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Here is the Winter Program of the YWCA to help you plan. You can sign up for a once a week or a twice a week class, for the ten-week winter term.

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Tuesday, Friday	10:00 a. m.	\$2.50
Monday, Tuesday, Thursday	5:30 p. m.	\$2.00
Monday, Wednesday	8:00 p. m.	\$2.00

OR YOU MAY PREFER TO CONSIDER A SPORTS CLASS

ARCHERY INSTRUCTION — Monday, 8:30 to 9:30 p. m.\$3.50

Badminton Instruction Quite Popular

BEGINNER CLASSES		INTERMEDIATE CLASSES	
Thursday	10:00 a. m.	Wednesday	6:00 p. m.
Wednesday	1:00 p. m.	Wednesday	8:30 p. m.
Monday	6:00 p. m.	Friday	7:00 p. m.

ADVANCED GROUP PLAYS Fridays 8:00 to 9:30 p. m. (coaching)
10 lessons \$3.00, plus use of YWCA racquet \$3.50

Swimming Instruction — Now Is the Time to Learn

BEGINNER CLASSES		ADVANCED CLASSES	
Friday	2:30 p. m.	Wednesday	2:30 p. m.
Monday	7:00 p. m.	Monday	7:30 p. m.
Wednesday	7:00 p. m.	Wednesday	7:30 p. m.

CHILDREN'S CLASSES: Beginner, Friday, 4:00 p. m.
Advanced, Friday, 4:30 p. m.

All swimming instruction — 8 lessons.....\$3.00

PRACTICE PLUNGE PERIODS — Adults 25c. children 15c.

Monday, 6 to 7 and 8 to 9 p. m.
Tuesday and Thursday, 5:30 to 6:30 p. m.
Wednesday, 3 to 5, 6 to 7, 8 to 9 p. m.
Friday, 3 to 4, 6 to 7, 8 to 9 p. m.

Inquire at the YWCA about the Season Activity Ticket, \$10

YWCA medical examination is required annually for all scheduled activities. The fee is 50c. Make appointments at the YWCA.

For help in fitting your own physical fitness classes into your own civilian defense program, see Miss Meigs, Health Education Secretary, YWCA, 5 Lodge Street.

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The State Employee

VOL. 11, Number 1

JANUARY, 1942

10c a Copy

Buy U. S. Defense Bonds

BY THE PAYROLL DEDUCTION PLAN

By JOSEPH V. O'LEARY
State Comptroller

I. Principal Features of the Plan

The plan herewith set forth provides a means by which any employee of New York State can arrange for the purchase of United States Defense Savings Bonds, Series E, by regular deductions from his payroll earnings.

Briefly, under the plan, the employee authorizes the State Comptroller, on the form described in III below, to deduct from his earnings for each payroll period, until further notice, a specified sum, to be used for the purchase and delivery of Defense Bonds to such employee, or to any other person he may designate.

Defense Savings Bonds are issued by and are direct obligations of the United States Government. They are issued in denominations of \$25, \$50, \$100, \$500 and \$1,000. These are the sums payable on the maturity of the bonds at ten years from the date of issue. They include interest at the rate of about 2.9% annually on the purchase price.

The cost of a \$25 Bond is \$18.75. Thus, an employee who authorizes a deduction of \$2.00 from his semi-monthly pay, would, at the end of the tenth payroll period, have accumulated enough to pay for a \$25 Bond, with \$1.25 left to his credit towards the purchase of the next Bond.

Although the plan does not prohibit the purchase of Bonds of higher denominations than \$25, employees are urged to authorize purchases of that denomination only. In this way, Bonds will be issued and interest earnings will begin more quickly.

II. Description of the Bonds

The Bonds are issued only in registered forms, in any one of the following three ways:

(1) In the name of one person; as, for example, "Mr. John C. Doe."

(2) In the name of two persons as co-owners, either of whom may redeem the bond without the signature of the other.

(3) In the name of one person as owner and another person as beneficiary in case such registered owner dies.

The Bonds may be redeemed at any time after sixty days from the date of issue. Redemption will be made only by the United States Government, and at the following values, for a Bond with a maturity value of \$25:

First year.....	\$18.75
1 to 1½ years	18.87
1½ to 2 years	19.00
2 to 2½ years	19.12
2½ to 3 years	19.25
3 to 3½ years	19.50
3½ to 4 years	19.75
4 to 4½ years	20.00
4½ to 5 years	20.25
5 to 5½ years	20.50
5½ to 6 years	20.75
6 to 6½ years	21.00
6½ to 7 years	21.50
7 to 7½ years	22.00
7½ to 8 years	22.50
8 to 8½ years	23.00
8½ to 9 years	23.50
9 to 9½ years	24.00
9½ to 10 years	24.50
AT MATURITY.....	\$25.00

The redemption value at any date of a Bond of higher denomination than \$25 may be readily computed from the above. Thus, a \$50 Bond can be redeemed in from 3 to 3½ years after date of issue for \$39.

The Bonds are non-transferable. They cannot be sold, nor used as collateral for loans. They are convertible into cash only through redemption by the Government.

III. Payroll Deductions

Any employee of New York State who wishes to purchase Defense Savings Bonds in accordance with this plan must first execute a Payroll

Deduction Authorization. (See Editor's note which follows.) Thereafter, the amount authorized by such form will be deducted by the State from the employee's semi-monthly pay until further notice, and accumulated for the purchase and delivery of Bonds for him, as described in IV below.

Deductions authorized must be not less than \$1.00 for each payroll period; and all deductions in excess of \$1.00 must be in multiples of 50c; as, for example, \$1.50; \$2.00; \$2.50; \$3.00; etc. Each employee is urged as a patriotic duty to authorize a deduction at the highest amount he can spare.

Any employee desiring to increase, decrease or cancel his Payroll Deduction Authorization may do so by giving notice to the State Comptroller, Albany, N. Y., on a form provided for that purpose. Such notice should be given at least 20 days before the next payroll date.

When an employee cancels his authorization or leaves the service of the State, any amount remaining to his credit will be refunded either in cash, or in Savings Stamps, as desired.

In the case of death of an employee, any amount remaining to his credit will be paid to his beneficiary or estate.

If in any payroll period deductions cannot be made in full because the pay due is insufficient, the deduction will be suspended for that period.

No partial withdrawals may be made by an employee from his accumulated deductions, nor may they be assigned for loans or otherwise.

Upon request, the State Comptroller will advise an employee of the amount accumulated to his credit for the purchase of Defense Bonds, but periodic statements of amounts accumulated will not be issued.

IV. Purchase and Delivery of Bonds

Each month, the State Comptroller will purchase a Bond for each employee whose accumulated deductions are sufficient to purchase the Bond stated on his Payroll Deduction Authorization. Each such Bond will be registered in the name or names stated on the Authorization, and will be mailed by the Federal Reserve Bank to the registered owner at the address shown on the Authorization. The State Comptroller will notify the employee at the time the purchase is made.

As soon as possible after a Bond has been delivered, the employee should verify that the denomination is correct; that the name and address of the owner (or owners) are correctly given on the face of the Bond; that the dating stamp (with current date) of the Federal Reserve Bank is imprinted in the lower left hand corner of the Bond; and that the Bond is duly dated as of the first day of the month in which remittance was received by the Government, in accordance with the State Comptroller's notification above referred to.

If the Bond is not received by the owner within thirty days after the State Comptroller's notification of purchase, or in case of any error in the Bond, the owner should promptly notify the State Comptroller, Albany, N. Y.

The State assumes no responsibility with respect to the care of, or redemption of, Bonds after they have been delivered to the registered owner.

V. Changes in address or names of owners

In order to avoid errors in the issuance of Bonds, it is essential that employees advise the State Comptroller promptly of any change in the name (or names) in which Bonds are to be registered, and of changes in address. However, after Bonds have been delivered, it is not necessary for the owner to notify the Treasury Department or the State Comptroller of changes of address. But, the owner should give his correct address when he turns in his Bond for redemption.

VI. Termination of Plan

This plan will continue until notice thereof has been given to the employees participating therein. Please note, however, that payroll deductions authorized can be increased,

decreased or cancelled by an employee in the manner provided in III above. Nevertheless, it is hoped that, as a patriotic duty, no employee will decrease or cancel an authorized deduction, during the life of the plan, except as his circumstances make absolutely necessary.

VII. Safekeeping of Bonds after Delivery to Owner

The Treasury Department of the United States Government or any Federal Reserve Bank will hold Bonds in safekeeping for any owner free of charge and give him a receipt. Many other banks have also arranged a similar service for owners free of charge.

If a Bond is destroyed or lost, a duplicate Bond will be issued by the Treasury Department upon satisfactory proof of such destruction or loss.

VIII. Inquiries Regarding Plan

The State Comptroller, as the chief fiscal officer of New York State, has arranged to take full charge of the operation of this plan. Do not hesitate to write to "State Comptroller, State Office Building, Albany, New York," for any information you desire with respect to the plan or the United States Defense Savings Bonds which it covers.

PLEASE DO YOUR UTMOST FOR THE CAUSE OF AMERICA.

Editor's Note: The Association has been advised that Comptroller O'Leary will request each department head to designate an employee in his respective department to supervise the work connected with the distribution of Payroll Deduction Authorizations, getting deductions started, etc. Just as soon as department heads make their designation, the Association will call upon its over 700 representatives located in every State office throughout the State, to assist with this work in their respective departments. The Association will use its entire facilities to make the Plan made available by Comptroller O'Leary a success.

It should be noted that because of the pay roll making procedure for institutional employees it is not possible to make deductions for the purchase of defense bonds for them at present. The Comptroller is making a further study of the institutional situation.

Books for Victory

On January 12, millions of books will be mobilized for war service.

The boys in camps, in ships on the oceans and in the air, in submarines and on convoys are demanding books to help them learn their new jobs now and to prepare for peacetime activities later.

The Government planned libraries for all large camps but the great increase in the military forces has resulted in demands which the Government can not meet. At the request of the Army and Navy, the American Red Cross, the U.S.O. and the American Library Association are undertaking to collect many millions of good books for the armed forces, wherever located—in Guam, Manila, Iceland, Alaska, the Canal Zone or elsewhere. The first quota for New York State is one million volumes to travel the seven seas and the five continents.

About the kind of books desired, a safe rule is to give the books you would like to keep. Our soldiers and sailors have a wide range of reading interest. They are particularly eager for up-to-date books on radio, airplanes, photography, ballistics, mathematics, history, biography, current problems, government science and good literature.

This is a real opportunity to do our bit. Visit your Public Library with a load of books on January 12.

Put your name and address in the books you give. The boys may wish to thank you.

National Defense Book Campaign Sponsored by

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Miss Althea Warren, National Director, Room 1630, 350 Fifth Ave., New York City

Frank L. Tolman, State Director, State Education Department, Albany, N. Y.

To secure gifts for the Armed Forces of the United States.

A New Chapter

A proposed constitution for a chapter at Syracuse State School was presented and approved at a meeting of the Executive Committee of the Association on December 16th.

The Association's Bill

FOR SALARY ADJUSTMENTS

In view of the fact that the cost of living has risen over 10% in the past ten months and is still rising at the rate of over 1% a month, it is evident that some steps must be taken to adjust the salaries of State employees to meet a situation which is already serious and which threatens to become even more critical.

The Association has prepared a bill which will furnish a fair and equitable solution of the salary problem during the existing emergency. The bill will be introduced at an early date. The principles which it embodies were explained in some detail in the last issue of *The State Employee*. The bill will read substantially as follows:

AN ACT creating a temporary State agency to determine fluctuations in the cost of living and to provide for temporary salary adjustments for civil service employees of the State based upon changes in the cost of living and making an appropriation therefor.
The People of the State of New York represented in Senate and Assembly, do enact as follows:

Section 1. Declaration of policy. The Legislature hereby finds and declares that the existing state of war creates a serious public emergency which affects the health and living conditions of the civil service employees of the State. During the past year the cost of living has risen more than ten per cent and it is still rising at the rate of more than one per cent per month; wholesale prices have increased more than twenty-five per cent; the national income has risen more than twenty per cent and wages in industry have risen more than twenty per cent. To meet existing conditions and to guard against the hardship incident to still greater rises in the cost of living, it is hereby declared to be the policy of the State to maintain a generally constant level of real wages during the war period by establishing a flexible salary adjustment formula for the civil service employees of the State to the end that stable real wages may be maintained despite any rise or fall of the cost of living.

2. Definitions. As used in this act,

(a) the term "employee" shall mean an officer or employee of the State of New York in the classified or unclassified civil service or in the service of any public authority, public benefit corporation, board or commission of the State of New York;

(b) the term "cost of living" shall mean the cost of living shown by the index established and maintained by the board created by this act;

(c) the term "normal cost of living" shall mean the average cost of living in the State of New York for the years nineteen hundred thirty-five to nineteen hundred thirty-nine inclusive, and shall be referred to and designated as one hundred per cent in the cost of living index established pursuant to this act;

(d) the term "basic compensation" shall mean the annual, monthly, weekly, daily or hourly salary or wages, including additional compensation in lieu of maintenance, received from time to time by an employee, excluding the amount of any salary adjustment made pursuant to the provisions of this act.

3. Temporary salary adjustment board. There is hereby created a temporary State commission to be known as the New York State temporary salary adjustment board, hereinafter referred to as a "board." Such board shall consist of the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the director of the budget, the industrial commissioner of the State of New York and the commissioner of social welfare of the State of New York. Said board shall be accorded the assistance and the use of the facilities of the division of the budget and other State departments, including the services of the officers and employees thereof, and it shall be the duty of all such officers and employees to render such assistance and to make available such facilities as may be required.

4. Powers and duties. The board shall establish and maintain for public inspection an index which shall show the monthly increases and decreases in the cost of living in the

State of New York from and after January 1, 1940, expressed in terms of percentage changes in the normal cost of living. Such index shall be based upon and be similar in form to the cost of living indices currently prepared by the bureau of labor statistics of the United States department of labor and the National Industrial Conference Board, Incorporated, and other cost of living indices deemed by said board to be reliable and appropriate. Such index shall be established and maintained to show increases or decreases in the cost of living as of the first or the fifteenth day of each month as the board in its discretion may determine.

5. Salary adjustments. The compensation of employees shall be periodically adjusted to conform with changes in the cost of living as follows:

(a) Whenever the cost of living shall rise fifteen per cent above the normal cost of living, the board shall forthwith certify that fact to the governor and, three months after such certification, the compensation of employees shall be increased as hereinafter provided in paragraph (c) of this section. Like certifications and salary adjustments shall be made whenever there is a further rise of ten per cent in the normal cost of living.

(b) Whenever, after one or more salary adjustments have been made pursuant to paragraph (a) of this section, the cost of living declines ten per cent below the point last certified to the governor, the board shall forthwith certify that fact to the governor and, three months after such certification, the compensation of employees shall be reduced by the amount of the last previous salary increase made pursuant to paragraph (a) of this section. Like certifications and reductions in compensation shall be made whenever there is a further decline of ten per cent in the cost of living.

