of qualified personnel which may be called upon in time of need. Membership alone, however, does not constitute service, and in order to be eligible for preference such reservists must have performed active duty during the war.

The United States Coast Guard, which normally operates under the Treasury Department, is, nevertheless, constituted as a "military service" and a "branch of the land and naval forces of the United States" and operates as part of the Navy in "time of war" (14 U.S.C.A. § 1). The reserve is a component part of the Coast Guard and its members may be ordered to active duty in time of war (14 U.S.C.A. 302, 305). They are, accordingly, entitled to veterans' preference if they perform active war duty.

The United States Coast Guard Temporary Reserve was dealt with in my opinion of December 4, 1943 (1943 Atty. Gen. 448) to the Niagara Frontier Authority with respect to the right of its members to free passage over toll bridges. It was concluded that members of the Coast Guard Auxiliary, a non-military organization (14 U.S.C.A. § 263) enrolled as temporary members of the reserve, as provided in 14 U.S.C.A., § 307, were, while on ordered active duty as such, in military service so as to be exempt from tolls. Section 307 includes, but is not limited to, part-time and intermittent active duty with or without pay. The basis for an exemption of persons performing a voluntary public duty in wartime from toll on the ground that they have a momentary military status is

(Continued on page 68)



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## GOLDSTEIN RULES ON VETERANS' PREFERENCE

(Continued from page 67)

obviously a different question from according them veterans' status. I do not believe that temporary members of the Coast Guard Reserve should be considered as serving in the armed forces of the United States unless their active service was on a full-time paid basis. Part-time and intermittent service by one who is free to remain at his regular civilian occupation and whose basic status in the Auxiliary is non-military can hardly be construed as service in the armed forces any more than can the volunteer efforts of innumerable civilian defense workers during the war in cooperation with military authorities (see Definition of "armed forces" in Mustering-Out Payment Act of 1944, 38 U.S.C.A. 691-f, and Navy Dept. Reg. 10 F.R. 10363, § 22.2 (c)(1)). The definition by the Legislature of "military duty" for the purposes of Section 246 of the Military Law specifically excludes "temporary and intermittent gratuitous service in any reserve or auxiliary force." The Coast Guard Auxiliary itself, by definition in the act creating it, is a non-military organization and its members are clearly not in the armed forces.

The Women's Army Auxiliary Corps, prior to its reorganization as the Women's Army Corps, was held in 1942 Atty. Gen. 300 to be a military service, the members of which were covered by Section 246 of the Military Law, even though not then a part of the Army but merely authorized to serve with it. It was organized and disciplined as a military

service and I do not believe that those who were members of it before it was incorporated into the Army were in any different status as respects their membership in the armed forces, a term which is, of course, not limited to the Army, than those who joined thereafter. It served even then as an adjunct of the Army and was part of the whole military establishment generally referred to as the armed forces.

The United States Naval Auxiliary Reserve, about which you inquire, is no longer in existence as such. It was established under the Act of August 29, 1916 (39 Stat. 556, 591), a predecessor of the present naval reserve provisions. It provided for enrollment in the auxiliary reserve of the Navy of merchant seamen who had served on ships suitable for use as naval auxiliaries. They could be ordered to duty with the Navy in time of war and if so ordered were clearly in service with the armed forces.

The Army Specialist Corps was established as "a corps of uniformed civilian employees" and its members are not veterans of service in the armed forces (1942 Atty. Gen. 299).

The Commissioned Corps of the United States Public Health Service did not become part of the armed forces in its entirety until it was constituted a part of such forces by order of the President. By Executive Order 9575, effective July 29, 1945, the whole commissioned corps was made part of the military forces during the "period of the present war" pursuant to 42 U.S.C.A. § 217 (Act of July 1, 1944). An earlier Executive Order (No. 8988, Dec. 23, 1941, C.F.R. Cum. Supp. Bk. 1, p. 1049), made

under former provisions governing the Public Health Service, covered certain officers detailed or to be detailed for duty with the Coast Guard, and those covered by this order must be considered as members of the armed forces "while engaged upon such assignments" (see Informal Opinion, Aug. 11, 1944, to Dr. I. H. Mauss).

