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The State Employee



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To Members:

Please contact your Senator and Assemblyman and tell them of your vital interest in the Association's program. The program is fair to the State and to the employee. Your Association has put the program squarely up to the Governor and to the Legislature. See the December issue for list of Senators and Assemblymen.

- Adjustment of ALL State salaries to meet present and provide for future increases in living costs.
- Higher basic minimum entrance salary scale.
- Bringing all State employees to minimum of their career service grade plus years of service.
- Prompt adjustment and retroactive correction of errors or omissions in classification and salary standardization of positions in State institutions.
- Full cash salary payments to institutional employees with permission to take meals or other accommodations within or without institutions.
- Time and one-half for overtime.
- Inclusion of non-statutory positions in competitive or non-competitive classification with career service opportunities.
- Prison pay scales for Matteawan and Dannemora State hospital employees.
- Safeguard and make uniform illness and vacation leaves in State Service.
- Optional retirement after twenty-five years of State service.
- Legislative study of retirement system to consider higher retirement allowance for employees in lower pay grades.
- Automobile and living allowances to meet increased costs of State employees required to travel.
- Accord to women equal rights in civil service appointments and promotions.
- Watchfulness as to rights of State employees now in armed services.
- Upbuilding of New York State service to the highest possible efficiency.
- Constant attention to civil service matters in the interest of State civil service employees.

**THE ASSOCIATION OF
STATE CIVIL SERVICE EMPLOYEES
OF THE STATE OF NEW YORK, INC.
HEADQUARTERS, STATE CAPITOL, ALBANY, N. Y.**

Organized in 1910 — Present membership 27,000 (the largest all-State employee organization in the United States) — Located at seat of State Government — Dues \$1.50 per year — less than 1/2 cent a day.

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The State Employee

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FEBRUARY, 1944

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The Governor's Budget

As we go to press, the Governor's budget has reached the Legislature. The budget shows State finances to be in a splendid condition and the Governor's budget message indicates the high efficiency attained in all branches of New York State government. The highlights of the personnel recommendations are:

- (1) The Governor adopted the Association's recommendation to bring all Feld-Hamilton salaries up to the minimum of their salary grade, effective April 1, 1944, and has recommended an appropriation of \$1,700,000 to make this effective. This applies to all institutional workers as well as to departmental employees.
- (2) The Governor recommended that a lump sum be appropriated and made available to pay the stipulated Feld-Hamilton salaries on promotion and transfer.
- (3) The Governor recommended the \$1,200 minimum salary be continued, except for custodial employees, and that increments be paid to those raised to \$1,200 within the last year.
- (4) The Governor recommended the payment of overtime at regular rates for another year.
- (5) The Governor recommended that the war emergency bonus be continued at present rates for another year.

In reference to the first of the Governor's recommendations, the Association feels that this is a long step forward in streamlining and improving Feld-Hamilton procedures. It will put an end to the practice of appointing and promoting employees at salaries less than the minimum specified for their positions.

In reference to the second recommendations, it should be noted that the employees have frequently been

required to take salary reductions in order to obtain promotion simply because no funds were available to pay the salary required under the Feld-Hamilton grades. This will no longer be true.

In reference to recommendation three, we are disappointed that the \$1,200 minimum salary has not been extended to employees of the custodial service and certain non-statutory positions where employees are still employed at rates far below \$1,200.

In reference to recommendation four, overtime pay has done much to alleviate the manpower shortage in the hospitals but it is our belief that the current practice in industry of payment of time and one-half for overtime should have been adopted.

We are disappointed to note that our request for a modest increase in the coverage and rates of the war emergency bonus has not been accepted. The Governor states that he has considered the recommendations for the increase and has decided against it, apparently on the assumption that the present cost of living will be rolled back, or, at least, remain stationary. The Association hopes he is right, but feels that the increase will continue and that further adjustments will be necessary. The cost of living has increased about 5% since the last budget went to the Legislature. The Association, in accordance with its adopted program, is sponsoring bills to increase the war emergency bonus and extend the bonus to employees in the Legislature, judicial and throughout the service.

The Association has, from the beginning, taken the point of view that what is required is a cost of living adjustment law which is flexible and fair and that a temporary, fixed bonus cannot meet the situation. We hope that the Legislature will again favor the Association's

plan for stable, real wages measured in terms of buying rather than in deflated dollars.

It is highly gratifying to note that the Civil Service Commission has finally been put on a par with other State department heads in the matter of salaries. This is long delayed recognition of the importance of personnel administration.

For many real advances, the Association gladly renders the thanks of its thousands of members to the Governor. We hope the Governor will round out the record with other needed recommendations and reforms.

We print in full, below, the Budget message relating to employment matters:

PERSONNEL

"In the past year much has been done to improve the status of the State's employees. The war emergency compensation should be continued. The Administration has given the fullest consideration to plans proposed for increasing this emergency compensation. In the light of all pertinent facts, I propose that this emergency compensation be continued at the present rates."

"I do recommend, however, that its financing be changed from the present plan. The budget recommendations that I am making herein do not carry the potential savings that were unavoidably included in last year's appropriations."

"I propose that the war emergency compensation be financed first, from appropriations available for regular personal service, then from the \$1.7 million appropriation already recommended above, and finally, if necessary, by transfer between departments of appropriations available for personal service that would otherwise lapse."

"The beginning salary of \$1,200 that was established for this fiscal year should be continued for another

year. I recommend this continuation, and also that the employees who have received \$1,200 during this year, and are otherwise eligible, should be given the regular increment for next year."

The provision for paying overtime to institutional and certain other employees has worked well during the year. It has helped alleviate the manpower shortage. It should be continued for another year. I am asking that the continuation be only from year to year because I should not wish to see any permanency attached to hours of work in excess of eight per day."

"Salary increases required by promotions or transfers are not always available under a line item budget set-up. To cover such salary adjustments required by law, I propose that a lump sum be appropriated to be used to increase line items."

"Beyond this, I find that the employees and the Administration have been plagued by the situation that arises when a salary paid is less than the minimum to which the title is allocated. When salary standardization was adopted, temporary provisions of the law precluded the bringing to minimum of salaries which were below minimum but, at the same time, permitted bringing to minimum all positions that became vacant. In line items, this can be done only once a year. In lump sums, it can be done any time. It is patently unfair that employees to be paid from lump sums should be so favored over employees working on line items."

"Ever since salary standardization was adopted in 1937, the employees have been asking that this entire situation be corrected. I propose that the matter be rectified and that we bring all positions paying less than their appropriate minimum to the minimum allocated. So that all employees may be treated the same, I think these adjustments to minimum should be made at the beginning of each fiscal year. This change will go far to simplify civil service and budgetary administration."

"I recommend that another inequality affecting civil service be eliminated. The President of the Civil Service Commission has received \$9,000 per year, and the other two commissioners \$7,000 each. Civil service has not been recog-

nized as on a level with other commissions or departments. But efficient administration requires sound personnel work and policy."

"It is time that civil service was recognized as a dynamic arm of State government. The present commissioners will make it that. They are equal to the responsibility and should receive the same compensation as other department heads. I propose that the president be paid \$12,000 and the two commissioners \$10,000 each, in accordance with the standards in other departments."

SUMMARY

Governor Dewey, summarizing his over-all budget recommendations, says:

"To summarize, I recommend:

1. The passage of appropriations aggregating \$371.8 million for the fiscal year 1944-'45, or \$4.9 million less than granted for the current fiscal year. Of this amount \$366.8 million would be from the general fund and \$5 million from the newly established post-war reconstruction fund.
2. Within this aggregate, a reduction in appropriations for State-aid to education by \$7.8 million, in accordance with the existing formulae.
3. The appropriation from the post-war reconstruction fund of \$2 million for the acquisition of rights-of-way for thoroughways, \$2 million for planning State projects, and \$1 million for the acquisition of necessary equipment.
4. Reappropriation of \$12 million of prior years' highway construction and reconstruction grants from the general fund, with a provision that this money may also be used for the acquisition of rights-of-way.
5. The continuation for another year of the existing war emergency compensation rates, the beginning salary of \$1,200, and the existing provisions for overtime pay.
6. The continuation for another year of the 25 per cent reduction in the personal income tax and of the existing emergency levies expiring this year.
7. The relinquishment to the localities of the proceeds of the mortgage tax estimated to yield this year \$1.6 million, and the distribution to the cities during the

next fiscal year, of the revenue from the 2 per cent tax on gross receipts of utilities, estimated at \$17.7 million. This latter tax return would be used to reduce debt service.

8. The passage of legislation obviating as far as possible the existing practice of authorizing deficiency expenditures through the issuance of certificates of intent and permitting instead the making of a special appropriation each year to take care of emergency expenditures, under proper safeguards.
9. The continuance of the present policy of careful husbanding of revenue, close control over expenditures, and fullest possible preparation for fiscal emergencies.

This program is conceived in the spirit of confidence in the future. It is moulded by our recognition of the great responsibility which the Empire State must bear in the economic reconstruction to follow the war. Our State still faces hard work before the war is won. But the efforts of our valiant soldiers and our Allies bring the beginnings of peace close at hand."

Public Payrolls

According to a report by the U. S. Bureau of the Census, there were 6,300,000 persons or one in every eight workers in the United States, in governmental employ in July, 1943.

This does not include the members of the armed forces, persons on work relief, or persons employed by contractors. Of this number, 3,140,000, or 49 per cent, were federal employees; 1,315,000, or 21 per cent, were State and local employees, and 1,907,000, or 30 per cent, were State and local non-school employees.

In July, 1940, there were 4,473,000 such persons in governmental employ. From that date until July, 1943, federal employees increased 2,079,000, from 1,061,000 to 3,140,000; State and local school employees remained at 1,315,000, and State and local non-school employees decreased 190,000, from 2,097,000 to 1,907,000.

Between these dates, the report showed, federal payrolls increased about 250 per cent, whereas State and local payrolls increased only seven per cent.

Classification

By J. EARL KELLY

Director, Division of Classification
(Address delivered at Conference of
Personnel Representatives of State
Departments)

What is classification and why is it necessary?

Before we get to the discussion on classifying and reclassifying positions, I think we should have a clear understanding of some of our terms. I am quite sure that many of you are familiar with some, if not all, of the different phases of classification work, but let's all start from scratch.

First of all, let us consider the word "position." To us it means an assignment of work by a competent authority with certain responsibilities, requiring the services of a single employee. In other words, it is a "job" which may be part-time, full-time, temporary or permanent, occupied or vacant. When positions are found to be sufficiently similar so as to be grouped together under one title, we in effect classify them. The word "class" covers one or many positions.

This process of grouping or classifying positions has two distinct but related meanings in New York State Civil Service. You undoubtedly have heard the expressions "jurisdictional classification" and "duties" or "position classification." The Civil Service Commission is concerned with jurisdictional classification while the Classification Board is concerned with position classification only. **Jurisdictional classification** is in effect a grouping of positions according to the way in which they are to be filled. It determines whether the position is to be a competitive one, to be filled by appointment from an appropriate eligible list, or a non-competitive one for which the appointee must be examined but not in competition with other candidates, or an exempt one which can be filled without regard to any examinations or eligible lists.

Position classification, on the other hand, is a grouping of jobs according to their duties and responsibilities. To be technically exact, it really consists of gathering together into a relatively small number of classes the various separate positions

which are sufficiently similar as to their duties and responsibilities to justify the same descriptive title, same salary range, same qualification requirements for recruitment, like tests for fitness and the same civil service treatment generally. If we analyze fifty positions scattered through the various departments in the State service and all of them involve, for example, typing of relatively simple matters, we call all of them Junior Typist positions.

Position classification comes first chronologically, but it is closely related to jurisdictional classification. It is first necessary to establish the correct title through position classification for a particular job before it is possible to determine its correct jurisdictional classification. You must know what the position is before you can tell whether it should be in the competitive, non-competitive or exempt jurisdictional class.

Duties classification, in fact, serves as a foundation upon which the entire merit system is based. It indicates what different kinds of positions there are in a State service. First of all, it gives everyone concerned with civil service a common terminology so that everyone knows what he is dealing with. This applies with equal force to the Budget Director who is responsible for setting up the funds for the position, to the civil service examiner who must construct and hold the examinations for filling the job, to the department head who has the responsibility of filling it, to the members of both the Assembly and Senate committees interested in State finance who want to know where various positions are located and for what purpose the State's moneys are expended. Classification also serves as the foundation for a standard salary plan. It is impossible to have equal pay for equal work if positions involving equal duties are not grouped together in classes. There are other matters which are facilitated by a classification plan, such as transfers of employees from one department to another, the handling of promotions, lay-offs and demotions.

I am quite sure many of you are familiar with the utter confusion

that existed in the period preceding the 1932 legislative study of the classification of State positions. The committee making the study found, for example, that the title of "Clerk" was applied to a variety of positions running from those of the type now called Junior Clerk with a minimum of \$900 per annum all the way through to those the equivalent of Chief Account Clerk with a maximum of \$5,000 per annum. Similar varieties were found in other titles so that the department head, the Budget Director, the Civil Service Department, the legislative finance committees and everyone else concerned with civil service administration never clearly understood what positions there were in the State service or what personal service appropriations were actually used for, except in a general way. To sum up, classification serves as the basis for efficient governmental operation and administration.

Position classification is not a fixed, rigid mold that holds down progressive management. On the contrary, it serves as a very effective means of solving personnel problems for the operating departments. The responsibility for maintaining position classification for your department in good order is as much yours as it is the Classification Board's. If you allow positions to develop out of line with their duties and responsibilities and fail to do anything about it, you will be faced with grumbling and discontent on the part of employees and a general lowering of employee morale.

What is reclassification and why is it necessary?

This brings up the question of reclassification. With the passage of time, changes in positions are inevitable. These may be caused by new legislation which either adds or takes away functions in a department. Progressive changes in procedures or reorganizations of departments necessitate the reclassification of positions. Employees, through a natural course of development, particularly in newly created bureaus, do work of higher degree and responsibility than their positions originally called for. As a result, it is necessary for you in the operat-

ing departments to take a periodic inventory of the titles of the positions in your department. Some of these changes in duties and responsibilities are almost imperceptible.

Essentials of good classification

You must remember that position classification is based on the job itself and not on the employee filling it. Let me become technical for a moment and read you a part of Section 47 of the Civil Service Law, Chapter 498 of the Laws of 1938, better known as the Feld-Ostertag Law, created the Classification Board and defined its powers and duties. It states in part that the Classification Board shall have the power and duty to "assign uniform titles to positions that are so substantially similar in essential character and scope of their duties and responsibilities and in the qualification requirements thereof that the same descriptive title may be used to designate them, that the same qualifications for appointment thereto may be reasonably required and that the same tests for fitness may be established." This means that the **Classification Board must classify the job and not the individual.**

So often we hear the statement made that it is the policy of the State to provide equal pay for equal work. It is obvious that when positions that are substantially alike are classified under one title, the incumbents will receive equal pay for equal work done.

The Classification Board has handled approximately 9,000 individual appeals since 1938. Many of these, of course, were properly based on the higher grades of duties and responsibilities of the appellants. But there often were other arguments used as basis for changes in title which the Board had to disregard completely, for it could not lawfully consider them in arriving at its decisions.

That an applicant has rendered lengthy service to the State is not a justification for a change in the title of his position if his duties and responsibilities do not warrant it. The same is true as to any seniority enjoyed by him over fellow employees. Nor can an appellant's high efficiency rating alone justify a change in title. In fact, seniority, years of service and efficiency are factors considered in promotion examinations, but not in classification. His per-

sonal qualifications, excellent educational background, special knowledge, or ability to do more responsible work are not of themselves sufficient reasons for changing the title of his position. Often an employee is qualified to do much more difficult work than his normal assignment of duties requires. If, for example, he were appointed from the Clerk's eligible list to a Clerk position and its duties and responsibilities justify a continuation of that title, the appellant's personal ability to do the work of a Senior Stenographer is not considered by the Board as a basis for changing the title of his position. The passing of examinations for higher grade positions, an indication of the appellant's personal ability to do more responsible work, cannot be the sole basis for changing the title of his position. His appeal must be determined by what he does and not by what he is capable of doing. Reclassification cannot be made as a reward for the applicant's knowledge of his job or his value to the department. Annual increments and promotion possibilities will take care of such situations. We have often been asked to reclassify positions when the appellant's retirement is imminent so that he can enjoy a higher retirement rate. In some cases the department head would even be willing to go on record as a part of the bargain to ask that the job be reclassified downward when the incumbent retired. Here again, the Board has been compelled by law to deny such a reclassification request.