(c) The amount of salary adjustment made pursuant to paragraph (a) of this section, shall be computed in accordance with the following rates:

(1) In the case of employees receiving basic compensation at the rate of two thousand dollars or less per annum, the increase shall be at the rate of ten per cent of such basic compensation.

(2) In the case of employees receiving basic compensation at the rate of more than two thousand dollars and less than five thousand dollars per annum, the increase shall be at the rate of ten per cent of that portion of the basic compensation which does not exceed two thousand dollars per annum, plus five per cent of that portion of the basic compensation which is at the rate of more than two thousand dollars per annum.

(3) In the case of employees receiving basic compensation at the rate of five thousand dollars or more per annum, the increase shall be at the rate of ten per cent of that portion of the basic compensation which does not exceed two thousand dollars per annum, plus five per cent of that portion of the basic compensation which is at the rate of more than two thousand dollars and less than five thousand dollars per annum, plus two and one-half per cent of that portion of the basic compensation which is at the rate of five thousand dollars or more per annum.

(d) An increase in compensation made pursuant to this act shall be known as a cost of living salary adjustment and shall become due and payable three months after the date of the certification made by the board pursuant to paragraph (a) of this section. A reduction in compensation pursuant to this act shall likewise be known as a cost of living salary adjustment and shall become effective three months after the date of the certification made by the board pursuant to paragraph (b) of this section.

(e) No such cost of living salary adjustment shall be considered as compensation for any of the purposes of the State employees retirement system or of any other retirement system in which the employee affected is a member, and no such salary adjustment shall be deemed to change the basic compensation of any employee for the purpose of computing a pension, retirement allowance, death benefit, contribution or any other privilege or right appertaining to membership in any such retirement system. No such salary adjustment shall be construed

to constitute a promotion, demotion or increment and the civil service status of an employee shall be determined without regard to any such salary adjustment. No such salary adjustment shall serve to increase any compensation which a public employee may receive pursuant to section two hundred forty-five of the military law.

6. Duration. In the event that the cost of living shall fall below the normal cost of living, as defined in this act, the board shall forthwith certify that fact to the governor and, three months after such certification, this act shall be deemed repealed and of no further force and effect.

7. Saving clause. No provision of this act shall be construed to suspend, supersede or repeal any other general, special or local law or any rule or regulation made pursuant to law.

8. The sum of five million two hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated from any moneys in the State treasury, not otherwise appropriated, for the support of government and the payment to employees of the State of any cost of living salary adjustment made pursuant to this act. Such moneys hereby appropriated shall be paid on the order and warrant of the comptroller upon the certification of the officer authorized by law to certify the regular payrolls of the employees affected by this act.

9. This act shall take effect immediately.

Association Pledges Support to the Defense Programs

The Executive Committee of the Association, in special session on December 16th, 1941, took cognizance of National needs and called upon its 35,000 members to take the lead in service in their respective localities in any or all civilian defense activities initiated by or having the approval of the President and of the Governor.

Hundreds of members of the Association are with the armed forces. There is some service—large or small—that each of us can render in community activities incident to civilian defense. Everything that we do as civil service workers by way of

increasing efficiency of present State services will help also to win not only the war but the establishment of a more perfect and satisfying civilization after the war as well. No greater disservice could be done to national or State defense than to lower or lay aside a single safeguard to the complete application of merit system principles in public service.

The following resolutions were unanimously adopted by the Executive Committee:

"With all solemnity, as Americans conscious of our moral privilege and responsibility to aid in upholding the great human rights of worship, speech, press, assembly and freedom of opportunity to pursue happiness, we, the members of the Executive Committee of The Association of State Civil Service Employees, hereby pledge our Association to support by every means within its power the defense policies and plans of the President of the United States and of the Governor of our State.

"To this end we call upon the individual members of the Association, wherever located throughout the State, to enroll for practical participation in any or all recognized defense activities such as air-warning, fire, police, health, Red Cross, home relief, defense bond and stamp sales, or other defense services initiated by or having the approval of our national and State governments.

"The Executive Committee hereby directs that the Treasurer of the Association, in the interest of national defense, purchase with funds of the Association and for the Association, Defense Bonds in the sum of \$5,000.00."

"Be it resolved, that the President of the Association is hereby authorized to perfect an organization for the sale of Defense Bonds and Stamps among State workers, such organization to consist of a representative member of the Association located on each floor of State Office Buildings and Institutions wherein State workers are employed; the money received and reports of sales to be cleared once a week, or as often as experience shows is desirable, through Association Headquarters, or through the Credit Unions operating among State employees groups."

Civil Service Notes

BY THEODORE BECKER

State Department of Civil Service

Although the official requirements for the positions of Damages Evaluator, Senior Damages Evaluator, and Motor Vehicle Responsibility Adjudicator in the Safety-Responsibility Unit of the Bureau of Motor Vehicles will not be available until the open competitive examinations therefor are announced by the Department of Civil Service, abstracts of the tentative specifications for such positions, used in the selection of provisional personnel, are set forth below:

DAMAGES EVALUATOR (\$2,100-\$2,600). **Duties:** Under supervision, to examine reports of motor vehicle accidents filed pursuant to the provisions of the New York Motor Vehicle Safety-Responsibility Act, and from these reports to evaluate property and personal injury damages; and to do related work as required. Examples: Applying trained judgment to the facts reported in motor vehicle accident reports for the purpose of estimating the amount of property damages and personal injuries involved; making investigations to determine the accuracy of damage (property or personal injury) reported; interviewing owners and operators of motor vehicles involved; testifying before a Motor Vehicle Responsibility Adjudicator as to the extent of damage involved in motor vehicle accidents. **Minimum Qualifications:** Graduation from a standard senior high school and three years of full time experience either as an appraiser, claim adjuster, or investigator employed by an insurance carrier, claims bureau of a large industrial or business organization, or in a law office personally handling a substantial number of cases yearly involving the prosecution or defense of damage, negligence, or compensation cases, which experience shall have included the making of estimates on property and personal injury damages. Candidates may substitute for two years of the foregoing experience either (a) four years of full time employment on motor vehicle sales or repairs that shall have included the making of estimates of value or of repair costs; or (b) graduation from a recognized college or university from a course for which

a degree in medicine or law is granted (or admission to the Bar); or (c) a satisfactory combination of training and experience of equal value in preparing the candidate to apply trained judgment in estimating property or personal injury damages. Candidates may also substitute, year for year, office experience in a public or private organization for the required high school education.

SENIOR DAMAGES EVALUATOR (\$2,500-\$3,100). **Duties:** Under general supervision, to supervise several employees engaged in the examination of motor vehicle accident reports filed pursuant to the provisions of the New York Motor Vehicle Safety-Responsibility Act and from these reports to evaluate the property and personal injury damages; and to do related work as required. Examples: Assigning, overseeing and reviewing of and correcting errors in the work of a small group of Damages Evaluators engaged in estimating, from motor vehicle accident reports, the amounts of property and personal injury damages sustained; applying trained judgment to and making investigations of and decisions in the more difficult cases; interviewing owners, operators and other interested parties for the purpose of discussing and determining the accuracy of damages reported and making revisions of estimates thereof; testifying before a Motor Vehicle Responsibility Adjudicator as to the extent of damages involved in motor vehicle accidents. **Minimum Qualifications:** Candidates must meet the requirements of one of the following groups: either (a) graduation from a standard senior high school and five years of satisfactory full-time experience, of which at least one year shall have been in a supervisory or executive capacity, either as an appraiser, claim adjuster, or investigator employed by an insurance carrier, claims bureau of a large industrial or business organization, or in a law office personally handling a substantial number of cases yearly involving the prosecution or defense of damage, negligence, or compensation cases including the making of estimates on property and personal injury damages; or (b) graduation from a recognized college or univer-

sity from a course for which a degree in medicine or law is granted (or admission to the Bar) and three years of experience as required under (a), of which at least one year shall have been in a satisfactory supervisory or executive capacity; or (c) a satisfactory equivalent combination of the foregoing training and experience requirements. Candidates may also substitute, year for year, office experience in a public or general private organization for the required high school education. (It is understood that substitution of some responsible evaluation experience may be allowed for the one year of supervisory or executive experience.)

MOTOR VEHICLE RESPONSIBILITY ADJUDICATOR (\$3,600-\$4,500). **Duties:** Under general direction to administer oaths, examine witnesses, conduct formal hearings to decide the amount of property and personal injury damages caused in accidents reported pursuant to the provisions of the New York Motor Vehicle Safety-Responsibility Act, and to make formal determinations as to the amounts of security to be deposited; and to do related work as required. Examples: Conducting formal hearings in cases of automobile accidents reported pursuant to the provisions of the New York Motor Vehicle Safety-Responsibility Act; administering oaths; questioning owners, operators and witnesses regarding the facts involved in reported motor vehicle accidents; examining and passing upon the admissibility of written evidence submitted; applying trained judgment to the testimony submitted, both oral and written, for the purpose of determining the issues raised; making final determinations as to the amount of property damage resulting from automobile accidents or making final determinations as to the existence of bodily injury or death as a result of such accidents, and making final determinations as to the form and amount of security to be deposited by the owners, operators and other responsible parties, as a result of automobile accidents, according to the provisions of the New York Motor Vehicle Safety-Responsibility Act. **Minimum Qualifications:** Candidates must meet the requirements of one of the follow-

ing groups: either (a) graduation from a standard senior high school and eight years of satisfactory full-time experience as an appraiser, claim adjuster or investigator employed by an insurance carrier, claims bureau of a large industrial or business organization, or in a law office personally handling a substantial number of cases yearly involving the prosecution or defense of damage, negligence, or compensation cases including the making of estimates on property and personal injury damages, of which at least two years shall have been in a responsible position requiring a high degree of independent judgment in passing upon disputed personal or property liability claims for final settlement or in a similar capacity that has demonstrated superior ability to successfully arbitrate disputed matters; or (b) graduation from a standard senior high school and four years of satisfactory full-time experience as a hearing representative or in a similar position in a governmental agency acting in a quasi-judicial capacity hearing and weighing testimony and making decisions; or (c) a satisfactory equivalent combination of the foregoing training and experience requirements. Graduation from a recognized college or university from a course for which a degree in medicine or law is granted (or admission to the Bar) will be accepted in lieu of two years of the general experience required under (a) above, or one year of experience required under (b) above. Candidates may substitute, year for year, office experience in a public or private organization for the required high school education.

The number of vacancies expected to be filled by open competitive examination is 38 in the position of Damages Evaluator, 9 in Senior Damages Evaluator and 21 in Motor Vehicle Responsibility Adjudicator.

The following are State promotion lists established during the month of December, 1941:

- 3234 **Senior Librarian** (Book Information), State Library;
- 3154 **Head Account Clerk** (Bureau of Accounts), Audit and Control;
- 3101 **Principal Stenographer**, Taxation and Finance;
- 3189 **Principal Account Clerk** (Income Tax Bureau), Taxation and Finance;

- 3051 **Assistant Typist** (New York Office), State Insurance Fund;
- 3077 **Principal Supervisor of Vocational Rehabilitation**, Education Dept.;
- 3100 **Insurance Fund Branch Manager** (Binghamton, Elmira, Newburgh Offices), State Insurance Fund;
- 3138 **Senior Statistics Clerk** (Albany Office), Agriculture and Markets;
- 3158 **Assistant Self Insurance Examiner** (New York Office), Division of Self Insurance, Labor Department;
- 3164 **Assistant Clerk** (Albany Office), Agriculture and Markets;
- 3165 **Assistant Milk Sanitarian**, Health Department;
- 3193 **Assistant Mail and Supply Clerk** (Albany Office), Agriculture and Markets;
- 3194 **Chief** (Bureau of Public Works), Labor Department;
- 3209 **Senior Draftsman** (Division of Engineering), Public Works;
- 3210 **Senior Draftsman** (Division of Highways), Public Works;
- 3294 **Associate Physician** (T.B.), Health Department;
- 3019 **Parole Officer**, Correction Department;
- 3166 **Senior Milk Sanitarian**, Health Department;
- 3182 **Principal Account Clerk** (Bureau of Accounts), Audit and Control;
- 3124 **Principal Statistics Clerk**, D. P. U. I.;
- 3124 **Principal Hearing Stenographer** (Appeals Board), D.P.U.I.;
- 3167 **Senior Stenographer** (Albany, New York, and Buffalo Offices), Mental Hygiene;
- 3802 **Employment Interviewer**, D. P. U. I.;
- 3237 **Principal Audit Clerk** (Social Welfare Unit—Bureau of Office Audit), Audit and Control;
- 3208 **Assistant Clerk** (N. Y. Office), Labor Department;
- 3228 **Superintendent of Grain Elevator and Terminals** (Division of Canals and Waterways), Public Works;
- 3155 **Associate State Accounts Auditor** (Refund Bureau), Audit and Control;
- 3163 **Senior Education Supervisor** (Bureau of Instructional Supervision), Education Department.

Because of the publication deadline of the **State Employee**, the lists established late last month could not

be included in this issue. They will, however, be set forth in the next issue.

* * *

Odds and Ends. Congratulations are in order for Catherine Shanahan of the Department of Civil Service for her prize-winning slogan, "The Merit System—an Investment in Good Government," which will soon grace all outgoing mail of the department . . . If proposed legislation is enacted at the 1942 Session, the City of Rye may soon become the first city in the State to have its civil service administered entirely by the State Civil Service Commission . . . The State Commission has just granted approval for the holding of a special promotion examination for a State employee who missed the regular examination held while he was away on military leave . . . Under the Page Law enacted last year, State employees are eligible for promotion even while engaged in military service . . . The Court of Appeals has just ruled that a misstatement of a material fact on a civil service application, though honestly made, entitled a civil service commission, which relied upon such statement in determining the applicant's eligibility, to rescind its certification even after the applicant had been appointed from the eligible list and had satisfactorily completed his probationary term.

Wiebeld Elected

Joseph Wiebeld was elected to President of the Western Central Chapter of the Barge Canal Civil Service Employees Association at the annual meeting of the Chapter held recently.

Other officers elected were: Charles Harrier, Vice-President; George Finnegan, Treasurer; Lewis W. Barlow, Sr., Secretary; Delegates: Joseph Wiebeld and Charles Harrier; and Alternates, Louis Molnar and Wildred Caple.



