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# The State Employee

VOL. 9, Number 4

MAY, 1940

10c a Copy

## Final Legislation Report

By

JOHN T. DEGRAFF  
*Counsel*

The 163rd Session of the Legislature, which ended on March 30, 1940, was noteworthy chiefly for the continuation of the budget controversy between the Governor and the Legislature. The outcome of that controversy, which affected Civil Service employees more than any bill in either House, was highly gratifying to the Association. Despite the strongest kind of pressure from taxpayer groups demanding substantial cuts in employees' salaries, the Feld-Hamilton Law and the other increment statutes resisted the attacks and are continued unimpaired for the coming fiscal year.

The refusal of the Legislature to tamper with the Feld-Hamilton Law is an outstanding victory for the Association. The law itself is strengthened by its continuance in the face of strong opposition, and is recognized by every thoughtful citizen and legislator as the best method of handling the personnel problem in the State service.

After the disastrous result of the 1939 session, which suspended all statutory increments for State employees, the Association conducted a continuous educational campaign to acquaint the public generally with the purpose and effect of the Feld-Hamilton Law and the injustice that results from a suspension of statutory schedules. In articles published frequently in the "State Employee" and in bulletins and pamphlets distributed throughout the State, the Association analyzed the actual cost of State government and the small proportion of that cost which goes to pay the salaries of State employees. The success of that educational campaign is, in a large measure, responsible for the fact that

the salaries of State employees will not be cut and that increments will not be suspended during the coming year.

During the session, 2,118 bills were introduced in the Senate, and 2,396 were introduced in the Assembly, a total of 4,514 bills. The Legislature passed 1,223 bills, of which the Governor signed 877. 343 bills were vetoed by Governor Lehman, a record that was exceeded only in 1935 when he disapproved 343 measures. When the Legislature adjourned on March 30, it left with the Governor 957 thirty-day bills, the greatest in quantity ever bequeathed by any departing Legislature.

Very little Civil Service legislation of a constructive nature was enacted, although over 300 bills affecting the Civil Service status, pension rights and working conditions of Civil Service employees were introduced during the session.

Although a substantial part of the Association's legislative problem failed of enactment, four bills sponsored by the Association were signed by the Governor and the Association has reason to be gratified by the realization of the fact that the only important Civil Service measures of a constructive nature which were enacted were those sponsored by the Association. The following is a complete list of all laws affecting Civil Service employees enacted at the past session.

### CHAPTER 612

#### The Fite Bill—A 1737

This bill, which amends the law relating to temporary appointments, is unquestionably the most important law enacted this year. It was sponsored by the Association to put an end to the abusive practice whereby temporary appointments could be made for periods extending for

several years in violation of the principles of the Merit System and to the prejudice of employees who attain standings at the top of their eligible lists.

This law is a direct outgrowth of the decision handed down by the Appellate Division, Third Department, in the **Hilsenrad** and the **Graae** cases reported in full in the last issue of the "State Employee." In both of these cases, employees who stood at the top of their eligible list, and who were appointed in regular order, and who had served satisfactorily for nearly a year after their appointment, were dismissed arbitrarily without charges on the theory that they were temporary employees and had not attained permanent status.

Although the Attorney-General is seeking leave to appeal the case to the Court of Appeals, the situation is corrected by this law, which provides that temporary appointments can be made only under the following circumstances:

"A temporary appointment may be made for a period exceeding one month under the following circumstances only: (a) When an employee is on leave of absence a temporary appointment to such position may be made for the duration of such leave of absence, not exceeding one year; (b) A temporary appointment may be made for a period not exceeding six months when it appears to the commission, upon due inquiry, that the position will not continue in existence for a longer period; provided, however, that if a temporary appointment is made for a period exceeding one month, it shall be made by the selection of one of the three persons standing highest on an appropriate eligible list, who are willing to accept such temporary appointment. Successive tem-

*(Continued on page 96)*

# Legislative Report of Counsel

(Continued from page 95)

porary appointments shall not be made to the same position."

This law is, by its terms, effective October 1, 1940, and will put an end to the abuses which have characterized temporary appointments in the past. These abuses are reflected in the report of the Burney Legislative Committee, which investigated the Division of Unemployment Insurance last year. The Committee made this comment with reference to temporary appointments:

"How long is temporary?—On February 1, 1939, over half of the staff was made up of temporary appointments. This condition vitiates a protection of the advantages, does not give the State the advantage of "merit" selections and is not conducive to a good personnel morale. In view of this and the fact that Civil Service regulations permit temporary appointments for one month to four months, it is deemed relevant to examine the service history of every temporary appointment. The date involved is March 31, 1939, and the following table scarcely needs further comment:

### LENGTH OF SERVICE OF TEMPORARY EMPLOYEES ON THE PAYROLL, MARCH 31, 1939

Period of Service	Number
6 months or less .....	374
6 months to 1 year .....	528
1 year to 18 months .....	1,474
18 months to 2 years .....	181
2 years to 30 months.....	81
30 months to 3 years.....	1
Over 3 years.....	1
	2,649

In explaining this law, care should be taken to emphasize the fact that temporary appointments are made only after an appropriate eligible list has been established for a position. "Stop gap" appointments during the interim before eligible lists are available are called "provisional" appointments.

The Association has long contended that when an appropriate eligible list is available there is no excuse for the practice of making temporary appointments unless the Civil Service Commission has definite assurance that the position will last only a few months. In many cases,

appointments have been offered for one to three months, and the eligibles at the top of the list had declined to accept appointments for such a short period only to learn later that employees toward the bottom of the list had been accepted and have been continued in the position for two or three years, if not longer. This type of evasion of the Civil Service Law will no longer be possible.

## CHAPTER 678

### The Ostertag Bill—A 2225

Continuing its policy of perfecting and improving the Feld-Hamilton Law wherever possible, this bill, sponsored by the Association, extends the life of the Temporary Salary Standardization Board for another year, and also extends for one year the time within which the Classification Division may correct titles in the State service. The Bill likewise provides that the Civil Service Commission may empower one of its members, or an employee of the Commission, to hold hearings on appeals from titles. Because of the volume of appeals filed, it was deemed unnecessary to require all three members of the Commission to attend hearings, and this amendment simplifies the procedure by permitting the Commission to delegate the duty of holding the hearing under such circumstances. The amendments to the Feld-Hamilton Law, sponsored by the Association last year, seem to have clarified the procedure with respect to appeals and salary adjustments. No further amendments of this nature were required this year.

## CHAPTER 609

### The Moffat Bill—A 2369

This bill was sponsored by the Association to correct, so far as possible, an injustice arising from the language of the Bill passed last year which suspended all increments. Under the terms of the Bill passed last year, service rendered during the fiscal year commencing July 1, 1939 and ending June 30, 1940, cannot be counted in determining the eligibility of an employee to receive an increment. Consequently, employees appointed during the period from June 30, 1939, would have had to wait 2 to 2½ years before being eligible to receive an increment. This bill corrects this situation by providing in substance, that employees who are first appointed

during the period from January 1 to June 30, 1939, shall receive their stipulated increment on July 1, 1940. The bill carries an appropriation of approximately \$22,000, but it will also affect other employees who are paid from lump sums or moneys made available by the Federal Government. If this bill had not passed, employees appointed during this period would not have been eligible to receive an increment until July 1, 1941.

## CHAPTER 522

### The Babcock Bill—A 1430

This bill, sponsored by the Association, provides, in substance, that employees who have elected to retire at age 55 and thereafter elect to retire at age 60, may obtain a refund from the Retirement System of all contributions in excess of the normal contributions required for retirement at age 60.

## CHAPTER 649

### Fite Bill—A 2299

This bill extends to February 1, 1941, the life of the legislative commission created last year to make recommendations to the Legislature as to the most practicable method of extending civil service to cities, town, villages, counties and school districts, in conformity with the Constitution.

## CHAPTER 834

### Dunnigan Bill—S 307

This bill was signed by the Governor accompanied by a memorandum reading as follows:

"The Town Law, the Village Law, the New York City Charter and other city and county charters provide that a police officer in the competitive class of the civil service may not be dismissed except after a public hearing. In each instance a right of review in the courts is given to such police officer.

"The purpose of this bill is to make the provisions of these acts uniform in all municipalities of the State to which civil service rules had been extended."

## CHAPTER 564

### Devany Bill—A 1201

This bill extends to all classes of the civil service the law passed last year, which was limited to the classified civil service, the prohibition against the employment by the State of persons advocating the overthrow of government by force and violence.

(Continued on page 110)

# Respect for "Article V"

## COMPETITIVE CLASS EXTENDED TO ATTENDANTS

Because millions of sensible people believe firmly that the merit system is the cornerstone of good government, the Association hails with sincere acclaim the action of Governor Lehman in extending the competitive civil service classification to embrace thousands of workers in State institutions. Governor Lehman has again justified the title bestowed upon him some years ago of "A Civil Service Governor." We say, "Well done, Governor, and may this executive decree be supplemented from time to time until the Constitutional mandate is fully observed and fully respected in ALL appointments and promotions in State service."

This is one of the improvements in State government to which the Association is pledged by its Constitution and by its program. This is an achievement for which the Association has stood practically alone among the merit-system proponents, and not because of any lack of will on the part of other public minded groups to see the action taken, but because, apparently, other groups despaired that there would ever be a Governor who would read, understand and uphold Article 5 of the Constitution of the State. For years this Article of the Constitution has been rudely neglected. The Constitution nor the Courts do not quibble about the practicability of examinations or tests open to all the people of the State who may be qualified to enter such tests to determine who are best fitted to serve. Those who wrote the Constitution had faith in the merit plan; those politically inclined openly flouted the Constitution and the merit plan while giving it lip service. There is no more merit system in the non-competitive class theory than in the crudest type of spoilsmanship.

The Association holds that even the great reforms urged by it and adopted within recent years, such as the abolition of the twelve-hour day in institutional service and the adoption of the Feld-Hamilton Career Law, are secondary in importance to the safe-guarding of

merit system principles in the selection and promotion of civil workers.

Without public support and without keen executive, legislative and administrative support, of the Constitutional mandate, the whole fabric of efficient, honest and economical government falls to the ground and democracy stands to perish in the foul air of corruption. Until the competitive examination is applied to every State, county, city, village, and district job—with the few rare exceptions where policy-forming positions may indicate otherwise—the Constitution will not be complied with and citizens generally will be denied fair play in appointments to public service.

This is why it is so important that the Legislative Committee appointed last year, as a result of decisions of the Court of Appeals that examinations must be held, act during the coming year to make clear the way to carry out the law of the State as to positions in the political sub-divisions of the State. There is no honest reason for delay in this work.

Yes, we congratulate Governor Lehman. And, we praise the State Department of Civil Service that is responding so quickly in the carrying out of the Governor's direction. Let us say here, that the State Department of Civil Service must have more funds to carry out the law of the State. The State Civil Service Department is the strong arm of good government. If it fails, or even falters, then the merit system suffers and the people of the State suffer. Upon its efficiency and thoroughness depends to a great measure the efficiency of every Department of State Government as well as the efficiency of other units of government. The Department of Civil Service has been woefully neglected as to funds to make complete functioning possible. So lacking have been appropriations for the Civil Service Department, that the thought has often been expressed that funds were purposely meager to make the Commission less able to conduct all of the examinations

necessary with the promptness necessary to supply eligible lists to fill new and old positions thus making for criticism of the Department and of the merit system. Too often it has had to approve provisional appointments which are not in accord with merit system principles and which are actually anti-merit system in their effect.

The Governor's action will do another thing that is important to the whole United States. It will direct attention to the merits of the merit system; it will cause students to study that system; and, it will awaken the interest of every alert young man and woman and every anxious taxpayer to the point, we hope, of a nation-wide demand for the merit plan of selecting and of dealing with all public workers.

The Governor's statement follows:

"On October 24, 1939, I appointed a special committee to study the problem of the extension of the competitive class in the civil service of the State. The membership of this committee is as follows:

Hon. Charles Poletti, Lieutenant-Governor; Miss Grace A. Reavy, President, State Civil Service Commission; Hon. Howard G. E. Smith, of the State Civil Service Commission; Hon. Howard P. Jones, of the State Civil Service Commission; Mr. Earl Brown, Managing Editor of the Amsterdam News; Mr. John T. DeGraff, Counsel to the New York State Civil Service Employees Association; Mr. Homer Folks, Executive Director, State Charities Aid Association; Mr. H. Eliot Kaplan, Executive Secretary of the Civil Service Reform Association; Mrs. Douglas Moffatt, former President of New York State League of Women Voters; Professor Rodney Mott, School of Administration, Colgate University; Hon. Edward P. Mulrooney, former Commissioner of Correction; Dr. Frederick W. Parsons, former Commissioner of Mental Hygiene.

"In establishing the committee, I pointed out that New York State was the first State in the union to

*(Continued on page 126)*

# "For Distinguished Service"

By

ROGER H. STONEHOUSE

The first of last March Elmer C. Lawton, Assistant Commissioner of Highways in charge of construction and design, was appointed District Engineer and assigned to Rochester. He succeeded Howard E. Smith who retired at the statutory age limit. Mr. Lawton will be succeeded by E. T. Gawkins, formerly assistant district engineer at Babylon. More than three hundred employees of the Department of Public Works and fellow engineers gave Mr. Lawton a testimonial dinner at the DeWitt Clinton Hotel on March 20.

Mr. Lawton was fortunate in recognizing his life interest at an early age. Born at Lawton's, Erie County, he found employment as a youth as transit man in construction work for the Lackawanna Steel Company and began directing his efforts toward engineering as a profession.

For two years he was a detailer, designer and assistant chief draftsman for the Lackawanna Bridge Company. Later as a highway research specialist for the Federal government he traveled extensively throughout the United States obtaining data concerning economic conditions and highway-transportation needs.



ELMER C. LAWTON



WILLIAM SHERRITT

Upon graduation from Michigan University in 1907 with a degree in engineering, Mr. Lawton entered upon his work for New York State as assistant engineer in the Department of Public Works and has forged steadily ahead. As assistant Commissioner of Highways in charge of construction and design he was responsible for much excellent construction of Empire State roads. His recent promotion is a tribute to the type of men who make State service a life work.

William Sherritt began his work for the State a few months before the turn of the century as an index clerk in the land bureau in the Secretary of State's office. For four years he served in that capacity when he was transferred to the Comptroller's Office as a clerk in the land tax bureau. Titles have changed but he has remained under the same official head and has become a veritable career man, now being director of office audit in the Department of Audit and Control.

A native of Norwich, Mr. Sherritt has been on the Federal and State pay rolls since he was twenty years old, at which tender age he went to New York to enter the United States Custom Service in the public stores. Remaining there for three years, he left the service of the nation for that of the State in 1900.

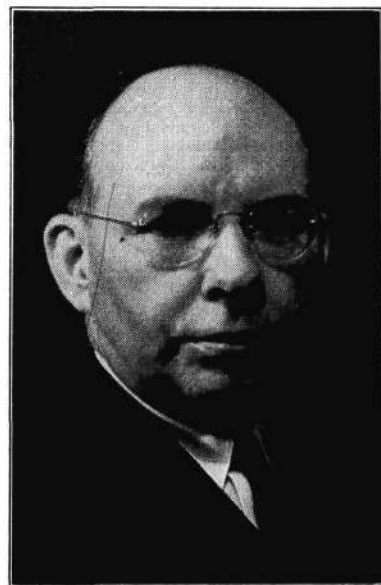
By 1910 he had charge of highway work in the days when the automobile had not superseded the horse and a single person was adequate for the State's control of its vehicular arteries. The work has changed considerably from the time when driving was pleasure to the present when commerce crowds the roads and transportation and highways have undergone a complete change.

Mr. Sherritt's service is an illustration of an employee "growing up with the job," meeting its varied problems and increasing duties from the beginning. How fortunate it would be, could the general public realize the wealth of experience and knowledge accruing to its benefit through the life-long training of such men.

About five years ago Mr. Sherritt was made chief audit clerk in the Department of Audit and Control, one of the many enlarged sections under the State Comptroller made necessary by the great expansion of State services. It was in October that Mr. Sherritt received his latest promotion.

John L. Joyce has spanned twenty-seven years of service to State and nation. The strain of war, the increasing responsibilities allotted to him in peace have joined in developing this public servant.