Let me add one more argument that is often presented to the Classification Board in support of an appeal. The appellant, in justification of his appeal for a higher title, compares his job with that of some other employee having a higher title; one which is obviously too high for the duties involved. Such an analogy fails because the job with which the comparison is made is incorrectly classified. If the Classification Board should grant the appeal, it would create two wrongs where only one existed previously. In addition to this, there is the probability that the Budget Director will reject such a recommendation because, from an organizational point of view, two such positions are not justified. It sometimes happens that

the person enjoying the higher title is not capable of doing the work and that the appellant with a lower title has been actually doing the job. When a person is inefficient or not capable of performing the duties of his position, there are other provisions of the Civil Service Law that will enable you to remedy the situation. The Classification Board should not be asked to, nor will it, pull your chestnuts out of the fire for you.

Present employment conditions, intense competition from federal agencies or outside industries have caused employees to leave the State service and others threaten doing so. The question of the salary to be paid to State employees in acute situations caused by outside competition cannot be answered through reclassification. It is our responsibility to standardize positions and to maintain an even keel. If salaries are to go up, they should go up on the same general basis. Individual positions should not be pushed out of line with others because of specially intense needs of keeping certain employees who threaten to leave the State service unless they are paid more money. Once this is done for one employee then you must ask us to do it for others. If we were to yield to such an exigency a decadence would set in. The time to stop such a situation is right at the start. If State employees are to receive more money because of the higher cost of living, higher income taxes, and so on, we believe they should all receive this benefit. It should be wrought by legislative action, not by reclassification.

Classification Procedures

Now that we have talked about classification and reclassification, let us discuss the method of getting new jobs classified and existing jobs reclassified. First of all, if you plan to set up one or more new positions, prepare complete detailed descriptions of the duties of the proposed new positions on our form CL-20. We ask that you send us two copies of this form making sure that you fill in both sides. Please give careful consideration to the suggested minimum qualifications that you would expect of a new incumbent for the proper performance of the duties. This is where you share a responsibility with us for maintaining good classification in New York

State. We consider it to be of real importance to you as an Appointing Officer to get properly qualified employees for the positions in your department and your ideas will go a long way toward molding the specifications for a new title or the announcement for a new examination around the type of individual you feel will most adequately serve the State in the new job.

If you feel that the form CL-20 is not adequate for expressing your description of the job, feel free to add any supplementary material, work charts and supporting memoranda that will help the Classification Board visualize what you have in mind. Route all requests for new positions on the CL-20 forms, directly to the Classification Division, State Office Building in Albany. I have noticed a tendency on the part of certain departments to make such requests by letters. We find that a letter does not always give us the desired information in the most useful form. We realize that there is always a lot of criticism about "red tape" in the Government and certainly I agree with you that there is room for improvement on that score, but there is a certain minimum of paper work that is inevitable in any business organization. The Legislature, in fact, has seen fit to add to the statute creating the Classification Board, an additional method for securing of adequate information from department heads. Section 46 of the Civil Service Law reads in part: "The Board may request from any State department such assistance as it may require, and each such department shall make available to the Board, upon its request, any of its personnel and facilities." Although this has been on the statute books since 1938, the Board has received such excellent cooperation from you people that it has never had to put this section into operation. It hopes that it will never have to in the future, either. I do not consider it too unreasonable a request to have you prepare this information for us in the manner in which we can use it best.

There is another important point that I should stress—a reclassification of an existing position or the classification of a new one may produce a title not previously allocated by the Temporary Salary Standardization Board. The Classification

Board is required by Law to notify the Salary Standardization Board immediately of the new unallocated class. If you do not give us a complete report as to the job and what you consider to be the necessary minimum requirements for filling it, you cannot hope to secure the right kind of employee to fill it nor the salary allocation that you think is adequate compensation for the work to be done.

If the new position is one that you wish to place in the exempt or non-competitive jurisdictional classification, you must approach both the Classification Board and the Civil Service Commission simultaneously with your request. The Board is concerned with the new position because it must assign the proper title based on its proposed duties and responsibilities. The Civil Service Commission is interested in knowing what the Classification Board's recommendation is as well as your reasons for asking that the position be placed in the exempt or non-competitive jurisdictional classification. The best way to have this dual operation performed smoothly is to address your request for exemption to the Civil Service Commission together with a CL-20 completely and properly filled out, at the same time sending a carbon copy of this material including the CL-20 to the Classification Board. The Board and the Commission will then consider both steps in their internal departmental procedure.

Let me now turn to the reclassification of existing positions. For this process you use our form CL-100, the yellow colored appeal form, with which I am sure all of you are quite familiar. Such an appeal may be filed either by an employee or by the department head whether the position be filled or vacant.

There is a marked difference between the CL-20 and the CL-100 forms. The CL-20 which we recently revised is white in color and is to be used for the classification of new positions or general surveys of large groups of positions and not for any other purpose. The CL-100 is used exclusively in requesting a reclassification of existing positions. Either form may be accompanied by letters of transmittal or supplementary material. The Classification Board will not honor a reclassification appeal or request which comes

in letter form unless it is accompanied by a CL-100 completely and properly filled out. This form provides on the second page a space in which the appellant can give his reasons for feeling that the title should be changed. There is additional space for his immediate supervisor, and the head of the department, to express their ideas on the appeal. This is not provided for on the CL-20 and they should not be used for reclassification appeals.

Our experience during the last seven or eight weeks brings me to a problem that has been particularly acute and yet could have been avoided with a little bit of forethought on your part. Every year we have been deluged with last minute December requests, many of which could have been sent to us weeks before. Of course, each of them is accompanied by some excuse such as pressing matters of more importance, oversight, etc. Please remember that the Classification Board's recommendations are subject to acceptance or rejection by the Director of the Budget before they find their way in the Appropriation Act. It is decidedly unfair and presumptuous as well for you to expect that the Classification Board and the Budget Director are going to jam these late requests through without a full and careful study just for the sake of meeting the Budget deadline. Don't forget that each request requires considerable work on the part of the Board and its staff for the purpose of maintaining good classification in this State. The Board refuses to be swept off its feet by last minute hasty requests. I am quite sure that many of the ones that came in so late had already been thought about and considered by you long before October 1st and certainly even before September 1st. To be on the safe side, get your requests for the next fiscal year into our office at the same time that you prepare your work for the Budget Division. The Budget Director will ignore any request for moneys for proposed reclassifications and posi-

(Continued on page 54)

**"Save your scrap to
rap the Japs"**

A Historic Month



This is the month on which the birthday anniversaries of two of our greatest presidents are observed: President Abraham Lincoln, February 12, and President George Washington, February 22.

We wonder exactly how many State employees are aware that the original model for the great Lincoln Memorial at Washington is to be found in Albany, only a step from the Capitol and the State Office Building?

The model is to be found at the Albany Institute of History and Art, in Washington Avenue. Daniel Chester French designed the Lincoln model, which was dedicated with elaborate ceremonies last year.

As a history teacher who was present at the dedication ceremonies told attaches of the Institute: "The

Lincoln model reveals The Great Emancipator's moods, the sunshine and the storm which exemplified his life."

The design, art students have agreed, is "the work of a genius who captured accurately the true moods of the great President."

Many State employees, to be sure, have viewed the Albany model, but to those who have not availed themselves of such a treat, officials of the Albany Institute of History and Art extend a cordial invitation.

Incidentally, employees of the Capitol and the State Office Building daily can gaze upon the classic features of President George Washington, for a handsome statue of the Father of Our Country stands in Capitol Park, athwart the greensward between the two historic Albany buildings.

Remember the Red Cross

A War Fund of \$200,000,000 will be asked of the American public next month to finance wartime operations of the American Red Cross, it has been announced by Chairman Norman H. Davis.

The goal for the third Red Cross War Fund campaign was set after the central committee of the American Red Cross carefully reviewed budget estimates for local, national and international work of the Red Cross for the year beginning March 1. Of this sum, \$140,000,000 will be required by the national organization to finance its national and international activities, of which approximately 85 per cent will be spent directly for Red Cross services to America's men in the fighting forces.

The remainder of the national goal, \$60,000,000, represents the approximate aggregate of amounts required by 3,766 chapters for work in their own communities. Most of the money will be used to help servicemen and their families.

State workers throughout New York State should remember this vital collection for humanity, and prepare for it.

Girl Apprentice

State Industrial Commissioner Edward Corsi noted the approval and registration of the first female machinist apprentice by the New York State Apprenticeship Council.

She is 18-year-old Vivian Ruth Holcomb of Rochester. James A. Stiles, director of apprentice training in the State Department of Labor, informed Commissioner Corsi that Miss Holcomb has been apprenticed to the Wilmot Castle Company of Rochester, manufacturers of physicians' and dentists' and hospital apparatus and equipment.

Miss Holcomb will receive 60 cents an hour for the first 1,000 hours of her apprenticeship with her pay graduated each 1,000 hours to the final or eighth such period, for which she will receive 95 cents an hour. On her graduation to journey-manship she will receive the same rate as male journeymen.

BACK THE ATTACK . . . BUY MORE WAR BONDS TODAY

Examinations

By E. G. McLAUGHLIN

Chief Examiner, State Department of Civil Service

(Address delivered at Conference of Personnel Representatives of State Departments)

The Examinations Division is responsible for the recruitment of qualified employees for competitive class positions, and in the performance of this function it has obligations to the present employees, the taxpayers, and in a very large measure, to the operating departments, which are charged with carrying on the State's business.

When a vacancy is to be filled, for which there is no existing preferred, promotion or open competitive eligible list, an examination must be held and the decision made as to whether it is to be open competitive or promotion. Section 16 of the Civil Service Law and Rule XIV provide that vacancies in positions in the competitive class shall be filled so far as practicable by promotion from among persons holding positions in a lower grade. Section 16 of the Law provides further that when an appointing officer requests an open competitive examination to fill a vacancy, he shall state the reasons why it is deemed impracticable to fill such vacancy by promotion, and the notice of such request shall be publicly and conspicuously posted in the office of such appointing officer and in the office of the Civil Service Commission for a period of fifteen days.

In the majority of cases, it is quite obvious when promotion is required, for instance, from clerk to senior clerk, or from junior auditor to assistant auditor, where there are usually a number of employees in a position in direct line of promotion. In the case of entrance grades in such positions as physicians, teachers, and engineers, it is equally obvious that the method of recruitment must be on an open competitive basis. The principal difficulty has been in positions for which there is not an apparent promotion line, but for which employees consider their training or experience has qualified them. In this situation, where the appointing officer desires to request an open competi-

tive examination, the posting period affords an opportunity to those who consider themselves qualified to protest. The protest and the qualifications of each protesting employee should be forwarded to the Civil Service Department for consideration as soon as possible so that the decision as to whether there should be an open competitive or a promotion examination will not be delayed. At the same time, the appointing officer should submit the views of his Department on the practicability of promotion so that we will be fully informed in reaching our decision, or in deciding on the necessity for a hearing. Submitting protests and pertinent information promptly and completely is essential in order to avoid long-drawn out correspondence and procrastination in coming to a decision. Examination announcements have sometimes been delayed for months while employers and employees were submitting statements of their respective points of view. The Commission's policy is to promote where there appears to be an adequate number of qualified employees to compete, which is in accord with good personnel standards and with a career service.

There may be occasions, when we have no list under the same title as your vacancy, that we determine another list with a different title but sufficiently related duties and requirements to be appropriate. In our opinion the fact that the eligible has been qualified in a related field is sufficient evidence that with a short period of training or experience, he can satisfactorily fill the vacancy. At first, it may appear costly for the operating department to spend a month in training a new employee who lacks certain previous specialized training or experience, but it would cost the State of New York far more to examine thousands of candidates for the specialized title when an appointee from an existing list can be trained in a month or two to handle the job. Then, too, the appointing officer gains the advantage of filling his vacancy on a permanent basis much more quickly than if he had to wait the outcome of a new examination.

He does not have to spend time training a temporary employee who may be eventually replaced by a permanent employee who will probably also need some orientation to the job.

One of the most important phases of the examination process is the preparation of a proper announcement, whether for an open competitive or a promotion examination. The announcement is an information bulletin to the prospective candidate showing the duties of the position; the minimum education; training, and experience he must have had in order to take the examination; the knowledges, skills, and abilities he must possess; and the subjects in which he is to be examined, with their relative weights. This information serves as a guide to him in preparing for the examination as well as a guide to the examiner in planning and constructing the examination and in considering the qualifications of applicants.

It is vitally important, therefore, that the announcement be accurate and complete. If the Classification Division has made a recent survey, there will probably be an up-to-date specification for the position. For some positions where it has not been necessary to hold an examination or make a classification survey in many years, perhaps since the original Griffenhagen Classification of 1932, the duties may have changed materially requiring a new specification. Sometimes, new legislation or changing conditions shift the emphasis of the duties of a position. The appointing officer, if possible, should submit the information on any change in the duties of a position when he requests an eligible list for filling such a position. Occasionally, it has been found that the duties of a position (or a whole class of positions) have changed so radically that it is no longer even properly classified.

For most classes of positions, there are standard specifications that have been prepared by the Classification Division. Since these specifications include similar positions in different departments, they must be drawn in rather broad terms which may need

to be more specifically defined in an examination announcement that is designed to give information to prospective applicants. The biggest stumbling block in the preparation of the announcement has been to obtain agreement on the minimum qualification requirements, and it was found in a survey made about two years ago that some of the worst delays in the establishment of eligible lists occurred between the date the examination was authorized and the date announced, because of this difficulty. Appointing officers do not return promptly the tentative announcements sent to them for suggestions or approval or they are insistent upon a specific training or experience requirement which we do not consider essential. So many times when such a requirement has been included in an announcement, the appointing officer found a provisional who did not meet the requirement but did such a fine job that there was a great deal of bitterness and dissatisfaction when we disapproved the provisional for not possessing the minimum qualifications.

Announcement should be constructed in accordance with standard specifications and not to fit an individual. Theoretically, minimum qualifications for entrance to an examination should be unnecessary. However, because of the practical difficulties in examining an unlimited number of candidates, it is considered expedient to restrict competition to those believed to be most likely to succeed in the job. In more than one session of the Legislature, there has been a movement to eliminate education and experience requirements for entrance to examinations, and if we abuse our discretion by making the minimum qualifications requirements unreasonably exclusive, legislation may be passed to eliminate them entirely or we may be overruled in the courts as in one previous examination. Minimum qualifications should fulfill their aim of setting the minimum training, education, and experience without which a prospective employee would not be likely to do a good job.

For the purpose of the examination announcement, the examiner wants to obtain from the appointing officer a complete description of the work performed, including such in-

formation as records kept, sources of information, such as rules, regulations, and manuals, relation of the duties of the position to other office functions, and whether all positions with the same title in his Department include substantially the same duties as the particular vacancy to be filled. In determining the scope of the examination, the examiner takes into consideration whether from the description of the job and the qualifications necessary to fill it satisfactorily, the emphasis should be on background knowledge of a technical nature or of the work of the particular department, or on ability to apply such knowledge to a practical situation, or on aptitudes for certain types of work. In an open competitive examination, the emphasis is usually different from that in a promotion examination, since candidates in an open competitive examination cannot be expected to have an intimate knowledge of the internal organization, procedures, and problems of a department.

In setting up an examination, especially for professional or technical positions, consideration is given to whether the test should be mainly one of a candidate's knowledge of the narrow field in which the immediate vacancy exists or a sampling of his knowledge of the broad general field in which he is seeking employment, which potentially should make him adaptable in different types of work and better fitted for promotion. The relative importance of the value of the types of tests to be included determines the weight the examiner assigns to them.

In deciding upon the weight to be given to the various subjects of the examination, various factors are taken into consideration. In higher grade examinations, requiring comparatively long experience of a high quality, the greater weight is usually given to that subject since it is considered to be a better measure of the candidate's ability than is his performance on a written test; in positions at the entrance level for which a relatively short period of training and experience is required, but for which a candidate must possess a basic amount of factual knowledge or general intelligence, a greater weight is given to the written examination which is designed to test

such knowledge or ability. In some examinations a machine performance test may be included if it is desirable and practicable.

In promotion examinations, service record rating and seniority must also be included as examination subjects. The service record rating is the operating department's opportunity to determine to some extent the outcome of a promotion examination. The performance of an employee on the job in many instances is more important in evaluating his competence for promotion than is his performance in a written examination. We sometimes hear that a candidate who has topped a promotion list is not satisfactory, but we find that his service record rating may have been considered above the average rating of 82. Therefore, service record rating that you give employees, should, as nearly as possible, represent the value of their performance on the job.