D.P.U.I. Training Courses

Association D. P. U. I. Committees in both New York City and Albany recently held very successful lecture training courses to prepare employees of that division for promotional examinations. The lecture series covered all phases of the history and functioning of the Division. Lectures for the course conducted in New York City included: Fritz Kaufman, administrative assistant to the Executive Director of D. P. U. I.; Clement V. Conole, Deputy Commissioner of Labor; Meredith B. Givens, Director of Research and Statistics of D. P. U. I.; Karel F. Ficek, Chief of the Planning Unit; M. Joseph Tierney, Assistant Director of the State Employment Service; Louis Naftalison, Chief Referee of D. P. U. I.; Robert N. Purcell, Associate Unemployment Insurance Claims Examiner; Harold K. Montross, District Superintendent; Anne Lehman, Assistant District Superintendent; Madeline T. Busselle, Senior Employment Interviewer; Alex Fix, Employment Interviewer; Alvin C. Syerup, Acting Employment Manager; Karl Brahe, Acting Employment Manager; John DiSanto, Acting Senior Manager; Leo P. Rhodes, Employment Interviewer; Henrietta C. Rothstein, Acting Senior Manager; Constance A. Ball, Employment Manager; and George P. Berner, Regional Director of the State Employment Service.

Lecturers for the Albany courses included: Ellis Riker, Associate Examiner of Methods and Procedures; Leonard Adams, Associate Economist of the Bureau of Research and Statistics; Erwin Memelsdorf, Principal Unemployment Insurance Reviewing Examiner; Harold Wilson, Senior Examiner of Methods and Procedures; Benjamin Potoker, Associate Reviewing Examiner; William A. Whalen, Chief of Field Office Section of Claims Bureau; Stephen Mayo, Administrative Supervisor of Claims Bureau; Murray Nathan, Associate Examiner of Methods and Procedures of Placement Bureau; Elmer H. Neumann, Manager of Albany Local Office of State Employment Service; Logan Thomas, Acting Senior Examiner of Methods and Procedures, of Placement Bureau; Gwynne Ross, Manager of Troup Local Office; Harry F. Smith, Senior Examiner of Methods and Procedures; and Charles M. Armstrong.

Committees For 1942

President Fisher has recently announced the following committee appointments for the year 1942:



WM. F. McDONOUGH
Chairman, Legislative Committee



JANET MACFARLANE
Chairman, Social Committee

LEGISLATIVE COMMITTEE

- W. F. McDonough, Agriculture & Markets, Albany, Chairman
- Dr. Frank L. Tolman, Education, Albany
- M. Thomas Donahue, Mental Hygiene, Albany
- Charles L. Campbell, Civil Service, Albany
- John W. Henry, Labor, Albany
- John Jahn, Public Works, Albany
- Charles W. Swim, Audit & Control, Albany
- Milton Schwartz, Insurance, New York City
- J. Earl Kelly, Tax, New York City
- John McDonald, State Hospital, Rochester
- John Livingstone, State Hospital, Poughkeepsie
- Leo Crotty, State Hospital, Central Islip
- Percy Larabee, State Hospital, Beacon
- Harry Fritz, State Prison, Coxsackie
- John Thaler, State Hospital, Oneonta
- J. Milford Diggins, State, Buffalo

SOCIAL COMMITTEE

- Janet Macfarlane, Mental Hygiene, Albany, Chairman
- Hazel Ford, Tax, Albany
- John Joyce, Audit & Control, Albany
- Beulah Bailey Thull, Tax, Albany
- Joseph R. Reilly, D. P. U. I., Albany
- Charles Foster, Budget, Albany
- Virginia Winnie, Mental Hygiene, Albany
- Lillian Hyatt, Education, Albany
- Ann Quirk, Health, Albany
- Elizabeth I. Schifferdecker, Public Works, Albany
- Mildred Meskill, Agriculture & Markets, Albany
- Nina Foran, Civil Service, Albany
- Evelyn D. Greenberg, Motor Vehicles, Albany

Story of State Government

CHAPTER XX: DEPARTMENT OF BANKING

The following is the twentieth of a series of articles devoted to New York State Government. This series is in charge of our Editorial Board Member, A. K. Getman of the State Education Department Staff. The next article of the series, which will discuss the State Department of Public Service, will appear in the February issue.

BY HON. WILLIAM R. WHITE
Superintendent of Banks

The New York State Banking Department is charged with the supervision of some 1,200 State chartered banking organizations which have total assets in excess of 22 billion dollars. Subject to State regulation are State chartered banks, trust companies, private bankers, savings and loan associations, credit unions, licensed lenders, safe deposit companies, and a few other types of banking institutions.

Every citizen has a stake in the stability of the banking system. The head of a large manufacturing company will borrow bank funds to finance the purchase of raw materials. He may buy foreign exchange to pay for imports; appoint the bank as trustee of a bond issue sold to finance plant expansion; and, of course, use the bank's checks to pay bills.

One of his employees will perhaps have the greater portion of his resources on deposit in a savings bank. He may have built or bought his home with the aid of a savings and loan association mortgage, upon which he makes monthly payments from the salary paid to him in cash supplied by his employer's bank.

Even the unemployed and the unemployable have a vital interest in our banking system. Banks, by using their funds to buy government bonds, have supplied the Federal authorities with means to finance various forms of relief and "made-work," while hospitals and county poor farms in many cases were built with funds raised through bank purchase of municipal bonds.

Nature of Supervision

A sound banking system is not

only important to persons in all walks of life but is essential to all forms of business enterprise and to the very life of the State itself. Banking differs from other forms of business in that it operates with funds of the depositing public which it has contracted to repay upon demand or upon specified notice. It has, therefore, been found desirable to surround banking with certain safeguards and the State has prescribed how the business of banking shall be conducted and supervised. The purpose of supervision has been succinctly stated by the Legislature, as follows:

"It is hereby declared to be the policy of the State of New York that the business of all banking organizations shall be supervised and regulated through the banking department in such manner as to insure the safe and sound conduct of such business, to conserve their assets, to prevent hoarding of money, to eliminate unsound and destructive competition among such banking organizations and thus to maintain public confidence in such business and protect the public interest and the interests of depositors, creditors, shareholders and stockholders." [Section 10, Banking Law.]

The relationship of regulation, supervision and management might be illustrated by reference to another field of government. To protect its citizens, and insure more efficient use of public streets and highways, the State and its municipalities regulate the use of automobiles by prescribing speed limits and enacting other laws and ordinances. Police are assigned to patrol streets and highways—to exercise supervision over traffic. The actual business of driving, however, which might be regarded as a management function, remains the responsibility of individual car owners and operators.

In the field of banking, the State regulates while the Banking Department exercises the supervision prescribed in the law. The function of management continues to be the responsibility of directors, trustees, and officers. While the State seeks to insure a stable banking system, it does not undertake to guarantee

depositors against loss. That is a function of the Federal Deposit Insurance Corporation. Even though a bank or trust company subscribes to deposit insurance—and in New York State practically all such institutions have done so—effective regulation and supervision are still essential, just as traffic laws and highway police are necessary despite the availability of collision, liability, and other forms of automobile and accident insurance.

Early Supervision in New York

Bank regulation and supervision have developed gradually and in many respects are the result of compromise. Typically American has been our system of free enterprise under which business could operate with the maximum of liberty. On the other hand, the public interest has required that certain forms of business be regulated. The State, therefore, sought to steer a middle course, to provide protection in the degree that circumstances and the public demanded, and at the same time permit banking to operate with all reasonable freedom.

The need for some regulation of banking was recognized by the State Legislature as early as 1791, when it enacted a statute incorporating the Bank of New York. This institution, despite its name, was privately organized and is today one of the large Wall Street trust companies. The act of 1791, among other things, limited the debts which the Bank of New York could contract. It provided that the bank could not deal in commodities or stocks and that it could not hold real estate except under rigidly specified conditions. Provisions similar to these are still part of our Banking Law.

The restrictions contained in the first bank charter were not extensive but they demonstrate that the State saw the need for imposing some limitations upon banking. Subsequent charters granted contained similar provisions but regulation and supervision in the real sense of the word were still to come.

Forty years later New York adopted the so-called Safety Fund System. An Act passed in 1829 provided that any bank subsequently chartered

should pay annual assessments to the State Treasurer. The "bank fund" thus created was to be used to pay the debts of insolvent banks which had contributed to the Fund. The 1829 statute also provided for three bank commissioners whose duty it was to examine each Safety Fund bank at least once in every four months and to perform certain other functions. This early law was important for two reasons, it introduced the principle of protection and it provided for periodic bank examinations.

Banking Department Founded

The Safety Fund plan, however, did not prove successful and the office of Bank Commissioner was abolished in 1843. From then until the Banking Department was founded, such bank supervision as we had in New York was under the jurisdiction of the State Comptroller. The Banking Department was created in 1851, and the first Superintendent, D. B. St. John, took office in June of that year. His duties were largely routine in nature, and limited in scope in comparison with those of the Superintendent today. He had no authority over savings banks; that was to come gradually, some years later. Trust companies, in the modern sense of the word, were practically unknown at the time. Hence, the new Superintendent's functions were confined almost entirely to so-called banks of deposit, discount and circulation.

"Circulation" meant notes issued by banks to "circulate" as currency. Every bank issued its own notes and many existed for that purpose alone. Consequently, there were hundreds if not thousands of kinds of paper money in circulation, much of which was unacceptable except within the limited area served by the issuing bank.

National Banks Organized

In 1863, the Federal Government was faced with the necessity of finding a new market for its bonds, to finance the war with the South. About the same time the need for a currency that would be accepted everywhere at face value had become imperative. Congress in 1863 sought to attain both objectives by passing the National Bank Act which provided for the organization of national banks, each of which was required to purchase a specified amount of government bonds. The new banks were obliged to deposit

the bonds with the Treasurer of the United States as security for national bank notes which they received and put into circulation. Congress then taxed the bank notes of State banks out of existence.

Since 1863 this country has had a dual system of banking. The system includes national banks which are chartered and supervised by the Comptroller of the Currency in Washington and State institutions, chartered and supervised by the several states. It is easy to distinguish between the two types of institutions because all national banks have the word "national" in their title: First National Bank, Chase National Bank, The National Commercial Bank and Trust Company of Albany. All banks without the word



HON. WILLIAM R. WHITE
Superintendent of Banks

"national" in their title are State chartered institutions: Guaranty Trust Company, Bankers Trust Company, State Bank of Albany, Monroe County Saving Bank, Liberty Bank of Buffalo.

Although originally established to serve different ends, successive amendments to the Federal and State laws have eliminated most of the differences between State and national banks and both now render identical services to the public. One of the principal purposes for which national banks were created does not exist today. National banks no longer issue currency, this function having been taken over by the Federal Reserve System which was created by Act of Congress passed December 23, 1913. The twelve Federal Re-

serve Banks act as fiscal agents of the government and render many services to banks. They do not, however, offer general banking facilities to the public. Their policies and activities are coordinated and directed by the Board of Governors of the Federal Reserve System in Washington. All national banks are required to subscribe to membership in the Reserve System. State institutions may join if they wish and most of the larger State banks and trust companies in New York have done so.

Chartering

One of the most important phases of regulation is chartering, i.e., the authorization to organize and to do business under specified conditions. It is no longer a simple matter to establish a bank. Those who plan to organize a new institution must not only comply with the law insofar as capital requirements and other routine matters are concerned, but they must demonstrate that their character, responsibility and general fitness are such "as to command confidence and warrant belief" that the bank will be honestly and efficiently conducted and that "the public convenience and advantage will be promoted" by permitting the bank to engage in business.

In other words, the founders must not only show that they are qualified to operate a bank, but that their community needs a bank. One of the weaknesses of the banking system in the past was the policy of easy chartering. The number of institutions, particularly in certain states, grew by the hundreds. Many communities were overbanked, and in the several agricultural and financial depressions thousands of bank failures resulted.

Chartering is now well controlled in most states. In New York, before the Superintendent can authorize the organization of a new institution, he must investigate the character and fitness of the incorporators and the community need for the institution. If he approves the application, he must submit it for consideration to the State Banking Board. Two-thirds of the Board must approve before the Superintendent can issue the charter. Even if the Board does approve, the Superintendent may deny the application if he is not "still satisfied" that the proposed corporation should be permitted to engage in business.

Banking Department Staff

Few requests for bank charters are submitted to the Superintendent today because most communities in the State already have adequate banking facilities and the application would probably not be granted. Furthermore, because of the small prospect of profit there is little incentive to open a new bank in a city or village where a number of banks are already well established.

By far the largest part of the Banking Department's work is concerned with the supervision of existing banking organizations. To carry out this responsibility, the Superintendent is assisted by five deputies, 168 bank examiners and about 50 other employees including clerical and stenographic help. About 97 per cent of the employees of the Department, including the deputies, are in the competitive class of the Civil Service. The State Banking Board which consists of nine members has specific powers and duties to which separate reference will be made.

Bank Examinations

The Department's staff, it will be noted, consists principally of examiners, for every institution subject to the supervision of the Department must be examined at least once a year.

No advance notice of an examination is given to bank officers. The examiners arrive before the vaults are opened, present the commission from the Superintendent, and assume control of all assets and records. If the bank has branch offices, they are examined, with the help of additional examiners, at the same time as the main office.

Some persons are under the impression that the examiner visits the bank to determine whether there have been any defalcations. While he may on rare occasions find evidence of theft, the examiner is interested in something far more important, the condition of the bank and its prospects for the future. The Superintendent's commission to the examiner-in-charge of an examination directs him to "examine into the condition, conduct and affairs generally" of the institution and report thereon to the Superintendent in detail.

The procedure in the conduct of an examination consists essentially of the proving of the assets and liabilities of the institution against a

trial balance taken from its books of account and sworn to by one of its officers. This involves the counting of cash, the checking and verification of deposits of the institution's funds, proof of loans, checking of collateral, listing and checking of securities and other investments, including bonds and mortgages and other real estate, and the proving and testing of deposit and other liabilities.

The examiner is required to ascertain that all loans unpaid on the date of the examination are evidenced by documents on file, that such documents are in good order, that collateral pledged as security is in possession or control of the institution and that such collateral has been properly assigned or hypothecated. The examiner also classifies loans as to their collectibility and value and appraises and determines the sufficiency of collateral. Unsecured loans are appraised on the basis of credit experience and other credit information on file.

Investments in securities are analyzed as to investment quality and evaluated. Bonds and mortgages and real estate are analyzed with respect to payment experience and operating results, taking into consideration appraisals made by the department appraiser or an independent appraiser.

The examiner also analyzes the earnings of the institution, checks the attendance record of its directors and committees at meetings, reviews the extent and adequacy of management and audit control, investigates for violations of the Banking Law and other applicable statutes, and reviews the action taken with respect to such matters as may have been the subject of special comment or criticism at the time of the previous examination.

In the course of the physical examination, and by further review and test, if necessary, the examiner checks the policies and practices of the institution. After completion of this work, the examiner writes his report including any comments and suggestions based upon the study of the practices and policies of the institution which he considers inconsistent with sound banking principles or which might contain some element of risk to the condition of the institution if continued.

In the conduct of the examination, the express authority of the bank ex-

aminer is confined to actual fact finding although in the text of the report of his examination he is expected to state his own opinions and to comment upon the policies of the management of the institution, as well as upon the facts he has found. During the examination there is occasion for conference and discussion with the officers of the institution and suggestions and recommendations may informally be made by the examiner.