*(Continued on page 124)*



JOHN J. JOYCE

# No Medical Examination

## FOR MEMBERS DESIRING LIFE INSURANCE

During May and June, 1940, The Travelers Insurance Company has agreed to waive medical examination on the Group Life Insurance for members of The Association of State Civil Service Employees. Applications will be accepted without medical examination only from members who file applications while actively employed. This offer is open to all State employees who are members of The Association of State Civil Service Employees, except those State employees who have been rejected on the basis of a medical examination for this Group Life Policy G-9000.

Some 30,000 State employees have availed themselves of the Group Life Plan offered by The Association of State Civil Service Employees to its members. Since November 1st, 1939, medical examination has been required, except that new employees have three months after date of appointment to file application without medical examination.

At the time of going to press, 113 claims have been paid in the amount of \$186,000 for deaths among State employees. Payments of these claims have been remarkably prompt and have placed funds at the disposal of families when they were most needed.

**PLAN STARTED JUNE 1st, 1939.** Last year it was necessary to solicit throughout the entire State to obtain enough applicants to start the plan. At that time many State employees were reluctant to sign applications because they felt that such a plan would never be made effective. On June 1st, 1939, the plan was made effective. Since that time applications have been received from employees daily. In order to get the insurance many of these applicants have had to pass a physical examination. Many State employees, impressed by the benefits of the plan, have expressed a desire to participate in the plan now. At their request we have persuaded The Travelers Insurance Company to waive medical examination during the months

of May and June, 1940. The Travelers Insurance Company have agreed to do this except that medical examination will not be waived on any State employee who was rejected for this Group Life Policy G-9000 on the basis of a medical examination. It is further stipulated that the applicant must be actively employed at the time of application.

**AMOUNT OF INSURANCE.** The plan of insurance remains unchanged and is as follows. The amount of insurance is based on annual salary in accordance with the following schedule:

Insurance Class	Annual Salary	Amount of Insurance
I	Less than \$900	\$ 500
II	\$ 900 but less than \$1,400	1,000
III	1,400 but less than 1,700	1,500
IV	1,700 but less than 2,100	2,000
V	2,100 but less than 2,700	2,500
VI	2,700 but less than 3,500	3,000
VII	3,500 but less than 4,500	4,000
VIII	4,500 and over	5,000

Female employees whose annual salary is less than \$900 are eligible for \$500; those whose annual salary is \$900 or more are eligible for \$1,000, which is the maximum.

Due to the low premium rates for this insurance and the privilege given to secure it regardless of physical condition, the rules governing this form of insurance do not permit the selection of amounts other than those determined by annual salary as indicated above.

On August 1 of each year the amount of insurance for each member whose annual salary has changed so as to place him in a Class providing a larger amount than provided for the Class under which he was previously insured will be increased to the amount for the Class in which his annual salary then places him, but no increase in insurance resulting from such reclassification shall become effective as to any member away from work because of disability until he returns to work. Increase in the semi-monthly cost to the Member will be effective from the effective date of his new amount of insurance.

**THE COST.** The cost to insured members during the first five years of the plan will be based on the following table:

Age Group	Attained Age (Nearest Birthday)	Semi-Monthly cost for each \$1,000 insurance
A	39 and under	\$.30
B	40 to 44, inclusive	.38
C	45 to 49, inclusive	.50
D	50 to 54, inclusive	.70
E	55 to 59, inclusive	1.00
F	60 to 64, inclusive	1.50
G	65 to 69, inclusive	2.25

On August 1 of each year the semi-monthly cost to each member whose attained age has increased so as to place him in a higher Age Group will be increased accordingly.

A surprising feature of the coverage was the number of young people who died in State service. More claims were paid in the Age Group "39 and under" than in any other Age Group. The cost of insurance in this group is the lowest of any, and it would seem that all the young people in State service should avail themselves of this coverage. Most of these people are employed in the lower pay brackets. These employees probably have less money to spend for insurance than any other Age Group. The Group Life Insurance Plan enables them to supplement their present insurance at very little additional cost.

Older employees in State service have had greater opportunity to observe the need of Life Insurance protection and should recognize the value of this low-cost Group Life Insurance Plan.

**ACT NOW.** This offer of Group Life Insurance without medical examination is open only during the months of May and June. Solicitors will visit many points in the State (but not all points). Act promptly and sign an application when the solicitor arrives. If a solicitor does not approach you, write The Association of State Civil Service Employees for an application. Act promptly as the time is short.

# EDITORIAL PAGE

## THE STATE EMPLOYEE

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Room 156 State Capitol Albany, N. Y.

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## Our Covers

A great deal of time and thought have been devoted this year by the editors to presenting attractive covers. The Editorial Board has been very proud of the results and we have had very complimentary comment from the members.

A personal interest in the preparation of the covers has been taken by Frank Somma of the VB Printing Co. of Albany, where the printing of this magazine has been carried on since its inception. The Austin-Empire Engraving Co. of Albany has exercised more than a professional interest and from an engraving standpoint, the preparation of the plates and the work on them has been magnificent. It will interest the membership to know that the cover on our February magazine will be reproduced in toto in a future issue of "More Business," a publication of the American Photo-Engravers Association, of which Louis Flader is Editor. That magazine publishes only outstanding engraving achievements of the United States, and the Editorial Board takes considerable pride in having its own cover thus set forth. Walter Waterbury of the Austin-Empire Engraving Co. has the thanks of the Association for the superb work which has been produced.

The cover on this issue is from a water color from the brush of Walter J. Schoonmaker, Assistant Zoologist in the State Department of Education, painted solely for the purpose. Mr. Schoonmaker is an outstanding artist and also has a reputation in amateur photography. The lettering on the cover is prepared by our Art Editor, Roger Stonehouse. The magazine has been indeed fortunate to have available outstanding talent.

Perhaps the members have seen Shirley Temple in the "Bluebird"? It all fits in—for the State Employee is always seeking to promote the happiness of Association members.

## The Civil Service Leader

About six months ago H. Eliot Kaplan, Seward Brisbane and Jerry Finkelstein, names well known in the State service, in the Civil Service field and in the newspaper game, announced at a conference with an Association Committee that they were planning to start a newspaper covering Civil Service news of direct interest to State employees. While the Association has been editing and improving its own magazine, the need for a weekly publication in newspaper style to supplement the magazine had been discussed for some years. Upon receiving their assurance that the columns of the newspaper would be available for publication of all State employee news and other matters of employee interest and that the editors were deeply interested in the welfare of the State service and of the employees making up the State service, the Association Committee concluded that such a newspaper would fill a long needed gap and that the Association should give the enterprise its support. The newspaper was started; it received instant acclaim from the general public and from a large body of employees.

It has now, we understand, some 50,000 readers. The Board of Editors is spending all efforts to set forth in "The Leader" all possible information concerning the jobs and

welfare of the employees. It contains the latest examination news, the State lists, progress of test rating, together with Mr. Kaplan's authoritative question and answer column and all other last-minute Civil Service news.

In addition, articles such as the excellent series on the D. P. U. I. written by experts of that Division, have been featured and have served as study material, for instance, for the recent D. P. U. I. test.

The Leader has just finished a series by State Commissioner Howard P. Jones on "How to Get A Civil Service Job."

A series of articles has just been started on the work of the Fite Civil Service Extension Commission. Other articles are planned dealing with examinations for social welfare workers in forty-four counties, the work of the Mental Hygiene Department (where, as indicated elsewhere, thousands of attendants are now in the competitive class), and the personnel problems of the D. P. U. I.

The Leader has taken a vigorous stand in insisting on Feld-Hamilton increments. Its weekly editorials undoubtedly contributed very materially to the success of this year's campaign. The Leader is anxious, of course, to reach as many employees as it can and it is the hope of the Association that this newspaper, which assists the Association, will receive the support of the membership.

The Leader has been available to Association members and to members only at an introductory rate of \$1.00 a year. The regular yearly price is \$2.00. The special introductory rate will expire on May 31st. Subscriptions may be sent directly to Association Headquarters or to The Civil Service Leader, 97 Duane Street, New York, N. Y.



# Story of State Government

## CHAPTER VI: DIV. OF STANDARDS AND PURCHASE

*The following article is the sixth of a series of articles on New York State Government. The next article of this series, which will appear in the June issue, will deal with the work of the State Department of Education. This series is in charge of our Editorial Board Member, A. K. Getman, of the State Education Department Staff.*

By

**HONORABLE JOSEPH V. O'LEARY**  
*Commissioner of Standards and Purchase*

Housed in a handful of rooms on the first floor of the State Capitol is one of the greatest governmental purchasing units in the entire country. Its precise and efficient functioning is essential to the operation of every one of the 362 agencies of the State. It is your Division of Standards and Purchase.

Here is the heart of a mammoth wholesale department store with hundreds of outlets supplying every conceivable need for the State's wards and workers from New York to Buffalo and north to the border.

Hard-boiled though the division and its officers may be when it comes to buying—and they are—yet, there is romance in the functioning of this unit. The aged and the ill and the ailing youngsters among the State's 110,000 dependents in hospitals, institutions and prisons are, indirectly, some of the charges of this division.

It may be turkey for their Thanksgiving dinner; candy and fruit for Christmas; a bit of tobacco or a cup of tea to brighten the long hours of these unfortunates—but whatever the occasion, the division is the medium to see that the items are furnished. Yes, in the routine of the job there is romance as well as the hard practicality of business.

Every year, "Standards and Purchase"—as the division is known in the more familiar vernacular of the State's lexicon—buys upwards of \$30,000,000 of commodities. Orders aggregating less than \$500 may be

bought in the open market, subject to approval of the division, but over that amount all purchases are by competitive bidding.

At the head of Standards and Purchase is the Commissioner, appointed by the Governor, and to the Governor alone is he responsible. His duties will be enumerated more fully a little later but meanwhile consider that with responsibility for conducting the division, the Legislature also conferred upon him unusual authority. This includes subpoena powers to compel the production of persons and papers in connection with any investigation the Commissioner may launch pertain-



HON. JOSEPH V. O'LEARY

ing to his duties. He has access at any time to the books, records and documents of any department, bureau or agency of the State government relating in any way to the purchase, control or distribution of materials, supplies and equipment.

The job of the division is not simply buying the best commodities at the lowest price consistent with quality. That, while a task in itself, is not all there is to the work of Standards and Purchase.

One of the duties is to cooperate with the wardens of the State prisons in conducting what is known as

Prison Industries. That means buying steel and paints for the use of the prison where automobile license plates are made; buying materials for the manufacture of paint brushes in another; buying textiles of all kinds for the manufacture of clothing and other articles in another prison; and buying wood and equipment for another prison where furniture is made. But that doesn't end it. The division after supplying these materials, at cost, then buys back the fabricated products for the use of all of the institutions.

As an example of the further diversity of this most interesting State agency, the division recently has been aiding the Department of Agriculture and Markets in obtaining the healthiest chicks for stocking the numerous farms operated in conjunction with State institutions—prisons, hospitals, and schools. New and higher standards have been developed and the growers of chicks have kept pace with the increasingly insistent demands of the division and the Agriculture Department for healthier, higher-egg producing chicks. Incidentally, the division has cooperated in another venture with the Conservation Department in acquiring the best possible breeding stock for pheasants—an achievement that meant cutting red tape, to the advantage of the sportsmen of the State but at no greater cost to them than if funds had been spent for less likely birds.

Gradually, here and there, the services of the division are expanding. Annually for the last two or three years the Legislature has flirted with a proposal to open the facilities of Standards and Purchase to the localities of the State in making their own municipal purchases. The division has always been willing to be helpful within its limited scope and human strength. Many municipal and county purchasing agents, not to mention some of the towns, are of the opinion that their local taxpayers could save considerable every year if they could do their buying at the prices the State pays—through the competitive bid-

*(Continued on page 102)*

## Division of Standards and Purchase

(Continued from page 101)

ding conducted by this division. Undoubtedly in many instances they could—but that is a problem for the localities to work out.

Much of this demand upon some legislators for an act to extend the services of the division probably has arisen from the splendid results achieved by the cooperative efforts of the Education Department and Standards and Purchase. It is now possible, thanks to the plan realized by the two agencies, for any central school district in the State to buy its automotive equipment—buses, tires, tubes, chains, batteries, and other accessories—at State contract prices. The savings to the school districts have been substantial and many of them are now asking whether they may not extend the list of commodities to include other school essentials.

In his annual report for the fiscal year ending June 30, 1939, State Comptroller Morris S. Tremaine has made an analysis of State expenditures with respect to their character and object. One of these is an item of \$485,833 for operation of State-owned passenger cars and \$942,468 for expenses of other State-owned motor equipment. This division maintains a perpetual cost and maintenance inventory of every State-owned automotive vehicle. The mileage is kept up to date and from the record one can determine exactly at any time how much the vehicle cost when new, how much gasoline it has consumed, how much oil, how much in the way of repairs, and how much for garage and even washing.

That is one way of stopping abuse of State-owned vehicles and another is the practice of the division in encouraging the installation of gasoline storage tanks wherever possible. Standards and Purchase buys 8,000,000 gallons of bulk gasoline a year for the use of State agencies at prices less than half what would be paid at the station. The total bulk purchases are gradually mounting as more tanks are installed. Incidentally, this is also one of the commodities that the central school districts are buying now at State prices, at a distinct saving to their local taxpayers.

Comptroller Tremaine has some other interesting tables in his breakdown of State costs illustrative of the extent of purchases made through this division either by contract or upon its approval, if in the open market. The food bill, for instance, was \$7,831,743 for the year; the clothing purchases aggregated \$1,136,147; household, laundry and refrigerating supplies \$1,262,648; medical, surgical and laboratory supplies \$692,989; farm and garden supplies \$752,864; special supplies aggregated \$2,714,394, many of them like motion picture supplies, fish and game supplies, and recreational and playground equipment clearing through the division.

Heavy materials, like bituminous mixtures and oils, paint and painting materials, iron and steel products, aggregated \$8,508,238, while the item for equipment replacements ranging from passenger cars, laundry equipment and furniture to road and parkway signs totaled \$2,401,000.

Your Standards and Purchase division operates on a budget of \$150,000 in the conduct of this vast and intricate wholesale department store doing a \$30,000,000 annual business. It's a human, compelling undertaking that can't fail to stir the most prosaic imagination while at the same time inspiring the admiration of the trade of the State and the nation for its business acumen—provided the job is being done right.

Efficiency of this division depends a great deal upon the success it achieves in performing service and cooperation. Every State agency has its own particular functions and none can operate with the maximum of efficiency in the interest of the people unless this division is able to provide the service expected of it. That means mutual cooperation—whether it be in the care of the State's wards, or the improvement of a highway, the eradication of disease, or the education of children.

Our goal, therefore, is to render the utmost in service possible for every branch of the State government—a service worthy of the trust of the Chief Executive and the people of the State through conservation of the public funds and getting the most of the best for every dollar spent.

Knowledge is the basis for sane, scientific buying but the field of pur-

chases made annually by this division is so vast that no one person, nor even a limited corps of employee-experts, could be expected to have first hand knowledge of every problem to be met. The reason the division is able to standardize and buy scientifically and practically is because of these aids:

1. By taking advantage of the experience of the many department heads in State service who are experts in their particular line of endeavor and who are prepared to counsel and guide in the primary object of safeguarding the welfare of the State's dependents and enhancing the credit of the State.

2. By taking advantage of the unpaid service of the men in general trade who are willing to give the State the benefit of their business knowledge and experience.

3. By cooperating with various Federal Departments and obtaining the benefit of the vast scientific knowledge which they have accumulated.

4. By consulting with the officials of other States and various trade associations which have been appointed to standardize for the trade in general and by studying specifications of the large manufacturers and trade distributors who are specialists in their own particular lines.

5. By indexing and placing in a reference file information contained in many bids for the amendment and perfection of future standards.

6. Finally, by assembling the gist of valuable information which is to be had and piecing from each a standard which will be workable, economical and satisfactory for the State's use.

To maintain specifications for hundreds of items up to the level of latest technological advances and improvements, we solicit the cooperation of prospective bidders prior to issuing proposals by forwarding circular letters similar to the following:

"We are considering a complete revision of our specification on Small Tools and would appreciate your cooperation by making a careful study of our present specifications for the purpose of bringing to our attention any suggested changes in the specification which you believe to be for the best interest of the State.

"We are particularly desirous to bring the catalog references up to date and revise any clauses which are confusing and ambiguous.