The appointing officer should thoroughly review the tentative announcement sent to him for suggestions or approval so that he will catch any inconsistencies that may not apply to his Department. This is especially true in promotion announcements where the appointing officer, presumably concentrating on one section of the announcement may miss some thing with which he should be familiar, only to have it discovered by an employee after the announcement has been issued. This necessitates re-issuing the announcement which results in distrust and lack of confidence of both your motives and ours.

In reviewing promotion announcements that have been sent to you for review, it is important to note if the minimum qualification requirements will result in too narrow a restriction in the field of competition. If so, call it to our attention and we will give full consideration to your suggestion and if consistent with our general promotion policy, we will adopt it. Promotion units have been agreed upon between the operating departments and the Civil Service Department. An effort was made, especially in positions in the higher grades, to make promotion units as wide as possible in order to improve efficiency and

(Continued on page 55)

The Winning Short Story

William J. Peterson of the State Labor Relations Board in New York City, is a lucky man—his literary contribution has been adjudged the winning entry in the Short Story Contest of "The State Employee" this month.

Why not get into the Short Story Contest today? You may easily be the winner, just as were Mr. Peterson and the other Association members whose literary works have won the contest on previous months.

The rules are simple. The story must be fiction, must be about some phase of State service, and must be not more than 600 words in length. The contest is open only to members of the Association of State Civil Service Employees, and all manuscripts become the property of "The State Employee."

Read Mr. Peterson's winning entry in the adjoining columns, study his literary style, then get into the contest yourself. The monthly award of \$10 awaits you. Don't tarry—do it today!

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MAN AND TREE

BY WILLIAM J. PETERSON

"Too bad, Joe," consoled my best friend, "that's the breaks of the game." Nice words—lovely sentiment—but nothing else. Eddie had been my last hope. The others—well when they turned me down, I hadn't felt too badly, for I knew I still had Eddie to call on for help. But now Eddie, my last resort, the man I had done so many favors for—now he joined the long list of those who offered sympathy, but no monetary aid. And the thing I needed most—even more than friendly words—was money to save my home. But all of my friends—now even Eddie—had failed me.

How bitter was life! And as I stood there in the street, thinking of my unhappy plight, I suddenly became conscious that I was leaning against something. Oh!—a telegraph pole. No consolation in that. So I went back to my thoughts.

And I saw a forest, cool and refreshing. There stood a tall tree, with spreading limbs covered with green leaves. This tree—stately and handsome—king of the forest—was vitally alive and enjoying life in its all. The sun was warm and friendly. The earth provided it with food. The babbling brook close by seeped through the ground to slake its thirst. Every day birds sat on its branches and sang their beautiful songs. And when there was a gentle breeze, even the tree itself joyously sang in the rustle of its leaves. Ah, life was then sweet! In this paradise of nature, with its pure air, with friends all around, this tree stood for all the years of its life—contented and happy.

Then along came Man, the Master! And coming to this tree in its glory, he said, "I am going to cut you down; cut off your limbs and green leaves. I am going to take away your life. I am going to take you out of your paradise of trees and birds. Because you must serve ME, Man, your Master."

And so it was done. That beautiful tree was cut down, taken out of its its paradise to the City of Man. And it became the telegraph pole against which I was leaning—bare, ugly, alone. No more robins singing, no more babbling brook, no more the cool and refreshing air of the forest. Instead, the rasping tooting of automobile horns, the impure air of the City, the terrible heat of the City's pavements.

And yet, in spite of it all, that tree was still serving Man, the Master. Uncomplaining, yes even proud, it stood there—upright, straight, bearing the weight of the wires man had put upon it. To the end serving Man, the Master, who gave nothing and took all.

My train of thoughts came to an end. And I realized how bitter I had felt in the loss of some of my possessions, how I had raved about the injustice of it. Me, a man made out of nothing and put here to serve the Great Master, God. And here was this majestic Tree, bereft of all its possessions, of its very life, yet faithful and loyal to the end. Uncomplaining, yes even proud, it stood there—upright, straight, bearing the weight of the wires man had put upon it. To the end serving Man, the Master, who gave nothing and took all.

Much chastened, I turned to the telegraph pole against which I had been leaning, bowed low and said, "Majestic Tree, I thank you. I thank you for giving me consolation, for I now realize how big you are in the loss of everything, and how small I have been in the loss of but one of my worldly possessions."

And I distinctly heard the tree reply, "At your service, Master."

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The Editorial Page

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History

Surveys made during the past few years, notably that of New York Times' of early 1943, deplore the lack of time devoted to the study of history.

We take a few lines to recall a really great President of the United States and one of the things that made him great. His Name: Rutherford B. Hayes. The Problem: The Merit System. The time: 1877.

The historians—James Truslow Adams and Charles Garrett Vannest—Have this to say: "The problem was not easy to solve. In a democracy there is no way known to us of carrying on government other than by means of parties. A party to be effective must be organized and lasting. That means that it must have a hierarchy of organizers of all grades from the national leaders down to the smallest of ward bosses. If the general mass, both politicians and voters, are moved by desire of personal profit, the spoils of office are bound to be highly important in holding the organization together. If reform is carried out so rapidly

as to destroy the strength of the organization, we merely substitute for the evil of patronage the evil of a breakdown in party organization, with ensuing political chaos."

"Such problems may be approached from three standpoints, that of the practical politician of the ordinary moral level, that of the impractical reformer, and that of the statesman. The politician wishes no reform whatever in a system which he understands how to use and believes to be essential. The reformer wishes to change everything rapidly. The statesman wishes to make progress, and as rapidly as possible, but realizes that he cannot go faster than he can induce public opinion to support him. In any case he is likely to be damned by both the other types, by the reformer because of his alleged inconsistency and because he does not do enough, and by the politician because of his alleged lack of loyalty and because he does too much."

President Hayes was the first President with the courage to meet the problem of clean government head-on. That public opinion was slothful did not deter him. Under "guardianship" of the Indian Bureau in the Department of the Interior, the Indians were being robbed by political parasites. Under the Secretary of the Treasury, the New York Custom House was manned and mulcted by a corrupt political boss. The stench rose to high heaven.

Hayes was openly defied by the spoilsmen because he was right! Congress in those days—much as in these—labored with form and fancy and substance had to wait. In his diary, after hungry politicians had temporarily halted his attempts to clean the political temple, Hayes wrote: "The end is not yet. I am right and I shall not give up the contest."

We can thank God, that Hayes like other sturdy defenders of the merit system in government, would rather be right than President. Hayes did more than any official, small or great, to outlaw, in the minds of decent men, the spoils sys-

tem. Every little while that system raises its loathsome head even in our own State. It will not die so long as error survives among the human race. It is the temptation to which men in public life are most likely to yield. The historians we quoted earlier say this of Hayes: ". . . neither the party nor the people supported Hayes . . . Hayes undoubtedly deserves credit for being the first President to fight to cleanse our politics of the gigantic evils of the spoils system . . . in this he belonged to the coming era rather than to the one which was passing." And they add: "There was not the faintest chance for Hayes of a renomination in 1880."

If this bit of history has stimulated thought of the merit system which system you enjoy as a State worker largely because of President Hayes, you will find more about it any library. It makes good reading.

To the Victor

America is only as virile as its schools. With the little red school house and its rich relations all the way up to the great university, rests the fate of human progress.

The most encouraging and hopeful sign that civilization may survive barbarism is the light in the temple of our schools. There is a stirring—healthy and humble—among the leaders of educational institutions and the people generally. "Objectives, principles, curricula, practice" relative to changes in educational procedure are the advance guard of the challenging army of culture.

When in the clutch of circumstance of war we found the hope of release in the resource stored up in the minds of the personnel of armed forces and we realized for the first time that safety itself depended upon knowledge, we made one of the really great discoveries of mankind. For the rest of the world henceforth must follow our example if they would ever hope to survive. How red the faces of national and international leaders, all caught napping by past neglect of the full development of the resource of the

human mind inherent "in the masses!"

It is pretty well conceded that war does not pay in material ways so far as nations fairly civilized are concerned. World War No. 1 was fought by the most civilized of the peoples of the earth and the victors suffered equally with the vanquished. There is only one group that will come out of this war richer than when they went in and that is the one that embraces the millions of young men and young women who in the armed services and in war-time industry have caught the vision of what knowledge can do for them and the future they will have the opportunity to build.

This Association is proud of the fact that it has spoken out again and again through the pages of this magazine for more and more education for the youth of America. We are so obviously winning the war because of the mental capacity of our people and the insatiable longing and the glorious sacrifices of American fathers and mothers of the cities, the farms and the plains that their boys and girls should "have good schooling," that no selfish power can ever thwart our colleges and higher institutions of learning in the future.

If ever a devil walked with the people of the United States in the past we know now that he was the selfish politician, the selfish capitalist, the selfish laborer, the selfish tax-payer, who would be and was niggardly with educational needs. There have been educational isolationists as there have been other isolationists and they have often prevailed to the extent that boys and girls—American boys and girls—divided only by a river or a row of trees, the color of their skin, or the economic status of their parents, enjoyed different standards of educational opportunities.

Billions for war? Much more vital and pressing are billions for education and peace and the opportunity to pursue happiness side by side with cultured citizens on all levels of human endeavor! This last is the vision, and those who reject it shall perish. In post-war planning, education must come first. It has won the war—to it, the garland of victory!

Credo

I BELIEVE

That there are greater things in life than life itself.

I BELIEVE

In struggling upward, even though the spent and weary thing I call my body cries "Halt!"

I BELIEVE

To the last breath in the great truths God gives me to see; and

I BELIEVE

In fighting for them, if need be, not with the bloody sword of man, brutal with conquest, and drunk with power, but with the white sword of God, white with His truth and healing while it slays.

I BELIEVE

In my country and her destiny, in the great dream of her founders, in her high place among the nations, in her noble ideals.

I BELIEVE

That her democracy must be protected, her principles cherished, her freedom defended.

I BELIEVE

Humbly before the Almighty, but proudly before all mankind, that we must safe-guard her standard, the vision of her Washington, the martyr-place of her Lincoln, with all the patriot ardor of the "Minute Man" and the "Boys in Blue" of her glorious past.

I BELIEVE

In loyalty to my Country, utter, irrevocable, inviolate.

THOU to whom a thousand years are as one day and as a watch in the night, HELP ME, in my frailty, TO MAKE REAL what I believe.

—ELIAS LIEBERMAN.

Game Licenses

John A. White, State Conservation Commissioner, has reminded hunters and fishermen throughout New York State that hunting, fishing and trapping licenses may be obtained through the mail without the necessity of appearing in person.

Applications for license may be obtained by mail from the following license issuing agencies: City, town or village clerks; county clerks, district offices of the Conservation Department, and through the Conservation Department's main office in Albany.

Watch Your Speech

"Remember careless talk costs lives."

"Think before you talk, the enemy may be listening."

"If you tell it to SOMEONE, who repeats it to SOMEONE, who's overheard by SOMEONE in axis pay, SOMEONE you know may die."

"Don't talk about anything you see or hear if it effects the war, unless you've seen it in the newspapers or heard it over the radio."

DON'T tell the name of ships.

DON'T tell locations or names of airfields.

DON'T tell locations of organizations overseas.

DON'T tell the station or assignment of individuals.

DON'T discuss the size or routes of convoys.

DON'T discuss sailing points or destinations.

DON'T discuss airplane routes.

DON'T discuss our weapons or airplanes or tactics.

DON'T discuss instruments of any kind.



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Civil Service Notes

By THEODORE BECKER

State Department of Civil Service

TRANSIT COMMISSION TRANSFERS

Former officers and employees of the Transit Commission who were transferred to the Public Service Commission when the Transit Commission was abolished last year cannot be demoted or promoted after such transfer except in accordance with the provisions of the Civil Service Law. Thus ruled the Attorney-General in a formal opinion, dated December 27, 1943, in which he stated:

"In my opinion Section 3 of Chapter 170 of the Laws of 1943, as amended by Chapter 238 of the Laws of 1943, authorizes the State Division of Public Service to change the titles and designations of persons transferred only to the extent necessary to conform their former Transit Commission titles and designations with the titles and designations of similar positions in the State Division."

"Former employees and officers of the abolished Transit Commission, except for their right under Section 3 to be transferred directly to the State Division without being put upon a preferred list under Section 31 of the Civil Service Law and except for their right to be chosen for appointment without reference to previous service where three or less were involved, have no greater or different rights or disabilities than any other civil service employee."

CLASSIFICATION IN THE COURTS

The importance of thoroughly preparing and presenting your classification appeal before the Classification Board and the Civil Service Commission is emphasized by a recent decision of the Appellate Division of the Supreme Court in the case of a State employee whose classification appeal had been denied by these agencies. The appellate court sustained an Albany County Supreme Court ruling that the determination of the Classification Board affirmed by the Civil Service Commission should be upheld. In its reported opinion, the lower court had stated that classification is a

matter for administrative agencies and not for the courts; that these agencies had not acted in an arbitrary, illegal or discriminatory manner in the exercise of their judgment and, therefore, the classification should not be upset. (*Levine v. Connelly*, decided December 28, 1943.)

EXEMPT VOLUNTEER FIREMEN

If you live in a community serviced by a volunteer fire company it may be to your advantage to join such company. Exempt volunteer firemen, like veterans of prior wars, are given special protection in their civil service jobs, whether competitive, non-competitive or exempt. Recently a chief of village police and a laborer in a State department were ordered reinstated by the Supreme Courts of Wayne and Rensselaer Counties, respectively, because they had been removed without the hearing on charges to which they were entitled as exempt volunteer firemen. (*Birney v. O'Leary; Dickin-son v. Monroe*). Ordinarily, an employee can be removed from a non-competitive or exempt position without charges. Also, he can be removed from a competitive position without a hearing. However, if an employee is an exempt volunteer fireman and occupies a subordinate position in the exempt or non-competitive class (other than a position as private secretary, cashier or deputy of an official or a department), or occupies a position in the competitive class, he cannot be removed except after a hearing on charges of incompetency or misconduct, with a right to court review if found guilty. Furthermore, in case an exempt volunteer fireman is about to be laid off because of lack of work or funds, he is entitled to be transferred to any position that may be vacant. The status of exempt volunteer firemen is usually acquired after five years of service in a volunteer fire company.

An important thing to remember is that after you acquire the status of an exempt volunteer fireman you should notify your department or institution head of this fact. If you have had ample opportunity to supply this information before your re-

moval is completed and neglect to do so, you may be deemed to have waived and lost your right to the special privileges given to exempt volunteer firemen.

STATE CIVIL SERVICE LAWS, RULES AND REGULATIONS

The latest edition of the State Civil Service Law, Rules and Regulations, which brings up to date the provisions of the law and rules relating to such subjects as appointments, probationary terms, transfers, promotions, disciplinary actions, lay-offs, leaves of absence, reinstatement, increments, salary adjustments, and classification of positions, has just come off the press and copies are now available for distribution.

Among the features of the 212 page publication of the State Civil Service Commission are:

1. the sections of the State Military Law dealing with the civil service status and rights of persons in the federal armed forces;
2. provisions of the Feld-Hamilton Law, applicable to thousands of Mental Hygiene employees since October 1, 1943;
3. special statutes providing additional war emergency compensation, minimum salaries for 1943-44, temporary salary increases for certain institutional employees, and voluntary overtime pay;
4. rules relating to special war duration leaves and appointments, classification and reclassification of positions, and service record ratings;
5. regulations for establishing disabled war veteran's preference in appointments and promotions;
6. the Fite civil service extension law, under which civil service has been extended to the counties, towns, villages, school districts and special districts throughout the State;
7. the statute authorizing the appointment of temporary policemen and temporary firemen;
8. a key-word index.

Copies of the publication are fifty cents each and may be obtained by calling at the offices of the State Department of Civil Service, 26th floor, State Office Building, Albany, or by writing to Mr. Harry G. Fox at the same address. Copies may also

be purchased at the New York City offices of the department in Room 576 at 80 Centre Street, Manhattan. Mail orders must be accompanied by a check or money order payable to the State Department of Civil Service.

PERSONNEL OFFICERS' RESPONSIBILITIES

A ten-point program under which operating departments in State service can carry their share of the responsibility for effective personnel administration was outlined by Fred A. Schumacher, of the Department of Social Welfare, at the recent Albany conference of departmental personnel officers sponsored by the State Civil Service Commission. Mr. Schumacher, in his talk on "Getting Employees Recruited and Promoted" from the operating department's point of view, listed the following points:

1. Operating departments should on the whole understand more than appears at present to be the case the varied functions of the Classification Division, the Salary Standardization Board, and the Division of the Budget, especially with respect to new and reclassified positions.

2. Operating departments should review their entire title structure periodically and clarify organizational patterns, lines of promotion, positions requiring reclassification, etc.