Conscientious objectors who were inducted into the armed forces for non-combatant service were, nevertheless, performing service therein in time of war (see 1943 Atty. Gen. 194). Your question was confined to those conscientious objectors who were inducted into the armed forces and my conclusion is likewise specifically limited to them. The Selective Service Act provided for two separate categories of conscientious objectors, as pointed out in the opinion cited. The second class were those conscientiously opposed to any military service even of a non-combatant character, and these were assigned to work under civilian control. It is evident that they never became part of the armed forces, but the former class is comprised of those who were actually inducted and many of whom rendered the service required of them exposed to the hazards of combat.

In conclusion, since these are questions that will no doubt also confront you, I may refer you to the opinions reported at 1942 Atty. Gen. 305, 306, and 1943 Atty. Gen. 190, which determine that the Women's Reserves of the Navy, Coast Guard and Marine Corps are military organizations forming part of those three branches of the armed forces, and to 1942 Atty. Gen. (Inf.) 395, holding that those in the Merchant Marine and members of the United States Maritime Service were not in military service. It is only because service in

(Continued on page 69)

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the latter was specifically added to the definition of "military duty" in Section 246 of the Military Law by the Legislature after the opinion cited was rendered that the members thereof are now entitled to the protection of that section.

Very truly yours,

NATHANIEL L. GOLDSTEIN,  
Attorney-General.

### Civil Service Notes

(Continued from page 52)

does not constitute removal, the right to a court review of the proceedings is lacking. This decision was rendered in the case of *Tierney v. Walsh*, where the punishment consisted of a reprimand on one charge and the loss of five days' pay on another.

### Transfers v. Preferred Lists

In the case of *Taylor v. City of New Rochelle*, the court enunciated the principle that a transfer may be made to a vacancy for which a preferred eligible list is in existence. The theory upon which the decision was based is that after the transfer, which must be from a similar job, a vacancy will again be in existence to which appointment from the preferred eligible list can be made. This accords with an opinion of the Attorney-General applicable to State employees, rendered five years ago.

### Practicability of Promotion

The determination of a civil service commission that promotion was impracticable after careful consideration will not be upset by the courts, it was decided in *Feeney v. Village of Bronxville*. In that case, the Chief of Police of another village was transferred to a Chief of Police vacancy in Bronxville after it was decided that there was an inadequate field for recruitment among the members of the Bronxville police force.

### New State Publications

(Continued from page 57)

forts in relation to income; student fees; cost to students for a year of college; financial assistance to students; migration of students from New York State for higher education; and the ability of New York State to provide support for higher education as well as the unused capacity in the colleges and universities of the State. The bulletin is a part of the study of higher education being conducted by the State Education Department.

"Winter in New York State."  
State Department of Commerce. 58 pp.

This is a pictorial publication designed to impress New Yorkers and others with the many advantages and facilities for winter sports and recreation in the Empire State. It has a message from the Governor, pictures of skiing, skating, tobogganing, bob-sledding and ice boat racing, all presented in a fascinating ar-

rangement. In addition there are short articles by recognized authors on sports and recreation. A section of the bulletin is devoted to winter sports with detailed information regarding the facilities for these Centers together with the method of reaching the particular facilities.

Not only is the bulletin picturesque but it serves as a ready handbook for persons interested in winter sports.

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## What's Doing in the Departments

(Continued from page 55)

and smuggling cases and argued more than one hundred appeals in the United States Circuit Court of Appeals. Part of the time he was in charge of the Criminal Division of that office. Two outstanding cases which he handled were the Charles V. Bob \$7,000,000 stock swindle prosecution and the swindle which revolved about the estate of Sir Francis Drake and his descendents.