"Detailed reasons for suggestions offered should be furnished in order to enable us to extend proper consideration.

"If you do not have a copy of our current specification, kindly advise us by return mail, as we should like to have your suggestions within the next fifteen days."

In awarding contracts, much thought is given to any possible advantage accruing from the time or duration of a contract, by reason of seasonal conditions, market situa-

The potatoes required in addition to home product are mostly bought in car lot quantities when favorable prices prevail. Sugar is purchased from time to time when deemed feasible to meet the low prices often due to over-supply, or insufficient demand, as is often the case in the off-season. This, therefore, is attended with the closest scrutiny of the sugar market. Canned fruits and vegetables are bought as nearly to the canning season as practicable; fresh meats are bought monthly, ever with an eye on the local refrigerating service and always with a view of safeguarding the quality of deliveries.

lion pounds, with over six hundred thousand pounds represented in rye, buckwheat, graham and whole wheat flour. The whole approximates a total of nearly twenty-three million pounds or 767 car loads. Over 1,830,000 pounds or 61 carloads of dried peas and beans in addition to home product were furnished to the State's kitchens, with rice and tapioca following with approximately 950,000 pounds or over 31 carloads. The milk, soda, graham and oyster crackers weighed over 413,000 pounds or 13 carloads.

Meats of all kinds, fish and poultry amounted to over twenty million seven hundred and fifty thousand pounds or over 691 cars, of which more than 8,650,000 pounds are found in beef products; lamb and mutton 1,908,000 pounds; pork products including lard 3,493,000 pounds; considerably over 1,648,000 pounds of Bologna, Liverwurst, Sausage and Frankfurters; approximately 990,240 pounds of Veal; 3,500,000 pounds of Fish and 250,000 pounds of poultry were furnished during the past year.

Over two million three hundred thousand pounds or over 76 carloads of Tea, Coffee and Cocoa were bought and approximately 2,350,000 pounds, or over 77 carloads of dried fruits. Approximately 5,232,000 pounds or 173 carloads of Canned Fruits and Vegetables were added to the State's larder. Salt passed the two million pound mark, 74 carloads, with one carload of spices and one carload of vinegar. There were purchased over 559,280 pounds or over 18 carloads of Yeast and Malt Syrup; over 50,000 pounds of Candy and over 238,000 pounds of Tobacco.

The State bought in addition to home product over 3,532,000 pounds of Butter; over 2,403,000 dozen of eggs (and eggs are purchased guaranteed at the time of delivery); over 680,000 pounds of Cheese; over thirteen million quarts of Fresh Milk; 651,620 quarts of Condensed Milk and over 43,000 quarts of Evaporated Milk. The total butter, eggs, cheese and milk expenditure amounted to approximately \$2,635,840.

Fertilizer amounted to approximately 7,500 tons and Seeds approximately 294,384 pounds; Seed Potatoes reached the 7,000 bushel mark  
*(Continued on page 104)*



**A constant check on all deliveries of goods and materials to various State institutions and departments is maintained by chemical and physical tests in the laboratory, in order to determine if purchases conform to specifications.**

tions, supply and demand at various times of the year, as well as trade conditions, strikes, car, and labor shortage and the like.

Thus, fluid milk is purchased on a yearly basis and bids are received during the flush period when the supply is plentiful and prices accordingly low. Butter, eggs and cheese are purchased monthly for immediate consumption. Flour is bought monthly and in car lots where possible; grain products and cereals quarterly, because the quantities are less than on bread flour and the quarterly purchase enables more institutions to take advantage of car lot prices.

Small Tools are purchased on yearly contracts which are awarded the early part of each year. Mixed Paints are purchased twice a year when manufacturers are seeking volume business to maintain plant schedules during slack seasons. Baled cotton for prison industries is purchased on a spot market basis several times during a fiscal year.

The following enumeration will give you some idea of the magnitude of the State's requirements:

Estimating 235 loaves of bread to a barrel of flour, the year's bread supply aggregated about 23,000,000 loaves and the cereals and breakfast foods amounted to nearly four mil-

## Division of Standards and Purchase

(Continued from page 103)

and potatoes for table use averaged over 16,360,000 pounds. Feed reached the high mark of 9,000 tons.

Bituminous material for use on roads throughout the State and Institutional grounds amounted to 6,464,290 gallons of Tar Asphalt and Emulsion and 93,480 tons of Pre-Mix Bituminous material. The moneys expended for Bituminous Material alone amounted to approximately \$990,057.24.

The coal supply is one of the heaviest problems annually confronting the division. To keep agencies supplied with coal, regardless of existing market or trade conditions and regardless of their respective facilities for handling a coal supply, is a problem of no small dimensions. The quantity averages about 92,370 tons of Anthracite Coal and 356,875 tons of Bituminous Coal.

The Commissioner of Standards and Purchase is instrumental in carrying out every problem of State administration—whether humanitarian, productive or constructive. He shares responsibility for the welfare and well-being of every unfortunate dependent, defective and delinquent in State institutions. It is his statutory and conscientious duty to see that these wards of the State receive an abundance of wholesome food; that the buildings in which they are kept are properly heated and lighted and cleansed; that each is furnished with proper sanitary bedding and clothing—woolens for winter, cottons for summer, rubber footwear and rubber garments when exposed to inclement weather; proper beds and tables and chairs; motion picture machines, pianos, radios; that the institutions are equipped with laundry and dishwashing machinery and refrigeration; supplied with plants, seeds and fertilizers and road materials.

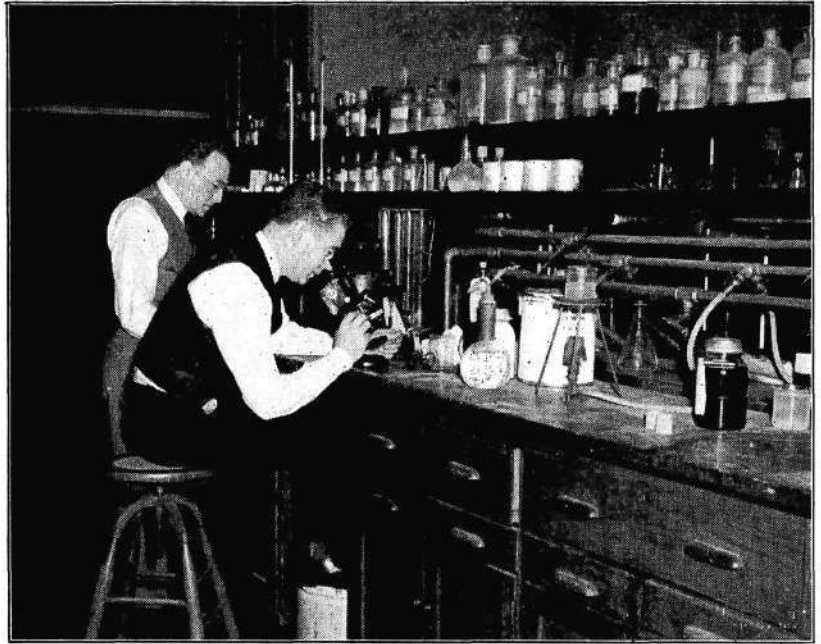
Standards and Purchase includes bureaus of Standards, Purchase, Stores and Printing. Each division is operated by officials who are scientists in governmental administration and experts in their particular line of endeavor. They must be versatile and of more than average intelligence to grasp the fundamental knowledge required in directing the

diversified program of the division. Unfortunately, because of the expense involved, it is impossible to set up a unit for each class of purchasing contemplated, and hence it is necessary for these State officials to educate themselves in many divergent lines.

The elimination of unnecessary so-called red tape has been the primary accomplishment of the division but at best the amount of detail involved in the purchase of hundreds of commodities for hundreds of points of distribution is tremendous.

Business men of experience can appreciate the careful, accurate

It is then referred to the Division of Standards for standardization, necessitating a check of the entire plant equipment—number and type of boilers, peak load carried, kind of grates, natural or forced draft, depth and size of fire box, hand fired or stoker system, analysis of log readings, engineers' reports and past efficiency records. From the foregoing will be determined the kind and size of coal to be used—whether fine or lumpy coal, high, low or medium volatile, the fusing point of ash, allowable sulphur and ash and the required heat units. It is then referred to the Bureau of Purchase and is there assembled into



This view of a portion of the laboratory shows R. J. Roohan, senior chemist, and his assistant, A. E. Ruff, making microscopic tests on foods.

Experts tabulate proposals in the presence of the bidders immediately after the bid opening.

checking and classification required to carry out this work. The Purchase Bureau is at present averaging thirty bid openings a month. The purchase of coal will serve to illustrate the detail involved. A requirement received for bituminous coal is referred to the Stores Division and checked against perpetual inventory as to the quantity on hand; next to the Bureau of Estimates where it is checked against past estimates as to quantity and kind and average annual consumption and the request is approved or revised accordingly, checking against appropriation for available funds.

schedules of like commodities for periodical purchase. The Purchase Bureau plans a proposal sheet in tabular condensed form, carrying the following information for the bidder:

Name of Institution, Shipping Point, kind and quantity of coal required; shipping directions giving in detail railroads over which shipment may be made and delivered to destination; freight rate as per I.C.C. tariff; switching charges, if any; locations and capacity of switch, if any; number of cars that can be handled weekly or monthly; capacity of storage bins; rate at which

coal can be unloaded without accumulating demurrage charges.

On receipt of bids, prices and freight rates must be checked and verified, each individual mine must be looked up as to past analyses, government reports and other available sources of information. Capacity of the mine and car rating must be given consideration.

This information must be duplicated for each kind of coal purchased.

The filing of a requirement for any commodity involves clearance through:

(1) The Bureau of Stores, to get the standing inventory of the product.

(2) The Bureau of Estimates:

(a) as to the necessity of the purchase and the amount thereof.

(b) whether an appropriation is available therefor.

(c) for assembling into schedules of like commodities for periodical purchase.

(3) Bureau of Standards for standardization.

(4) To the Purchase Bureau for purchase and delivery.

In the Purchase Bureau all items are incorporated into schedules and proposal blanks and issued to the trade. Subsequent to the opening and tabulation of bids, a checkup must be made of bid price against standards and, after a final checkup as to available appropriations, notice of award is issued to the bidders and interested agencies and a final reference is made to the Bureau of Stores for set up in a perpetual inventory.

This article does little more than present in a broad, general way the work of Standards and Purchase. The spending of money is always attended with some criticism. That is inevitable and it is not an unhealthy condition since it represents a challenge to conscientious public servants to do progressively better in the efficient and economical observance of their duties.

The setting of standards and the drawing of specifications for the multitude of commodities bought through Standards and Purchase represents only one step in the ultimate acquisition of those products. Samples are checked and analyzed; inspectors go into the field to see that actual deliveries are as good as represented; and the services of

other agencies like the laboratories of the Federal Bureau of Standards and the United States Department of Agriculture are being constantly utilized.

Wherever and whenever possible, this division prefers to buy New York State products of field and factory. New York business men and farmers—taxpayers all—are encouraged to do business with the State government through this division.

Everything in Standards and Purchase is open to public inspection—at any time—and none should hesitate to offer criticism or suggestion. The division is charged with spending the people's money in the people's interest. We want to do the job right!

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GAME WITH  
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# Retroactive Taxation

## OF D. P. U. I. AND OTHER EMPLOYEES

Although the State Legislature has adjourned, the Association is still sponsoring bills in the interest of State employees. At the request of the Association, Senator Robert W. Wagner and Representative William T. Byrne have introduced bills in Congress to prevent retroactive and discriminatory taxation of State employees paid in part from Federal funds.

Under a recent ruling of the Commissioner of Internal Revenue, all State employees, whose salaries are paid in part from Federal funds, are liable for the payment of a Federal income tax retroactively for the years 1934-1938 inclusive, plus a 25% penalty for failure to pay the tax when it is supposed to have been due. This is a very serious matter for thousands of employees in this category because they have in good faith paid State income taxes and, like everyone else, have assumed that they were exempt from Federal taxation because they were State civil service employees. The Association is convinced that this belated attempt to collect an income tax from this large group of employees is absolutely unjustified and is making every effort to have the situation corrected by appropriate congressional action. The Association counsel, John T. DeGraff, has prepared a memorandum in support of the bill which has been mimeographed and widely distributed to other States through the medium of the Interstate Conference of Unemployment Compensation Agencies and the Conference on State Defense. These organizations and many others in other States are actively supporting the bills and we have every hope that favorable action will be taken by Congress. All employees affected should write or telegraph their representatives in Congress urging them to support the bill.

The following is a copy of the memorandum prepared by Mr. DeGraff, which sets forth the situation in greater detail:

The Commissioner of Internal Revenue on November 3, 1939, ruled

for the first time that employees of the New York State Division of Placement and Unemployment Insurance would be required to pay Federal Income Taxes for the years 1936, 1937, 1938, plus interest and a 25% penalty. The present attempt, at this late date, to collect this tax retroactively, imposes an unreasonable hardship upon a large group of employees who, in good faith, believed they were exempt from Federal taxation.

### Basis for Ruling

Prior to 1934, State employees, paid in part from Federal funds, were uniformly held to be exempt from Federal Income Tax (1)\*\*

In 1934 this rule was reversed, not by any change in the Income Tax Statutes, but by the promulgation of a new Regulation which prescribed that if the compensation of a State employee was paid wholly or in part, directly or indirectly, from Federal funds, such part was taxable (2). Despite this regulation, which is the basis for the present ruling, the General Counsel of the Treasury Department held, as recently as June 9, 1937:

"The compensation received by employees of the New York State Employment Service is exempt from Federal Income tax." (3).

Prior to January, 1940, the Bureau of Internal Revenue had never attempted to collect a tax from D. P. U. I. employees, who accordingly had good cause to believe themselves exempt.

In 1939, the Public Salary Tax Act was passed giving statutory effect to the principle set forth in these Regulations (4). The Bureau of Internal Revenue thereupon ruled that these employees, heretofore considered exempt, were not only taxable, but were retroactively taxable, for the very period that they had been considered exempt by the Treasury Department.

\*\* The authorities and citations in support of the statements herein will be found in the appendix at the end of this memorandum.

### Public Salary Tax Act of 1939

Certain recent Supreme Court decisions substantially abolished the supposed immunity of State employees to Federal Taxation (5). Under those decisions a vast number of State employees would have been liable retroactively for the payment of Federal Income Taxes for which they had heretofore been considered exempt.

Congress at once recognized the injustice of this situation, and for the purpose of remedying it, passed the Public Salary Tax Act of 1939, Sections 201, 202 and 203 of that act gave relief from this inequitable and burdensome retroactive tax liability. Section 205 of the Act, however, contained a provision which permitted retroactive taxation of employees paid in part from Federal funds. The language of this Section does not, however, accomplish the result intended by Congress (4).

Consequently, unless Section 205 is repealed or clarified, thousands of State employees, who were generally considered exempt from Federal taxes, will be subject to retroactive taxation for the years 1934 to 1938 inclusive, contrary to the intent of the Public Salary Tax Act.

### Section 205 Should be Amended or Repealed for the Following Reasons:

I. It thwarts the very purpose of the Public Salary Tax Act. Instead of maintaining the status quo of taxpayers, as intended, it is being used to retroactively and discriminatorily increase the tax burden of those who had not previously been considered taxable. The imposition of such a retroactive tax liability will be of staggering proportions affecting thousands of employees and reaching into every nook and corner of the State, County and Municipal Government of the State of New York, and other States as well. A partial list of the agencies affected will be found in the appendix (6).

II. It is difficult, if not impossible, to enforce. The Regulations (2) have apparently been enforced to a very limited extent. They have been invoked with respect to members of the National Guard, who are paid by Federal checks; a few employees

of Agricultural Schools where, although Federal funds are merged with State funds, the Federal Government contributes a specific and ascertainable portion of each employee's salary, and in a very few other instances (7).

They have not, however, been enforced generally with respect to State Agencies which receive Federal grants. Such Federal grants, when merged with State funds, have been held to be State moneys (8). It is impossible to determine what, if any, portion of any employee's salary is paid from Federal grants. The fund is used for the payment of equipment, maintenance, operation, and other fixed charges, as well as salaries. Generally, State funds must be disbursed before Federal grants are used. The portion the Federal Government contributes to the fund is ascertainable, but the amount of Federal funds used to pay specific salaries cannot be determined. Such employees, who are appointed from State Civil Service lists, receive State checks and have no way of knowing what, if any, part of their salaries come indirectly from Federal funds.