In many cases such suggestions and recommendations are concurred in by the representatives of the institution and adopted either during the course of the examination or subsequently, without specific detailed comment thereon being made in the report of examination. The examiner, however, has no power to direct any change of operations or of practices or policies. If after discussion, a difference of opinion still exists, the only action which may be taken by the examiner is to include his suggestions and recommendations in the text of his report.

The length of time required to make an examination varies according to the size of the bank. As many as 140 examiners may be assigned to a large New York City trust company for the first few days of the examination. This number will be gradually reduced as the work progresses, but the entire examination may require three or four weeks to complete.

After the Examination

The examination is not an end in itself. While the mere fact that examinations made doubtless accomplishes some good, much of the work of supervision cannot begin until the examination is completed. The examination shows what needs to be done but it does not automatically effect the desired corrective action.

Upon the completion of an examination, the examiner-in-charge submits his report which, in the case of a large bank, may consist of one hundred or more pages of large sheets 10 x 15 inches in size.

The report is analyzed by review examiners in the office of the Department where certain figures are taken off for statistical purposes. A deputy superintendent studies the report, and perhaps previous reports of the same institution. He may discuss the report with the Superintendent, but in many cases that will

not be necessary. The deputy then writes a letter to the bank pointing out the principal findings of the report and suggesting whatever changes in policy or method seem necessary or advisable. A copy of the report of examination is sent to the bank with the deputy's letter. Both must be presented at the next meeting of the board of directors at which time the letter must be read and noted in the minutes. The Department also sends a form letter to each director at his home advising him that the report of examination and the deputy's letter have been sent to the bank.

Thus, there is brought to the attention of the directors, who have ultimate management responsibility, the Department's appraisal of their bank's financial condition, its management, policies and methods. In some cases, conferences may be arranged between a committee of directors and representatives of the Department to discuss the report of examination.

Ordinarily, there is little difference of opinion concerning fundamentals between the sound banker and the experienced examiner or Department executive. However, on rare occasions, some officer may refuse to conform to what are generally accepted as sound principles of operation, or he may refuse to cease performing certain acts which are in conflict with the provisions of law. What can the Department do in such cases?

The Superintendent has authority to close a bank when it has violated any law, but this is usually too extreme a measure, particularly if the violations are not grievous in nature. However, the Banking Law empowers the Superintendent to issue an order to appear and explain an apparent violation of law, to discontinue unauthorized or unsafe practices, to make good impairment of capital, to make good encroachments on reserves and to keep books and accounts as prescribed.

If an institution neglects or refuses to comply with the terms of a duly issued order, the Superintendent can take possession and liquidate it, or permit it to reopen upon such conditions as he may prescribe. Closing is always a drastic sanction and may not be called for if the institution is otherwise in sound condition. To provide a lesser but sufficiently effective penalty, the Legislature a few

years ago authorized the Banking Board to remove an officer, director, or trustee from office for violating any law, or for continuing unauthorized or unsafe practices after having been warned or ordered by the Superintendent to discontinue such practices.

Needless to say, it is seldom necessary to resort to such extreme measures to enforce compliance with law or with sound policies of operation. Nevertheless, the mere possession of such powers is of great help to supervisory authorities in carrying out their duties.

State Banking Board

Reference has been made to the fact that the State Banking Board must give its approval before the Superintendent can issue a charter for the organization of a new institution, and that under certain conditions it may remove from office a director, officer, or trustee.

The creation of the Banking Board in 1932 is one example of how bank supervision continues to evolve and adapt itself to changing times. The Superintendent of Banks is *ex-officio* chairman of the Banking Board and its executive head. The other eight members are appointed by the Governor and approved by the State Senate. Four of the members must have had banking experience and they are not appointed until the Governor receives nominations from several classes of banking institutions. The four other members of the Board at present are a university professor of economics, a farmer, a lawyer, and an investment banker. The members of the Board meet regularly in the office of the Banking Department. They receive no salary for their services but they are reimbursed for actual expenses incurred.

The Board, in addition to its control over charters, has broad powers to make, alter and amend rules and regulations not inconsistent with law. It can prescribe maximum rates of interest or dividends that may be paid on deposits or share accounts and can limit withdrawals of deposits on shares. The Board has many other powers most of which involve subjects too technical for discussion here. Those powers are quasi-legislative and quasi-judicial as well as administrative in character. When sitting in a removal proceeding the Board performs a function that is largely judicial. In adopting regulations the Board acts in a capacity similar to that of a legislative body.

Institutions Subject to Supervision

The number and aggregate resources of institutions subject to supervision by the Banking Department as of the close of business, December 31, 1940, were as follows:

No.	Class of Institutions	Total Resources
287	Banks and trust companies	\$14,577,099,385
15	Industrial Banks.....	68,715,497
7	Private bankers	175,856,363
134	Savings banks	6,462,950,213
84	Safe deposit companies	15,124,875
17	Investment companies	1,134,017,085
198	Savings and loan associations	266,590,527
1	Savings and loan bank of New York	3,919,827
217	Credit Unions	16,092,057
313	Licensed lenders (locations licensed)	78,223,178
1273	Total	\$22,798,589,007

A discussion of the different functions performed by the various institutions which are subject to supervision would require more space than is available here. Briefly, the distinguishing characteristics are as follows: The deposits of banks, trust companies, and private bankers are composed principally of funds which are subject to withdrawal or transfer by check or other similar instrument. Their loans are in the main extended to business and commercial enterprises.

Savings banks and savings and loan associations are reservoirs for the people's savings. Their assets are made up largely of mortgage loans. Industrial banks differ from other banks principally in that they cater to the small loan business. Safe deposit companies which provide the public with facilities for storing valuables, are usually owned by banks and trust companies and operated in conjunction with such institutions. Investment companies include principally large corporations engaged primarily in financing installment sales of automobiles, refrigerators, and other types of consumer goods.

Credit unions are mutual membership corporations which sell shares to and accept deposits from their members and make loans to other members who are in need of credit. Licensed lenders are not permitted to accept deposits. They make small loans to the public from funds obtained from the sale of stock, bonds, or credit advanced to them by banks.

The above institutions maintain nearly 1,000 branches, of which

about 180 are outside New York State. In addition, the Department has supervision over a number of specialized institutions such as agencies of foreign banking corporations. When war was declared upon the United States last December the Superintendent took possession of six Japanese and four Italian agencies. There were no agencies of German banking corporations licensed to do business in New York State. The question is sometimes asked why these foreign institutions are permitted to operate in the United States. It must be remembered that American banks and business houses in times of peace maintain branches in the principal European, Asiatic and South American countries. It is naturally expected that similar privileges will be extended by the United States to foreign corporations. Since New York is one of the world's principal financial centers, it is only natural that leading foreign banking corporations should desire to maintain offices here to facilitate trade.

Liquidations

Reference has already been made to two phases of the Department's work, the chartering of new institutions and the supervision of existing institutions. Another important responsibility of the Superintendent is the liquidation of closed institutions.

The Superintendent has authority to take possession of a banking institution for any one of a number of reasons specified in the law. In actual practice, the Superintendent closes a bank because it is insolvent, or because its condition is such that it cannot with safety be permitted to continue in business. The liquidation of a bank of substantial size is a tremendous undertaking. It requires the solution of many business and legal problems. Loans must be collected, securities sold, mortgages and real estate serviced and liquidated, and the payment of dividends made to depositors and creditors. To cite only one example of detail involved in this work, when the last dividend was paid to the depositors of the largest bank in liquidation about 300,000 checks were made out and mailed. About 30,000 of these checks were returned because depositors had moved since the payment of the previous dividend and had left no forwarding address. The amount of correspondence and the number of

telephone calls resulting from the payment of this single dividend can readily be imagined.

During the period 1930 through 1941 the Superintendent took possession of 120 banking organizations having total liabilities of approximately 400 million dollars. With the exception of a few very small units, these organizations were closed during the early '30s. Of the total number closed, twenty were reorganized and permitted to resume business. Three were relinquished to the federal courts by virtue of proceedings under the Federal Bankruptcy Act. Of those remaining, 65 which had total liabilities of 32 million dollars at closing have been fully liquidated. To the depositors and creditors of this group \$24,135,000 has been distributed, representing 75.7 per cent of established claims.

The number of banking organizations now in possession of the Department is 32. Depositors and creditors of these institutions have been paid dividends of \$206,463,000, or about 80 per cent of the \$257,996,000 in liabilities outstanding at time of closing. It is hoped that the liquidation of the great majority, if not all, of these institutions can be completed during the coming year.

Before closing it may be said that the Department is constantly being confronted with special problems which require a great deal of time and effort on the part of the Superintendent and his staff. The Banking Law, to cite one example, requires the Superintendent to make recommendations to the Legislature relative to desirable amendments. During the years 1937, 1938, and 1939, therefore, the Department prepared a series of comprehensive bills, which when enacted by the Legislature constituted a complete recodification of the Banking Law, clarifying it, eliminating obsolete provisions, and bringing it up-to-date generally.

The reorganization of certain banks which as a result of the depression had accumulated substantial volumes of substandard assets required intensive work over a period of two years. New capital had to be obtained from the Reconstruction Finance Corporation while unsatisfactory assets had to be supplanted with cash supplied by the Federal Deposit Insurance Corporation

preparatory to effecting mergers. As a result, however, the institutions were not only saved but were immeasurably strengthened and are serving their communities today.

The war, of course, has brought the Department new duties, not merely in connection with the supervision of agencies of foreign banks but in many other ways. The Banking Board, for example, has taken action to remove restrictions that would have unduly limited participation of banks and trust companies in financing the production and acquisition of strategic and critical materials by government agencies, and in financing the expansion of plants necessary for increased production of war materials.

In a story of this character it is impossible to describe all the duties of the Superintendent and his staff or to give a complete picture of the work of the Department. It is hoped, however, that enough has been said to give State employees a somewhat better understanding of the Department's function as a division of the State government.

Syracuse Elects

New officers and departmental representatives have recently been elected by the Syracuse Chapter. Elected as President was John Gingley of the Department of Education. Donald Orr, Syracuse State School, was elected to Vice President; Doris LeFever, Labor Department, as Secretary; and Edward Killeen of the State College of Forestry, as Treasurer.

Elected as departmental representatives were: Zona Mahley, State Fair Office; M. J. Callahan, Conservation Department; Edward Killeen, State College of Forestry; Edward Hunt, Division of Parole; E. F. Carr, State Insurance Fund; Mary Pogue, Department of Health; Mrs. Marguerite O'Dell, Social Welfare Department; Edward J. Delaney, Department of Public Works; Anna B. O'Boyle, Department of Labor; Catherine O'Connell, Division of Placement and Unemployment Insurance; Francis McKeon, Division of Engineering of the Department of Public Works; and Albert A. Kocher, Department of Taxation and Finance.

The Capitol Beat

Forest rangers, forest fire observers and game protectors are to hold themselves in readiness to respond to any request of the State Police for assistance or cooperation in any service related to national defense, according to instructions issued recently by Conservation Commissioner Lithgow Osborne. The two field forces of the Conservation Department, whose members are all uniformed officers of the law and who are strategically located in every county of the State, were also instructed to participate fully in any community voluntary services they may be called upon to perform. The forest rangers, observers and game protectors are most familiar with the more remote areas of the State.

* * *

The personnel of the New York State Department of Health is now taking an active part in the work of both official and non-official organizations connected with the State and National defense, according to a recent announcement by Dr. V. A. VanVolkenburgh, Assistant Commissioner for Local Health Administration. He pointed out that many department employees are serving as members of State and County Health Preparedness Committees and are prominent in such organizations as federal and local advisory health committees, State and local nutrition committees, the American Red Cross, and national and State nurse associations. District State Health Officers have been appointed Chief of Emergency Medical Service in certain of the counties and some are chairmen of County Defense Councils.

The Department has also provided thousands of birth certificates to individuals needing evidence of citizenship to secure employment in defense factories, and to enlist in certain armed forces. The staff of the Department has used the speaker's platform, the press and the radio to bring before the people the need for health efficiency in furthering national defense efforts.

* * *

Hay!—Hay! Acting as a clearing house of information in an effort to relieve the serious hay shortages existing in some parts of New York

State, the Bureau of Markets of the State Department of Agriculture & Markets, announced that it now has the names of farmers and dealers who have an additional 2,000 tons of hay available for the drouth areas. Since the emergency service was first undertaken early in November, thousands of tons of hay have been moved as a result of the Bureau's work. A new list of hay supplies has just been compiled by the Bureau to supplement its original list of farmers in need of hay or having hay for sale. A copy of the list will be sent to anyone upon request.

* * *

Every New York State registrant selected for induction in the Army now is receiving a booklet telling him exactly what the Army expects of him and what it offers to him, Brigadier General Ames T. Brown, New York State Director of Selective Service, announces. Supplies of the booklet, which is entitled "The Army and You," and was prepared by the War Department in cooperation with National Selective Service Headquarters, have been received at State Headquarters, and allocated to Local Boards for distribution to their selectees, according to General Brown's statement.

* * *

Brigadier General Ames T. Brown recently released a letter in which one selective service registrant tried to make certain that future claims for dependency would satisfactorily be explained in advance. The letter read: "When I made out my questionnaire last winter, for dependents I put down my wife, one child and one unborn child. I now have my wife and three children."

* * *

The Albany County Chapter of the American Red Cross announces that public employees in Albany donated \$5,920.65 during the recent roll call for 1942 membership. President of the Association, Harold J. Fisher, was Chairman of the public employee group which included State, county, city and federal workers. State employees contributed \$4,586.05 of that total.

* * *

Chicken loaf must contain chicken, bacon can't be wrapped in cello-

phane bearing red lines to give a false impression of leanness, and ham must be cut from the part of the animal where ham should come from, under the terms of new definitions, rules and regulations promulgated by Commissioner Holton V. Noyes of the Department of Agriculture and Markets. Even frankfurters and sausages must be tagged "artificially colored" if coloring is applied to them. Canned Meat products must have labels correctly describing the contents of the package as to ingredients, quantity, and name and address of the packer.

* * *

Hopeful of reclassification because of the war, hundreds of parolees previously classified by Draft Boards in 4F, "physically, mentally or morally unfit" because of their prison records, have applied for permission from the Parole Division to enlist.

In a memorandum to all State Parole Officers, Dr. David Dressler, Executive Director of the State Division of Parole, has informed them that "providing there is some evaluation in each case" parolees should be given permission to enlist in any branch of the armed services that will take such parolees.

* * *

Assemblyman Abbot Low Moffat, Chairman of the Ways and Means Committee has announced that he had worked out necessary adjustments in State budget procedure to make possible the quarterly installment of income tax payments. He will sponsor such legislation at the coming session. He emphasized that quarterly payments are a matter of fairness to hundreds of thousands of taxpayers in view of the peculiarly heavy federal burden for defense which must be met by the income tax payer, and which burden will doubtless increase in the coming years. The sooner this relief is given the better!