From January 1934 to October 1940, Mr. Sylvester served as Assistant Corporation Counsel of the City of New York, and Chief of the Contract Division.

In 1937 Mr. Sylvester received a temporary appointment as a City Magistrate. In October, 1940, he was appointed Deputy and Acting Comptroller of the City of New York by Comptroller Joseph D. McGoldrick, remaining there until December 31, 1945.

**Civil Service**—Robert G. Blabey as a member of the Classification Board.

Mr. Blabey was born in Albany August 5, 1904. He attended the Albany public grade schools, transferring to Albany Academy from which he was graduated in 1925. Upon graduation from the Academy he entered Union College at Schenectady where he took a pre-law course, transferring to Albany Law School from which he was graduated with the degree of Bachelor of Laws. He passed the bar examination in June of the year he was graduated from law school and was admitted to practice in 1930, having served his year's clerkship with one of the large Albany law firms.

In April 1933 he was appointed Assistant Counsel to the New York State Milk Control Board. The functions of this Board were transferred to a Division of Milk Control in the Department of Agriculture and Markets, and he has been associated with this department as Assistant Counsel ever since. During his employ with the Department of Agriculture and Markets, he has represented the State in many important cases involving constitutional law as

related to milk control and other department activities before the Court of Appeals, the highest Court of this State, and the Supreme Court of the United States. He is a member of the New York State and Albany County Bar Associations.

**Postwar Planning Commission**—Joseph P. Ronan, Schenectady, as editorial assistant to the Commission.

Ronan is a former newspaperman, having worked for Troy, Albany and Schenectady papers for 14 years before leaving the Schenectady Gazette in 1942 to become executive secretary of the Schenectady County Office of Civilian Protection. He also served during the latter period as a news commentator for WBCA in Schenectady.

In 1943 he entered service and was assigned to the Army Air Forces. Editor of several service publications, he was honorably discharged from the Air Corps at Rome, last month after nearly 26 months of service with the rank of corporal. He is entitled to wear the American Theater ribbon, the Victory medal, and the good conduct medal.

### POPULATION OF U. S. PUT AT 139,682,000

Reprinted from The New York Times,  
August 22.

Since 1940, the population of the United States has increased more than 8,000,000, to bring the total as of July 1 to about 139,682,000, the Census Bureau said today.

The increase in the war years was almost as much as the 8,894,000 jump in the preceding ten years, but there was a decline in farm dwellers.

**Births and deaths**—There were 10,569,000 estimated births, more than double the 5,137,000 deaths (excluding war casualties) in the three and one-half years ended July 1. The excess of births over deaths in 1942 was 10.6 a 1,000 population, as compared with an excess of but seven a 1,000 in 1938, a typical year.

**Marriages**—There were an estimated 5,447,000 marriages in the three and one-half years ended July 1. The marriage rate reached an all-time peak of 13.5 a 1,000 population in 1942.

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"And they're mine. I own 'em. Nobody can take 'em away from me.

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can go to bed every night with nothing on your mind except the fun you're going to have tomorrow—that's as near Heaven as man gets on this earth!

"It wasn't always so.

"Back in '46—that was right after the war and sometimes the going wasn't too easy—I needed cash. Taxes were tough, and then Ellen got sick. Like almost everybody else, I was buying Bonds through the Payroll Plan—and I figured on cashing some of them in. But sick as she was, it was Ellen who talked me out of it.

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we can only keep up this saving, think what it can mean! Maybe someday you won't have to work. Maybe we can own a home. And oh, how good it would feel to know that we need never worry about money when we're old!

"Well, even after she got better, I stayed away from the weekly poker game—quit dropping a little cash at the hot spots now and then—gave up some of the things a man feels he has a right to. We didn't have as much fun for a while but we paid our taxes and the doctor and—we didn't touch the Bonds.

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