**III. It cannot equitably be enforced.** Strict enforcement of the literal terms of the Regulations (2) will impose retroactive taxation on thousands of State County and Municipal employees, who have never been called upon to pay Federal Income Taxes, and who have assumed, in good faith, that they were exempt from such tax.

Enforcement against D. P. U. I. employees alone, as now contemplated, is an unjustifiable discrimination by singling out this group of employees from thousands of others equally liable for the tax under the terms of the present law.

**IV. It violates the reciprocity between Federal and State Governments, which Section 208 of the act contemplated.** New York State has waived its right to assess Federal employees for retroactive taxes (9). The Federal Government certainly intended to do likewise for the employees of New York State. Failure to amend Section 205 to relieve State employees from this retroactive lia-

bility would amount to a breach of faith with the State of New York, and other States which have taken similar action.

**V. The implications of Section 205 were not fully considered by Congress when the Public Salary Tax Act of 1939 was enacted.**

In the discussion on the floor, it was assumed that State employees paid in part from Federal funds had always been taxed. The fact that Regulations adopted in 1934 constituted a complete reversal of policy, and the additional facts set forth in this memorandum, were not called to the attention of Congress. (10).

#### Conclusion

**The existing inequitable situation can be corrected by the passage of the Wagner-Byrne bill.** A bill to relieve State employees of this retroactive and discriminatory burden (S. 3783) has been introduced in the Senate by Senator Robert W. Wagner of New York, and a companion bill (H. R. 8985), has been introduced in the House of Representatives by Congressman William T. Byrne of New York. State employees interested in correcting the existing situation should immediately write to their representatives in Congress urging them to support this corrective legislation.

Common justice requires that Section 205 be amended or repealed. Failure to do so would impose an arbitrary and oppressive retroactive burden upon thousands and thousands of State, County and Municipal employees, who have never been called upon to pay a Federal Income Tax.

State employees must, after 1939, pay both a State and a Federal Income Tax. They should start with a clean slate. The tax muddle which existed before 1939 should not be perpetuated.

#### Appendix

(1) "Compensation paid to its officers and employees by a State or political subdivision thereof for services rendered in connection with the exercise of an essential governmental function of the State or political subdivision thereof, \* \* \* is not taxable." (Bureau of Internal Revenue Income Tax Regulation 77, article 643).

The General Counsel of the Treasury Department in Memorandum 1213 T. C. 13, XII-2, phrased the rule as set forth in the line of cases which uphold this regulation, thus:

"When a person is a bonafide State employee, engaged in the exercise of an essential governmental function, the mere fact that the employee receives his compensation out of the fund contributed in part by the Federal Government does not take from him the right of exemption from Federal taxation." See also I. T. 2677, Cum. Bul. XII-1 (1933).

(2) Regulation 86, promulgated in 1934, and subsequent Bureau of Internal Revenue regulations, contained the following paragraph:

"Sec. 116-2. If all or part of the compensation of an officer or employee of a State or political subdivision thereof is paid directly or indirectly by the United States, such compensation (or part) is taxable, as for example, any compensation paid by the United States to officers of the National Guard of a State, or compensation paid by a State to officers or employees of an agricultural school or college wholly or partly out of grants from the United States."

(3) Official opinion by Henry Oliphant, General Counsel of the Treasury Department, set forth in letter dated June 9, 1937, to Henry Epstein, Solicitor General of the State of New York.

(4) Public Salary Tax Act of 1939. Section 205: "Compensation shall not be considered as compensation within the meaning of Sections 201, 202 and 203, to the extent that it is paid directly or indirectly by the United States or any agent or instrumentality thereof."

(5) *Helvering v. Gerhardt*, 304 U. S. 405; *Helvering v. Therrell*, 303 U. S. 218; *Graves et al v. N. Y. ex rel. O'Keefe*, 306 U. S. 466.

(6) A partial list of various services maintained, in part, by Federal funds, is as follows:  
Child Welfare Service  
Social Security  
Public Health  
Aid to the Blind  
P. W. A.  
Federal Forest Fire Funds  
Vocational Rehabilitation

(Continued on page 123)

# Better Fishing for New York Sportsmen

By

ARTHUR S. HOPKINS

*Assistant Director,  
Lands and Forests Division,  
Conservation Department*

During the last few years, trout fishermen on streams like the Kinderhook, the Beaverkill, the Battenkill, the Wiscoy or the Salmon river have noticed yellow and black signs stating that portions of these waters were New York State Public Trout Streams. In addition, they have seen along the banks and in the streams themselves, wood and stone structures of various kinds. Few sportsmen, however, have realized the work and planning which lies back of these developments.

Since the initiation of the present program in 1935 of acquiring and developing public trout fishing areas, the Conservation Department has been quietly at work, formulating plans and carrying out this new activity. In the beginning, a careful study was made of similar programs in adjacent States. New York State profited by their experience and was able to go into high gear with its own program almost immediately.

It was obvious to everyone that the program should be State-wide and that its specifications should be definite enough to prevent the dissipation of available money in the acquisition of streams of secondary importance. Fortunately, there were available the reports of the Biological Survey of the Fish and Game Division of the Department, which have covered all of the watersheds of the State since 1926. These reports furnished detailed information in regard to the fish population, amount of fish food, presence of parasites, pollution conditions, water temperatures, and included definite recommendations for the stocking of food and game fish in each stream. An analysis of these reports indicated that there were approximately 20,000 miles of streams in New York State suitable for brook, brown or rainbow trout.

The experience of adjacent States indicated that the best results were secured from the purchase of the larger streams. Therefore, the program was set up to include only the acquisition of the larger size streams upon which not less than fifteen

miles of water of adequate size and temperature to support an annual stocking of at least 10,000 brook, brown or rainbow trout could be secured. The acquisitions were confined entirely to trout waters because of the greater number of trout fishermen and the large mileage of open waters containing bass and other warm water fishes.

A further analysis of the 20,000 miles qualifying under the above specifications indicated that there were only some 1,550 miles which met them fully. Of this amount, nearly 180 miles were found to be located on State owned Forest Preserve, Reforestation or Canal lands,

eral and payment to the owner, stream improvement work has been initiated on each stream either by the Civilian Conservation Corps or with State funds. The first steps have been to erect uniform signs informing the public that they were available for their use. Subsequently, stiles are erected over all farm fences and entrance trails marked from the nearest highway. Later, the improvement of the environmental conditions in the stream itself is accomplished by means of bank piers, current deflectors, docking, willow planting and the construction of rock pools. In general, these structures aim to control serious bank



"BY THESE SIGNS YE SHALL KNOW THEM"

and some 350 miles on private holdings whose purchase could not be expected, leaving a balance of approximately 1,000 miles which might be acquired.

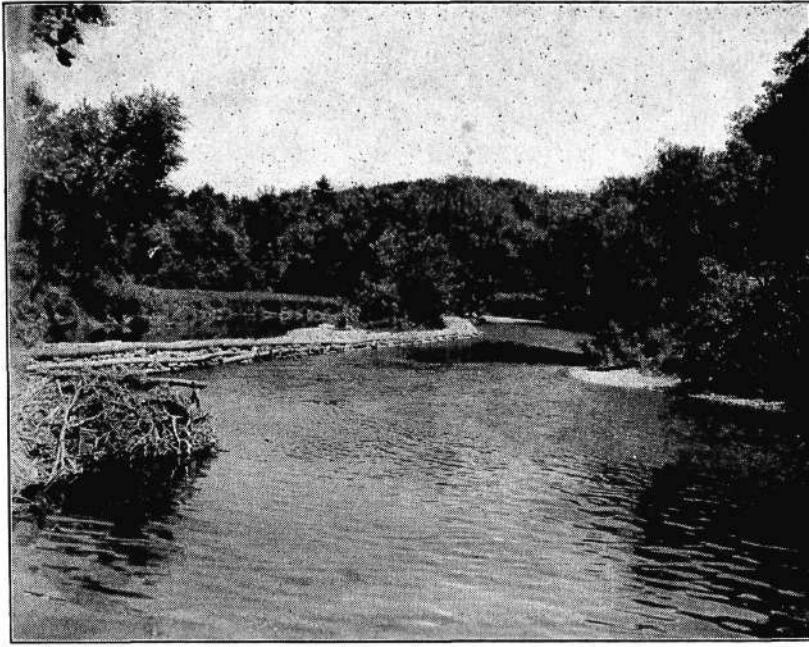
Since 1935, the acquisition work has been extended to thirty of the forty-three qualifying streams, and to all of the watersheds of the State except Long Island. There has already been acquired a total of 468 miles, in addition to the 180 miles located on State lands, so that the total mileage at the present time either owned by the State or under contract is approximately 650 miles, or slightly over one-half of the 1,200 miles under consideration.

As rapidly as possible after approval of title by the Attorney Gen-

eration, lessen silting, lower temperatures and create additional pools for fish.

At the end of the 1939 field season, the stream improvement work on twelve streams had included the following: 60 straight-log dams, 2 crib dams, 7 V-dams, 3 barrier dams, 268 deflectors, 25 deflecting dykes, 29,697 feet of docking, 33 channel blockers, 16 rock cribs, 11,872 yards of rock pools, 129 miscellaneous structures, 6 springs cleaned, 11.20 miles of spring runs cleaned, 39.8 miles of streams cleaned, 3 channels reopened, 86,303 trees planted, 3 parking areas, 77.35 miles of entrance trails, 10 foot bridges, and 119 stiles.





**DEFLECTING DYKE — KINDERHOOK CREEK**

The purchases are located on all of the twelve major watersheds of the State from Clinton to Cattaraugus counties. No person living north of Peekskill is more than fifty miles in an air line from one or more of these State units. Eventually, the Department anticipates being able to make some of these streams self-sustaining from the fish production standpoint. However,

that is a far distant goal which may never be achieved. In the meantime, however, and even during the present period of acquisition and stream development, wide-spread and worthwhile benefits are accruing to the sportsmen, partially through improved methods of stocking and additional protection and also because of the fact that the rights acquired by the State are perpetual easements

which run forever with the title to the land. However, it should be borne in mind that no fee title passes to the State and that the State acquires nothing but the right to use the waters for public fishing purposes. Camping, hunting, trapping or other similar uses are not permitted on the strips along the streams covered by these easements.

The program has been well received by the landowners throughout the State, largely because the various stream improvement devices protect the adjacent lands from erosion and flood damage. Fishermen using these streams should remember that the program is still in its initial stages and should not expect to catch a five pound trout from every pool.

The streams upon which acquisition and development work is underway at the present time are the Battenkill, Beaver, Beaverkill, Big Salmon, Black River, Catskill Creek, Cattaraugus, Chateaugay, Cohocton, Crystal Creek, Deer River, East Koy, Fish Creek, West Branch of Fish Creek, Genesee, Kayaderoseros, Kinderhook, Little Salmon, Independence, East Canada, Moose River, Oswegatchie, Otselic, Otter Creek, Salmon River, Schoharie, St. Regis, West Canada, Willowemoc and Wiscoy Creek.



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VICE PRESIDENT & MANAGING DIRECTOR

## Legislative Report of Counsel

(Continued from page 96)

### CHAPTER 572

#### Williamson Bill—S 10

This bill enlarges the definition of "veterans" to include female nurses serving with the Army and Navy.

### CHAPTER 649

#### Fite Bill—A 2072

This bill repeals section 14-b of the Civil Service Law which extended the term of certain eligible lists and which is now obsolete.

### CHAPTER 846

#### Rapp Bill—A 922

This bill provides that members of the Division of State Police shall be entitled to credit under the Retirement System for service as a member of the American Expeditionary Forces between November 11, 1918 and June, 30, 1919, and also for service on the Mexican Border.

### CHAPTER 758

#### Nunan Bill—S. 480

This bill permits the transfer within two years, by a member of one Retirement System to another, if he has been entitled to total service credit of at least thirty years in the first system and has given notice within three years.

### CHAPTER 530

#### Fogarty Bill—A 1235

This bill provides that veterans shall be given leave of absence with pay on Memorial Day and Armistice Day.

### CHAPTER 804

#### Devany Bill—A 993

Provides that veterans shall be given leave of absence with pay on July 4th of each year.

### CHAPTER 315

#### Ostertag Bill—A 914

Extends to all units of government the present provisions contained in section 22 of the Civil Service Law which gives veterans the right to a hearing on charges seeking their removal from office.

### CHAPTER 441

#### Fite Bill—A 1874

Authorizes the State Civil Service Commission to charge municipalities for services rendered.

### CHAPTER 401

#### Wilson Bill—A 2391

Gives "prior service" credit to employees who joined the Retirement System before January 1, 1941.

### CHAPTER 393

#### Babcock Bill—A 596

This bill amends and clarifies the provisions relating to "prior service allowance" in the Retirement System.

### CHAPTER 268

#### Babcock Bill—A 595

This bill amends the law relating to the date of payment of an accidental disability retirement allowance.

### CHAPTER 350

#### Bennett Bill—A 656

This bill extends to 1942 the time within which State Police may elect to contribute to the Retirement System on the basis of retirement after 25 years of service.

### CHAPTER 472

#### Babcock Bill—A 1128

This bill strikes out the provision that the cash payment under an optional retirement allowance cannot exceed the member's accumulated contributions.

### CHAPTER 478

#### Fite Bill—A 2354

This bill requires the State Civil Service Commission to prescribe rules and regulations for keeping and reviewing service records and ratings of employees in all civil divisions of the State except cities.

Among the bills vetoed by the Governor were the following:

#### McNaboe Bill—S 36

This bill provided in substance that an employee in the competitive service could not be removed on charges except after a hearing, with the requirement that a stenographic record must be kept and filed with the Civil Service Commission. The Governor's veto was accompanied by a message reading as follows:

"This bill would in effect mean virtually a formal trial with all the technical rules of evidence before the removal of a civil service employee could be made.

"Separations from the service should be treated as an administrative problem. I believe that civil service employees are protected under existing law from improper dismissal by the requirements that before they can be dismissed written charges must be served upon them, and the employee in question must be given notice and an opportunity to answer the charges. In my opinion there has been little, if any, abuse of the administrative powers or of injustice to civil service employees.

"The Mayors of the Cities of Buffalo and New York and the Civil Service Commission have all written to me in opposition to this bill."

#### Barrett Bill—A 4

This bill would have enlarged, effective July 1, 1941, the eight-hour day law sponsored by the Association, to include persons employed in protecting and guarding the buildings and grounds of State institutions. The Governor's veto was accompanied by a message reading as follows:

"This bill is merely a legislative gesture. It substantially increases the cost of government but contains no appropriation whatever to meet this increased cost.

"The bill limits to eight hours, the working day of State employees employed in the protecting and guarding of the buildings and grounds of State institutions. The purpose of the bill is sound. Certainly, I have no objection to this purpose since it was on my recommendation that employees in State institutions were originally reduced from a twelve hour day to an eight hour day.

"I again wish to emphasize my strong disapproval of the legislative practice of passing bills which substantially increase costs without providing appropriations to meet such costs. The Legislature cannot continue to avoid its responsibilities. It cannot continue to deceive people of the State by continually adding to the cost of government with bills which fail to provide the funds to meet these costs."

The Association will continue its efforts next year to extend the provisions of the eight hour day to all groups of employees who are not now protected by the terms of the present law.

#### Ryan Bill—S 688

This bill, which authorized pensions for widows of prison guards who were members of the Correction Retirement System, was vetoed by the Governor on the recommendation of the Pension Commission which opposed the bill for the following reasons:

"1. The bill arbitrarily singles out for unwarranted privilege a group already favored both over their immediate fellow employees and over the great group of public employees throughout the State.

"2. The employees affected already are to receive generous pen-

sion benefits without having to contribute, so that any further extension of benefits is a doubly unwarranted charge on taxpayers.

"3. The bill is contrary to the fundamentally important purpose and plan pursued in the State of New York of providing uniform retirement benefits to all city, village and State employees, in that the bill seeks further to increase special privileges enjoyed by those department of correction employees covered by the old prison retirement act, which has been closed to new entrants for several years."

#### **Wicks Bill—S 1361**

This bill, which provided that mounted patrolmen in State correctional institutions should receive the same rate of pay as prison guards, was vetoed by Governor Lehman in a message reading as follows:

"This bill would increase the compensation of mounted patrolmen at State prisons and certain other correctional institutions.