* * *

Although employment in the construction industries of New York State dropped 2.2 per cent from October 15 to November 15, payrolls rose 3.9 per cent and man-hours 1.3 per cent according to a statement issued by Industrial Commissioner Frieda S. Miller.

Editorial Page

THE STATE EMPLOYEE

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Fair and Just

It is a fact well known that the Association, as representative of over 35,000 State workers, is recognized by, and has the full confidence of the executive, legislative and administrative branches of State Government. It is a confidence that could not be obtained by any material means, but has become firmly entrenched throughout the past thirty years, during which the Association has never sponsored any improvement in working conditions which has not been as fair and just to the State, its citizens and taxpayers, as it was to the State workers it represented. It is a confidence established through recognition of the underlying policies and principles of the Association—uncompensated officers and employees, entirely voluntary membership, careful analysis and study of the needs of State employees.

Because of the fairness and justice of Association proposals, and its dignified manner of operation, there has never been any major improvement sought by the Association that has not become a reality, perhaps not immediately, sometimes only after several years of intensive effort, but never left undone. Association leaders advocated for several years the retirement system that was

finally established in 1921. The Association sponsored legislation providing an eight hour day for institutional workers from 1930 until it was finally enacted into law in 1936. A comprehensive, compensation-classification plan for State employment was promoted by the Association for years before it was established by the Feld-Hamilton Law in 1937 and the Feld-Ostertag Law in 1938. These are but a few examples. The drafting of satisfactory legislation, the promoting of it, and the overcoming of the many obstacles which stand in the way of the major improvements in working conditions sought by the Association constitutes a huge task, far beyond the comprehension of many State workers.

Although having the highest of purposes and intent, the Feld-Hamilton Law when first enacted in 1937 was an experiment until the results therefrom could be observed. These results have been carefully examined and without reserve executive, legislative, and administrative leaders of State government, citizens and taxpayers alike have agreed that the career law provides a fair and adequate law provides a fair and adequate normal periods.

It is unfortunate that the Feld-Hamilton Law at present covers less than one-half of State service. Many groups, including institutional employees, were skeptical about the career law as first proposed, and decided against being covered by its provisions. However, following its successful enactment and the good results obtained from it, these members now want to come under it. Each year since 1937, the Association has sponsored legislation to extend the career law to employees of mental hygiene and other institutions. Such efforts have thus far been unsuccessful.

As expressed editorially in past issues of this magazine, the Association feels that the time has now come for action to abolish the archaic and unjust salary schedules now in effect for over 20,000 employees in State institutions, and to provide adequate compensation for these faithful servants under the career law.

Legislation providing for this change has been prepared by the Association and will be sponsored in the next session of the Legislature.

During the coming year, more than ever before, the Association will need the united and active support of employees in our State institutions who are affected by the proposed legislation. Although unsuccessful in our efforts to obtain career law coverage for institutional and other workers since 1937, the Association again at its annual meeting on October 21st last, decided to use every resource at its disposal to extend the coverage, and the officers and committees of the Association, since that day, have been marshalling their forces and preparing to press for the correction of the great wrong to workers inherent in the present day policy.

The officers, counsel and committees of the Association, and its chapters throughout the State, will lead in this fight for justice. They will strive to convince the members of the Legislature, executive and administrative leaders, and citizens and taxpayers of the necessity and desirability of career law salaries for institutional employees. They will formulate plans for employees to follow in petitioning for this change.

Institutional employees are urged to present a united front by active membership support in order to assure the proper consideration of the extension of the career law during the forthcoming session of the Legislature.

Sharing

Throughout this land of free men there is a restless stirring. After many years of peace, citizens everywhere sense the dangers of war. They feel the urge to direct action to preserve the social and political gains and to make certain that there shall be no limits placed by any but God himself upon the frontiers of civilization—that such frontiers shall ever be open to faith and genius and courage. Never did a people have so much to fight for. Never has the evil of an enemy been revealed so starkly. Never was a people so able

and strong morally, physically and economically to defend and progress their ideals.

Each day streams of youth offer themselves for armed service or for industrial endeavor. Yesterday in St. Louis a 95 year old Confederate veteran volunteered for civilian defense, and a short time ago the blind students at Batavia, citing their special aptitude for hearing, offered their aid in air warden activities. All over the Nation a like panorama of patriotism is unfolding. Here is the fruit of past loyalty to churches, homes and schools.

Americans have dedicated themselves to sharing their lives and their resources for a great common purpose. And, always, when a people share they multiply their ability and the effectiveness of their efforts. We have come to know that it is—

“Not what we give,
But what we share,”

that assures the maximum of achievement.

In the holy spirit of sharing, defense bonds, military service, behind the lines work become hallowed burdens rewarding the sharers with dividends of mutual confidence and respect. No selfishness can long endure against the mighty power of a people who have learned to share their loyalties and their treasures.

We of the State service must take a forward place in sharing the responsibilities of National needs. There cannot be any stint to our sharing. Buying defense bonds, helping the Red Cross, volunteering for military and civilian action must not be viewed as “giving” but rather as “sharing.” Also we must answer the call for greater efficiency in the performance of day to day tasks of State government. Only slight thought is necessary to appreciate that the efficiency and economy of State governments is a vital help to National accomplishment. State boundaries disappear in national crises and it is not a surprise that international boundaries vanish also in the clearing house of peoples who love freedom.

In this especially adventurous period in World History, we are not afraid to die in defense of life, liberty and the opportunity to pursue happiness. And if death comes to loyal, efficient patriots, respect, honor and loving prayers are theirs. But it is not enough to die. What counts is

active, industrious, intensive living now. Every minute, and every ounce of energy and every bit of conversation and use of life and power is our goal. Your health, your strength, your resources, your loyalty must be placed at the disposal of the Nation. We must take this crisis in the affairs of men at the flood and convert striving, and distress and disappointment and victory into spiritual good. In times of human stress we evaluate most accurately the essentials of life itself. Now we see the pettiness of cheap amusements, the sin of disregard for health, the crime of neglect of homes and churches and public institutions. We are better able to see clearly and act intelligently and to grasp verities yielding abundantly of faith, peace and happiness. Those who share their best find as great happiness in danger and anxiety as in times of tranquility, for happiness is within the spirit and tuned to immortal things and the everlasting victory of truth and justice.

Part of D. P. U. I. Federalized

On January 1, 1942, many positions in the Division of Placement and Unemployment Insurance were taken over by the Federal Government. Although, as this issue goes to press, it is impossible to determine exactly what jobs are affected, it is apparent that practically the entire placement service and miscellaneous other bureaus are being transferred. Latest reports indicate that approximately 1,600 employees will be affected instead of 2,500 as previously estimated.

Many questions concerning the rights of employees holding the positions affected have arisen. Advice reaching the Association indicates that employees affected will be given a leave of absence by the Division for two months to enable prompt reinstatement of any employee if Federal authorities should later decide that this job should not have been taken over.

The statute governing the use of preferred lists in the case of the presently affected employees is apparently ambiguous. In fact, it is not certain that the placing of these employees severed from State service on preferred lists would help any appreciable number of them. It may

be necessary for the Association to draft legislation to protect the rights of employees to transfer back to State service in the future. Such legislation would also help employees of any other State agency that the Federal Government decides to take over during the present emergency.

The retirement law provides that an employee transferred to Federal service may remain a member of the State Retirement system and obtain credit for such service if he makes contributions to the system equivalent to the total of his own regular contributions and the State's share as well.

Employees affected by the change may be assured that the Association will keep in close touch with the various problems which may arise relative to the transfer, and will sponsor necessary legislation and do everything possible to protect the rights of the employees involved.

Many inquiries have been received relative to the continuance of group insurance by the employees transferred. Accident and Sickness insurance may be continued by any employee transferred to Federal Service by making cash payments for premiums direct to TerBush & Powell, Inc., 423 State Street, Schenectady, N. Y., which is the insurance agency handling the Association's accident and sickness insurance. Members of the Association's group life insurance plan affected by this change may continue their insurance while on leave of absence from State service for a maximum period of one hundred and twenty days by making cash payments of premiums to Association Headquarters, Room 156, State Capitol, Albany, N. Y. At the expiration of any such leave of absence, or at the end of the 120 day maximum period, members of the group life plan may convert their insurance without medical examination into any form of insurance, written by the insurance company, except term insurance, at the attained age rate. Application for such conversion must be made to the Insurance Company within thirty-one days after termination of employment or of the leave of absence. Employees reinstated to the State service may obtain the group life insurance without medical examination by making application for it within the first 90 days following their reinstatement.

Helping with State-Wide Unity

There are numerous members of membership committees in State institutions, public works districts, park commissioners, canal sections, etc., throughout the State, now hard at work on the huge task of renewing the over 35,000 membership of the Association, and securing the support of new employees and non-members. These Association boosters give unselfishly of their own time and effort to build up the unity of State employees in this State-wide organization. These workers, like other Association officers and representatives, are unpaid. They work for the unity of State employees, so that their interests may be adequately protected, so that the improvements sought in working conditions by the Association may become a reality.

During the present unstable emergency period, our complete and united organization is more vital to State workers than at any other time in the history of the Association. State employees must present a united front to protect the advantages gained through years of organized effort, and to further secure the fair and just improvements in working conditions provided by the Association's program.

Cooperate with the member of the membership committee working in your group. Remember, he is working for your benefit. Make his task easier by paying your 1942 dues promptly when requested, and urge your fellow workers to do likewise. The success of the Association's program will depend upon the continued support of State employees, and their unity.

Listed herewith are a few membership committees working in various institutions, departments, etc., as reported to Association Headquarters:

District No. 1, Dept. of Public Works

C. A. VanderVoort, Chairman; P. J. Matteson, H. A. Willis, G. V. R. Arthur and A. J. Scanlon, Albany; E. D. Conroy, Green Island; F. L. Bisbee, Warrensburg; R. E. McKernon, Fort Edward; J. F. Campbell, Cairo; D. D. Rogers, Elizabethtown; D. P. Roohan, Saratoga; and E. S. Staats, Waterford.

Harlem Valley State Hospital

Mrs. Alice Sina, Chairman, Main Office; Louis Illig, Mechanical Departments; Andrew Masseo, Administration Building; Llewellyn Thurston, Building 27; John O. Martin, Farm and Outside; Mrs. Helen Murphy, Laundry; Josephine Wright, Building A; Mrs. Minnie MacKenna, Building B; Mrs. Jade Collins, Building 25; John F. Spenard, Building F; Mrs. Beatrice McGrail, Building H; Ruth Silvernale, Reception Building; Mrs. Mildred Adamiec, Building 28; Edward Flemming, Dining Rooms; Alfred Terpening, Building 26.

Rochester State Hospital

John A. McDonald, Chairman; Joseph McNulty, Orleans Building (Male); Mrs. Rose Hawks, Orleans Building (Female); Bruce McLaren, Howard Building (Male); Mrs. Anna Nichols, Howard Building (Female); Frank Glover, Livingstone Building; Mrs. Anna Polley, Genesee Building; Mrs. Elizabeth Heagney, Monroe Building; Stephen Velie, Engine Room; Frank Muhlbeier, Farm; Mr. Piper, Master Mechanic; Frank Ruppel, Industrial Building; Cory Dibble, Chef; and Martha Finnegan, Chief Supervisor (Female).

Oneonta Chapter

Jack Thaler, Chairman, Maintenance Department; Mary A'Hearn, Business Office; Lucille Brooks, Kitchen; Mrs. Lindsey, Housekeeping Department; Harry Packer, Kitchen; John Bruce, Powerhouse; and John Hutchinson, Store Room.

Long Island State Park Chapter

Clinton Travis, Chairman; William Sloan, Bethpage State Park; Fred Dalton, George Kennedy, State Park Commission, Babylon; William McKeon, George Davis, Fred Mott and Ralph Johnson, Jones Beach State Park, Wantagh.

Matteawan State Hospital Chapter

Yvonne Lahey, Chairman; Frank Osoba, Joseph Nameth, Roy Kennelly, Joseph Keating, Main Building; Helen Masten, Madeline Smythe, Female Building; Michael Sholdis and James Brown, Reception Building; Mr. Kirby, Farm Colony; Harry Norman, Outside Gang; Gus Vix and Peter Didio, Mechanics; and Claude Stevens, Engineers.

District No. 7, Department of Public Works

J. A. Young, Chairman; A. T. Van Horne, Plattsburg; W. E. Barron, Malone; H. B. Parker, and S. T. Fisk, Watertown; W. R. Galloway, Lowville; and G. W. Wright, Ogdensburg.

District No. 6, Department of Public Works

J. W. Gould, Chairman; A. J. Muench, Friendship; R. E. Palmer, Bath; J. C. Cronin, Watkins Glen; Lee Walter and Joseph McCullough, Hornell; and K. F. Thompson, Owego.

District No. 4, Department of Public Works

Conrad V. O'Malley, Chairman; George S. Donohue, James A. Small and Raymond J. Quandt, Rochester; Harry W. Driher, Batavia; Henry TenHagen, Warsaw; J. Harry Adolph, Genesee; Harry A. Bailey, Albion; and Joseph H. Martin, Canandaigua.

District No. 2, Department of Public Works

Gerald M. Fenner, Chairman; Carl Davies, A. E. Stewart and R. B. Polly, Utica; R. H. Sammons, Johnston; G. A. Flynn, Wells; G. C. Ingersoll, Mohawk; A. W. Smith, Oneida; H. H. Glosser, Canajoharie; W. W. Phalan and E. W. Scothon, Rome; E. McCleary, Herkimer; F. E. Gillen, Amsterdam; and Clyde Pizer, St. Johnsville.

District No. 3, Department of Public Works

Edward J. Delaney, Chairman; A. P. Pierce, Ithaca; J. F. Egan, Cortland; I. H. Smallwood, Baldwinsville; E. G. Grimstead, Constantia; L. E. Moyer, Seneca Falls; R. J. Storm, Newark; W. H. Hickey, Auburn; Charles O'Brien, Oswego; and F. S. Corey, J. Leo Delaney, C. C. Barber, Leon J. Brown and George J. Gale, Syracuse.

Sing Sing Prison Chapter

Arthur E. Brown, Chairman; Frank Kratochvil and Irving Goldfarb, Lieut. Kelley's Shift; Clement J. Ferling, Administration; Frank Libby and Sam DeDio, Civilian Personnel; Walter Mosch and Floyd Moore, Lieut. Sullivan's Shift; Morris Diamond, Day Shift; and Thomas Morrissey, Night Shift.

Binghamton State Hospital

Albert E. Launt, Chairman; Mrs. Mary W. Gardner, Fairmount Building; Mrs. Doris Kadien, South West Buildings; Mrs. Marie Westlake, Wagner Hall and Edgewood; Margaret Doyle, Main Female and East Building; Mrs. Jennie Bowden, O. T. Dept.; Michael Kriska, Main Male; Ernest French, North Building; William Fogarty, Maintenance Dept.; Duane Howard, Electrical and Plumbing; Clarence Mathewson, Broadmor; Frank Strong, Farms; and Frank Bell, Fire Dept.