3. Operating departments should prepare duties statements and job analyses especially on positions which are peculiar to their own operations.

4. Operating departments should speed up the examination processes by requesting examinations as soon as vacancies occur and by carefully reviewing and promptly returning tentative examination announcements. Conferences should be requested with the Examinations Division of the Department of Civil Service on most questions and difficulties which cannot easily be ironed out by correspondence.

5. Operating departments should assist the Department of Civil Service in publicizing examination announcements as widely and fully as possible in order to attract the greatest possible number of competent candidates.

6. Operating departments should assist the Department of Civil Service in the pooling of personnel poli-

cies to bring about more uniformity on such common matters as vacation, sick leave, overtime, leaves of absence, etc.

7. Operating departments should give much more thought to the plan for rating employees; and should not merely file the results but utilize them wherever and whenever possible. In this connection they might also well consider some sort of periodic rating devices whereby employees might seek to improve themselves. This would help to attain Judge Conway's concept of the merit system, as expressed in his recent remarks: "That the system must serve first all of the people of the State of New York by providing for governmental agencies reputable men and women qualified, industrious, and conscientious, and by recommending those men and women upon the basis of what they know and not on the basis of whom they know . . ."

8. Operating departments could well originate and report various surveys, and studies, with relation to personnel which would be of inestimable value not only to the Department of Civil Service but to other operating departments as well. This might be a means of making personnel administration more of a science.

9. Operating departments could assist in building up and using the library of the Department of Civil Service. An interchange of materials would be helpful.

10. Last, but not least, operating departments could consult with one another on difficult personnel situations and discuss the handling of common problems.

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Tickets for the dinner have been distributed to members of the social committee and the executive committee so that they are readily available to all employees. Members outside Albany may write to Association Headquarters to make reservations. Remittances to cover the cost of tickets, and the names of the employees or guests who will attend should accompany requests for reservations.

Due to war conditions, accommodations are limited to 450. Previous experience indicates that this will make it impossible to care for all reservations. Reservations should be received at Headquarters by February 21st. They will be accepted in order of receipt. Get yours in early and avoid disappointment!

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Charles H. Foster of the Division of the Budget is Chairman of the Social Committee.

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Counties High

The State Department of Agriculture points with pride to the 1940 U. S. Census of Agriculture, which showed many New York State counties had an outstanding place in the nation's agricultural picture.

For example, the 62 counties of New York State averaged 277,000 acres of land in farms each, of which 108,000 acres were used for crops.

Among the 100 leading counties in the United States, 21 New York State counties were listed for cows milked on farms, with St. Lawrence County leading the entire nation. Delaware County was fifth and Jefferson County eighth among the first 100.

In the country's 100 leading counties in acreage of hay, St. Lawrence ranked third, Jefferson fifth, and Delaware eighth.

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Residence _____

Work Address _____

Dept. Employed _____ Title _____

Institution or Div. _____

Dues to December 31, 1944, \$1.50, \$1 of which is for a year's subscription to the "Civil Service Leader" and 30 cents of which is for subscription to the "State Employee."

Useful Patients

Pilgrim State Hospital at Brentwood, and one of its occupational therapy instructors, Owen McGough, come in for a fine tribute in "Plane News," official publication of the company that is turning out the famed Grumman Hellcats and other planes that have dealt the Axis one heavy blow after another.

Each month a committee at the Grumman plant awards prizes for constructive suggestions from employees. McGough became the first person outside the company ever to win the award, when he received a \$25 War Bond for submitting a special gauge for measuring round head rivets.

McGough devised a gauge while supervising a group of patients sorting rivets for Grumman's salvage department at the Brentwood institution. By simplifying the task of reclaiming rivets, McGough, the committee agreed, made a valuable contribution to Grumman production.

McGough, in helping Grumman, also has been helping patients under his supervision to find mental balance. The task of sorting rivets always has been a bugbear to aircraft management because it is too costly. Yet the rivets, swept up in great quantities from assembly floors, are too scarce and expensive to scrap. Grumman had tried various rivet-sorting projects, none of them satisfactory.

Here is what "Plane News" had to say of the rivet-sorting plan devised by McGough:

"About a year ago Dr. Harry J.

Worthing, director of Pilgrim State Hospital, gave the O.K. to a plan for letting a group of his patients sort rivets for Grumman. From long experience in occupational therapy, he and his staff members knew that such a humdrum task might be just the thing for patients who needed something to keep them occupied. Being war work, it would give them an incentive outside themselves and the satisfaction of doing a useful job.

"To McGough was given the job of organizing the hospital wood-working shop into a rivet shop. Having taught the men handicraft in wood and metal, he was now to try interesting them in a 'war job.'

"Together they reorganized their workshop. They begged large tomato cans from the kitchen and made the cans into small shovels, shades for electric light fixtures, boxes to hold the rivets. The patients were to be allowed to work five and a half hours a day there, with five minutes of radio news morning and afternoon.

"The beginning group was made up of the men who had been attending craft classes, plus a few others. McGough started them all on the simplest work—that of throwing out the discards and sorting the rest according to type of head. Those who showed aptitude were promoted to the more exacting tasks of determining lengths to $\frac{1}{16}$ of an inch. One man, who in happier days had been a packer by trade, was allowed to box the finished sacks of rivets for shipment back to

Grumman. He loved this little responsibility.

"Some patients learned to sort very fast and accurately. The thing that pleased everyone, however, is the fact that in the last three months nine of these patients have recovered sufficiently to be released from the hospital.

"Miniature blue and white pennants—Grumman's Navy 'E' burgee—are displayed over the work benches and in less than a year the class sent back to Grumman five tons of usable rivets, thereby contributing in no small manner to the war effort."

Jobless Benefit

A report issued by Milton O. Loyson, executive director of the State Division of Placement and Unemployment Insurance, disclosed unemployment insurance benefit payments in December totaled \$754,327, for the lowest monthly outlay on record. The average weekly check was \$15.66 or \$1.59 more than in December, 1942, and approximately 11,000 unemployed persons collected benefits.

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COST OF LIVING

These figures below, as of December 15, 1943, used in connection with the tables printed in the December issue of "The State Employee," will enable you to keep up to date on accepted facts as to living costs.

INDEXES

(Average 1935-39 = 100)

Item	United	New York	Buffalo
	States	City	
All items	124.4	125.1	126.1
Food	137.1	139.1	137.6
Clothing	134.6	138.8	133.4
Rent*	108.1	103.5	114.6
Fuel, electricity and ice	109.5	114.0	106.5
House furnishings	127.9	122.4	127.1
Miscellaneous	118.1	117.9	122.7

* Data for rent as of September 15, 1943.

Classification

(Continued from page 43)

tions unless the Classification Board has sent him its official recommendations of titles for the positions requested.

Eligibility for reclassified positions

Up to this point, I have concentrated on the classification of the position itself, without considering what happens to the incumbent. The reclassification of a particular position does not automatically make the successful appellant eligible for the reclassified title. Section 47 of the Civil Service Law states "that no employee either by classification, change of title, or otherwise, shall be promoted except in accordance with the provisions of this chapter." The Constitution of this State and the Civil Service Law which carries out its provisions require that appointments and promotions in the State civil service shall be made in accordance with merit and fitness to be ascertained, so far as practicable, by examinations which, so far as practicable, shall be competitive. This fundamental principle has in no way been repealed or diminished by the Feld-Ostertag Law. The Constitution and the Civil Service Law, therefore, require that the successful appellant qualify for the reclassified title through the normal procedure of an examination which, in most cases, means by a promotion examination in competition with other employees eligible to take it in the same promotion unit. If there is an appropriate eligible list in existence, the appointment must first be made from that list. If there is no such list, then it will be necessary to hold an examination for the purpose of establishing one.

When the Feld-Ostertag Law went into effect on April 6, 1938, it contained a temporary provision regarding reclassification appeals. This is known as Section 48A of the Civil Service Law which was enacted for the purpose of correcting titles of positions that were then improperly classified. It permitted successful appellants to qualify for the changed title without requiring examinations. This section, by its own provisions, was limited to appeals filed by employees by October 1, 1938, who had also shown to the satisfaction of the Classification Board that they had been perform-

ing the duties of the higher grade titles for at least one year prior to April 6, 1938. This section is no longer available to most of the State employees, although its provisions were extended by later amendments to positions that were not under standard titles in 1938. The appeals filed today come mainly under Section 48 of the Civil Service Law which requires the appellant to qualify for eligibility as I have just described to you.

Distinction between classification and salary standardization

Before closing, let me recall for you that the Temporary Salary Standardization Board and the Classification Board are two separate and distinct bodies whose work is related to the civil service of the State. The Salary Board is not concerned with individual positions but with classes of positions. It applies a salary grade to each such class and all positions having that title are affected by the salary allocation. If they should reallocate a class from one salary grade to another, all positions in that class benefit thereby.

The Classification Board, on the other hand, deals with individual positions and assigns descriptive titles to each one. This has the effect of drawing together under one title individual positions that may be scattered around in various departments. If you or your employee is satisfied with the title of the position but believes that a higher salary allocation should be paid to the class, you should direct your appeal to the salary Board and not to us, nor should you come to this Board asking for a higher title solely for the purpose of securing more money for the employee. If the Board finds that the title of the position as it now stands is appropriate, it will deny the appeal and suggest that you go to the Salary Board for relief.

My purpose in speaking to you today on behalf of the Classification Board has been mainly that of exchanging ideas with you, of letting you know what our problems and thoughts are on classification and hearing your views on this subject. I sincerely hope that this exchange of ideas on our mutual problems will lead to a smoother and more efficient operation and service in the future, and thank you very much for your attention.

Special Offer of Group Life Insurance During April

Group Life Insurance will be offered to Association members during April without medical examination. This offer will be made to all Association members under age 50, who have not been rejected on the basis of a medical examination under Group Life Policy G-9000.

The Association's Group Life Insurance Policy was made effective June 1, 1939. Since that time over \$900,000.00 has been paid to the beneficiaries of deceased State employees. These claims have arisen in every State department and almost every State institution. The claims have been paid promptly, as they have been presented. The Association's Group Life Insurance has been a great financial aid to hundreds of bereaved families. You are aware of the benefits of this insurance. The families of hundreds of your fellow State employees can testify to the need of such insurance. If you do not now have this insurance, fill out an application during April and send it to the Association office, Room 156, State Capitol, Albany, New York.

If you do not receive special literature and applications which are being prepared for distribution among State employees ask your association representative or write Association headquarters for an application.

The offer of Group Life Insurance is made to all State employees. Those State employees who are not members of the Association may apply for Group Life Insurance. Their applications will be acted upon if they apply for membership in the Association and become dues paying members by April 30, 1944.

The Association's Group Life Insurance is low in cost. The payments are deducted from your pay. The insurance company underwriting the policy is the Travelers Insurance Company of Hartford, Conn.

This is the first waiver of the Insurance Company's medical examination requirement in nearly three years. Take advantage of it and apply in April.

BUY WAR BONDS

Non-Statutory Salaries

The following Salary rates for positions in the labor and exempt classes have been approved by the Director of the Budget and are effective as of January 1, 1944. All appointments from that date will be made at these rates. Appointments made between October 1, 1943, and December 31, 1943, at higher rates will continue at the rate at which appointed and such as may have been made at lesser rates will be increased to the rate now approved.

Baker's helper	\$1,200
Cleaner	1,200
Domestic	1,000
Farmhand	1,200
Janitor	1,200
Kitchen helper	1,200
Laborer	1,200
Launderer	1,200
Maintenance helper	1,200
Power Plant helper	1,200
Teamster	1,200
Watchman	1,200

The many workers in the Mental Hygiene Department institutions who are in the above mentioned positions are awaiting action by the Civil Service Commission which would remove them from Non-statutory standing to the competitive or non-competitive classes. They are confident that if the Commission will study the situation and properly evaluate their work, they will obtain a career service status. They base this belief on the constitutional mandate which requires that appointments and promotions be made in accord with merit system principles and upon the career service law which calls for equal pay for equal work—both seemingly honest employment practices.

On October 25, 1943, a committee representing the employees in question conferred with the Civil Service authorities and there was every indication that an early examination of the different positions would be made to decide as to their jurisdictional classification. No advice has been received from the Civil Service Commission since the conference and the action of the Budget Director in announcing the salary scales as above is disheartening to the faithful workers involved. This is a time when employee efficiency and employee morale are very important. The Association believes that

many of the positions cited should without question be placed in the competitive or non-competitive classes. Prompt action along this line would offer tremendous encouragement to the hospital employees affected and to the many institutional workers who come in contact with these groups day by day and know the reasonableness of their claim. They render exceptionally valuable services in the operation of the institutions. The Association will again appeal for attention to these groups.

Examinations

(Continued from page 46)

employee morale. However, in some cases promotion units are still too narrow to provide real opportunities for promotion and full utilization of employees' talents. The Commission, of course, is desirous of widening promotion units in so far as is consistent with efficient administration; at your request we shall be glad to discuss your individual situation.

With reference to the publicity given to our examinations, a supply of promotion announcements is sent to the appointing officer. Also an announcement is sent to each of the potential eligibles whose names have been submitted by the appointing officer. When it has been impossible to compile such a list, the appointing officer is instructed to post a copy of the announcement on bulletin boards in the department's offices or units, where they are of interest. It is important that the appointing officer cooperate in publicizing promotion announcements, especially where there are employees in the field or in branch offices. It is embarrassing to the Civil Service Commission to have employees complain that they had no knowledge of a promotion examination.

For publicizing open competitive examinations, the Examinations Division has an extensive mailing list through which it distributes the examination announcements. We also expect the appointing officer to assist in this phase of the work because he may have contacts in his own field that we would not be so likely to reach. We are always anxious to send announcements to any

group that you may suggest and we hope for more cooperation in this phase of recruitment. A good examination cannot of itself produce a good eligible list unless we have been able to get good people to take the examination. It is very disconcerting after we establish an eligible list to have an appointing officer say, "the people on the list are no good; I can find lots better." If you know them, why not tell them about the examination or ask us to send them applications? We are both working together in trying to get good employees for you so that your department can better perform its functions.

Although some people believe that the appointing officer might properly have a part in the actual examination, that has not been our policy, because of the possible reflection on the results of the examination. However, in the process of preparing an examination, we may want to call on you for some more detailed information on the job than is in the examination announcement. In requesting more specific information, we do not want suggested questions, which occasionally we have received and could not use, thus limiting our testing field; if we need additional information from a department, we shall make our contact through the person responsible for handling personnel who may wish to consult with the head of the particular bureau or division. In order to avoid any criticism of our procedure, it would be undesirable for any contact to be made between the examiner and the provisional, with reference to the specific duties of the job being examined for.

Occasionally we ask an appointing officer to suggest names of persons outstanding in his department's field of work whom we may consult as expert examiners in which case we make all contact with the expert examiner that we select.

If you, as the person handling personnel, are asked advice about preparing for examinations, it would be desirable to refer candidates to the examination announcements, especially to the duties and examples of duties and to the knowledges and skills and abilities specified in the minimum qualification requirements; the subjects of the examination will indicate the type of tests to be given, whether written or practical performing tests, as well as the

relative weight of each. Employees requesting information on how to prepare themselves for future examinations may be encouraged to take courses in the field of work carried on in the Department. For instance, a clerk in the Department of Audit and Control might take courses in accounting so that he might qualify for promotion to Senior Account Clerk and ultimately, with additional professional training, as an accountant or auditor; a clerk in a Statistics Division and interested in this work might take courses in statistics to prepare him for promotions in the field of statistical clerical positions and perhaps later as a statistician. Where there is no organized in-service training program, employees in non-technical fields may be encouraged to learn something of the functioning of their own division and its relation to the Department, which should improve their efficiency as well as aid them in promotion to higher positions.

Information as to which promotion examinations in a department are department-wide and which limited to a promotion unit should be available to employees. If a department is divided into promotion units, employees are interested in knowing their own unit. Some are very conscious of this information, while others seem never to have heard of it until a promotion comes up in which they are interested.

The speeding up of examination service is a subject in which we are as interested as you. As you all know, at the present we are at the "low point" in recruitment, but I am hopeful that we may all strive to improve some of our practices so that, when we have a return to normalcy, there will be greater cooperation and understanding of each other's problems with a resulting increase in efficiency and service which is our "reason for being." To the end of speeding up examination service, I am recommending first, that the original request for an eligible list to fill a vacancy be submitted to this Department as soon as the operating department has knowledge that the vacancy will exist, so that an effort will be made to have a list ready when needed; and second, if the vacancy is in a new or unusual position, that a statement of the duties and suggested minimum qualifications be included.