"The bill would take effect next July 1st, but it contains no appropriation with which to carry out its provisions. I cannot condemn too strongly the practice of passing bills which require the expenditure of funds and not providing an appropriation with which to meet the expenditure. This is a tricky device for political purposes. Obviously we cannot care for increased costs unless the necessary increased funds are provided."

#### **Quinn Bill—S 1453**

This bill contained an illegal provision which required that a confidential attendant, on the death or retirement of the judge who appointed him, should be classified as a court attendant in the competitive class. The Governor, in his veto message, quoted Mayor LaGuardia who opposed the bill for the following reasons:

"This bill proposes to affix to the public payroll practically every confidential attendant who has been appointed by a judge of the court of general sessions. After the retirement or death of a judge, the attendant will remain on for life as a permanent civil service employee; while the new judge has the right to appoint a new confidential attendant without adhering to civil service requirements . . .

"It is one thing for a judge to be permitted to choose his own con-

fidential attendant upon his assumption of office. But where the judge dies or retires, the reasons of personal convenience which originally gave rise to the appointment can no longer apply. Because the merit system of the civil service is relaxed in the first instance, there is no reason why it must again be relaxed at the time of the judge's separation from the service."

#### **Kreinherder Bill—A 912**

This bill provided that employees appointed from promotion lists should not be required to serve a probationary period, which is the prevailing practice in the State service under existing Civil Service rules. Governor Lehman's veto was accompanied by the following message:

"The determination of a probationary period of service is properly left by the present provisions of the Civil Service Law to the discretion of the Civil Service Commission.

"The New York City Civil Service Commission has written me in opposition to this bill in part as follows:

"This measure appears innocent on its face, but it will probably have the effect of preventing city-wide promotion examinations. During the past five years this Commission has experimented widely and successfully, with the idea of city-wide promotion examinations. Thus an employee in a dead-end in one department may secure a promotion opportunity in another department. This plan has worked very successfully and has resulted in many hundreds of promotions that would not otherwise have been made. It means, however, that the employee so promoted undertakes his promotion job in a department where the supervising head has had no chance whatever to appraise his merit. Thus, clerks from the Department of Sanitation may be promoted to supervisory positions in the Department of Welfare though wholly unknown to the Commissioner of Welfare. This means, in some cases, the promoted employee may not qualify for the promotion position. The new department head should have the chance to pass upon his service in a new probationary period."

#### **Pease Bill—A 1885**

This bill, which would have increased the salaries of State game protectors, was vetoed with the fol-

lowing statement by the Governor:

"This bill increases the salaries of State game protectors. Like many other bills which I have vetoed this year, the bill increases the cost of government but contains no appropriation whatever with which to pay such increased costs.

"It is inexcusable for the Legislature to pass bills requiring the expenditure of funds without providing the necessary funds. It is the same old tricky device seeking to put the Governor on the spot."

#### **Piper Bill—A 1651**

This bill, which proposed to amend the salary schedules relating to insurance examiners, was vetoed with the following message:

"Upon the passage of the salary standardization act, the insurance examiners in the several grades were duly allocated to appropriate statutory groups and grades. Thereafter, as provided by statute, employees severally and individually appealed for reconsideration of such allocations. These appeals were duly heard by the Temporary Salary Standardization Board and all adjustments merited upon the hearings were duly made. Again, as provided by statute, each employee examiner has been classified by the Classification Board of the Civil Service Commission and has been heard upon appeal at hearings, after which adjustments were made when the justice of such action was established.

"It therefore appears that this group has availed itself to the fullest extent of the machinery provided by law for proper allocation and classification.

"Approval of this measure would be most unfair to the great mass of other State employees who too have been subject to the final judgment of the above mentioned boards in their salary ratings made in accordance with law. This group of insurance examiners have received identical treatment with all other groups of State employees."

#### **MacKenzie Bill—A 1213**

Which provided that the Whiteface Mountain Highway Commission should give preference in employment to veterans, was vetoed with the following message:

"The Legislature cannot by statute, give a preference in civil service appointments to non-disabled  
(Continued on page 120)

# Loyalty to Ideals

Sooner or later the State employee who has thus far held aloof from association with his fellow workers in an employee organization, must make a decision or disregard his responsibility to State service. Today we have the spectacle of a mere handful of State workers aligned with some city and county workers which in turn is aligned with what seems to be a mythical Nation-wide group heading up with John L. Lewis of the C. I. O. Why New York State employees should ally themselves with Mr. Lewis is not clear. Mr. Lewis cannot by the wildest stretch of the imagination help New York State employees. But the dues paid by New York State workers would naturally be welcome to any far away leadership. The usual banner-bearing parades common to groups seeking to convey the impression of a numerical strength they do not possess and the usual mimeograph barrage has held forth for some time now as a lure to State employees to join the S. C. M. W. A. The ridiculous attitude of this group is indicated clearly by its activities in a single State Department. In the Department of Agriculture and Markets after several years intensive work, the S. C. M. W. A. has attained less than a dozen members, nevertheless, they have presented themselves before the Commissioner and before the Civil Service Commission apparently purporting to represent the sentiment of employees in that department.

In the Legislative field, the S. C. M. W. A. has failed completely to assist employees by a single constructive measure. They were not in existence when the Retirement System or the abolition of the twelve hour day were secured by the Association of State Civil Service Employees, nor when the equitable sick and vacation leave rules of Departmental employees were attained by Executive order. When the Feld-Hamilton bill was before the Legislature they were busy supporting a wholly impracticable measure. Yet nowadays one hears that the C. I. O. secured the Feld-Hamilton Law!

This year when the legislative leaders would not support a measure to assure increments for the fiscal year 1940-1941 to all persons recruited in 1939 and when the Association of State Civil Service Employees was in view of legislative refusal to go the whole way, alertly persuading that then the Legislature and the Budget Division should go at least half way, the S. C. M. W. A. in a mimeographed sheet declared with obvious falsity and maliciousness that the Association had not supported the whole-year plan. Where was S. C. M. W. A. support for the many bills submitted to the Legislature at the request of the Association—the hospital employee sick leave bill, the sound removal bill, the school superintendent bill, the extension of the Feld-Hamilton law to mental hygiene workers bill, and a number of other measures fair to workers and the State alike? In view of the atmosphere of antagonism seemingly apparent about legislative and executive and administrative halls to the tactics and the attitude of groups which cannot honestly be said, by reason of numbers or knowledge of State work to represent State employees or any other sizeable number of public workers, it may well be assumed that the S. C. M. W. A. harmed much more than helped every bit of legislation fostered in the true interests of State employees.

This Association has no anxiety as to how a State employee will react to the question of what employee organization he will eventually join. The State employee, unless wholly misled and wholly misinformed, will naturally display the efficiency with which he is credited and will ally himself with the group whose program is made by State workers, and whose officers are State workers who receive no pay for their organization efforts and who are answerable to no leadership except the membership of their own body. Such an organization is the ASSOCIATION OF STATE CIVIL SERVICE EMPLOYEES and this is the reason that it has existed since 1910, that today it has a member-

ship of over 30,000, and that it is respected within and without the State service as the largest and most influential and most progressive public employee body in the whole United States.

We submit this article only because we do not wish even one worker in all the service to be deceived or misled by false claim or bombastic propaganda. The motto of THE ASSOCIATION, "WE SERVE," is a truthful motto. THE ASSOCIATION serves the highest ideals of the State and also the highest ideals of unionism. It denounces racketeering in worker organization and it invites loyalty to America and to its democratic institutions.



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# Mammoth Meeting at Orangeburg

"The Association of State Civil Service Employees is destined to achieve a membership of 35,000 this year and is a unique organization in that it exists with no paid organizers and on a basis of one dollar a year dues per member. Local representatives also work without remuneration for the benefit of all."

This was the challenge enunciated unequivocally by John T. DeGraff, counsel of the Association, at the open meeting April 1 of Rockland State Hospital Chapter at Orangeburg.

Nearly 600 employees and representatives of the various State institutions in Rockland County attended the meeting. Dr. Russell E. Blaisdell, superintendent of the hospital, was chairman of the meeting which was called to order by Sven S. Munson, president of the local chapter.

## Two Speakers

The principal speakers were Mr. DeGraff and Civil Service Commissioner Howard P. Jones.

"There is no place for labor unions among State Employees," Mr. DeGraff stated, "Unions are impossible because as has been learned many times over, 'no group can strike against the State.' The State government is a routine business and should be kept clear of political issues and taxes."

Devoting most of his remarks to the activities of the session of the Legislature just adjourned, Mr. DeGraff listed bills passed and now awaiting the signature of the Governor, and bills that failed to pass.

Bills which are now before Governor Lehman are the eight hour day proposal for prison guards and one concerning those temporary appointments to Civil Service positions.

## Legislation

Legislation which failed to pass includes the Sick Leave bill for State institutions which will be reconsidered after a budget commission investigation, and the bill referring to commutation.

"At present," Mr. DeGraff said, "the various superintendents of State institutions, in order to permit commutation for those employees living off the State property, must

certify that there are no satisfactory living quarters at the institution at the time. The bill relative to commutation would remove this necessity.

"A survey is under way to study the cost of this proposition more thoroughly and the bill will be reconsidered in the Legislature. Part of this bill increases the age of dependents of the head of a family to twenty-one. In the Feld-Hamilton bill provision is made for employees to be paid on the basis of outside living expenses and deduction is made if the employee lives at the institution. This bill will also remove the necessity for many bills of diverse and lesser importance.

## Career Law

"The Feld-Hamilton Law was passed when financial conditions were on the up-grade. It was the result of years of study, preparation and perseverance.

"Many taxpayers have the false impression that such a law is a huge tax drain. The fact is that the total cost of State government salaries takes but seven cents per dollar from local tax moneys while Federal government costs forty-eight cents per dollar, and local government takes forty-three cents out of the tax dollar. No real estate tax goes to the State government, but all of this plus State aid goes into local government."

## H. P. Jones Speaks

In explaining the need, meaning, application and value of the Feld-Hamilton Civil Service Career Law to the employees of State institutions and to the taxpayer, Commissioner Jones said that the merit system comes down to the idea of how to interest capable persons into coming into State Service and continuing to keep up the zeal and challenge in their work.

"State Service," said the Commissioner, "is a huge business spending four million dollars daily, and employing about four hundred thousand men and women. Of this total about sixty thousand people are under the direct supervision of the State Civil Service Commission, one hundred twenty thousand more are in service in towns, villages, counties, schools and special districts. In

an enterprise of this size a spoils system is impossible, and the merit system as made lawful in the Feld-Hamilton bill, keeps order reigning instead of chaos.

## A 'Milestone'

"Efforts at a merit system began in 1883, but it was not until the Feld-Hamilton bill was made a law that interest in a good job, fair pay in a reasonable amount, security with possibility of advancement, and pension for later life, was guaranteed the State employee. This makes for efficiency of service of infinite value to the State and to the taxpayer.

A commission, of which Messrs. Jones and DeGraff are members, which was appointed by Governor Lehman to study the extension possibilities of civil service to 10,000 attendants in State institutions, is about to report that under the terms of the constitution, it is possible to place this class of State employee in the competitive class.

Those now employed as attendants would not be required to take the test, but all new attendants would be picked from a qualified list. Such action should be practicable, simplifying matters of promotion.

Others on the speakers' platform were: Harold A. Williams, chairman of Rockland State Hospital Chapter; and Miss Margaret Merritt, secretary of the Chapter.

## Many Present

Good representation was present from the following State institutions: Letchworth Village, Reconstruction Home, Matteawan, Middletown, Hudson River State Hospital, Poughkeepsie, Central Islip, also many county officials and office holders, members of the Rockland County Welfare Department and police departments of various towns and villages.

The committee in charge of the meeting were: Sven S. Munson, Harold A. Williams, Edmund T. Logue, Emil Bollman, Robert Ortlieb, Irving Scott, Samuel Stuart, Oswald Graf, Charles Davidson, Miss Margaret Merritt, Miss Marion Howell, Mrs. Alyce Watt, Mrs. Mary McInnerny and Mrs. Agnes Mulcahy.

# Local Activities

## H. R. S. H. News

Opening of the river has resulted in many activities by members of the Hudson River State Hospital Yacht Club, it is announced by Commodore George W. Magee.

Official opening of the clubhouse is scheduled for the middle of the month. It is planned to enlarge the building and to build a fire place at the north end. Committee appointments for the season have been announced by the Commodore and by the time of the official opening all projects are expected to be functioning smoothly.

Assisting the Commodore in all arrangements are Paul Leonard, vice commodore; James Connelly, rear commodore; Robert Tillman, treasurer; and William Pae, secretary.

It has been announced by Commodore Magee that club members are ready to assist the Mid-Hudson Amateur Radio Club in its communications during the annual Albany to New York Outboard marathon motorboat race May 12. Following its successful operation last year, a two-way station system will again be installed on the Siren III, owned by ex-Commodore Howard P. Carpenter, with a shore station at the yacht club.

Dr. Carpenter, retiring commodore, was feted at a commodore's dinner in the Amrita Club, Poughkeepsie, April 2, by sixty members of the yacht club. He was presented a commodore's flag by the officers and received a fountain pen set from fellow members. The Doctor, pathologist of the Hospital and deputy medical examiner of Dutchess county, will be an honorary commodore of the club now that he has retired.

Following the dinner, chief petty officers Honin De Hart and John McGuire of the local Navy recruiting station, showed motion pictures of fleet activities.

Commodore Magee, H. R. S. H. chief engineer and a former member of the Navy, acted as toastmaster. Favors at the dinner consisted of nautical compasses for the men and chain bracelets for the women. Brief addresses were given by Commodore Carpenter, Commodore Ma-

gee and Harry M. Sherwood, building inspector of Poughkeepsie.

Louis Garrison, vice president, and G. Carlton Nuhn, former president of the H. R. S. H. Employees Association, were delegates to the recent meeting of the Association of Employees of the Department of Mental Hygiene of the State of New York conducted at Albany, March 25 and 26. The men reported the business of the conference at the regular monthly meeting of the H. R. S. H. Employees Association, April 17, in the Amusement Hall of the hospital.

Dr. Solon C. Wolff, of the Hospital staff, was guest speaker at the April meeting of the C. B. Warring School, Poughkeepsie, parent-teacher association. His topic was, "Mental Hygiene Values of Recreation for Our Children." Open discussion of the address followed the meeting which was observed as "Fathers' Night."

## Canal Chapter Elects

The annual meeting of the Waterford Canal Floating Plant Chapter was conducted April 5 when the following officers were returned to office:

President, Frank McGovern; Vice President, Patrick Flanagan; Treasurer, William Ryan; Secretary, John J. Ashe.

Delegates named were: President McGovern, William Flynn, James White and Edward McCarthy.

There was a supper and entertainment under the direction of D. F. Hartnell, Joseph Donahue, and William Flynn.

## Buffalo Dinner

The annual dinner dance of the Buffalo Chapter was conducted April 13 at the Buffalo Trap and Field Club with 265 persons present.

The principal speaker at the dinner was Howard G. E. Smith, Civil Service Commissioner. Edward J. Hylant, chapter president, was toastmaster. Brief addresses were made by Miss Hilda Goeltz, vice president; Miss Myrtle Ferrington, secretary; and J. Milford Diggins, Treasurer.

Mr. Diggins was chairman of the arrangements committee.

## Syracuse Meeting

Plans for a social party next month were made at the April meeting of Syracuse Chapter in the Tudor Room of the Hotel Onondaga. It was decided to conduct a dinner and dance immediately following the June meeting which has been the procedure for the past several years.

After the close of the April meeting an "Information Please" contest was staged between five-person teams representing the State Hospital and the Department of Public Works. Miss Amy Cregg, secretary of the Chapter, representing the Department of Public Works, was the winner. The successful team was given as a prize five \$1 tickets to the June social.

Miss Kathleen Doran, who was transferred from the Labor Department to the Health Department, was entertained by girls of the Syracuse Compensation Bureau at a luncheon March 4. She was given a maple boudoir chair.

Among those present at the affair were: Miss Clara Mulroy, Miss Anne O'Boyle, Miss Doris LeFever, Miss Edna Pelland, Miss Sarah Weinstein, Miss Mabel Smith, Miss Frances Disque, Miss Gertrude Murray, Miss Ida Meltzer.