Syracuse State School Chapter

L. Rodgers, Chairman, Boy's Building; Mrs. M. White, Laundry; Mrs. R. Norman, M.B., Kitchen; Miss Barnes, Main Building; Miss B. Gleason, Hospital; W. Cunningham, Boy's Building; Miss H. Potter, Girl's Building; Mrs. H. Cratty, Teachers; A. Bregard, Office and Girl's Colonies; R. Webb, Garden Cottage; and Mr. Ecker, Boys' Colonies and Farms.

Manhattan State Hospital

Alexander P. Maran, Chairman; Isabel V. Uttal, Corresponding Secretary; John Vargas, Treasurer; and John Wallace, Secretary.

Attica State Prison Chapter

J. A. Hyland, Chairman; R. C. Leyden, Howard Strang, T. Devito, Addison Byram and Russel Grabenstatter, for the uniformed institution personnel; William Ganey for the clerical force; and Howell Parry for the maintenance employees.

State School at Industry

Joseph F. McMahon, Chairman; Lucy E. Bayer, Virginia Thompson, Raymond P. Anderson, George B. Carroll, Edward Davis, Mayme Sweeney, Clifford B. Hall; Florence LaPierre, Harry Walter and George Livingston.

Coxsackie Chapter

Walter J. Mason, Chairman; Messrs. Marohn, Andre, Gunderson, and Ball for the Guards; Mr. Moran for the Shops; Mr. McKlintock for the Office; Mr. Ruland for the School; and Miss Zachary for the Hospital.

Middletown State Hospital

Fred J. Walters, Chairman; Elsie Walters, Officers Group; Thomas D. Stevens, West Group, Reuben Oldfield and Charles Clark, Main Building; John Fay, Engineers' Dept.; Anthony Koppens, Carpenters'

Dept.; Foster B. Cady, Farm; Roy Deneroy, Painters; Raymond Murphy, Laundry; Jane Davis and Elizabeth Kellerher, East Group; Mary Brown, Woodman Hall; Katherine Gibbons, Hazel Gunderson and Anaestasia Cooley, Talcott Hall.

Buffalo State Hospital

Harry B. Schwartz, Chairman; William Loughren, Male Service; Mary V. Heller, Female Service; Louis Kirwan, Industrial Departments and Sarah Shutt, Reception Service.

Elmira Chapter

William T. Murphy, Chairman; C. J. Knuth, West Yard; Stanley Rodzai, Administration Building; Francis Weaver, East Yard; William Segan, Power House; Herman Cassidy, School; and Ross Mead, Farm.

Willard State Hospital

William D. Gallagher, Chairman; Mary Fitzsimmons, Ralph VanDorpe, Grange; Arthur R. Woods, North Wing; Howard Johnson, Engineers' Dept.; Ethel Nielsen, Elrott Hall; Christian Karlsen, Maples; Anna Argus, Infirmary; Walter Argus, Sunnycroft; C. M. Tillinghast, Hermitage; Mary Gary, Grand View; Leona Bell, Pines and Elizabeth Trainor, Edgemere.

Auburn Chapter

John J. Gleason, Chairman; Ivan J. Berry, Vincent J. Brennan, Thomas W. Byrne, Edward J. Callahan, Louis A. Gilbert, Joseph R. Kahl, John J. Madden, Matthew McQueeney, William J. Noonank, Matthew A. O'Brien, William Pringle, Murry D. J. Simmons, Edward P. Vanderbosch, James Voorhees, Martin H. Welch, Fred H. Wilson, Joseph H. Gratton, James J. Kulakowski and Clarence O. Walker.

Warwick Chapter

Florence K. Smith, Chairman, Administration, Social Service and Hospital; Bartley McGowern, J. Russell Skinner and Ralph G. Conkling, Boys Supervisors and Cottages; LeRoy Howard, Kitchen and Dining Room; P. H. Bramman, Power Plant; John Myers, Maintenance; William P. Downey, Farm; Harvey H. Green and J. Marcoux, Education Department and Vocational Shops.

Letchworth Village Chapter

Mary Kitchen, Chairman, Boys' Group; Caroline Gaghan, Girls'

Group; David Roche, Adult Group; Harriet Mackey, Women's Group; James Ross, Male Infirm Group; Mary Ellen Haher, Female Infirm Group; Agnes Vozzey, Hospital; James Barr, Schools; Joan Robinson, Service Buildings; Leonard Schilling, Farm; Ada Baisley, Administration and Joseph Prudente, Shops.

Utica State Hospital

Helen B. Ernenwein, Chairman; Mrs. Elva Drautz, Dunham Hall; Mrs. Elizabeth Radell and Margaret Merkley, Walcott; Mark Van Slyke, Shops; Watkin Perry, Outside; Mrs. Katherine Greineder, Clothing Clerks; Eva M. Schied, Social Service; Mrs. Mary Kastner, Staff; Mrs. Hilda Bailey, Patients' Cafeteria; Keith Wheeler, Main Kitchen; Mrs. Cathryn Jones and Mrs. Winifred Wampfler, South Side; and John MacDonald and John Amo, North Side.

Marcy State Hospital

Ethel Kuehnle, Chairman; Mrs. Gladys Burke, A Building; Mrs. Frances Amo, C Building; Mrs. Mabel Barrey, D Building; Mrs. Winifred Moffatt, E. Building; Mrs. Dora Jones, F Building; William Wiskin, G Building; Mrs. Anne Golden, Morningside; Michael Prendergast, Laundry; Mrs. Florence Nelson, O.T. Department; Thomas Barrey, Industrial Building; George Rounds, Power House; Donald Smith, Store House; John Kuebler, Paint Shop; Elllis Truax, Kitchen; and Mrs. Ruth Randall, Dining Room.

Rome State School Chapter

Mrs. Ruth C. Stedman, Chairman; Dr. M. C. Montgomery, Medical Department; Inez Stebbins, Girls' Colony; Robert York, Boys' Colony; Anna Briggs and Roswell Peters, Boys' and Girls' School Departments; Lorna W. Hay, Office; Howard VanSchoy, Farm; Leo McGinn, Storehouse; Isa Jenison, F, G and Q Buildings; Ethel Junes, O Building; Bernice Nieman, R Building; Meda Toner, X Building; Mary Conklin, B, C and M Buildings; Peter Welch, E Building; William Kunes, H Building; Floyd Mateer, I Building; Evelyn Patterson, J Building; Margaret Murphy, K Building; Harry Johnson, Power House; Leon Maloney, Laundry; Charles Green, Repair Department; and Sanford Jenison, Mechanical.

Local Activities

Dopp Elected President of Buffalo Chapter

Fred Dopp, of the Labor Department, was elected as President of our Buffalo Chapter to succeed J. Milford Diggins, Department of State, at the Annual Meeting of the Chapter on December 8th. Other officers elected were: Bess Haskell, State Health Institute; Florence Manley, Department of Health; and Edward M. O'Connor, Correction Department.

Departmental Representatives of the Chapter selected included: State A. B. C. Board, William McKernan; Law, John Meegan; Conservation, John Sutcliffe; State, J. Milford Diggins; Banking, Margaret Miller; Tax, Michael Seereiter; D. P. U. I., Ann Stanton, Franklin LeMon and Robert Burns; State Insurance Fund, Myrtle Farrington; State Health Institute, Lucy Alfano; Agriculture & Markets, William M. Cassin; State Teachers College, Mary M. May; Division of Public Buildings, Maurice Cummings; Public Service, Mary A. Herbster; Parole, Robert F. Kaiser; Health, Michael Stankewich; Labor, A. W. Marquardt; Education, Herman Muelke; Correction, Louis Nawrocky; Public Works, State Building, Samuel M. Milley; Public Works, So. Grand Island Bridges, Stephen Orth; and the State Industrial School, Fred Conley.

Oneonta Officers

At the recent annual meeting of the Oneonta Chapter of the Association, John Thaler, of the Homer Folks State Memorial Hospital, was selected as President of the Chapter for 1942. John S. Hutchinson was elected Vice-President; Lucille Brooks, Secretary; and Harry Packler, Treasurer. Delegates to represent the chapter at meetings of the Association are to be selected at a later meeting of the Chapter's executive council.

Rochester Chapter Elects

The newly organized Rochester Chapter of the Association has held its first election of officers. Douglas Petrie of the Department of Labor was elected President. Other officers elected were: William N. Posner, Sylvia Smith, Rebecca S. Busch, Carole Lewis and Eugene Cusker.

Annual Meeting of N.Y.C. Chapter

The Annual Meeting and Election of Officers of the New York City Chapter of the Association was held in the State Office Building in New York City on Wednesday, December 17th.

J. Earl Kelly, a Referee in the Bureau of Motor Vehicles, was reelected to presidency of the chapter. Under his inspiring leadership during the past four years, the chapter has developed steadfastly as to services rendered members and growth.

Also reelected were Theodore Gold, Department of Labor, as Corresponding Secretary; Lawrence Epstein, Tax Department, as Financial Secretary; and Ruth A. Hawe, of the Tax Department, as Recording Secretary.

New Officers of the Chapter are David Cohn, of the Division of Placement and Unemployment Insurance, who was elected as First Vice-President; Michael L. Porta, Department of Labor, Second Vice-President; Dorothy Eckhardt, Department of Education, Third Vice-President; and Joseph J. Byrnes, Public Works Department, Treasurer.

The following department representatives were also elected: Agriculture & Markets, Ralph Bernstein; Banking (Examiners), Clinton D. Ganse (Clerical), Hugh T. Reilly, Jr.; Education, Dorothy Eckhardt; Executive (Housing), Eva Heller (Parole), Anthony Macelli (State A. B. C. Board), Mary E. Armstrong (State A. B. C. Investigators), Harry Kisver.

Also Health Laboratory, Miriam Tepper; Insurance, Paul J. Molnar; Labor, Arthur Eisenberg; Labor Relations Board, William Peterson; Law, John W. Carry; Brooklyn State Hospital, Joseph Walla; State Psychiatric Institute, Biagio Romeo; Public Service Commission, Kenneth A. Valentine; Public Works (Engineering), George A. Mortimer (Public Buildings), Charles J. Oft (Telephone Operators), Nora F. McAuley.

Social Welfare, Edgar G. Lowell; State Commission for the Blind, Mae A. Frazee; Department of State, Louis Nussbaum; State Insurance Fund, John F. Powers; Tax (Bureau

of Files), Miriam Drout (Finance Division), John Ferguson (Motor Vehicles, Brooklyn), Louis Fortgang; and (Motor Vehicles, New York City), Al Silverman.

Yet to be elected are departmental representatives for the Departments of Civil Service, Executive (National Guard), Health, Conservation, Audit and Control, and Taxation and Finance (Motor Vehicles, Queens Office), and (Income Tax Division).

Convention of Motor Vehicle License Examiners Association

BY LOUIS BERKOWER, *Secretary*

Motor Vehicle License Examiners in the State Tax Department have formed an Association, with the view to constantly improve their services to the public, the State and to their Department, and to cooperate with the department in every possible way.

Their first convention was held in New York City, Friday, December 5th, and Saturday, December 6th. The newly formed organization has members in Albany, Brooklyn, Buffalo, Rochester, Syracuse and in the Metropolitan area.

Alfred Grey swore the following officers for 1942 into office: Stephen J. Donnellan, President; John A. Bacom, Vice-President; Louis Berkower, Secretary; Alfred G. Sautter, Treasurer; and John J. Dunne, Sergeant-at-Arms.

The following were elected as Executive Committee Members of their various groups throughout the State: Max Kamen and Alfred Grey for the Metropolitan Area; Augustus Ruser and Thomas Doyle for Brooklyn; Francis Madden for Utica; George Clark for Rochester; and Roy N. Restall for Buffalo.

Lecturer for the Saturday meeting of the organization was Glenn E. Brugman of the Chrysler Corporation. A follow-up of his talk will be held at a future date at the offices of the Chrysler Corporation. Head Motor Vehicle License Examiner Eugene P. Fowler and Mr. Mansell were guests of honor at the Association's open meeting on Saturday afternoon. The entire group then attended a dinner and social at a nearby restaurant.

All Over the State

Brentwood Meetings

At the Annual Meeting of the Pilgrim State Hospital Chapter of the Association held recently, Christopher Doscher was elected President for the ensuing year.

Charles Mahoney, Supervisor of the hospital laundry was elected as Chairman of the Chapter's Executive Council at a meeting December 8th. Others elected to the council were: John Maxwell, Dr. Marvin Pearce, Lucille Zimmerman, Mrs. Elizabeth McBlynn, Mr. Thornton, Mrs. Schilling, Mrs. Terwilliger, Gustave Rudloff, Miss V. Scullin, Mrs. Eleanor Daily, Mrs. Leon Corbett and Frank Neitzel.

At its December Meeting, two amendments to the Chapter's Constitution were adopted, one changing the regular meeting date to the second Monday evening of each month, and the other reducing the yearly dues from 50 cents to 25 cents. Both these amendments were forwarded to the Executive Committee of the State-wide Association for consideration and word has been received that that committee has given its approval.

Leo Crotty of Central Islip State Hospital was guest speaker. He explained the activities of the various institutions on Long Island in striving to convince members of the Legislature and citizens generally of the justice of extending the Feld-Hamilton Career Law to employees of State institutions.

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TELEPHONE 5-3581

Sing Sing Prison Chapter to Buy Defense Bonds

At a meeting December 10th the Sing Sing Prison Chapter of the Association adopted unanimously a motion to invest all of its available funds in U. S. Defense Bonds. Officers Walters, Drautvil and Goldfarb were selected to arrange for the purchase of the bonds. Members of the chapter also voted to set aside a portion of the proceeds from the next annual dinner dance for local charitable activities, and also voted an immediate contribution to the American Red Cross, and the Baker Cheer Fund.

James Dawson and Arthur Brown were elected as delegates to attend meetings of the Association. Irving Goldfarb, retiring secretary of the chapter, was selected to represent the uniformed men at the semi-annual conferences with the Commissioner of Correction.

Bond & Stamp Drive

Miss Lucy F. Alfano, Association Representative at the State Institute for the Study of Malignant Diseases at Buffalo, is striving to obtain 100% participation in the purchasing of Defense Bonds and Stamps by all of the employees of that institution. At the end of the first week of the campaign, more than 50% of the employees had made such purchases.



TROPHY WINNERS



The above employees of the State Insurance Fund Office in New York City are the winners of the trophy donated by the Staff Committee of the Fund to the non-handicap division for the 1940-41 bowling year. These employees are members of the Claims Department team.

Standing left to right: Loring D. Jones, Walter B. Blake, Joseph Hochbaum and Larry M. Cloonan. Sitting: Alexander R. Greenfield, Philip E. Mulry and Herbert M. Condon.