If the position is one for which there does not appear to be a field for promotion, and you are requesting that an open competitive examination be held, the notice should be posted promptly without instructions from us so that there will not have to be a delay later for the 15 days' posting period.

If service is to be speeded up, the details of the announcement should be worked out on a cooperative basis but with more promptness than in many instances in the past. The tentative announcement should be reviewed and returned promptly so as to meet the deadline when material must be sent to the printers. The amount of time which was required for the printing of our open competitive circulars increased to such an extent, that during the present emergency we are multilithing the list of positions for which we are holding examinations, and mimeographing the circulars giving detailed information on the individual examinations. Just before the war, we had planned a program of examination series dates set up according to a time table as to when an examination request would have to be received and an examination announcement prepared and approved, in order to have the examination included in a certain series. This plan had to be abandoned but will be reinstated just as soon as it appears feasible to do so.

Emergency situations in some one department have caused delays in the examination service to other departments, and if more departments could anticipate their needs in advance, I believe that many of these emergency situations could be avoided and this would contribute eventually to prompter service to the majority. Then if there is a very real emergency, it can still be met

without disrupting to too great an extent the regular flow of work. Anticipating requests for examinations sufficiently in advance so they can be fitted into a planned schedule and the eligible lists established in advance of the vacancies would help to avoid provisional appointments and would be a big factor in speeding all of our services.

Promotion eligible lists could be speeded up to a certain extent by the prompt submission of service record ratings on the date that your Department's ratings are due. When departmental ratings are expected momentarily, it has been our policy to wait for the new ratings instead of using the ones that are often over a year old. The use of new ratings is desirable since many candidates in promotion examinations had not been rated in the previous period, and would therefore, require a special rating, unlikely to be in line with the others; also the eligible list may remain in force for four years and should not be based on performance which may have changed since nearly two years ago. Pending the receipt of service record ratings, we have had to hold up establishing promotion eligible lists for as long as six months after the examination work was completed, so an effort should be made to get the supervisors to submit the service record rating as of a certain date, allowing the necessary time for appeals and the proper consideration thereof.

This may not be the most opportune period for accomplishment in the "speeding up" of service, but that is our aim, as well as an improvement in the quality of the service, and I am eager to hear from Mr. Schumacher as to his views on how both of these objectives may be met.

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Civil Service Law and Rules

By JOSEPH SCHECHTER
Counsel, State Department of
Civil Service

(Address delivered at Conference of
Personnel Representatives of State
Departments)

My part in this program is somewhat different from that of the other participants in that in all the other subjects on the program, but mine, several sides are presented. I, therefore, feel free to go ahead without any fear of contradiction.

Interrelationship of Constitution, Law, Rules, and Regulations

In taking up the Civil Service Law and Rules, I'd like, first, to show the connection between the constitutional provision on civil service, the Civil Service Law, the Civil Service Rules, and the Regulations. Why are all these necessary and how do they fit in, one with the other? To illustrate the part played by each of these, let us take one of the most elementary procedures in civil service. We all know that in making an appointment to a competitive position, the appointing officer must select one out of the three highest eligibles on an appropriate civil service list who are willing to accept appointment. Now, where do we find authority for this? Do we find it directly in the Constitution? The answer is no. The constitutional provision, which is part of the basic law of this State, contains the groundwork for this practice. The Constitution merely contains the simple provision 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 competitive examination. Next we go to the Civil Service Law. Is the one-out-of-three provision in that law? The answer again is no. However, Section 14 provides further groundwork by requiring that appointments to competitive positions shall be made from "among those graded highest." Under this provision it may be perfectly proper and within the law to appoint one out of two, one out of three, or one out of five. Next we go to the Civil Service Rules and here, for the first time,

we find that in Rule VIII there is a definite provision requiring appointments on a "one-out-of-three" basis. Now the question comes up, where do the Regulations come in? The Regulations provide for administrative procedures in connection with civil service operation. In the case of appointment of one out of three, the Regulations provide the details on how this is to be effected. For example, there is a provision in Regulation 7 which states: "No declination of appointment will be accepted unless made in writing and filed with the State Civil Service Commission." The acceptable reasons for declination, without causing the removal of an eligible's name from the list, are all set forth in the Regulations. So we see that there is a definite tie-up between the constitutional provision, the law, rules, and regulations. One supplements the other and all four should work together for the effective and expeditious operation of civil service. The constitutional provision, of necessity, had to be a short one and could not cover all the procedures necessary to carry out the merit and fitness principle. It, therefore, specifically provides that "laws shall be made to provide for the enforcement of this section." The Civil Service Law has endeavored to follow out this mandate by clarifying and supplementing the constitutional provision. It has been constantly expanded and each year finds many new amendments. The Legislature, realizing that it could not cover every situation on civil service, has authorized the civil service commission to adopt rules which have the force and effect of law. In other words, they have given legislative authority to civil service commissions, with the limitation that such rule-making power shall not be used to adopt rules inconsistent with the law.

Restrictive Laws

Many complaints against our department have been made about certain practices and procedures, for which we are entirely blameless, because such procedures and practices are definitely set forth in the law; and we must follow them whether we like them or not. We must not forget that the administration of

civil service in our State is beset with certain legal hurdles and obstacles. There are provisions in the law which are not conducive to good civil service administration. Some of these provisions have found their way into the law because of abuses of administrative discretion; and, once in the law, it is difficult to have them repealed. For example, from the beginning of civil service, in 1883, in this State, to about 1938, civil service commissions, in the exercise of examination functions, were given wide latitude in setting up minimum qualifications for positions. In many examinations age limits were established. The power to establish age limits was never challenged by the Legislature when it was reasonably used. However, in 1937, during the period of depression, certain local commissions went beyond the bounds of reason in establishing age limitations in clerical and stenographic examinations. For example, in a stenographer's examination in a large city, and in a bookkeeper's examination, the maximum age limits for candidates were set at 29 and 31 years. Naturally a great cry of discrimination was raised by citizens and taxpayers who were denied the privilege of competing in these examinations because they were over these low age limits. The result was that the next year a law was enacted prohibiting any civil service commission from discriminating against persons because of age; and Section 25-a of the law now provides that no age limitations can be established, except for positions requiring extraordinary physical effort, such as firemen, policemen, prison guards, etc.

Another provision of the Civil Service Law which interferes with the prompt and efficient administration of civil service is the one contained in Section 16, requiring the posting of notice for 15 days whenever an appointing officer requests the holding of an open-competitive examination. This provision was also put into the law because of abuses of promotional rights. Because of the holding of open-competitive examinations for positions which should have been filled by promotion, the Legislature placed

this posting provision in the law in order to give an opportunity to employees to protest if they felt they had been denied promotional opportunities. There are other instances of bad laws which were caused by bad practices or procedures, of which you may be aware; but time does not permit me to discuss them.

Ambiguities and Inconsistencies in the Law

I shall now touch upon certain ambiguities and inconsistencies in the law which require clarification. In many cases clarifications of these laws have been made by court decisions. For example, Section 22 of the Civil Service Law provides that where a position of a war veteran or exempt volunteer fireman is abolished, such war veteran or exempt volunteer fireman shall not be discharged, but shall be transferred to a position which "he may be fitted to fill." For many years our Commission construed this provision as permitting a war veteran, upon the abolition of his position, to be transferred to a position for which he was qualified, even though such position was not similar to the one which was abolished. For example, a war veteran who held the position of Investigator was permitted to be transferred to the position of Junior Attorney, if such Investigator had been an attorney and had the qualifications for the Junior Attorney position, even though there was no similarity whatever between the Investigator position and the Junior Attorney position. In some cases our Commission went so far as to give such war veteran a qualifying examination to determine whether he was fitted to fill the position to which transfer was sought. All this has been upset by an important decision of the Court of Appeals in the case of **McNamara v. Holling**, which held that war veterans or exempt volunteer firemen could only be transferred to similar positions and not to positions which they happen to be fitted to fill.

Again for many years our Commission, in following the provisions of Section 31 on lay-offs, established preferred lists in accordance with seniority, but placed the names of disabled veterans laid off at the top of the preferred lists, regardless of seniority. This procedure was attacked in the court in the case of **Sergeant v. Kern**, and the court held that disabled vet-

erans do not get any preference on preferred lists and that they must take their place on such list in the regular order of seniority. At the present time there still is much confusion about the inconsistencies in the provisions of Sections 22 and 31 of the Civil Service Law. The provision in Section 22, which gives the right to war veterans and exempt volunteer firemen to be transferred upon the abolition of their positions, appears to conflict with the provisions of Section 31, which gives such veterans and exempt volunteer firemen no right of retention or special rights of preferred status.

Restrictive Court Decisions

Previously I stated that bad practices result in the enactment of bad laws; now I wish to emphasize that bad cases may result in bad court decisions. To give you illustrations of this, let us first take the famous, or infamous, Hilsenrad case. In this case petitioner Hilsenrad was given a temporary appointment from an eligible list and was retained in such position for about 10 months. When his temporary employment was terminated, he went to court and claimed that he was a permanent employee, since he was appointed from a regular competitive eligible list and had been retained beyond his probationary term. The lower court upheld his view on the theory that there was no authorization in the law for a temporary appointment other than the one-month appointment set forth in Section 15; and, therefore, since he had been employed more than three months, he was deemed to have successfully passed his probationary term, and, therefore, was entitled to the rights and privileges of a permanent employee. This decision was unanimously affirmed by the Appellate Division. After the unanimous affirmance, there was much consternation felt by our department and other State departments. The implications of the decision were far-reaching; and it meant that hundreds of temporary employees who had been employed for more than three months could claim permanent status, despite the fact that many were never in a reachable position for permanent appointment and had been appointed from the bottom of lists only because of the temporary nature of their appointments. It also meant

that our department would have to give promotional examinations to those who were declared ineligible because their employment was considered temporary in character. It meant that salary adjustments which were made would have to be revised. It meant that Feld-Hamilton increments would have to be given to these employees. Furthermore, it definitely declared that our practice of appointing temporary employees for more than one month was without legal foundation and that such practice would have to be stopped. In order to nullify the effects of this decision, there was enacted at the legislative session of 1940 a law (Chapter 612), which provided that temporary appointments could not be made for a longer period than six months. As you know, the operation of this Chapter 612 has caused us many difficulties. After the enactment of this chapter, the Hilsenrad case came before the Court of Appeals; and, fortunately for all State departments, the Court of Appeals reversed the two lower courts on the theory that no temporary appointment could ripen, *ipso facto*, into a permanent appointment. This decision saved our department many headaches; but, as a result of the Hilsenrad case, we have Chapter 612 which has set a definite limitation upon the duration of temporary appointments where eligible lists are in existence.

Another bad case which resulted in a court decision which has caused confusion is the Lanzer case. In this case an employee was removed on the charge that he had falsified expense accounts by claiming \$1.00 for dinner on 12 different occasions during July and August, 1939, and on five different occasions in the year 1936. It was also claimed that in the years 1936 and 1939 this employee stated that he worked in the field until 8:00 P.M., when, as a matter of fact, he was engaged in teaching at a college from 6:30 P.M. The dismissal on these ancient charges took place in April, 1943. The court, in upholding the petitioner, and in ordering his reinstatement, with back pay, made certain unusual findings. It is well known that an employee other than a war veteran or an exempt volunteer fireman is not entitled to a hearing upon removal. However, the court in the Lanzer case stated:

"While it is true he was not

strictly entitled to such hearing by law, nevertheless, since the result of sustaining the charges would be to brand him as a petty thief, ordinary decency, if not law, would prompt any unbiased person to at least permit an accused to confront in open hearing the witnesses against him.

"When an administrative agency acts in a quasi-judicial capacity, the employees brought to trial before it on charges in the nature of theft or embezzlement should be given, so far as is possible, a public and impartial hearing. A record should be made sufficient to permit review by the court and findings based on the record should be made to show what the hearing official or board determined from the evidence presented. In this proceeding the minimum protection for the safeguarding the petitioner's right was not accorded him.

"Previous to the enactment of subdivision 3 of Section 22 of the Civil Service Law, a discharged employee had no right of appeal for an adverse decision, but now a person aggrieved has the absolute legal right of a complete review of the facts and law by the Supreme Court. The courts now have plenary power to review all the acts, the procedure and the evidence relied upon by respondents to uphold its decision. The accusations against petitioner give rise to suspicion that the real reason for his discharge has not been given. The acts of wrongdoing charged are stale, musty and vapid, and in criminal and civil actions would be barred by the Statute of Limitations. The improper and unlawful acts are charged to have been committed more than seven (7) and more than four (4) years ago. The charges are of a petty character. * * * Moreover, in my opinion, the respondents are guilty of laches. Justice delayed is justice denied.

"* * * The expense accounts submitted by petitioner, it appears, were audited, approved and honored by respondents at regular intervals. That each year since his appointment, he has been given the statutory annual increment or raise in his pay. Employees such as petitioner are graded for the service they perform. His service record for the period ending May

13, 1943, was eighty-three (83%) per cent."

The findings in this case seem to indicate that a hearing is necessary in the removal of an employee who is charged with a crime and that the Court will review all the facts in the case.

In most cases of removal, however, the courts have upheld the administrative agencies and have declared that they will not substitute their judgment for the judgment of administrative officer, even though they may disagree with the administrative officer, as long as the determination of the officer is not unreasonable, arbitrary, or capricious. Recently, the courts went so far as to uphold a removal proceeding which was brought against an employee for acts of misconduct committed outside the scope of his employment, on the grounds that such acts had a definite bearing on his employment. This case is the Wagner case, decided November 10, 1943, just two months after the decision in the Lanzer case. This case contains findings directly contrary to the Lanzer case. Because of the interesting comments made in this novel case by the court, I'd like to read the major part of the opinion in the case:

"As it has been said very many times before this, the scope of judicial review of the removal of an administrative employee by his superior is extremely limited in scope under the present New York practice. The proceeding rests upon two inquiries: (a) whether the removing officer has acted within the power given him by statute; (b) whether he has acted arbitrarily.

"The statute, Civil Service Law, Section 22, Subdivision 2, authorizes removal for either misconduct or incompetency. The charge made against petitioner was misconduct, but the act of misconduct was not in pursuance of his official duties, and was, so the charge runs, committed away from his employment and while petitioner was off duty and not on public property. Counsel for the State, County and Municipal Workers of America, appearing as amicus curiae, argues that such an act is not the kind of 'misconduct' contemplated by the statute; that, while it may be argued that the act charged might be deemed to

reflect upon petitioner's competency, still incompetency was not the charge made and that, therefore, the removal under the charge as framed and served upon petitioner did not fall within the statute and must be annulled.

"Misconduct, so the argument proceeds, must be an act relating in some manner to official duties and no private act of the employee has relevancy; while incompetency may be established under proper facts from the general conduct of the employee reflecting upon his capacity to do his work, as well as from the manner of performance of official acts.

"The words are in the statute without further definition or limitation. They are to be read in the sense in which they would commonly be taken. I would suppose that the words carry a different connotation than that advanced here. Incompetency would seem to have a rather close integration with the performance of duty. A lifetime of ineptitude in private affairs would not destroy an adequate performance of public duty. Competency relates to the manner in which the job at hand is done, and I cannot presently conceive a way in which an employee could be removed for general acts suggesting incompetency to do his work where the work itself was in fact done with uniform competency.

"But misconduct implies wrongdoing in some degree, and is inclusive, of course, of acts prohibited by law. I think a statute which authorized removal for misconduct in the employment and misconduct beyond employment which reflects discredit upon the public service or tends to impair the standing of the employee or the respect in which he is held. A serious crime, involving the moral turpitude and reflecting on the character of the employee and upon the public service he represents, for instance, would seem to fall within the scope of the statutory 'misconduct', although perchance the employee might be competent enough in all matters that relate directly to his work. The kind of misconduct having this effect is a matter of degree.

"Whether there is a rational cause and effect is a subject which concerns itself with the manner in

which the removing officer acts under the statute, but I construe the statute itself to authorize the removal of an employee in some circumstances for misconduct outside of employment and therefore I conclude that the statute was observed by the respondent in this case.

"Since the respondent was authorized to consider misconduct outside of official duty, the further question raised by this proceeding was whether his determination in treating the particular act as ground for removal was arbitrary. There is one distinction to be observed between this kind of a case and misconduct directly involving public employment. The misconduct charged cannot rest merely upon the disapproval of the removing officer of the act, or whether it deviates from his personal standard of private conduct, but must reasonably be treated as reflecting adversely on the public service. And, in turn, the court cannot impose on the officer its standard of what reflects upon the public service or undertake to supervise in detail the administrative control over employees. This is no part of the judicial function. The power of removal rests elsewhere than here, and only when it may be shown that the removal is so arbitrary and unfounded that no reasonable man would have reached the result complained of, or where the proof at least approximates this may the court intervene to direct a different result.