Miss Anne O'Brien, Miss Marie Quinlan, Miss Mildred Lacey, Mrs. Clara Bixby, Mrs. Edna O'Dell, Mrs. Jane Adolph, Mrs. Mary McMahon, Miss Ethel Rice and Miss Doran.

## Canal Group Dines

The third annual banquet and entertainment of East Central Chapter, Barge Canal Civil Service Association, was conducted March 2 at Utica.

Sidney C. Deming was toastmaster. Guests included Fred R. Lindsey, canal electrical engineer, Albany; Harry Jewell, canal engineer, Herkimer; and E. J. Buckwald, electrical supervisor, Amsterdam. Other speakers were P. J. McAuliffe, T. J. Conners and E. J. Foster.

A silent tribute was paid to the memory of James A. Husband who died recently and to other deceased members.

# Brentwood Officers Installed

Gustave C. Rudloff was installed president of Pilgrim State Hospital Chapter at a well attended meeting March 18. The installing officer and master of ceremonies was James McKiernan, president of Central Islip Chapter.

Other officers formally inducted were: Frank Parks, vice president; Arthur T. La Belle, secretary; and Jesse Davis, treasurer.

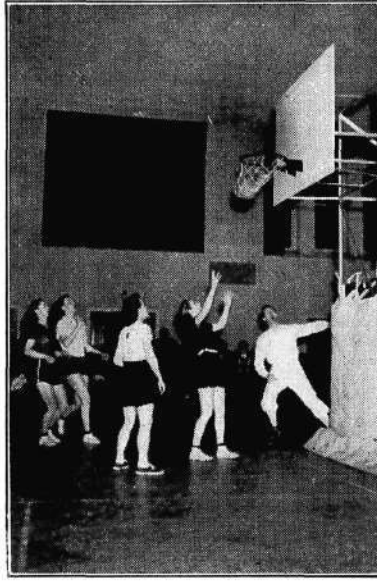
The Executive Committee is composed of G. Allen, J. Caron, L. Lunderman, A. Fox, G. Slight, A. Belanger, J. La Roch, C. Miranda, Mrs. L. Anderson.

Mrs. M. Belanger, Mrs. J. Barry, Miss C. Comer, C. Burns, C. Dugoniths, C. Doscher, C. Zoufaly, R. Burgess, Mrs. G. Slight and Mrs. M. Martuscio.

Kenneth Borey, president of Kings Park Chapter, was the principal speaker of the evening. He spoke on the history of the Association. Mr. McKiernan discussed immediate problems of State Hospital employees.

The Women's Recreation Association of the Chapter is making quite a reputation for its basketball prowess. Several fast teams have furnished fine exhibitions during the season and have attracted many spectators to the games.

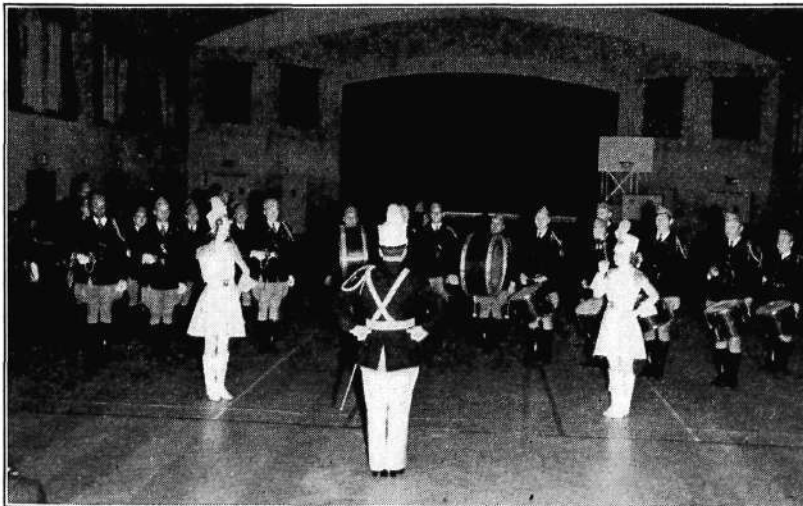
Recently the Schooners of Building 24 battled the Bombers of Buildings 12 and 15 and the Skippers of Building 23 were lined up against the Go Getters of Buildings 7 and



Basket completed by No. 6, Miss Catherine Dymas. Ball being received by Miss Hurltin. Referee, George Stevens. In rear Miss Packman and Miss Schrader.

10. Between the games the Chapter presented the prize winning drum and bugle corps of Post 94, American Legion of Babylon.

Another double header saw the Highlanders of Building 25 pitted against the Blues, O.T. and S.S. The second game was between the Skippers and the Schooners. As a special attraction between games Kings Park drum and bugle corps was presented.



Babylon Drum & Bugle Corps, American Legion Post No. 94

## Coxsackie Dance

Coxsackie Chapter conducted a successful dance April 6 at the Tick Tock Inn, West Coxsackie, for members and friends. The affair was in charge of the entertainment committee which is now planning for a family picnic as soon as the weather is propitious.

Approximately 165 persons attended the dance for which a seven piece orchestra was engaged. Dancing was enjoyed from 9:30 p.m. to 2:30 a.m. Members of the committee directing affairs were: Thomas Cawley, chairman; R. Liscom, E. Styles, J. Moran, H. Pillsworth, L. Rolling, W. Quinn, G. Gates, C. Bradshaw, E. Gerald and L. Nawrocky.

## Lockport Dinner

The Western Chapter of the Barge Canal Civil Service Employees Association held a testimonial dinner Monday evening, April 22, at the Hy-Gate Manor, Lockport. Guests of honor were George J. Eddy, President and Delegate of the Chapter, and Electrical Supervisor John G. Smith, both of whom celebrated completion of 25 years service with the New York State Barge Canal system. At one time both guests of honor were lock operators and enjoyed the distinction of locking through the first boat to pass through the new locks.

Lock operator Clyde Ferguson, who is Secretary-Treasurer of the Chapter, acted as Toastmaster. Brief cases were presented to both guests of honor. Guests present included Charles B. Herring, Superintendent of District 5 of the Division of Canals.

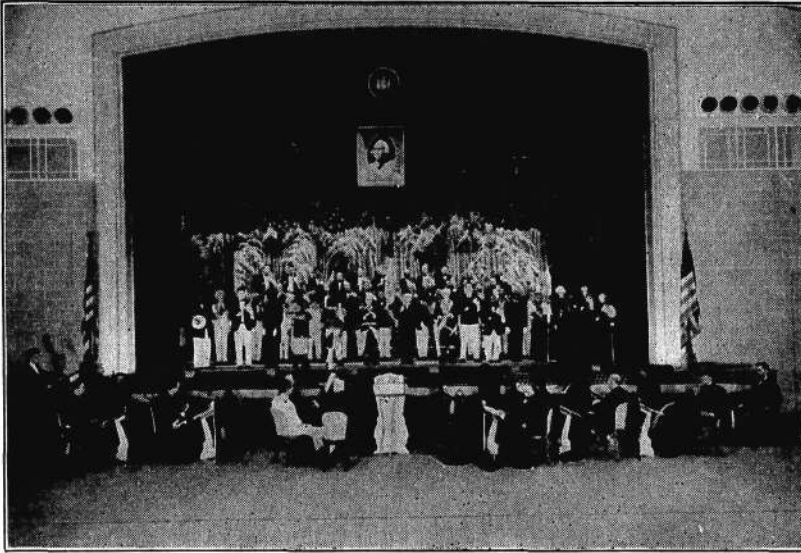
## Industry Fetes

Two retiring employees were feted at the State Agricultural and Industrial School, Industry, March 28. The guests were Eldon F. Nelson and George W. Montgomery.

Mr. Nelson, attached to the Parole Department for the past several years, left for the United States Penitentiary, Lewisburgh, Pennsylvania, where, following a short period of training, he will assume the position of Junior Assistant Warden.

Mr. Montgomery, attached to the school clinic as child guidance worker, is now employed by the Rochester branch of the Catholic Charities as a social case worker.

# Central Islip Show



The second annual Washington's Birthday show at Central Islip State Hospital was conducted by the Patients' Band and Glee Club with a large cast taking part. A varied program was given making the entertainment one of great charm.

Featured during the evening were organ selections, an overture by the ensemble of musicians, various instrumental solos, a rendition by the harmonica band, vocal solos, comedies and choruses.

Robin Ruth was musical director, George Spruce was conductor of the music and the master of ceremonies was Robert Butler. In charge of costumes was George Eliades. Herman Hugo had charge of scenery and sound effects were under the direction of Albert Koch. Larry Martinson was electrician.

## BACK ISSUES OF "THE STATE EMPLOYEE" WANTED

C. A. Carlisle, Jr., of TerBush & Powell, Inc., Schenectady, N. Y., who handles our Group Plan of Accident and Sickness Insurance, is anxious to complete his files of "The State Employee" from May, 1936, up to date. The following issues of the magazine are desired:

- 1936 — November issue — 5 copies
- 1937 — January issue — 3 copies
- 1937 — October issue — 1 copy
- 1938 — March issue — 1 copy
- 1938 — April issue — 1 copy
- 1939 — March issue — 1 copy

Mr. Carlisle will pay anyone who can produce reasonably clean, and complete copies of the desired issues 50c for each copy. Of course, this will be paid to the first ones to produce the copies wanted. If you have any of these back numbers, or know where they can be located, or can get any of them, please correspond directly with C. A. Carlisle, TerBush & Powell, Inc., 423 State Street, Schenectady, N. Y.

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# The Challenge of 1940

*"The need of a good job for every man is no greater than the need of a good man for every job."*

Full appreciation of the significance of such a statement and in all sincerity this Association asserts that the merit system is an essential safeguard to good government in New York State and in the United States today. With every lover of liberty and of orderly human progress tense with responsibility in this hour of brutal disregard for peaceful settlement of differences between nations, and with our own Nation striving to hold fast to truly democratic institutions, it is inconceivable that there should exist so little common anxiety concerning merit and fitness in public service. State workers, in this Association, must by very force of patriotic duty call upon citizens to look into their State and local governments and demand that their representatives in the Legislature and elsewhere take note of the Constitutional requirement that "Appointments and promotions in the civil service of the State, and of all the civil divisions thereof, including cities and villages, SHALL BE MADE ACCORDING TO MERIT AND FITNESS to be ascertained, so far as practicable, BY EXAMINATIONS, which, so far as practicable, SHALL BE COMPETITIVE. . . ." No honest person, in the face of Court of Appeals decisions and in the light of the thousands of tests for every type of job in many jurisdictions, can point out more than a handful of positions for which it is not practicable to conduct a competitive test as to merit and fitness. And yet, many positions have been throughout the years and are today filled in total disregard of this Constitutional requirement and, also, as in former years, a number of bills were introduced in the 1940 Legislature—and some of these were passed by both houses—which would set aside the Constitution and destroy the fundamental principles underlying the merit plan.

Every year the number of civil employees increases. And with every increase in civil positions comes a crying need for the strengthening of

the CIVIL SERVICE DEPARTMENT and the carrying into effect of the merit plan by which plan only can the people of the State hope to sustain efficient, honest government. It must be remembered that there is only one class of civil employees actually conforming to the Constitutional requirement as to recruitment and that is the competitive class. The major percentage of city, county and State workers are not in this class because of disregard for a complete merit system.

Unfortunately, because too often officers of State government have been weak, political pressure has been strong, and citizens have sat idly by while the merit system structure built by the hands of such men as Theodore Roosevelt, Grover Cleveland, Elihu Root, and other great statesmen, has been desecrated many times, and, by direct and indirect violation of the Constitutional mandate, the gates of civil service have been opened to those lacking in either fitness or merit or in both. The system that says that every citizen shall have an equal chance to enter public service upon merit has been perverted at times to favor political parasites or to serve racial, religious or family prejudices. Once in the service by the back door, the back stairs has as readily been employed to gain promotion in the service. Perhaps it is not any wonder then that some people lose faith in their civil service. It is not the system that they should blame, but the perversion of merit principles. Where in the name of good government is the reason that some legislators should propose bills and resolutions each year which show disrespect for merit system principles?

As examples of legislative measures which show a woeful lack of respect for the letter and spirit of the Constitution, we cite only three of such measures: namely:

1. The resolution to give preference in appointment to veterans, passed by one house and not acted upon in the other. This is similar to the resolution which was defeated at the Constitutional Convention last year. It would violate the fundamental principle of the merit sys-

tem. It would close the door to State service to the boys and girls who finished school since the World War. Coupled with the false philosophy that older men should be given preference in public service, it would ruin career service and make the public service an auxiliary of relief. Public service must be filled for the most part at the bottom, with eager, well trained young men and women to whom will be open the positions of greater responsibility as they prepare themselves. THERE CAN BE NO PREFERENCE UNDER THE MERIT SYSTEM EXCEPT THAT BASED UPON THE STANDING ATTAINED IN OPEN, COMPETITIVE EXAMINATIONS ENGAGED IN BY ANY CITIZEN POSSESSING REASONABLE QUALIFICATIONS. TO OPPOSE THIS TYPE OF PREFERENCE IS NOT TO BE UNFRIENDLY TO VETERANS: IT IS ESSENTIAL TO THE UPBUILDING OF THE PEOPLE'S OWN SERVICES AND THE EFFICIENCY OF WHICH THEY MUST GUARD ALWAYS WITH PATRIOTIC ZEAL.

2. The feature of the amendment to the milk control law under which provision is made to exempt from competitive tests the positions of milk market administrator and assistant milk market administrator is wholly objectionable. Other positions in this agency are made competitive. There is no valid reason for discarding the Constitutional injunction in the case of these positions. It is obvious that they could be filled by competitive test open to many able men who have grown up in the milk industry and who comprehend the duties of these positions thoroughly. The Legislature should take prompt steps to repudiate this affront to the merit system next year, and in the meantime resort to legal action to protect the merit system may well be taken in the case of any forthcoming appointments.

3. Governor Lehman disposed of a preference bill setting aside the merit system in a veto message

*(Continued on page 118)*

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**The Challenge of 1940**

*(Continued from page 117)*

bristling with defense of the Constitutional decree. Said the Governor: "The bill contravenes the constitutional provision that appointments in the civil service shall be made according to merit and fitness, to be ascertained as far as practicable by competitive examinations. The bill would discriminate unfairly against the thousands who have competed in examinations and are today on civil service lists awaiting appointments."

The Court of Appeals has advised the Legislature as to Article 5 and the merit plan. In the case of Sloat v. Board of Examinations, 274 N. Y. 367, the Court said: "Statutes and administrative orders, alike, must conform to the mandate of the Constitution. They cannot authorize a procedure which would disregard or nullify that mandate." And again in another case dealing with Article 5 the Court of Appeals wrote: "Arbitrary decision that in a given case it is not practicable to ascertain merit and fitness by competitive examinations may be challenged and is subject to review by the courts."

We believe that all of the past that is soiled, and unworthy, and useless should be sloughed off, and the march forward unhampered by the errors of the past. The "spoils system" in public affairs was replaced because it was a loathsome menace to Democracy. No error in our history is so serious as that which condones the use of public offices to promote partisan political units or private interests. The government must belong to all of the people. This cannot be unless the civil officers and employees of government are chosen solely upon basis of character and efficiency. And no medium except the merit system as outlined in the Constitution has yet been devised to recruit or direct public workers fairly and effectively.

Now for constructive action. What can we do, as State employees, to arouse public interest in the merit system? Here are a few suggestions for the individual State worker and for groups of workers:

First, exemplify merit and fitness always in your own job and in your contacts with citizens.

Second, urge your friends outside of the service to keep informed as to the public service and to familiarize themselves with Constitutional requirements as to open competition for public jobs and their right to a chance for themselves and their children, to uphold true career service principles in the interest of clean, economical government.

Third, contribute in every way you can through organizations to which you belong by joining in definite programs for the discussion of subjects relating to State government including the merit system.

Fourth, see to it that the leaders of your party understand that good citizens cannot consistently support candidates who do not pledge themselves to maintain the integrity of the merit system and strengthen it in every practical way.

Fifth, help your Association to complete unity of State workers in one, united body that there may be complete cooperation with outstanding organizations such as the Civil Service Reform Association, the League of Women Voters, the Teachers Association, to advance the merit system.

Sixth, you can be successful in promoting interest in and respect for the merit system by constituting yourself a committee to study as well as inform relative to the part which honest competitive tests and sound application of civil service rules play in carrying on even the smallest of public services in an efficient and economical way.