N. Y. State's Contribution TO THE CONSTITUTION OF THE UNITED STATES

BY DAVID HUTCHISON
*Formerly Director of the Dept.
of Government
State College for Teachers
Albany*

The first Constitution of New York was adopted at Kingston, New York, on April 20, 1777. About ten years and a half later, the Constitution of the United States was adopted by the Federal Convention on September 17, 1787.

New York contributed to the idea of a bicameral (or two-chamber) legislature. At one time or another over half of the American colonies had unicameral legislatures. At the time the Constitution was framed, Pennsylvania and Georgia had such legislatures. Vermont's unicameral system was retained until 1836.

The Articles of Confederation provided for a unicameral legislature, but it worked badly. The Constitution of the United States, therefore, vested limited legislative powers in a congress of two houses. The bicameral legislature the framers had in mind was that of New York and Massachusetts.

This is evident from the fact that the resolution as reported from the committee of detail in the Convention of 1787 on August 6, read: "The legislative powers shall be vested in a congress to consist of two separate and distinct bodies of men, a house of representatives and a senate, each of which shall in all cases have a negative on the other."

The first half of this was taken from Article Two of the Constitution of New York, 1777. The second part was from the Constitution of Massachusetts. The phraseology of New York was written into the Constitution of the United States. Two necessary changes were made. One gave the legislature a name—Congress. The other described its powers "all legislative powers herein granted" were vested in Congress, that is, Congress was limited to the exercise of legislative power granted by the states.

This is the doctrine of a divided sovereignty adopted by the Supreme Court in *Chisholm v. Georgia*, 1792, as the constitutional law of the

United States. The states retain all powers reserved. The Supreme Court has never departed from this doctrine.

It was, therefore, the legislature of New York which the framers had in mind as the immediate model for the bicameral legislature of the United States. Part of the phraseology of New York remains in Article 1, clause 1, of the Federal Constitution.

The Constitution in Article 1, section 1, clause 3, provides for a census and reapportionment of members in the House every ten years. Article Five of the Constitution of New York furnished a precedent for taking a census and thereby reapportioning members of the legislature.

In New York the census was taken every seven years. The ten year period was perhaps suggested by Massachusetts which required a reassessment every ten years for purposes of taxation. Pennsylvania and Rhode Island also had provided for a census.

The provision providing for impeachment was also contributed by New York (Article I, sec. 3, cls. 6, 7). Nine of the original state constitutions provided for impeachment trials but New York's provision stands in a class by itself as more detailed and more definite.

A considerable part of the language of Section thirty-three of the Constitution of 1777 appears in the Federal Constitution. The requirement that a two-thirds vote of the members present is necessary to convict was taken from the Constitution of New York. Clause seven providing that the judgment in cases of impeachment shall extend no further than to removal from and disqualification for office, and making the party convicted subject to indictment, is word for word from the New York Constitution.

The important principle of **rotation in the Senate** of the United States was also a New York contribution, Madison declared. Wilson also said it was proposed "avowedly on the plan of the New York Senate." The term in New York was four years and Article eleven of the

Constitution divided the Senators into four classes.

One-fourth of the members were to be elected every year. According to Charles Pinckney, the motive of the Convention of 1787 in adopting the rotative principle of New York was to remove all danger of aristocratic influence in the Senate, while the six year term would give it "all the advantages of an aristocracy—wisdom, experience and a consistency of measures."

The rotative principle would give an opportunity to destroy any nascent, aristocratic influence while the six year term would always leave a sufficient number of experienced Senators to conduct the business of state wisely and intelligently. It was also intended to prevent both Senators going out at the same time.

The idea of making the Vice President, President of the Senate (Art. 1, sec. 3, cl. 4) was also taken from the Constitution of New York. On September 4, 1787, the committee on postponed and unfinished portions reported to the Convention of 1787 through Brearly: "The Vice President shall be ex officio President of the Senate." This was taken from section twenty of the Constitution of New York, 1777.

Colonel Mason objected that this was a mixing of executive and legislative functions. Williamson, a member of the committee, then explained that such an officer was not wanted, but "was introduced merely for the sake of a valuable mode of election which required two to be voted for (for President) at the same time."

Once introduced, the Vice President must be given some place and some function in the system, hence he was made President of the Senate. They could not leave him merely as an ornamental figure-head whose only function was to be voted on by the electors when they chose the President.

"If the Vice President were not to be President of the Senate," said Sherman, another member of the committee, "he would be without employment." This would certainly have made him what Benjamin Franklin facetiously called him,

"His Superfluous Highness." To avoid this awkward situation, the members of the Convention conferred upon him the powers and duties of the Lieutenant-Governor of New York. He was to act as President of the Senate and like the Lieutenant-Governor he should only have a casting vote in case of an equal division. This was to prevent a deadlock.

Again, the Constitution of the United States provided for a President pro tempore of the Senate in two cases. (1) "in the absence of the Vice President" and (2) "when he shall exercise the office of President of the United States" (Art. 1, sec. 3, cl. 5). This was also taken from the Constitution of New York. Section Twenty-one provided that the Senate might choose a President in the absence of the Lieutenant-Governor or when he exercised the office of Governor.

Madison, in planning for the new Constitution of the United States, had the veto of the King in Council in mind and said so. Nevertheless, the immediate source of the Presidential veto was Article Three of the Constitution of New York, 1777. In New York at that time, the veto power was vested in the Governor and a council consisting of the chancellor, the judges of the Supreme Court or any two of them.

They had authority to revise or veto all bills, passed by the legislature, before they became law. Some such provision for all bills passed by Congress might be a wise arrangement. It would at least prevent the long delay of months or years which frequently elapse before an act reaches the Supreme Court for the test of constitutionality.

A comparison of Article Three of the Constitution of New York with Article 1, section 7, clause 2, of the Federal Constitution shows the two sections are almost identical, word for word, even to the two-thirds vote required to pass a bill over the President's veto and making the bill a law by holding it unsigned for ten days and the pocket veto.

The evidence showing that New York contributed the idea of the suspensive veto of the President is clear, direct and unimpeachable.

However, Alexander Hamilton regarded the Constitution of Massachusetts as the model for the suspensive veto of the President. The Constitution of Massachusetts vested the

veto power in the Governor alone instead of in a Governor and council as in New York.

The Constitution of the United States vests it in the President alone. Hamilton said: "The qualified negative of the President—tallies exactly with the revisionary authority of the council of revision of this state of which the Governor is a constituent part. In this respect the power of the President would exceed that of the Governor of New York, because the former would possess, simply, what the latter shares with the chancellor and judges; but it would be precisely the same with that of the Governor of Massachusetts, whose Constitution as to this article, seems to have been the original from which the Convention has copied." Again, he wrote: "I have in another place remarked, that the Convention in the formation, of this part of their plan, had departed from the model of the Constitution of this State in favor of that of Massachusetts."

He refers to the one point of the executive exercising the veto in Massachusetts instead of the executive and council as in New York. The Convention had departed from the model of New York to that extent, he said. The framers of the Constitution of the United States could easily exclude the council and give the powers it shared with the Governor to the President without copying from Massachusetts.

Without doubt, the framers had both Constitutions in mind. "Similar powers," said James Wilson, "are known to more than one of the states. The Governors of Massachusetts and New York have a power similar to this, and it has been exercised frequently to good effect." In his draft of the Federal Constitution (the so-called Wilson draft) he wrote after the veto provision "(Massachusetts Constitution of 1780, Ch. I, Art. II)." The evidence fails to support the view that Massachusetts contributed the suspensive veto of the President. Massachusetts provided a five day period instead of ten days as in New York and the Federal Constitution. It is true, the language of Article 2 of the Constitution of Massachusetts is practically identical with Article 3 of the New York Constitution and Article I, section 7, clause 2, of the Federal Constitution, but New York wrote that language into her Constitution in 1777 and Massachusetts in 1780. Massachusetts

copied it from New York and, therefore, to New York belongs the credit of contributing the suspensive veto to the Constitution of the United States.

For the term and reeligibility of the President, the model seems to have been the Governor of New York. The framers of the Constitution felt if a long term should be adopted for President, he could not safely be reeligible. They believed that reeligibility was too valuable to be given up, consequently, they adopted the principle of a shorter term and reeligibility without any limitation. The model was that of the Governor of New York. "There is a close analogy between him (the President) and a Governor of New York who is elected for three years and is reeligible without limitation or intermission," said Alexander Hamilton. Wilson who was a great admirer of the Constitution of New York took the idea from that and proposed it in Convention as early as June 1, 1787.

The succession of the Vice President to the office of President was also modelled in some degree after the Constitution of New York (Art. 2, sec. 1, cl. 5). Part of New York's phraseology in Article Twenty was written into the Federal Constitution. The words appear there in the order in which they are found in the Constitution of New York as "removal from office, death, resignation." Hamilton wrote of this in the *Federalist*: "We have a Lieutenant-Governor chosen by the people at large who presides in the Senate, and is the Constitutional substitute for the Governor in casualties similar to those which would authorize the Vice President to exercise the authorities and discharge the duties of President."

Impeachment is omitted from the Constitution of the United States as one of the occasions on which the Vice President succeeds to the Presidency. However, Rutledge and Gouverneur Morris moved that "persons impeached be suspended from their offices until they be tried and acquitted." This was the law and procedure of New York. Madison with wise foresight instantly pointed out that intermediate suspension would place the President absolutely in the power of one branch of the legislature which could at any moment unite to remove him. The proposal was, therefore, defeated.

The provision of the Constitution (Art. 2, sec 3) providing for the **President's message** to Congress was also taken from Article Nineteen of the Constitution of New York, 1777. On the opening of Parliament the King delivered a speech from the throne. The Governor of colonial New York followed this custom and communicated with both houses by spoken message. This procedure was written into the Constitution of New York and copied by the framers of the Federal Constitution. President Washington communicated with Congress by spoken message. President Jefferson adopted the written message, but President Wilson returned to the original custom of communicating with Congress by spoken message. This has been followed by later presidents.

The provision for **calling extra-ordinary sessions** (Art. 2, sec. 3) was contributed by New York. Other state Constitutions provided for calling extra-ordinary sessions, but it is the language of Article Eighteen of the Constitution of New York that was written into the Constitution of the United States.

The President is also to "take care that the laws be faithfully executed (Art. 2, sec, 3)." This seems to be a combination of language and ideas from the Constitutions of both New York and Pennsylvania. It is the exact language of Pennsylvania and New York except that New York used "are" instead of "be." To that extent it departs from the language of New York. On the other hand, in Pennsylvania it was the Governor and council who were to execute the laws, while in New York it is the executive alone. This departs from the Pennsylvania practice and was the principle and practice adopted by the Federal Constitution. Could New York have copied the provision from the Pennsylvania Constitution? That is possible as the Pennsylvania Convention assembled on July 15, 1776, and completed its labors on September 28, 1776. The New York Convention met on July 10, 1776, five days before the Convention of Pennsylvania. It did not, however, complete its work till April 20, 1777. The provision clothed in part of the phraseology used was also to be found in a colonial charter—the Pennsylvania Frame of 1683.

The legal doctrine that there should be **no corruption of blood** (Art. 3, sec. 3, cl. 2, Const. U. S.) in

the United States was also taken from Article Forty-one of the Constitution of New York, 1777. This doctrine had come into English law from continental feudalism at the Norman Conquest. Saxon law knew no such thing as "corruption of blood for felony or any other cause." This doctrine meant that where a person was attainted or convicted of treason his property was confiscated by the government and the heirs were forever barred or disqualified from recovering it. Under the old Saxon law, the heirs could recover on the death of the convicted person. Later England abolished the doctrine of corruption of blood by statute and adopted the principle of the Saxon law. The laws of Massachusetts, Pennsylvania and Virginia had laid down the Saxon law. The Constitution of New York was the only one which provided a constitutional precedent by establishing the doctrine as the law of New York that "such acts (of attainder) shall not work a corruption of blood (Art. 41)." New York went back to the Saxon law and wrote that into her Constitution. The Convention of 1787 wrote the same doctrine into the Federal Constitution and added by way of explanation: "or forfeiture except during the life of the person attainted." Therefore, in *Bigelow v. Forrest*, the Supreme Court of the United States held that where a father had been convicted of treason and his property confiscated by the government of the United States, the son had the right to recover the real estate on his father's death, as under the Constitution there is no corruption of blood in the United States.

The important **nonobstante clause** in Article 6, section 2, of the Federal Constitution is claimed to have been a contribution of New York. It reads: "Anything in the Constitution or laws of any state to the contrary notwithstanding."

New York, acting on the request of Congress sent to all the states on March 21, 1787, had passed an act repealing all acts contrary to the treaty of peace with Great Britain. "Anything in the said acts or parts of acts to the contrary thereof in any wise notwithstanding." That is, the treaty was made the supreme law of the land for state courts and the **non obstante clause** repealed all state laws to the contrary. Congress had proposed the embodiment of the **non obstante** in the state laws and this

was the source of the **non obstante clause** in the Federal Constitution.

However, Brinton Coxe stoutly contended this device was suggested to Congress by the New York case of *Rutgers v. Waddington*, 1784. It was feared that a conflict would result between a statute of New York and the treaty of peace, 1783; and that one or the other would be declared void. The court side-stepped the issue and held there was nothing in the statute contrary to the treaty if properly construed, or repealing any part of the law of nations. It was evident there was no intent on the part of the legislature of New York to interfere with the law of nations because the statute did not contain the common non obstante clause, "and it is an established maxim that where two laws are seemingly repugnant, and there is no clause of non obstante in the latter, they shall if possible have such construction that the latter may not repeal the former by implication." This opinion was based on *Dyer's Reports*, 348.

If the New York statute had contained a non obstante clause, the court would have been compelled to decide in accordance with the statute because the non obstante would have been an express repeal of the treaty. The absence of such a non obstante enabled the court to say it was not expressly repealed and they had no right to imply that it was. This New York case, it is said, was what suggested to Congress the idea of using the non obstante for the purpose of repealing all state laws contrary to the treaty of peace of 1783. The original or ultimate source of the non obstante runs far back into English history. Matthew Paris mentions that Henry the Third justified his use of the clause by quoting the authority of the Pope who issued bulls "non obstante any law to the contrary." The writer of Bacon's *Abridgment* tells us that they originated in Rome and were brought to England by the Pope and Clergy.