"It cannot be held judicially that it is unreasonable for the Commissioner of Correction to treat a conviction for assault upon a woman as such misconduct for a guard employed in a vocational institution as to justify removal. Even if the court might differ with such an administrative conclusion, this would not be good enough ground for judicial interference. It is enough to say that the Commissioner, charged by law with supervisory power over employees, regarded the misconduct as a sufficient ground for removal, and that his act in this respect cannot be treated as a matter of law as arbitrary and unreasonable."

In connection with these two apparently conflicting opinions, I want

to call to your attention that there have been a number of instances where an opinion of the Supreme Court of one county differed entirely with that of the Supreme Court of another county. The most recent cases of this kind, which have caused much confusion, are the cases of **Bacom v. Reavy**, decided August 13, 1943, and **Powers v. LaGuardia**, decided July 26, 1943. In the **Bacom** case the Supreme Court held that employment with the Transit Commission was not State service but city service; and, therefore, employees involved in a lay-off from a State position could not claim such Transit Commission service as part of their seniority. In the **New York County Supreme Court** case the court decided that the Transit Commission employees were State employees and were entitled to **Feld-Hamilton** increments (which are given only to State employees), despite the fact that the budgetary authorities of the City of New York have control over the salaries of such employees. I bring this to your attention to show you that not only are there confusion and inconsistencies in the law but the same holds forth in court opinions. In many cases we are at a loss to know which decision should be followed.

Gaps in Law

I'd like to take up with you now some problems which have arisen because of insufficiency of law. We all know that Section 22, relating to removal of employees, and Section 246 of the Military Law, relating to public employees in military service, are applicable to permanent employees. However, the language of these sections of the law, giving important rights and privileges to employees, is broad enough to include temporary employees. Only a few days ago one department official telephoned me and asked me whether it was necessary, in the removal of a Rule VIII-A war duration appointee, to prefer charges, and comply with the technical requirements of Section 22. I told him that we had always interpreted Section 22 to apply only to permanent employees and that it was not necessary to go through removal proceedings and that all that was necessary was to terminate his employment, summarily. However, the appointing officer felt that Section 22 may cover temporary em-

ployees; and, because the employee involved was a lawyer, he decided not to take any chances, but to prefer charges and go through with regular removal proceedings. It is my understanding that this removal case will be brought to court. There is a possibility of the court ruling that the law is applicable to both temporary and permanent employees.

Another instance of insufficiency of law relates to reinstatement of a public employee who is given a military leave of absence from his position and then is dishonorably discharged from military service. Under the Military Law (Section 246) the right of restoration to their civil service positions is given to employees at the termination of their military duty. The term "termination of military duty" is defined in the Military Law to mean "honorable discharge from military service." There is no provision in the Military Law relating to public employees who are dishonorably discharged from military service. Under the existing law, we are at a loss to know what to do with such employees. So much for the confusion, ambiguities, inconsistencies, and insufficiencies of the law.

War Time Leaves and Appointments

I now come to the second part of my talk, which relates to the problems caused by the return of public employees from military duty. Before I take up these problems, I'd like to set forth briefly some of our procedures in connection with employees who have entered the military service. As you know, an employee who enters the military service, either by enlistment or draft, is entitled to a mandatory leave of absence for the duration of his military duty and must be restored to his position, if he makes request therefor within 60 days after the termination of his military duty. Upon such restoration, he is entitled to all the rights and privileges which he would have received had he remained in his civil service position. He therefore, gets increment rights, and rights to take a promotion examination comparable to the one given during his absence. He is also entitled to satisfactory service record ratings, probationary credit, pension rights, and every other right he would have had, were he in no military service.

In filling the position left vacant by a "military" employee, a substitute may be appointed, whose services may be terminated at any time. These substitutes are given increments for such substitute employments, the same as regular employees. In various memoranda issued to your departments, the subject of increments and salaries to which substitutes are entitled have been clearly set forth. When a substitute is appointed, he ordinarily gets the minimum of the grade, unless there are employees in his unit receiving less than the minimum, in which event he would get the salary paid to the lowest of the "below-the-minimum" employees. If a permanent employee is given a substitute appointment in a promotional position, he is entitled to the benefits of Section 41; namely, if he is receiving in his permanent position a salary equal to or more than the minimum of the promotional position, he is entitled to an increase upon such substitute promotion. It should be noted that where a permanent employee receives a substitute appointment, his permanent position should be filled only on a temporary basis; and, when he is ultimately restored to such permanent position, he will be entitled to increments and other rights in his permanent position as if he had remained in his permanent position during such substitute appointment.

Besides substitute appointments, there is another type of appointment which has resulted from the war. I refer to appointments under our Rule VIII-A, which are made for the duration of the war and six months thereafter. The two main reasons for setting up this type of appointment are: (1) that during the present critical man-power shortage situation it is impossible to recruit, by competitive examination, qualified persons for such positions as physicians, engineers, specialists in definite fields, etc.; and (2) that it would not be to the best interests of the service to fill existing vacancies in permanent positions with substandard material or to deprive the many qualified persons in the armed forces of opportunities to get into State service after the war. Before Rule VIII-A was adopted there were many occasions where open-competitive examinations which would normally draw hundreds of applicants drew only a handful of appli-

cants. Of necessity, the Commission had to do something about the situation and adopted Rule VIII-A, which provides that whenever it is impracticable because of war conditions to fill positions on a permanent basis, the Commission may authorize appointment on a temporary basis not to exceed six months beyond the termination of the war. The rule further provides that such appointments shall be made, whenever practicable, from appropriate eligible lists and where there were no eligible lists in existence, the appointments may be made on non-competitive basis by the appointing officer selecting a person found qualified by the Commission after non-competitive examination. There seems to be some misunderstanding about the application of Rule VIII-A, in that many appointing officers are under the impression that a Rule VIII-A appointment may be made only when there are no eligible lists in existence for the position. As stated before, Rule VIII-A applies even where there is an eligible list in existence. For example, a Rule VIII-A appointment may be made where there is a promotion eligible list for Senior Clerk and at the head of the list there are some employees who are in military service. Such Rule VIII-A appointment is allowed because if permanent promotions were to be made, these eligibles would be foreclosed of a right of promotion. Again there may be many eligibles at the top of an open-competitive list who are in military service; and it may be to the best interests of the service to defer permanent appointments until these eligibles are available at the end of the war. In connection with Rule VIII-A appointments, the procedures to be followed, the salaries to be given, the increment rights attached to the positions, are similar to those applicable to substitute appointments. There is only one important distinction. A permanent employee who is given a substitute appointment must be given a leave of absence from his permanent position. The act of acceptance of a substitute appointment by such person automatically gives him a leave of absence in his former position. In the case of a war duration appointment, however, a permanent employee is not entitled to get a mandatory leave of absence to accept a Rule VIII-A appointment but must

first obtain consent from the department where his permanent position is located.

During the war our Commission amended its rule on leave of absence (Rule XVI) to permit successive one-year leaves of absence to employees who wish to engage in war work or in the service of the federal government. These leaves of absence can only be effected with the approval of both the appointing authority and the Budget Director. Vacancies caused by such leaves of absence may be filled in the same manner as Rule VIII-A appointments. We have recently issued a memorandum setting forth the salaries and increment rights of persons appointed in such leave of absence vacancies. The salary and increment procedure for these appointments is the same as for the Rule VIII-A appointments. In the case of both Rule VIII-A appointments and leave of absence replacements under Rule XVI (1b), where a permanent employee leaves his job to take one of these temporary appointments, he will be credited with time service in his permanent position for the purpose of increments when he is restored to his permanent position.

Problems of the Returning Veteran

Now to take up some of the problems of the returning soldier. There have been in the past months many discharges for medical reasons. Governor Dewey, in his annual message a few days ago, stated that there will probably be about 100,000 New York State residents discharged from military service in 1944. Many may be discharged with permanent disabilities or temporary disabilities. Under the existing provisions of the Military Law, if an employee suffers a temporary disability arising out of and in the course of military duty, such employee is deemed to be in military duty while his temporary disability exists; and the date of termination of his military duty is the date of such temporary disability. There is another provision in the Military Law which states that if a physical examination is required for employment or promotion in a position in the public service, the physical disability of a candidate by reason of injury sustained or disease contracted while in military duty shall not be deemed to disqualify him for such position, unless the disability is of such a nature as

to prevent him from efficiently performing the duties of such position. There is no provision made in the Military Law as to which agency shall determine whether a temporary or total disability exists or whether the disability is of such a nature as to prevent the efficient performance of the duties of the position. The only light on this subject is our practice in the past in connection with determining disabled veterans' preference and in connection with determining whether a person has a physical handicap which would render him unfit for employment. Under the present statute, the Education Law, Section 1204-a, if a candidate in an examination or an eligible on a list has a physical handicap which might impair his usefulness in a position, the Advisory Commission for Physically Handicapped persons is given exclusive jurisdiction to make the determination whether that candidate or eligible may be barred from examination or certification from an eligible list because the physical handicap will interfere with the competent performance of the duties of the position involved. There is also a statute on the books, Section 25-b, of the Civil Service Law, which gives the power to the Commission for the Blind in the Social Welfare Department to determine whether a person's blindness will interfere with the person's performance of duties. Under the Constitution, the United States Veterans' Administration is given the authority to determine whether a war-incurred physical disability exists when an applicant makes claim for disabled veteran's preference. The question before us now is should the Veterans' Administration make the determination on physical disability or should it be referred to the Advisory Commission for Physically Handicapped Persons, or, in the case of blindness, to the Commission for the Blind, or to the Civil Service Department, or to the appointing authorities. We had a case presented to us in a school district where a custodian-bus driver returned from military service with a medical discharge. The school authorities were very much concerned as to the physical fitness of the returned soldier, inasmuch as he might seriously endanger the lives of the school children if he were permitted to drive a bus. They in-

quired from our Department whether they were compelled to reemploy the bus driver or whether they were required to have the school authorities' physician give him a physical examination, or whether the physician for the Civil Service Commission would give such examination. Fortunately, the question did not require an answer, because the bus driver voluntarily requested employment as a custodian and asked to be relieved of his duties as a bus driver. It is expected that a clarification of this problem will be had by legislation which we intend to suggest on this subject.

Another serious problem will arise in connection with returning veterans who have been found unfit to perform competently the duties of their former positions. There is no provision in the law now for their demotion or transfer to positions which carry lighter duties and which they may be perfectly competent to occupy. Again we hope that this problem shall be disposed of by recommended legislation.

As you know, substitute appointments must under the law terminate upon the happening of any one of the following events: (1) upon the return of the former incumbent to his position; (2) upon the failure of the former incumbent to return to his position within 60 days after the termination of his military duty; (3) upon the appointment or promotion of the former incumbent to another position; (4) upon the death or permanent total disability of the former incumbent. Questions have been presented to me relating to the last method of termination of substitute appointments. I was asked what procedure was necessary in the case where a report, either through the newspaper or through the next of kin or friends, came that a former employee on military leave was killed in action. The appointing officer wanted to know if he could take such report as final and terminate the substitute appointment and make a permanent appointment in the item. Before answering this question I made inquiry of the Retirement System as to their practice in this matter. I was informed by Mr. Holmes, the Director, that whenever they got a report of this kind they communicate with the War Department or the Navy Department for confirmation of the report. They submit the

name of the employee, his address, his beneficiary, and his last occupation; and with this information before the military authorities, they usually are able to supply confirmation or denial of the report of death. Mr. Holmes advised me that it was not necessary to send the serial number of the employee in military service. The same procedure should be followed by appointing authorities; and after confirmation is obtained from the military authorities then and only then should the substitute employment be ended and the item filled on a permanent basis. In connection with employees reported missing in action, again confirmation from military authorities should be had. The Attorney General has recently ruled in the case of an employee who was receiving pay differential under Section 245 of the Military Law, that where such employee was reported missing in action, the pay differential should continue for the period between the report of "missing in action" and the official finding of "presumed to be dead," which is one year under federal legislation dealing with pay allowances. The Attorney General pointed out that life insurance companies have worked out a method with the representatives of the armed forces, under which official certificates of death will be issued by the armed forces. Accordingly, it would appear to be good practice in the case of State employees reported missing in action not to consider the military leave terminated until at least one year has elapsed; unless official notification or certificate of the employee's death is obtained sooner.

Recently an appointing officer terminated the employment of an employee who had been discharged from military service but had not reported back to work. This appointing authority had written such employee to come back to his job, and upon failure to receive satisfactory reply he felt it was perfectly proper to terminate his employment. This procedure was challenged by our Department on the ground that under the Military Law an employee honorably discharged from military service had 60 days within which to make application for reinstatement; and that such employee, if he had a temporary disability, was entitled to have such 60-day period extended until 60 days after the termination

of the disability. He was, therefore, advised that if the 60-day period expired and the employee did not have a temporary disability, then and only then could he terminate the employment and fill the position on a permanent basis.

As stated before, there is no provision made in the Military Law or the Civil Service Law with respect to public employees dishonorably discharged from military service. It is expected that legislation this year will clarify this problem. It is our opinion that in the case of a dishonorably discharged employee, the appointing officer should have the discretion to reinstate him with the approval of our Commission and that such reinstatement should be made only when it is found that the reasons for the dishonorable discharge do not involve the commission of serious crimes or acts involving moral turpitude.

Just the other day a question was presented with regard to vacation rights and sick leave rights of employees reinstated after military service. A returned soldier had requested that he be allowed his full vacation allowance for the period he had served in the Army. This question has already been answered by an opinion of the Attorney General, which stated that no vacation allowance or sick leave can be given for time spent in military service. However, if a returned soldier had accrued vacation, sick leave, or overtime allowance prior to his entrance into military service, he may be given time off for such accrued allowance.

I have endeavored to cover some of the problems which are beginning to face us in connection with the return of former employees from military service. There will be many more and there will probably be many revisions of Section 246 of the Military Law to cover these problems before the war is ended.

Court Decisions

I shall now take up the last part of my subject, namely, some important court decisions and Attorney General's rulings. The first case which I shall call to your attention is the *Doering v. Hinrichs* case. This case involved the layoff of a civil service employee. The Court of Appeals, in deciding this case, made a very far-reaching determination which upset our practice in layoffs.

Formerly, and until July, 1942, when the decision was handed down, in determining seniority for the purpose of a layoff, credit was given for permanent competitive service from the date original entrance in the service, as long as such service was continuous and uninterrupted. The Attorney General's office and our Department had consistently followed the policy that a leave of absence or a resignation followed by reinstatement within the year did not break the continuity of service. In the *Doering* case the Court of Appeals held that a resignation, even though followed by a reinstatement within one year under the rules of the Commission, broke the continuity of service and the date of reinstatement or reentry marked the new date of "original" appointment in the service and such date of reinstatement was to be used as the starting point in determining, for the purpose of layoff, seniority in the inverse order of original appointment in the service, under Section 31 of the Civil Service Law. Many employees who had years of service prior to resignation and reinstatement lost the benefit of those years of service. In view of the decision in the *Doering* case, our Department was compelled to change its practice in measuring seniority for the purpose of promotion. This changed practice provides that where an employee is reinstated subsequent to July 29, 1942 (the date of the *Doering* decision), no credit will be given to past service in computing seniority in promotion examinations or salary adjustments. Also, that an employee reinstated after July 29, 1942, will lose his eligibility on any promotion list on which his name appeared prior to his reinstatement. Realizing the harmful effects upon employees of this decision, the Association of State Civil Service Employees last year introduced an amendment to Section 31 which provided that a resignation followed by a reinstatement within the one-year period does not break the continuity of service. However, this amendment was incorporated in one bill containing other amendments to Section 31 and was vetoed by the Governor because of the objectionable features of some of the other proposals contained in the bill and not because of the specific amendment relating to the *Doering* decision. It is expected that this year

legislation will again be introduced on this subject.

In another case, *Burns v. Lyons*, decided November 5, 1943, one of the Commission's rules, relating to the appointment of disabled veterans, which has been followed for many years and never questioned, was attacked as in violation of the Civil Service Law. As you know, under the State Constitution disabled veterans are entitled to preference in appointment from an open-competitive or promotional eligible list upon which their names appear; and such veterans must be appointed before any eligibles on the list who are not disabled veterans may be appointed. Under Rule VIII (2) of the State Civil Service Rules provision is made for the manner of appointment where three or more disabled veterans appear at the head of a list. In such case, the appointing officer, under this rule, is permitted to select any one of the three highest ranking disabled veterans and is not required to appoint them in 1-2-3 order. A disabled veteran who was number two on the list brought an action in which he urged that the appointment of number three on the list, also a disabled veteran, was improper. However, the Appellate Division held that the rule authorizing the selection of any one of the three disabled veterans was valid and that it was perfectly proper to appoint number three of the disabled veterans and skip number two.