LET US AS AN ASSOCIATION AND AS INDIVIDUALS DEDICATE OURSELVES IN THIS YEAR 1940 TO HONORING AND STRENGTHENING THE MERIT SYSTEM IN THE STATE AND NATION. NO MORE PATRIOTIC ACTION COULD BE TAKEN BY ANY CITIZEN OR GROUP OF CITIZENS.

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## Albany State Employees F. C. U.

The State Employees Federal Credit Union declared a four per cent dividend at the annual meeting in the State Office Building, Albany, January 9. A recommendation was made to the directors that interest charged on loans be reduced. A decision will be announced shortly.

Through the efforts of Joseph E. Sheary and with the approval of Capt. A. W. Brandt, Superintendent of Public Works, new quarters have been assigned the Credit Union on the first floor of the State Office Building.

Since its start in 1935, the Credit Union has granted a total of 4,475 loans totaling \$579,067, and as a commentary on the honesty of State Employees, out of this total only \$40 was charged off as uncollectible.

After distribution of the dividend for 1939, the Credit Union starts off 1940 with assets of \$133,256.21, and liabilities as follows:

Shares .....	\$127,474.14
Reserve for Bad Loans .....	4,779.56
Undivided Profits .....	1,002.51

\$133,256.21

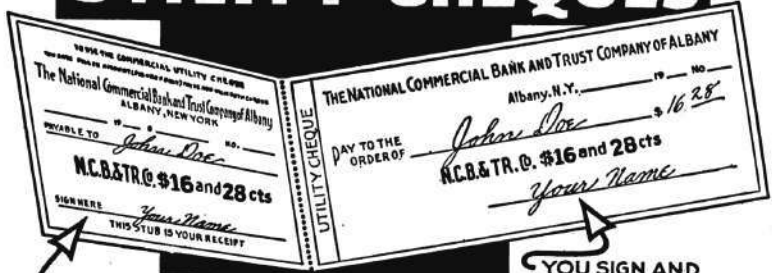
Charles Messina of the Public Works Department was named president, John W. Hewes of the same department is vice president, Edward J. Ramer, Public Works, is treasurer and Leonard F. Requa, Jr., Social Welfare, secretary.

Directors are: John J. Kelly, Audit and Control; Arthur Wright, Agriculture and Markets; and Maurice L. Reiner, Public Works.

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## Legislative Report of Counsel

(Continued from page 111)

veterans as this bill attempts to do.

"The Constitution creates but a single preference, namely, to disabled veterans and that preference must be accorded with or without this bill."

### Hampton Bill—S 950

### Coughlin Bill—S 1176

These bills, which give preference in appointment to veterans and veterans' wives, contrary to the provisions of the Constitution, were vetoed in a single message reading as follows:

"Senate Bill Introductory 950 would require the State and its civil divisions to appoint any veteran, veteran's wife or widow who has served continuously in a veterans' relief bureau since July 1, 1937, to the Civil Service without examination.

"Senate Bill Introductory 1176 provides that all employees, veterans and non-veterans, of the Veterans Bureau in New York City, shall be permitted to take a special examination for the positions which they now hold. This, in spite of the fact that one examination has already been held to which employees have been admitted and a civil service list promulgated.

"While I am very sympathetic with the plight of the veterans, I am convinced that there is no constitutional means of continuing them in their positions. The courts have declared their status to be that of temporary appointees, pending the establishment of competitive civil service eligible lists. Such lists have now been promulgated.

"The members of the Legislature are familiar with the Civil Service Law and the decisions of the courts. They know, or must know that these bills are wholly ineffective to accomplish their purpose. By repeatedly passing such bills, they are merely planting false hopes in the hearts of the respective beneficiaries. They are being both unjust and unfair to them. I will not be a party to any such misguided action."

### Steingut Bill—A 1603

### Hampton Bill—S 1891

Which gave special pension privileges to certain members of the Retirement System, were vetoed in messages reading in part as follows:

"It is just not possible for me to make exceptions to the law without seriously affecting the Retirement System. There have been scores of similar cases which have arisen in past years, involving hundreds of thousands of dollars. The New York State Employees Retirement System is actuarially sound. The contributions of its members are based on an 'expected' number of retirements over a given period of years. To weaken in any respect the present retirement requirements or to extend the privileges of members would require additional contributions from all members or a large additional contribution from the State.

"Obviously, all members of the Retirement Fund situated alike must be treated alike."

### Feinberg Bill—S 357

This bill, which would have changed the nine existing normal schools into teacher training colleges, was vetoed with the following message:

"It appropriates for this purpose the sum of \$218,000. That, however, is for this year only. In each succeeding year the cost would be at least twice that amount. Every budget would hereafter be increased by between four and five hundred thousand dollars.

"The Republican majority in the Legislature left an unbalanced budget. It refused to reduce expenditures to the level of prospective revenues. This appropriation would further increase the deficit. Under these circumstances there certainly can be no justification for this year's appropriation of \$218,000 and for the definite commitment by the State of a very much larger sum in all future years."

Bills vetoed by the Governor, without comment, included the following:

**Bechtold Bill—S 176**, which would have allowed credit in the State Retirement System for certain service as a Federal employee.

**Mahoney Bill—S 139**, which would have prohibited oral examinations being given as a part of a promotion examination.

**Williamson Bill—S 587**, which would have extended the provisions of discontinued service allowance to employees discontinued since March 3, 1932, for certain specified employment.

**Fogarty Bill—A 1553** and the **Kleinfeld Bill—S 1310** which would have extended the life of eligible lists for certain positions in Greater New York.

**Crews Bill—A 276**, which would have extended existing preferred lists to June 1, 1941. A word of explanation should be given with reference to this bill. Under the provisions of section 31 of the Civil Service Law, the normal life of a preferred list is four years. Because of the emergency created by the depression, the Association sponsored a bill in 1938 which provided, in substance, that employees who were demoted or suspended subsequent to January 1, 1932, should be placed on preferred lists and be eligible for reinstatement from said lists until June 1, 1940. Since the Crews Bill, which would have extended this period another year, has been vetoed, the emergency extension of preferred lists will expire on June 1, this year. Employees who have recently been suspended or demoted will, however, be retained on preferred lists for the normal period of four years from the date of their suspension or demotion.

**Cariello Bill—A 956**, providing that employees of Authorities should have the same rights and privileges as municipal employees.

**Sherman Bill—A 1217**, authorizing veterans to inspect records of the Civil Service Commission for the purpose of ascertaining the existence of vacant positions.

**Fite Bill—A 1499**, authorizing the Civil Service Commission to delegate to a member or employee the holding of hearings.

**Kreinherder Bill—A 1740**, providing in substance that, in the event of layoffs, a person who has acquired his position by promotion shall be demoted to the position held prior to such promotion instead of being dismissed.

**Averill Bill—A 1535**, increasing salaries of employees of the New York State Merchant Marine Academy.

Among the bills which failed to pass the Legislature were the following:

**The Ehrlich Bill—A 1758**, sponsored by the Association, which would have required sick leave rules to be established for all institutional employees, passed the Assembly but

was killed in the Senate Finance Committee.

The Fite Bill—A 1736, which provided, in substance, that all civil service employees who were removed on charges would have the right to an administrative review before the State Civil Service Commission, passed the Assembly but was re-committed in the Senate and killed in the Senate Civil Service Committee after having been advanced to second reading.

The Fite Bill—A 1439, which would have provided that the positions of district superintendents of schools be filled pursuant to the Civil Service Law and rules, passed the Assembly but was killed in the Senate after a spirited debate in both Houses.

The Barrett Bill—A 1868, which would have liberalized the commutation requirements in Mental Hygiene institutions, was killed in committee.

All bills sponsored by the Association to increase salaries or to extend the provisions of the Feld-Hamilton Law to groups not now covered by it, were killed in committee, including the Barrett Bill—A 1867 (Mental Hygiene); the Rapp Bill—A 1984 (Social Welfare and Educational Institutions); the Feinberg Bill—S 945 (Prisons); Pease Bill—A 2081 (Forest Rangers); the Shaw Bill—A 2279 (Cornell University).

The Page Bill—S 964, which proposed to amend the Constitution to give preference in appointment to all veterans, passed the Senate but died in the Assembly Rules Committee.

Space does not permit a complete summary of the two hundred or more bills not referred to in this report, which failed to pass the Legislature.

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## Civil Service LEADER

SEE EDITORIAL OF PRESIDENT CHARLES A. BRIND, JR.

On Page 100

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# Summary of Legislation

*The following is a complete list of bills which have been introduced in both houses of the Legislature which affect State workers and are of interest to them, since the publication of the March issue of this magazine. This summary now completes the record as to all bills introduced up until the date of adjournment of the Legislature.*

## IN SENATE

- Int. 1770, Print 2173—Senator Esquirol—**Establishes grades and salaries for bedding inspectors in labor department. Referred to Labor Committee.
- Int. 1775, Print 2194—Senator Condon—**Provides for reasonable and necessary traveling and other expenses of members, officers and other employees of State labor relations board in performance of duties within the city of Albany, present provision applying only to expenses outside the city. Referred to Labor Committee. To Governor.
- Int. 1780, Print 2199—Senator Desmond—**Requires New York City board of estimate to fix salaries of officers and employees of counties in the city at not less than salaries provided by the board for city positions with comparable duties; officers of district attorneys are excepted. Referred to Cities Committee.
- Int. 1787, Print 2206—Senator Coughlin—**Fixes grades and salaries of positions in the safety inspection service of the State insurance fund. Referred to Civil Service Committee.
- Int. 1840, Print 2279—Senator Griffith—**Continues to February 1, 1941, life of temporary commission studying application of civil service provisions of Constitution to the political subdivisions of the State not now subject to Civil Service Law, makes secretary of county officers' association a member and appropriates \$10,000. Referred to Finance Committee.
- Int. 2842, Print 2281—Senator Hastings—**Permits establishment by county boards of supervisors, of county civil service commission of three members for prescribing and enforcing rules for classification of offices and employments in classified service and for appointments, promotions and examinations therefor. Referred to Civil Service Committee. Assembly Rules Committee.
- Int. 1869, Print Nos. 2327, 2414, 2553—Senator Corning—**Continues for another year the salary standardization board, also the temporary provisions governing reclassification of titles and positions of employees now in State service; and empowers the commission to designate one of its members or an officer or employee to conduct hearings. Referred to Finance Committee. Amend and recommit.
- Int. 1888, Print 2357—Senator Seelye—**Provides that when city pension or retirement system is reorganized and established on actuarial reserve basis by issuing bonds for reserve, city may by

local law require sufficient contributions from active members of system to provide as much as 45 per cent of current reserve costs for currently accruing liabilities. Referred to Pensions Committee.

- Int. 1891, Print 2364—Senator Hampton—**Gives to beneficiary benefits after death and before retirement, of a member of State employees' retirement system who was in State service for more than 38 years and who died after January 1, 1940, after applying for retirement. Referred to Civil Service Law. To Governor.
- Int. 1902, Print 2375—Senator Desmond—**Provides that all appropriations in budget bill submitted by governor must be in lump sum form as may be prescribed by Legislature. Referred to Judiciary Committee. To Secretary of State.
- Int. 1904, Print 2377—Senator Condon—**Provides for service credit for persons who become members of State employees' retirement system on or before January 1, 1941, instead of 1940 as at present. Referred to Pensions Committee.
- Int. 1939, Print 2430—Senator Condon—**Provides that all regular employees in classified civil service shall be given sick leave with pay at rate of fifteen days a year, exclusive of Sundays and holidays, no such leave to be in excess of six months. Referred to Labor Committee. Assembly Rules Committee.
- Int. 1947, Print 2438—Senator Martin—**Provides for service credit for persons who become members of State employees' retirement system on or before January 1, 1941, instead of 1940 as at present. Referred to Pensions Committee. A. 2391 substituted.
- Int. 1949, Print 2440—Senator Perry—**Makes it unlawful for a public officer to offer an appointment to a position at a salary below that announced at time of examination; but such offer may be made to position other than that for which examination was held. Referred to Civil Service Committee. Assembly Rules Committee.
- Int. 1952, Print 2443—Senator Seelye—**Provides that member of State retirement system, upon withdrawing election to contribute on basis of retirement at age of 55, shall be entitled to refund of contributions and interest in excess of amount contributed on basis of retirement at age of 60. Referred to Pensions Committee. Civil Service Law.
- Int. 1966, Print 2464—Senator Nunan—**Prohibits removal of veterans and volunteer firemen holding temporary appointments in civil service of the State or subdivisions except for incompetency or misconduct shown after hearing, with right to a review by certiorari; also provides for transfers where positions become unnecessary or are abolished. Referred to Civil Service Committee.
- Int. 1973, Print Nos. 2472, 2688—Senator Hampton—**Provides that after July 1, 1941, instead of 1940, it shall be unlawful to practice nursing without being licensed and registered, relates to resi-

dence and citizenship requirements and increases from seven to twelve minimum membership of State board of examiners. Referred to Education Committee. Amend and Recommit.

- Int. 1983, Print 2497—Senator Griffith—**Extends for another year right of civil service commission of State or municipality to charge a fee for examinations of applicants for positions in competitive or non-competitive classes, applicants for positions in labor class being excepted. Referred to Civil Service Committee. Assembly Rules Committee.
- Int. 1984, Print 2498—Senator Griffith—**Requires State civil service commission to prescribe suitable rules and regulations for keeping, reporting and reviewing service records and ratings of employees in classified service of any civil division of the State, except cities. Referred to Civil Service Committee. A. 2354 substituted.
- Int. 2024, Print 2557—Senator Coughlin—**Provides that civil service employees who served as member of local draft board during World War, without pay, under selective service system, shall not be removed except for incompetency or misconduct shown after hearing on stated charges. Referred to Civil Service Committee. Passed. Assembly Rules Committee.
- Int. 2030, Print 2574—Senator Page—**Provides that after July 1, 1941, instead of 1940, it shall be unlawful to practice nursing without being duly licensed and registered, increases from seven to ten the minimum membership of State board of examiners who shall be appointed by regents on recommendation of commissioner; strikes out provision for appointments from lists furnished by certain nurses' organizations and makes certain other changes. Referred to Education Committee. Passed. Assembly Rules Committee.
- Int. 2087, Print 2664—Senator Phelps—**Provides no member of any pension or retirement system of State or civil division occupying elective office shall be entitled to pension or retirement privileges based on rate of salary for such position which has been reduced by statute or otherwise, unless such member was in office at time reduction took effect and actually received such salary. Referred to Pensions Committee. Third reading.
- ## IN ASSEMBLY
- Int. 2115, Print 2429—Mr. Gillen—**Provides for one day of rest in seven for State employees, without reduction in total weekly compensation, State police being excepted. Referred to Labor Committee.
- Int. 2225, Print Nos. 2579, 2864, 2952—Mr. Ostertag—**(Same as S. 1869).
- Int. 2250, Print 2609—Mr. Dwyer—**Establishes grades and salaries for leading inspectors in labor department. Referred to Rules Committee.
- Int. 2279, Print 2648—Mr. Shaw—**Provides that all employees, except teachers, of State College of Agriculture, of home economics and of State Veterinary Col-

lege and Geneva Experiment Station, under control of Cornell University, shall be covered by Workmen's Compensation Law as representative of education department; also provides that their salaries shall be determined in manner prescribed by salary standardization provisions for State employees. Referred to Rules Committee.

**Int. 2292, Print 2665—Mr. Vincent**—Permits establishment by a county board of supervisors, of a county civil service commission of three members for prescribing and enforcing rules for classification of offices and employments in classified service and for appointments, promotions and examinations therefor. Referred to Rules Committee. Third reading. Lost.

**Int. 2299, Print 2687—Mr. Fite**—(Same as S. 1840).

**Int. 2308, Print 2700—Mr. Glancy**—Provides that when an eligible list for a stated position in competitive civil service class has expired, appointment shall be made from the preferred list pursuant to provisions for those demoted in or separated from service. Referred to Rules Committee.

**Int. 2309, Print 2701—Mr. Glancy**—Provides that no person in competitive civil service shall be paid at rate of less than \$1,000 a year, junior or part-time employees being excepted. Referred to Rules Committee.

**Int. 2311, Print 2703—Mr. Piper**—Provides that if rules of State civil service commission are extended to apply to positions held by town employees or officers, no compensation shall be paid to them unless pay roll therefor has been certified by the State commission, auditing of bills before pay roll has been certified is made a misdemeanor. Referred to Rules Committee. Senate Internal Affairs Committee.

**Int. 2321, Print 2713—Mr. Washburn**—(Same as S. 1775).

**Int. 2354, Print 2770—Mr. Fite**—(Same as S. 1984).

**Int. 2355, Print 2771—Mr. Fite**—Excepts the labor class of the civil service of a city from provisions requiring payment of fees by applicants for a civil service examination. Referred to Rules Committee.

**Int. 2369, Print Nos. 2824, 2968—Mr. Moffat**—Provides that act suspending for one year salaries and increments of State employees in classified civil service shall not apply to those who first enter State service during period beginning January 1, 1939 and ending June 30, 1939; also appropriates \$22,000. Referred to Rules Committee. Passed. To Governor.

**Int. 2391, Print 2895—Mr. Wilson**—(Same as S. 1904, 1947).

## Retroactive Taxation

(Continued from page 107)

Administration of Old Age Assistance

Administration of Aid to Dependent Children

Grant to Crippled Children

Maternal and Child Welfare

Wild Life Restoration Program

Unemployment Insurance.

(7) **Hanson v. Landy**, 24 Fed. Sup. 535; Regulation 86, Sec. 116-2.

(8) Opinion of Acting Comptroller General of the United States, dated April 19, 1937:

"Grants to a State or Territory under the Social Security Act become funds of the particular State or Territory and—except for compliance with the conditions under which the grants are made—any expenditure of such funds for the purpose for which granted \* \* \* is subject to the laws and regulations applicable to the expenditure of territorial funds rather than Federal laws applicable to the expenditure of appropriate moneys by the departments and independent establishments of the Government."

(9) Chapter 619, Laws of 1939 (N. Y.).

(10) Mr. McCormack, speaking in favor of Section 205 and against a proposal to strike it from the Act, said:

"Mr. Chairman, the amendment just offered by the gentleman from New York (Mr. Celler) was considered by the Committee on Ways and Means. The section he undertakes to strike out includes certain employees who have always been subject to a Federal Income Tax in the main. It is a case where an employee of the State is being paid out of the funds of the Federal Government. They have always been subject to the Federal income tax law and we simply provide that the retroactive features of this title shall not apply to them." (Congressional Record, Vol. 84, Page 1855).

He also said:

"I know of no one who is opposed to title II. Title II protects all State and Municipal employees from the retroactive application of the Federal income tax law, with the exception of the limited group to which I have referred on two occasions—employees of a State-owned liquor system and employees of a municipally owned street railway." (Congressional Record, Vol. 84, Page 1823).

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## Newark Election

Organized late in October the Newark State School Association is operating successfully under officers who were named for the balance of last year to continue throughout 1940.

Francis F. Darrow is president. Other officers are: Ora S. Cutting, vice president; Anna R. Synesael, secretary; and Benn Townley, Jr., treasurer. Two committees were named at the election, they are the executive and social. Monthly meetings have been conducted and whenever essential a special meeting has been called.

## Executive Committee Meeting

At a meeting of the Executive Committee on April 5th, Constitutions and By-Laws for three new proposed chapters were submitted and approved. The new groups are: Pilgrim State Hospital Chapter, at Brentwood.

The State Game Protectors Chapter.

Creedmoor State Hospital Chapter, at Queens Village.

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# JOIN NOW

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# "For Distinguished Service"

(Continued from page 98)

Two years ago on December 29th the numerous friends of Mr. Joyce united in celebrating a double anniversary, that of his birth and that of his twenty-fifth year as a State employee. His office associates in the pay roll bureau of the Department of Audit and Control tendered to the then chief audit clerk a most enjoyable dinner. In addition to his praises as voiced by the speakers, he was presented with a tangible token of admiration, a handsome gold ring engraved with the insignia of the Knights of Columbus. Albany Council has held him in fraternal bond for seventeen years.

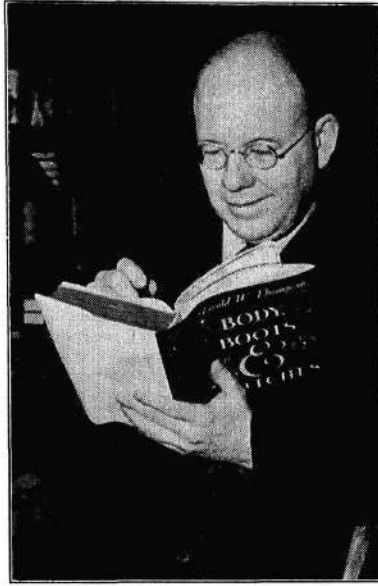
Mr. Joyce was first employed in the Labor Department, transferred to the Treasurer's Office, now part of the Tax Department two years later, and the following year to the finance bureau of the Comptroller's Office.

When the pick of our young manhood donned khaki, Mr. Joyce reported for training at Macon, Georgia, and in four months as a member of the 326th Infantry, 82nd (All America) Division was in the thick of the intense fighting in the Argonne, where our young citizen soldiers proved themselves the equals of the seasoned veterans of history.

Home again, he resumed his rise in the Comptroller's Office. In October last, he was made assistant director of office audit (payrolls). In this capacity he has come in prominent contact with the Association work through the recent advent of pay roll deduction for our ever-growing group insurance project. His executive cooperation in this protective feature of the Association activities is accorded much praise by the thousands of members affected.

The State service is about to lose Dr. Harold W. Thompson, professor of English at the New York State College for Teachers at Albany, who at the completion of the present semester will leave to join the faculty of Cornell University as professor of English, specializing in American Literature.

Long recognized in educational circles for his ability and learning, Dr. Thompson's national reputation



DR. HAROLD WILLIAM THOMPSON

was greatly enhanced by the publication of his latest book, "Body, Boots and Britches." He was admirably fitted for the compilation of these legends, folklore and ballads of New York State by his broad and deep knowledge of European folklore and weird beliefs which enables him to trace the sources and similarities of many York State stories.

The good doctor evidently plunged into his writing with a keen enjoyment that infects the reader from the witty opening anecdote on the first page through the concluding chapter on Proverbs and the final "Who Told You?" a valuable record of sources.

"Body, Boots and Britches" is good entertainment, but it should not be overlooked that for the student of Americana, it is destined to be an invaluable source book. "Legends of the Longhouse," by Jesse C. Cornplanter, descendant of Washington's Indian ally and edited by Dr. Thompson, was published in 1938 by Lippincott.

Many flattering inducements have been offered him to teach in other institutions, but the hope of more leisure for writing has at last persuaded him to leave State College, to which he has always been most loyal. His classes there are very popular and so overcrowded that they must be a real burden.

His early education was received in the Westfield Public School in Chautauqua County. He was valedictorian of his class in Hamilton College, full professor at State College when only thirty years old, director of its music department for four years in addition to his other responsibilities, and one of the first fifteen recipients of a Guggenheim Foundation fellowship. Later it was awarded to him a second time. He received his A.M. and Ph.D. from Harvard and the Doctor of Literature from Edinburgh University. He is a Fellow of the Royal Society of Edinburgh in the Literary Class, an honor coveted by writers, a Life Fellow of the Society of Antiquaries of Scotland, and a member of the New York State Historical Association.

Dr. Thompson earned his way through Hamilton College as an organist and is a member of the American Guild of Organists. His musical ability coupled with a tenor voice has been of inestimable value in his literature classes. Some years ago he published a "Choir Master's Guide," which was most enthusiastically received.

It is interesting, nay startling, to realize that not only do educators yield him eminence, but the leading writers of the day accept him as a peer; among historians he is honored as an historian, among musicians, unchallenged as a musician. Each group gives him his meed of praise and jealously claims him as its own.

The writer considers himself singularly fortunate in having studied under this gifted man who can impart so much of humor, charm and fascination to the study of literature.

It is said that a man without a nickname has inspired no affection, but his students say: "'Tommy' is strict but 'square'."

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## Newark F. C. U.

The Newark State School Employees Federal Credit Union held its fourth annual meeting recently with the largest group of members that have been present at such a meeting. The right to operate was granted by an act of Congress and this is one of the many credit unions under the direct supervision of the Farm Credit Administration.

For the third successive year a six per cent dividend was declared on all paid up shares of \$5. A lump sum was voted as a salary for the treasurer and \$61.47 was transferred to undivided profits. For the ensuing year the members voted to pay the treasurer a monthly salary.

The treasurer's report showed a balance of \$6,432.33 in savings at the close of the fiscal year with outstanding loans of \$7,281.19.

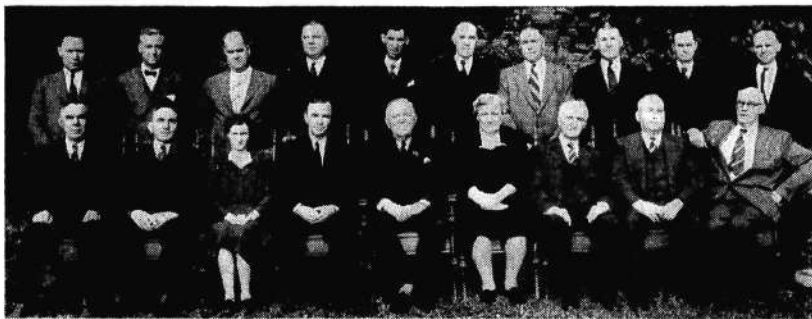
Newly elected officers of the Board of directors are: Ora S. Cutting, Mary W. Bidwell and Benn Townley, Jr. Remaining in office are Peter Ross and Francis V. Dedrick. These officers selected Mary W. Bidwell, president, Benn Townley, Jr., vice president, Ora S. Cutting, clerk and Francis V. Dedrick, treasurer.

Elected to the credit committee were Edna Mae VanDeVelde, Lowell A. Dunlap and Helen T. Smith. The supervisory committee is composed of Harold C. Sawyer, Ann Synesael and Harold C. Lytle.

The following is a record of financial progress made:

Year—1936	
Number of loans .....	41
Total amount loaned .....	\$2,695.00
Average per loan .....	65.73
Year—1937	
Number of loans .....	49
Total amount loaned .....	3,574.00
Average per loan .....	72.94
Year—1938	
Number of loans .....	74
Total amount loaned .....	8,776.50
Average per loan .....	118.60
Year—1939	
Number of loans .....	79
Total amount loaned .....	11,488.50
Average per loan .....	145.42
Total of all four years	
Number of loans .....	243
Total amount loaned .....	26,534.00
Average per loan .....	109.19
The present number of members	is 176.

## NINETEEN EMPLOYEES REPRESENT 575 YEARS OF SERVICE



Courtesy Beacon News

In 1877 the Legislature authorized a new asylum for insane criminals and a site was selected at Matteawan in Dutchess County. During the years that followed the present Matteawan State Hospital was erected and the first patients were transferred from the Auburn Asylum on April 25, 1892.

Many of the present employees of the institution have long terms of service. Recently a photograph was made of a group of nineteen employees whose aggregate service represents 575 years. The group, pictured above, includes the following, left to right:

Front row: William Quinn, baker, 30 years; August Vix, master mechanic, 35 years; Mildred Harris, bookkeeper, 28 years; Karl E. Alderman, steward, 27 years; Dr. R. F. C. Kieb, superintendent and former Commissioner of Correction, 35 years; Clem Anschuts, female supervisor, 26 years; David Clark, chief engineer, 39 years; Michael Kirby, head farmer, 37 years; Joseph Shields, assistant chief engineer and electrician, 37 years.

Back row: Joseph Browne, night supervisor, 28 years; Frank Osaba, chief supervisor, 28 years; Charles Rowe, blacksmith, 26 years; Edward Master, assistant engineer, 28 years; Arthur Chardavoyne, attendant, 28 years; John Miller, machinist, 29 years; Robert Taylor, mason, 28 years; Emmanuel Johansson, chief attendant, 29 years; Frank Deveson, special attendant, 29 years; and Peter Lasco, chef, 28 years.

Doctor Kieb is now superintendent of the Institution for Male Delinquents at Napanoch.

## LONG ISLAND RALLY AT CENTRAL ISLIP

One of the largest employee meetings ever to be held on Long Island took place at Robbins Hall at Central Islip State Hospital on April 26th. Upwards of 2,000 employees from Central Islip, Creedmoor, Rockland, Brooklyn Pilgrim, Kings Park and Manhattan State Hospitals; members of Troop L, Division of State Police; employees of the State Agricultural School at Farmingdale; employees of the Department of Public Works and Long Island State Park Commission at Babylon, etc., met with the President of the Association for a general get-together meeting to discuss matters of interest to the Association members.

The meeting was organized by James P. McKiernan, President of the Central Islip State Hospital Chapter, who presided. Dr. David Corcoran, Superintendent of Cen-

tral Islip State Hospital, gave the address of welcome, followed by Joseph A. Kirk, Member of the Board of Visitors of that institution, who took for his topic: "Organization and its Value to Employees." Paul O. Komora, Associate Secretary of the National Commission for Mental Hygiene, talked on the subject of "Public Service for Mental Health." Addresses were made by Howard P. Jones, State Civil Service Commissioner, who outlined at length the matters in connection with the recent extension of Civil Service to attendants by order of the Governor, and by Charles A. Brind, Jr., President of the Association.

The Central Islip Glee Club rendered several selections and Mrs. Rita Morrow, Organist, interspersed the meeting with piano selections.

## Respect for "Article V"

(Continued from page 97)

adopt a Civil Service Law. Since its adoption in 1883 it has been the model for most of the State and municipal merit system laws throughout the country. New York was also the first to include the merit principle in its State Constitution, and since its adoption the merit system in New York has developed rapidly.

"As Governor, I am tremendously interested in seeing that New York State continues its leadership in behalf of the merit system and that we overlook no reasonable possibility of extending the competitive class to groups of State employees.

"For six months this committee has been giving careful and thorough consideration to the specific question of the practicability of transferring to the competitive class a large percentage of the positions now in the non-competitive class, which at present accounts for more than one-third or nearly 20,000 of the total positions in the State service. The committee now recommends as its first conclusion, after giving careful and thorough consideration to this important question, the transfer of the position of attendant in our State institutions from the non-competitive to the competitive class. The provision of our Constitution covering the merit system states:

"Appointments and promotions in the civil service of the State, and of all the civil divisions thereof, including cities and villages, shall be made according to merit and fitness to be ascertained, so far as practicable, by examinations, which, so far as practicable, shall be competitive."

"The committee now finds that it is practicable to hold a competitive examination to determine the merit and fitness of candidates for the position of attendant in our State institutions. In accordance with this recommendation, I am today instructing the State Civil Service Commission to proceed to hold such examination and to take such other steps as are necessary to effect the reclassification of this position. This proposed transfer requires no new legislation but may be accomplished by the State Civil Service Commission, in cooperation with the Governor.

## "Tucker's Tornadoes"



Tucker's Tornadoes of Wingdale is a bowling team with an exceptional record. This sextet is willing to bowl any team, any place, any time. Harlem Valley State Hospital is proud of the group. Members of the team are, left to right, rear row: Andrew Maseo, manager; Maurice Santopadre, trainer; Joseph H. Anderson, captain and owner. Front row: Charles Brown, secretary; Albert Duffy, coach; and Robert Tucker, president.

"More than 10,000 persons are now serving in institutions in the Mental Hygiene, Correction and Social Welfare Departments under the title of attendant. I am gratified to point out that this represents the greatest single extension of the competitive class in the State service since the adoption of the Constitutional Civil Service provision in 1894.

"It should be emphasized that the reclassification of this title from the non-competitive to the competitive class will not require the 10,000 incumbents in this position to take an examination to continue to hold their jobs. All vacancies will, however, be filled from an eligible list to be established after competitive examination. This is in accordance with sound personnel practice.

"There is one other point I wish to stress. The inclusion of these positions in the competitive class will not cost the State more money and the incumbents in these positions that this reclassification will result should not be encouraged to think immediately or in the near future in readjustment of the salary grades.

"It is recommended by the special committee that the examination be held in June of this year, result-

ing in the establishment of an eligible list from which appointments may be made, commencing January 1, 1941. With that recommendation I concur.

"I wish to express my personal appreciation to the members of the special committee who are giving unselfishly of their time to the study of this important problem. The committee is not discharged but will continue its work of studying the State service with a view to further extension of the competitive class."

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