Another important decision in a disabled veteran's case was rendered in the case of *Losee v. Wallace*. As you know, the Constitution gives disabled veterans absolute preference in appointment from civil service eligible lists. For many years the courts had never been called upon to determine whether a disabled war veteran was required to serve a probationary term in a position to which he was appointed. In 1939, in the case of *Losee v. Wallace*, this question was presented to the Supreme Court of Nassau County. The case involved a disabled veteran of the Spanish American War, who was certified to a competitive position by the Nassau County Civil Service Commission. He was appointed for a three-months probationary period, at the end of which time he was dropped—as is permitted in probationary appointments—without having received a hearing

on stated charges. Losee contended that as a disabled veteran he was entitled to a constitutional preference in appointment, which could not be subjected to the mere whim of an appointing officer through a legislative requirement that a three-months probationary period be first served. The lower court agreed with this point of view. It stated:

"An appointment subject to nullification at the end of a probationary term because some official is dissatisfied with the work performed by the appointee cannot be regarded as constituting a real preference in appointment. It must accordingly be held that the petitioner's appointment was absolute and could not have been terminated except in the manner prescribed by Section 22 of the Civil Service Law, that is, except for incompetency or misconduct shown after a hearing upon due notice upon stated charges and with the right to such employee or appointee to a review by certiorari."

Since no such hearing was given the petitioner, he was ordered reinstated by the court. The effect of this decision was, of course, far-reaching. It meant that no disabled veteran who proved to be unsatisfactory could be removed except after a hearing on charges of incompetency or misconduct, even where such incompetency was manifest during the first few months of service. Appointing officers, compelled in the first instance to appoint a disabled war veteran who may have barely succeeded in passing the examination, would under the decision be compelled further to adopt the burdensome procedure of preferring charges and conducting a hearing thereon in order to remove an unsatisfactory appointee. However, the decision of the lower court was appealed to the Appellate Division, which reversed it, holding that the constitutional preference given disabled war veterans did not exempt them from the obligation of serving a probationary period as provided by the Civil Service Law. The case never went any higher and the law as it stands today is that a disabled war veteran is required to serve a probationary term.

I have already discussed some opinions of the Attorney General in the earlier part of this talk, such as the opinion relating to employees

reported missing in action and vacation rights of returned veterans of the present war.

Before closing, I'd like to call to your attention two other important opinions which the Attorney General has given during the past year.

As you know, Section 42 of the Civil Service Law prohibits State employees from receiving extra pay for work in their jobs. This bars overtime pay and had also been construed to bar an employee from getting paid for any additional work he might perform in another department. However, the Attorney General has ruled that the section involved merely prevents employees from neglecting their regular work in office hours and receiving pay for overtime in doing that work after hours. He also stated that it does not prevent a regular employee of one department from receiving compensation for services performed in another department outside the office hours of his regular employment, and added that any employee has a right to work for employers not connected with the State and receive compensation therefor, providing, of course, that such outside work is not performed during his hours of regular employment and does not interfere with the performance of his regular duties. The same conclusion is reached as to vacation time.

As a result of this opinion, State employees have been able, after regular hours, to alleviate much of the shortage in available manpower by performing work in other State departments and in essential war activities.

On the other hand, the Attorney General was recently forced, because of statutory requirements, to decide, reluctantly, that persons over 70 years of age could not be appointed to non-competitive class positions, despite the existing critical manpower shortage. Noting that all persons in the non-competitive class must join the State Retirement System and must be retired at the age of 70, unless their service is **extended** by the State Civil Service Commission, the Attorney General held that although service may be authorized to **continue** beyond age 70 it cannot be authorized to **commence** after that age. Accordingly, original appointments cannot be made of persons over age 70. Inasmuch as competitive class employees must also

join the State Retirement System and are also subject to the mandatory retirement provisions, it is evident that the Attorney General's opinion is applicable to original appointments to competitive class positions.

Adopt Uniform Pay Adjustments

"Five local governments in Milwaukee, Wisconsin, through joint study, have worked out a uniform plan of automatic adjustment of salaries and wages to changes in the cost of living. The plan . . . became effective on August 1, 1943.

"The plan provides for pay adjustments which will fluctuate in accordance with the increases and decreases in the cost of living as determined by the United States Bureau of Labor Statistics cost-of-living indexes for the Milwaukee area. The June 15th index in any one year will determine the cost-of-living increases which the employee will receive the following year. Upon an assumed minimum annual wage of \$1,620 (considered as the necessary family minimum during the base period 1935-39) there is added a multiplier of 22.7 or \$30.64 per month, the 22.7 representing the cost-of-living index in the Milwaukee area for June 15, 1943, with 1935-39 average as 100."

The above is from the November issue of the San Francisco Municipal Review. It indicates in brief how sound the automatic plan to assure real wages is. This is the plan long advocated by the Association for emergency conditions.

Back the

ATTACK

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The State Employee

Recommended Reading

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FICTION

Indigo, by Christine Weston. Scribner. \$2.50.

Portrays against the brilliantly realized background of India in the years before the first World War, the subtle, emotional relationships of four young people, Hardy, an idealistic Hindu boy; French Jacques, heir to an indigo plantation; and a boy and girl of an English army officer's family. An engrossing, colorful novel, which illuminates the problems of race and government in India.

Dunnybrook, by G. H. Carroll. Macmillan. \$2.75.

A lovely book of fragrant memories, a song in praise of the strength of family ties, and a testimony that "no one ever dies who is remembered," this is the history of an old Maine community of strong men and staunch-hearted women from the eighteenth century down to the present.

Free Man, by Conrad Richter. Knopf. \$1.75.

In this historical tale, employing the Pennsylvania Dutch dialect, Henry Free, aged proprietor of a mill near Reading, recalls his coming to America as an impetuous Rhine boy, and his resentment when he discovers he is bound to an English family to pay for the ship passage of his dead father and mother. There is a clash of iron wills when Miss Amity Bayley attempts to discipline the impudent and independent Henry, but after he serves with the Blue Mountain Liberty Boys in the Revolution, he returns as a free man to marry the lady and to rise to a position of respect in the community.

Goblin Market, by Helen McCloy. Morrow. \$2.

A baffling, sophisticated mystery set in Puerta Vieja, Central America, where Commander Basil Whiting, of the Naval Intelligence service, successfully impersonates an ex-beachcomber and newspaper man and thereby uncovers a murder or two and a sinister scheme for refueling German submarines.

Taps for Private Tussie, by Jesse Stuart. Dutton. \$2.75.

Robustly hilarious folk tale with overtones of pathos and tragedy and not a few sociological implications. In the speech of the Kentucky mountaineers are related the amazing happenings in the irresponsible Tussie family when they collect the ten thousand dollar insurance after one son has been reported killed in the war.

NON-FICTION

Colonel's Lady, by Helen Montgomery. Farrar. \$2.50.

Diverting and illuminating chronicle by a likable Army wife who is ready and willing to disclose the fun, the advantages and disadvantages of Army life, the types of people and the varieties of social activities encountered at an Army post, to say nothing of the frequent packings and movings, perchance to Florida in summer or New England in winter, or even as far afield as China.

Dune Boy, by E. W. Teale. Dodd. \$3.

During his boyhood, Edwin Teale went to a city school in winter, but all his vacations he spent at Lone Oak, the Dune-country Indiana Farm of "Gramp" and "Gram," as delightful grandparents as ever a child was blessed with. How the boy, possessed of a great love for the out-of-doors, roamed the fields and woods, the marshes and dunes, how he tagged along after Gramp all over the farm or sat beside him on wild trips to town to meet the strawberry train, all these and countless other adventures are amusingly related in pages that recapture a golden period of youth.

India's Problem Can Be Solved, by DeWitt Mackenzie. Doubleday. \$3.

Informal, but enlightening survey, depicting the crisis in the relations between Britain and India, and giving a vivid, unbiased impression of "this land of anomalies and mysteries—its size and physical characteristics, its people, its religious and social structure and its government." Quotations from British and Indian leaders of all factions.

Rise to Follow, by Albert Spalding. Holt. \$3.50.

The career of a distinguished American violinist recreated in a narrative sparkling with a choice selection of incidents and anecdotes amusing, thrilling or appalling, connected with his concert tours over the years in France, England, Russia, Norway, Italy and America.

The Russian Enigma, by W. H. Chamberlin. Scribner. \$2.75.

"Interpretative study of the Russian Revolution and of the enigma that emerged from it." Among other things, the author discusses Russian economy, the main trends in its foreign policy, the present military organization, and the role of the Soviet Union in the postwar world.

To All Hands, by J. M. Brown. (Whittlesey House pub.) McGraw. \$2.75.

Aboard the flagship of the U. S. Atlantic Fleet's Amphibious Force, headed, as it turned out, for the successful invasion of Sicily, John Mason Brown, author and critic, was appointed "Bridge Announcer," not only to report from the bridge each day's happenings in the crossing to the battle, and in the engagement itself, but also to interpret the men's moods and changing needs. This narrative, taken from his talks, mounts in interest and excitement with the arrival of the great fleet of English and American ships in a North African harbor and finally the dramatic hour of the attack itself on Sicily's southern shore. An unusually vivid picture of world history in the making.

Under a Lucky Star, by R. C. Andrews. Viking Press. \$3.

Since the one desire of his life was to work in the American Museum of Natural History, Roy Chapman Andrews, newly graduated from college, offered to clean the museum floors. Of course, he got his start, and this is the zestful, glowing record of his travels during the next thirty-five years, of the great Central Asiatic expeditions, and his building up of the museum in the field, and finally as its director.

Veteran Preference

Citizens of this State are faced with a decision vital to the merit system and therefore to good government. The decision involves the question of veteran preference in appointment and or promotion in State service. Because it touches upon members of our families who are members of the armed forces, all citizens approach the matter with mingled feelings as to what should be done. Sentiment cannot well be brushed off lightly in dealing with our loved ones who may at this very moment be crowding to almost certain death, wounds or disease in the islands of the Pacific or in the grilling fierceness of battle on any foreign front.

Nevertheless, realism must govern. Each soldier fights for the preservation of American freedom and individual initiative and against returning to a land plagued with preference and privilege for any group. If our civil government is not maintained clean and efficient, the sacrifices of our soldiers are in vain. And just as in war, the education, the special training—the efficiency—of the soldier is sought out and the important tasks fall to the most worthy, so in civil government the merit system is necessary to select and encourage the most efficient in every branch.

There is a proposal before the Legislature, introduced by Senator Hampton and Assemblyman Devany, calling for a change in the Constitution to give preference to all veterans in appointment and promotion.

To the friends of the merit system this means the death knell of that system in New York State government and in the government of the sub-divisions of the State.

Another proposal will be introduced which would give partial preference—probably 10 points to disabled and 5 points to non-disabled soldiers—to be credited to any veterans above the passing mark.

There will be much discussion of this matter for a long time. State employees, who understand the importance of the merit system, will naturally be opposed to preference. And it seems unlikely that if citizens generally can be informed truly of

the consequences, that they will eventually favor the plan. It is not a part of the broad plan sponsored by the American Legion for returning soldiers but is being urged by some members of the Legion in this State.

In order that you may know how other States have acted in the past, we present the following brief summary. It should be understood that the impact of veteran preference after this war will be more intensive and extensive, on account of the great numbers involved in this struggle.

WAR VETERANS PREFERENCE IN CIVIL SERVICE CALIFORNIA

War veterans or their widows, attaining a passing mark, to be allowed additional credits of 5 points, and disabled veterans 10 points.

In promotion examinations 3 credits to be allowed to veterans.

ILLINOIS

Veterans to be given preference for appointment to civil office, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such office.

INDIANA

Disabled veterans only to be given preference in appointment to civil offices.

IOWA

War veterans given preference in appointment to all positions in all units of government except school teaching.

KANSAS

War veterans to be given preference in all positions in all units of government.

MARYLAND

Honorably discharged veterans, if non-disabled, to be credited with 5 points and if disabled, to be given a credit of 10 points in all examinations for appointments; the same preference to be given to the wives of such veterans when such veterans are unable to qualify because of disability and to the unmarried widows of deceased veterans.

MASSACHUSETTS

Any war veteran who has received a medal of honor from the United

States, may be employed in the classified civil service without examination. Names of veterans who pass examinations for appointment are to be placed on the eligible list in order of their respective standings above the names of all other applicants.

Veterans permanently disabled in line of duty to be placed ahead of all veterans on any eligible list in order of respective standing and to be employed and appointed in preference to all other persons including veterans.

MICHIGAN

War veterans to have 10 points added to their earned ratings if honorably discharged and 15 points if they have a service connected disability.

MINNESOTA

A disabled veteran to have added to his examination rating a credit of 10 points and if such augmented rating gives such veteran and he is able to perform the duties of the position, he shall be placed at the head of the eligible list. All other veterans to have added to the examination rating a credit of 5 points and his name to be entered ahead of a non-veteran when their ratings are the same.

MISSOURI

War veterans to have preference in positions in the State highway department.

NEW JERSEY

War veterans who obtain the minimum average rating required, to receive for 15 or more months of war service, in addition to the earned rating, service credits of not less than 3 and not more than 10 points to be determined by the Civil Service Commission; and a veteran wounded or injured to be given the maximum service credits of 10 points in any examination or test regardless of the length or character of their war service and a veteran with a record of disability incurred in line of duty who receives a passing rating in competitive examination or tests, shall be placed at the top of the employment list in the order of their respective final ratings and in the certification of 3 candidates highest upon any registry for appointment, one of such 3 being

a veteran, the appointment shall go to such veteran; and in the non-competitive class, among those eligible for appointment, preference shall be given to a veteran, and further in any examination, classification or appointment, world war veterans shall not be discriminated against because of any physical defect caused by wounds or injuries received in line of duty.

OHIO

War veterans whose names are on an eligible list for a position shall be entitled to preference in original appointments to any competitive position in the civil service of the State and the civil divisions thereof over all other persons eligible for such appointments and standing on such list with a rating equal to that of the war veteran.

OREGON

War veterans to be preferred for appointment in employment in every department and all public works in the State of Oregon and of any county, city, town or municipal corporation or political subdivision thereof, provided that such veteran possesses the business capacity necessary to the discharge of the duties of the position.

PENNSYLVANIA

War veterans of any war to be preferred for appointment and employment if not physically handicapped in every public department and upon all public works in the State, provided they possess other requisite qualifications.

Veterans of any war should take any civil service examination in the Commonwealth to be given credit for the experience and training derived from such military service and shall be credited 15% perfect before the contents of the examination shall be considered; the rating of his examination to be added to the aforesaid 15 percentum and the total mark to represent his final grade or classification.

War veterans who shall pass a civil service examination for a public position in the Commonwealth or any political subdivision, shall be marked or graded 10% above the mark credited for his examination and the total grade thus obtained to represent his final grade and determine his standing on any eligible list.

Where no civil service examina-

tion is required and any veteran possesses the requisite qualifications, the appointing power shall give preference to such veteran notwithstanding his name does not stand highest on the eligible list.

RHODE ISLAND

War veterans disabled in service to be preferred for appointment and employment if not physically handicapped in every public department and upon all public works of the State.

Veterans of the Spanish American War and of the First World War having service connected disability or non-service connected disability, if not handicapped in any wise for a particular position, shall be appointed to all vacancies occurring in the employment of janitors, elevator men, caretakers or any position in the custodial service of the State.

SOUTH CAROLINA

War veterans who in any examination have attained the minimum earned rating shall have 5 points added to such earned rating and any such veteran having sustained a disability in line of duty shall have an additional 5 points added to his earned rating. These provisions are also to apply to the widow of any veteran and to the wife of any veteran whose service connected disability renders him unemployable.

SOUTH DAKOTA

War veterans, if not wholly physically handicapped, to be preferred for appointment, employment, and promotion in all public departments and subdivisions and upon all public works of the State and of the counties, cities and towns thereof, provided they possess the qualification and business capacity necessary to discharge the duties of the position.

TENNESSEE

Teachers who serve in the Army or Navy during World War, if honorably discharged therefrom, to have a 20-year certificate by the Commissioner of Education of the same grade as was held by any such teacher at the time of entering upon military service, and provided they hold a 4-year examination certificate and have also taught for a period of at least 3 years.

WEST VIRGINIA

Veterans of the Spanish Ameri-

can or First World War shall be given a preference of 5 points in addition to the rating received on any examination for positions in the Departments of Public Assistance, Health, and Unemployment Compensation, such position being filled according to non-partisan merit standards.

TEXAS

If any MERIT COUNCIL be set up under the State Board of Public Welfare, such COUNCIL shall provide for preference in every State department under which the COUNCIL has supervision, to all war veterans honorably discharged, and residents of the State of Texas for 10 years and who are competent and fully qualified for appointments and employment in such State departments; provided, further, that such veterans shall receive a credit of 5 points to be added to their merit ratings.

VERMONT

In making appointments to clerical and other positions in all branches of the State government, preference to be given to honorably discharged persons having served in the armed forces of the United States, if found to be qualified, and their names shall be placed ahead of all applicants of equal qualification.

WASHINGTON

War veterans and their widows to be preferred for appointment and employment in every public department and upon all public works of the State and of any county thereof, provided they possess the business capacity necessary to discharge the duties of the position involved.

WISCONSIN

Preference for war veterans defined to mean, that: whenever an honorably discharged veteran competes in any examination, he shall be accorded five points, and if he has a disability, directly or indirectly traceable to war service, he shall be accorded another five points, in addition to earned ratings in such examination.

No restrictions as to age to be imposed in the case of veterans, and in the certification of eligibles, other conditions being equal, preference to be given to veterans.

Foregoing applies to cities and villages having or establishing a civil service system.

Merit System Expansion

Reprinted from Civil Service
Assembly News Letter, Dec., 1943

The advance of the merit system during 1943, in terms of establishment of new programs and extensions and consolidation of existing programs, has taken place for the most part at the city and county levels of government, according to reports reaching the Assembly's Headquarters Office. Twelve cities and three counties adopted civil service laws during the year, one state and one county extended civil service, and four states reorganized their civil service laws during the past year. In addition to the developments in the United States, two Canadian provinces—Quebec and New Brunswick—adopted civil service.

The cities which adopted 1943 civil service laws are: Hazel Park, Michigan; Kenosha, Wisconsin; San Mateo, California; Harvey and Jacksonville, Illinois; and the New Jersey municipalities of Linden, Hamilton, Lakewood, Long Beach, Lavelette, Seaside Park and Seaside Heights. The merit system for the New Jersey cities will be adminis-

tered by the New Jersey State Civil Service Commission. Counties establishing civil service agencies include Fresno County, California; Fulton County (Atlanta), Georgia; and Davidson County (Nashville), Tennessee.

Merit system reorganization took place in Georgia where the Legislature authorized the Governor to appoint a three-member council to administer a merit system for employees of the State departments of labor, public welfare and health, thus consolidating separate merit system councils for each of the three departments. Passage of a new civil service law in Dearborn, Michigan, creating a Department of Personnel, replaced two former civil service commissions covering fire and other city employees. In Indiana, the State Legislature abolished the State Personnel Board and the office of State Personnel Director, and immediately thereafter re-created the Board and office of Director. Changes were also made in Pennsylvania, where the Legislature amended the merit system law to provide that all appointments, reclassifications and pro-

motions made under the State merit system are to be war duration appointments, made in accordance with rules established by the various departments, with the approval of the Executive Board, rather than in accordance with existing civil service laws.

Extension of the merit system took place in California, where 1943 laws brought employees of the State Railroad Commission under the State civil service. Employees of the Attorney General's office (other than clerical employees, who are already included), were also brought under civil service. Legislative action in Tennessee also placed employees of the publicly owned Nashville Electric Service under civil service.

During 1943, bills to initiate or extend the merit system were introduced in none State Legislatures—Arkansas, Arizona, Oregon, Missouri, Nebraska, West Virginia, Washington, Oklahoma, and Delaware. In every case, however, the proposals were either voted down or lost in committee. In New Hampshire, although the State has no formal State merit system, a classification and pay plan for State employees was adopted during 1943.



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Fair Practice Office

The President's Committee on Fair Employment Practice has established an office in the Empire State Building, 350 Fifth Avenue, New York City, as has been announced by Monsignor Francis J. Haas, committee chairman. The office will receive and investigate complaints of discriminatory employment practices in war industry, labor unions and government agencies, serving the State of New York and the New England states.

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Job Specifications

(Continued from January issue)

Beginning with the October, 1943, issue of "The State Employee," and continuing through subsequent issues to completion in this issue, the Association has printed job specifications for the various positions in the hospitals and schools under the jurisdiction of the Department of Mental Hygiene as set up by the Civil Service Department. We believe that these have been helpful to employees in many ways.

We wish all of our readers to understand that these specifications do not indicate that examinations for the various positions have been scheduled or are likely to be scheduled in the near future. Many letters have been received by the Association headquarters and by the Civil Service Department asking concerning examinations based upon the job specifications statements appearing in "The State Employee." The publication of the job specifications did not in any way imply that examinations were to be held. When examinations are scheduled, due notice of all such is given by the Civil Service Department through the press and otherwise.

HEAD INSTITUTION PATROLMAN

1-3a
Salary Range \$1500-1900 Inc. \$100

Definition: Is in charge of a small police force at a state institution or acts as a "lieutenant" in a very large police force; does related work as required.

Distinguishing Features: A position in this class involves supervision over Institution Patrolmen and Watchmen under general direction from the superintendent or chief of police.

Example: Assigns watchmen and patrolmen to posts of duty; personally enforces traffic and parking regulations and gives assistance to visitors; is responsible for the maintenance of law and order and for the prevention of crime on the institution grounds; operates police squad car patrolling the grounds; searches for escaped patients; recovers stolen property and apprehends persons who violate the law.

Minimum Requirements: 2 years of satisfactory experience as a member of a police force; minimum height 5' 8" and minimum weight of 160 pounds; possession of a license to operate motor vehicles in New York State; good physical condition.

Desirable Qualifications: Preferably graduation from a standard senior high school; some supervisory ability; firm-

ness; tact; vigilance; courage; resourcefulness.

INSTITUTION PATROLMAN

1-2b
Salary Range \$1300-1700 Inc. \$100

Definition: Patrols the grounds and buildings of a state institution, maintains law and order, and guards against trespass, theft, or damage from other cause; does related work as required.

Distinguishing Features: A position in this class involves work which, although usually repetitive, occasionally calls for resourcefulness, firmness, and immediate independent action. The Institution Patrolman is assigned to a regular beat and shift, and reports all irregularities and violations of law to his superior. An employee in this class wears a police uniform, has authority to make arrests on the grounds, and usually is deputized as a law enforcement officer in the surrounding community.

Example: On an assigned shift makes periodic rounds of grounds and buildings on his beat; punches time clock or calls in to the switchboard at regular intervals; directs traffic and parking; gives information to visitors; drives ambulance, or assists employees in an emergency at night; may inspect all bundles carried by employees or strangers if theft is suspected; reports violations, and gives testimony to the superintendent; may drive police prowl car; quiets noisy employees at night; searches for escaped patients or inmates; tends fires at night.

Minimum Requirements: Ability to speak, read, and write the English language; good physical condition; minimum height 5' 8" and minimum weight of 160 pounds and possession of a license to operate motor vehicles in the State of New York.

Desirable Qualifications: Reliability; courage; resourcefulness; tact; firmness; vigilance; preferably a year of experience in the care of inmates in an institution or as a member of a municipal police force.

CHIEF INSTITUTION

FIREMAN 1-3b
Salary Range \$1700-2100 Inc. \$100

Definition: In an institution, is responsible for training and supervising the fire department in methods of fire prevention and fire fighting; or, in an institution with no fire department, is responsible for keeping all fire-fighting equipment in condition for immediate effective use, for inspecting the grounds and buildings to eliminate fire hazards, and for organizing a volunteer or part time force for fire-fighting; does related work as required.

Distinguishing Features: Under general direction from the steward or superintendent, the chief is responsible for keeping fire fighting equipment in excellent condition, for keeping fire hazards at a minimum, and for gaining immediate control over fires which oc-

cur despite all precautions. The position requires thorough knowledge of fire prevention and fire fighting techniques, and also calls for supervisory ability, courage, and the ability to instruct subordinate employees.

Example: Assigns firemen and "lieutenants" to various tasks; prepares a schedule for periodic inspection of all fire extinguishers, hoses and sprinkler systems; inspects all institution buildings regularly, securing elimination of fire hazards; sees that fire trucks, pumpers, and hose carts are kept in readiness for immediate effective use; supervises fire drills; supervises actual fire fighting when fires occur; trains Institution Firemen in the above work; keeps time of subordinate employees.

Minimum Requirements: 4 years of satisfactory experience as a member of a fire department; good physical condition; and completion of a municipal course in fire-fighting.

Desirable Qualifications: Ability to command respect and obedience from subordinate employees; ability to secure cooperation from heads of other institution departments; thorough knowledge of standard fire fighting equipment and technique; dependability; courage; resourcefulness.

HEAD INSTITUTION

FIREMAN 1-3a
Salary Range \$1500-1900 Inc. \$100

Definition: In an institution with a full time fire department, acts as a "lieutenant" in charge of an assigned shift; does related work as required.

Distinguishing Features: Where there is a full time department, a Head Institution Fireman is in charge of fire prevention, fire fighting equipment, and subordinate employees on an assigned shift.

Example: Assigns Institution Firemen to various tasks; supervises the inspection of fire extinguishers, hoses, and sprinkler systems; inspects buildings regularly, securing elimination of fire hazards; participates in fire drills; assumes command of the department in the absence of the chief; assists or supervises in extinguishing fires.

Minimum Requirements: 2 years of satisfactory experience as a member of a fire department; good physical condition.

Desirable Qualifications: Ability to train part-time firemen; ability to secure cooperation from heads of other institution departments; knowledge of standard fire fighting equipment and techniques; dependability; courage; resourcefulness; completion of a municipal course in fire fighting.

INSTITUTION FIREMAN 1-2b
Salary Range \$1300-1700 Inc. \$100

Definition: As a member of the fire department of a state institution, participates in a program of fire prevention and fights fires if they occur; does related work as required.

Distinguishing Features: An Institution Fireman, under close supervision from the chief, does routine work in keeping fire fighting equipment in Condition for immediate effective use. There is some danger of physical injury in fighting fires.

Example: Inspects and refills fire extinguishers; inspects and tests sprinkler systems and fire hoses; reports fire hazards to his superior; participates in regular fire drills; with standard fire fighting equipment, assists in putting out fires; drives fire engine.

Minimum Requirements: Ability to speak, read, and write the English language; good physical condition.

Desirable Qualifications: Dependability; resourcefulness; fearlessness; mechanical aptitude; ability to follow instructions; completion of a municipal course in fire fighting.

GREENHOUSEMAN 4-1b
Salary Range \$1200-1700 Inc. \$100

Definition: Cares for flowers and vegetables in the greenhouse of a state institution; does related work as required.

Distinguishing Features: An employee in this class performs routine work calling for skill in growing flowers and propagating vegetables. The position involves supervision over one or two working inmates. The Greenhouseman ordinarily is responsible to the Farm Manager or Supervisor of Grounds.

Example: Seeds, waters, propagates, plants, and transplants flowers, ornamental plants, and vegetables; regulates the temperature, humidity, and ventilation of the greenhouse; fumigates and sprays to check insect or fungus pests; assists in outside flower and vegetable garden work; prepares special soils for delicate plants; keeps records of production and supplies.

Minimum Requirements: 1 year of satisfactory experience in greenhouse work under a skilled greenhouseman or florist.

Desirable Qualifications: Preferably graduation from a standard senior high school with a diploma in agriculture; some knowledge of commercial greenhouse management; industriousness; ability to get along with working patients or inmates; good physical condition.

CHAUFFEUR 9b-2a
Salary Range \$1500-2000 Inc. \$100

Definition: Operates a passenger car for a high ranking state employee, or transports inmate; of state institutions on the public highway; does related work as required.

Distinguishing Features: A position in this class involves responsibility for careful operation of state owned vehicles on public roads.

Example: Acts as personal chauffeur for the Superintendent of a state institution, transporting his superior from place to place on request; acts as chauffeur for a department head or other high ranking department official; calls for patients at their homes or elsewhere, and delivers them to a state institution; may assist in minor repairs to motor equipment.

Minimum Requirements: Possession of a New York State chauffeur's license, 2 years of satisfactory commer-

cial experience as the operator of a motor vehicle, and for the 5 preceding years, a good safety record in the operation of private and commercial vehicles.

Desirable Qualifications: Reliability; temperance; good judgment; mechanical aptitude; good eyesight and good physical condition.

MOTOR VEHICLE OPERATOR

9b-1b
Salary Range \$1200-1700 Inc. \$100

Definition: Operates a motor truck, delivering and calling for laundry, garbage, food stores, and other materials, usually on the grounds of a state institution; does related work as required.

Distinguishing Features: A Motor Vehicle Operator must be a careful driver, and must be able to get along with working patients who help him by loading and unloading his truck. A position in this class does not ordinarily require much driving off the institution grounds, but may occasionally involve operation of an ambulance, a bus, a private car, a bulldozer, a tractor, and other motor vehicles in addition to various kinds of trucks.

Example: With the help of working patients, calls for and delivers laundry; collects garbage and ashes; delivers food, clothing, and household supplies from the store house; drives squads of working patients to various work places on the grounds; drives patients to treatment clinics, to church, or to other functions; checks water, gas, oil, and air for his vehicle; may assist with minor mechanical repairs; may drive the ambulance for transfer agents or social workers.

Minimum Requirements: Possession of a New York State chauffeur's license; ability to speak, read, and write the English language.

Desirable Qualifications: Good physical condition; good judgment; good eyesight; temperance; mechanical aptitude; preferably five years of experience in driving a private or commercial motor vehicle with a good safety record.

BLACKSMITH 9b-2a
Salary Range \$1500-2000 Inc. \$100

Definition: Performs general hammer and anvil work on iron and steel; does related work as required.

Distinguishing Features: A Blacksmith works under general non-technical supervision. He does not regularly supervise other employees but, in an institution, usually has one or two patient or inmate helpers. A position in this class involves the application of skilled journeyman techniques in forge work.

Example: Shoes horses; hardens, tempers, and dresses steel tools; makes tools and repairs parts for mechanical equipment; repairs furniture, fixtures and farm equipment where the use of iron and steel is required; may do welding and brazing; orders supplies and materials.

Minimum Requirements: 2 years of satisfactory experience under a journeyman blacksmith.

Desirable Qualifications: Ability to temper and weld steel; ability to manage horses; ability to work from drawings and to make estimates on black-

smith work; physical strength and agility; reliability; industriousness.

BRICKMAKER 9b-2b
Salary Range \$1800-2300 Inc. \$100

Definition: At Craig Colony for Epileptics, is in charge of the manufacture of kiln dried bricks; does related work as required.

Distinguishing Features: The Brickmaker, a skilled tradesman, is responsible for the production of bricks for new buildings. A position in this class involves supervision over Maintenance Helpers who perform manual labor in the brickyard.

Example: (In preparation.)

Minimum Requirements: 4 years of satisfactory experience assisting a skilled Brickmaker.

Desirable Qualifications: Thorough knowledge of brick mixing and brick burning; skill in operating and maintaining brickyard machinery; mechanical aptitude; industriousness; thoroughness; good physical condition.

CONSTRUCTION EQUIPMENT OPERATOR 9b-2a
Salary Range \$1500-2000 Inc. \$100

Definition: Operates steam, gasoline or air driven equipment on highway work, or operates similar equipment on canals, parks, or in institution maintenance and construction work; does related work as required.

Distinguishing Features: A position in this class requires a skilled mechanic who can operate many kinds of light construction equipment. The position does not ordinarily involve operating large power shovels or cranes.

Example: Operates and makes minor repairs to road rollers, bulldozers, tractors, power mowers, cement mixers, stone crushers, stone drills, pneumatic drills and dump trucks.

Minimum Requirements: Mechanical aptitude and proficiency in making minor repairs to construction equipment; reliability; good judgment; good physical condition.

CRANEMAN 9b-2b
Salary Range \$1800-2300 Inc. \$100

Definition: Operates and maintains a steam, electric, or gasoline driven crane, usually for the purpose of loading or unloading coal barges, dump trucks, or coal conveyors; does related work as required.

Distinguishing Features: A Crane-man must be a skilled operator of construction equipment. He is responsible for safe operation of his crane, and for keeping the machinery in good working condition. An employee in this class works under general supervision from an engineer, and does not ordinarily exercise supervision over subordinate employees.

Example: Loads and unloads boats, barges, freight cars, and trucks; moves piles of coal, sand, and gravel; makes mechanical and electrical repairs to the crane; oils and greases the crane; fires the boiler of steam cranes.

Minimum Requirements: 4 years of satisfactory experience in mechanical maintenance or construction work, 2 of which shall have included the operation of power driven construction equipment.

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