Amendment Seven was introduced in Congress by James Madison but Alexander Hamilton of New York was the real author. A clamor had arisen against the Constitution because it was said it abolished trial by jury in civil cases in favor of the civil law method of trial which was used in the courts of admiralty and chancery or equity. All the Constitution said about trial by jury was:

"The trial of all crimes except in cases of impeachment shall be by jury." It said nothing of trial by jury in civil cases. Therefore, patriotic alarmists like Patrick Henry declared the Constitution set aside the common law and established the civil law. In No. 81 and 83 of the Federalist, Hamilton discussed this situation and made a suggestion, which through Madison found its way into the Constitution as Amendment Seven. He pointed out that in the Convention no general rule could be fixed upon which would be acceptable to all the states because there was no uniformity in their judicial procedure. In the New England states and Georgia appeals could be taken from one jury to another until there were two verdicts out of three on one side. Irregularity and confusion would result if the procedure of any one state should be adopted in civil cases. He suggested that since the Supreme Court of the United States had appellate jurisdiction "with such exceptions and under such regulations as the Congress shall make," Congress would have power to provide that in cases coming on appeal to the Supreme Court, there should be no reexamination of facts once decided by a jury in the original trial. If, however, that should be regarded as too extensive, it could be limited to such cases as are determinable by the common law mode of trial.

Madison acted on Hamilton's suggestion by proposing on June 8, 1789, to amend the Constitution by adding to Article 3, sec. 2, cl. 2, the words: "Nor shall any fact triable by a jury, according to the course of the common law, be otherwise re-examinable than according to the principles of the common law." This was proposed by Congress to the states on September 25, 1789, in somewhat altered form and when ratified by them became the Seventh Amendment. It means that when facts have once been decided by a jury, they cannot be reexamined by any court of the United States except according to the rules of the common law of England. Those rules provide for reexamination only upon a new trial, granted either by the trial court itself, or ordered by an appellate court for error of law. Alexander Hamilton of New York was, therefore, the author of this provision. Madison simply proposed Hamilton's idea to Congress as an amendment.

The Ninth Amendment was adopted as a result of Alexander Hamilton's defense of the Constitution against the objection that it contained no bill of rights. He met the objection in No. 84 of the Federalist by saying that a bill of rights was unnecessary because the people surrender nothing and retain everything. It would even be dangerous because such a bill "would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted." Why declare that certain things shall not be done when no power is granted by the Constitution to do them? Why, for example, say that liberty of the press shall not be restrained when no power is granted to impose restrictions on the liberty of the press? In spite of Hamilton's defense the people were not satisfied that their rights had been sufficiently safeguarded.

On June 8, 1789, Madison, referring to Hamilton, said in Congress: "It has been objected against a bill of rights that by enumerating particular exceptions to the grant of power, it would disparage those rights which were not placed in that enumeration, and it might follow by implication that those rights which were not singled out were intended to be assigned into the hands of the General Government, and were consequently insecure."

This is merely a restatement of Hamilton's argument, and means that even if certain rights were enumerated or singled out in the Constitution for protection against the action of Congress, the conclusion might be drawn that other rights not enumerated or singled out for protection, the reserved rights could be regulated by Congress. Congress attempted to do this very thing in the Civil Rights Act of 1875, held void by the Supreme Court in the Civil Rights Cases. Congress in this act "assumed it had the power to create a code of municipal law for the regulation of private rights." The Supreme Court emphatically denied this.

Madison said the Ninth Amendment was intended to guard against the danger Hamilton pointed out in No. 84 of the Federalist. The necessity of the Amendment was suggested to Madison by Hamilton. Apparently if it had not been for Hamilton there would not have been any Ninth Amendment.

This does not mean that New York was the original and ultimate inventor of all the constitutional principles involved in this article. The history of the origin of these runs far back through colonial and English history. It means that the working of these principles in New York commended itself to the framers of the American Constitution and New York was the immediate contributor.



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Our Group

NO INCREASE IN RATES

No increase in premium rates has been put into effect for life insurance as offered to State workers under the Association's Group Life Insurance Plan. While it is true that many insurance companies have announced increased premium rates for new applicants, State employees who are or become members of the Association can still enjoy life insurance protection at the same low rates in effect since the beginning of the plan on June 1, 1939. For instance, at age 39 or younger, \$1,000 of life insurance may be had for only 30c per pay day.

The low cost of this valuable protection is not the only feature of the group plan. Payment for the insurance is made easy, as premiums are spread over a long period by payroll deductions. The same premium rates apply regardless of occupation, whereas if insurance were secured through individual means, employees who had hazardous jobs such as prison guards or hospital attendants would be charged higher premiums.

For the newly appointed employee to State service a special feature exists—such workers may secure the group life insurance without medical examination, providing application for the insurance is filed within the first three months of State employment. Otherwise, the insurance company's regular medical examination will be required.

The Association's Group Life Insurance Plan, since its inception in 1939 has resulted in payment of over one-half million dollars to the beneficiaries of over 300 deceased members. Most claims have been paid within twenty-four hours of the time the Association is notified of the death, and without red tape.

Officers and committees of the Association expended much time and energy in using the tremendous purchasing power of the Association's 35,000 members as a group to arrange this low-cost, broad-coverage protection for members. Naturally the officers and representatives of the Association want employees to take advantage of the fruits of their efforts.

Typical of the many letters received relative to the group plan is the following:

"The first thing that I wish to say is that I was almost astounded at the rapidity in which this payment was made, for with most insurance companies you have to wait a long time and present almost every form of document, so it is quite evident that the Employees' Association is doing everything possible to aid the distressed employees. This can only result in a satisfied group among our employees. I wish to congratulate you and your Association on the interest it takes in its fellow employees."

The amount of insurance which any employee can obtain is based on annual salary in accordance with the following schedule:

Annual Salary	Amount of Insurance
Less than \$900	\$ 500
\$ 900 but less than \$1,400	1,000
1,400 but less than 1,700	1,500

1,700 but less than 2,100	2,000
2,100 but less than 2,700	2,500
2,700 but less than 3,500	3,000
3,500 but less than 4,500	4,000
4,500 and over	5,000

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

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

Age Group	Attained Age (Nearest Birthday)	Semi-Monthly-Cost for Each \$1,000 of Insurance
A	39 and under	\$.30
B	40 to 44, inclusive38
C	45 to 49, inclusive50
D	50 to 54, inclusive70
E	55 to 59, inclusive	1.00
F	60 to 64, inclusive	1.50
G	65 to 69, inclusive	2.25

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

Under the group life plan, the insurance becomes effective on the 1st or 16th of the month following the date payroll deductions to cover the cost of the insurance is made. New applications are handled with the greatest expediency. The member's insurance is payable in event of death from any cause to the person or persons named by him as beneficiary. The member may change his beneficiary by filing with the Association a written request on forms furnished by the Insurance Company, accompanied by the Certificate of Insurance for proper endorsement. The group life insurance may be terminated by the policyholder at any time.

Of course, all employees of the State of New York, who are members of the Association or eligible to membership, may apply for the group life insurance. Applications must be made while the employee is actively employed. As stated heretofore, no medical examination will be required if the application is made by an employee within the first three months of State employment, otherwise, the customary medical examination of the insurance company will be necessary.

Any State employee who is interested in obtaining detailed information concerning the group life insurance plan may obtain same from the Association Representative in his group, or from Association Headquarters, State Capitol, Albany, New York.

Present policyholders in the plan should bring the value and advantage of the protection accorded to the attention of their fellow workers. Employees who are not covered by the plan should carefully consider its benefits. Newly appointed employees should act promptly to secure the life insurance protection without medical examination as offered.

Insurance Plans

AN APPEAL TO STATE WORKERS

BY C. A. CARLISLE, JR.

There are many thousands of State employees who have showed good vision in the purchasing of the very broad Plan of Accident & Sickness Insurance offered only to New York State employees, who are, or become members of The Association of State Civil Service Employees of the State of New York. This plan is offered at a very low cost and on very easy payments. Circulars are being sent out to all members of the Association who are not insured under the Plan, as well as those that are insured, in order that all State employees may refresh their memories, regarding the details of the broad coverage and the low cost of this insurance.

This plan is a cooperative plan, and in order to keep it going, many hundreds of new applications should be received every month, from employees now in the service, and new employees coming into the service.

Cooperation Needed

The cooperation of every State employee is needed in furthering the benefits of this very valuable benefit to every State employee, whether he comes within the Civil Service classification or not. Let me point out that any person in the employ of the State who is on a permanent State payroll, may apply for this insurance and may become a member of this Association. It is not necessary to be in the Civil Service classification to have the privilege of purchasing this insurance, but it is necessary to be a member of this Association.

The Facts

Briefly, the benefits of the Plan are:

- 1—Individual policies are **non-cancellable** so long as the group as a whole remains in force. (This is a very valuable item).
- 2—Premiums are paid by taking a small sum out of each paycheck.
- 3—**Cash benefits** are paid to insured persons when they are disabled due to accident or illness, all in accordance with the very broad provisions of this policy.
- 4—These policies do **not carry the usual exclusions** found in ordi-

nary individual Accident & Sickness Policies.

- 5—The policies are available to every State employee who is on any permanent State payroll, whether he comes under the Civil Service classification or not.
 - 6—A similar policy cannot be purchased from any company on any such broad basis nor at as low cost as this policy.
 - 7—Cheap policies are available for Accident & Sickness but they only pay for specified illnesses and specified accidents under certain conditions and have many limitations in them. These policies cannot be compared to this very broad low-cost insurance.
 - 8—Every State employee should give serious consideration to this insurance because the larger the group, the more opportunity there is to give broader benefits and lower cost to the persons insured.
 - 9—The coverages and the rates under your policy cannot be changed after you have once purchased it, except by you, yourself.
- Won't you lend a helping hand, then, to this Group Plan, by telling your fellow-employees who are not insured of the benefits as outlined above, because there are still many employees in all departments, and divisions, and institutions, who are not yet insured.

Suggestions Wanted

Any suggestions that you may have to offer as to the best way to get applications from these employees, will be very much appreciated, and your cooperation in getting whatever applications you can will also be appreciated by all those State employees who are covered under the Plan.

Do your bit now, by advocating the purchase of these policies throughout the Department in which you are employed.

If you can use additional literature, or additional applications, do not hesitate to write us, and we will be glad to forward them to you immediately.

Claim Service

Claims are paid with the utmost

of speed. Our only request is that all claims should be reported immediately to the nearest office of the Commercial Casualty Insurance Company, whose addresses are:

75 State Street, Albany, N. Y.
59 John Street, New York, N. Y.
1024 Lincoln-Alliance Bldg.
Rochester, N. Y.

White Building, Buffalo, N. Y.

Prompt reports will make it possible to make the proper investigations, and prepare for payment of your claim. One thing to remember is, that this policy covers all civilian injuries which might be incurred during air-raids, etc., and the attractiveness of this low-cost, cooperative Group Plan of Accident & Sickness Insurance should be multiplied many fold—particularly during these times of war and black-outs.

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Attorney General Rules

ON MILITARY SERVICE PROBLEMS

"Hon. Joseph V. O'Leary,
State Comptroller,
State Office Building,
Albany, New York.

"Dear Sir:

"In the course of its administration and with the intervention of several new considerations, a number of general questions have arisen concerning Section 245 of the Military Law, some of which have been the subject of inquiry by both State departments and individual employees. I have, accordingly, deemed it advisable to take up these general issues in an inclusive opinion for your guidance and that of the other State departments as well as for the protection of the employees of the State affected thereby.

"I. What constitutes Reserve force membership.

"Section 245, providing for differential salary payments when on ordered duty, is limited in its application to employees who are members of the National Guard or Naval Militia, or 'of the reserve corps or forces in the federal military, naval or marine services.'

"No difficulty arises with respect to the National Guard, which is so described and identified in both State and Federal statutes. The only question presented in that connection was with relation to employees whose terms of enlistment therein expired after induction into federal service. As to these, it was held in an opinion to the Adjutant General on January 23, 1941, that Section 245 did not apply upon re-enlistment since such re-enlistment under applicable federal statutes and regulations was in the Army of the United States on a voluntary basis for full time active service during the period of such enlistment, resulting in membership in neither the National Guard nor any reserve organization.

"'Reserve corps or force' is, on the other hand, a descriptive category into which various organizations may fit. It must be remembered in construing it that Section 245 extends no protection to those who leave civil employ to volunteer for or who are conscripted for active military service. In an opinion to

your office dated January 28, 1941, concerning reserve nurses, it was said with respect to Section 245 that:

"Its intent is to protect those who, by membership in the organized militia or reserve forces, have placed themselves at the peremptory call of the State or nation when they are required to respond thereto.'

"It relates only to those who have a reserve or militia status and are taken from their ordinary civil pursuits by order applicable to them because thereof, as distinguished from those who leave their public employment because of direct entry upon active service in the standing military forces.

"The main reserve forces within the statute comprise the following:

Army Reserve Corps—

Regular Army Reserve (10 U. S. C. A. 43)

Officers Reserve Corps (10 U. S. C. A. 351)

Enlisted Reserve Corps (10 U. S. C. A. 421)

Reserve Nurses of Army Nurse Corps (10 U. S. C. A. 161)

Naval Reserve (34 U. S. C. A. Chap. 15-A)—

Fleet Reserve (Sec. 853)

Organized Reserve (Sec. 853)

Merchant Marine Reserve (Sec. 853)

Volunteer Reserve (including female nurses (§853b), (Sec. 853)

Reserve Nurses of Navy Nurse Corps (Sec. 42)

Marine Corps Reserve—

Fleet Marine Corps Reserve (34 U. S. C. A. 853a)

Organized Marine Corps Reserve (34 U. S. C. A. 853a)

Volunteer Marine Corps Reserve (34 U. S. C. A. 853a)

United States Coast Guard Reserve (14 U. S. A. Chap. 9, sub-chapter 2, §§ 301, 304, 305).

"On this point the expanding air training program requires some consideration. There has been created in the Army Air Corps the grade of flying cadet for army aviation students (10 U. S. C. A. 97). Upon satisfactory completion of the prescribed course of training, such cadet may, if he so desires, be commissioned in the Officers Reserve Corps

(Sec. 299). It follows that not until so commissioned has reserve status been obtained.

"With respect to the Navy and Marine Corps, the grade of aviation cadet is created in the Naval Reserve and Marine Corps Reserve, but such cadets must agree to serve for a continuous four year period of active duty unless sooner released (34 U. S. C. A. 842). Here it follows that the cadet, although by federal statute a member of the Reserve Corps, actually enters directly upon a fixed period of active service and is not placed in reserve status within the meaning of Section 245 until the completion thereof. It follows likewise that no public employee will come within the terms of Section 245 of the Military Law solely by entering upon training as an army flying cadet or naval or marine aviation cadet.

"The foregoing is not intended to be an exclusive enumeration. Other circumstances of less immediate or general application may require a determination when and if they are presented. It is noted, for instance, that retired military personnel may sometimes be assigned to active duty and that Public Resolution No. 96, hereinbefore mentioned, extends to retired personnel in the Regular Army. It is noted also that upon completion of training and service under the Selective Training and Service Act of 1940 (§ 3-c) each man becomes a member of a reserve component of the United States land or naval service, subject to call to duty with certain exceptions. Doubt may be expressed that such a situation falls within the spirit of a statute designed to protect public employees who voluntarily assume a reserve status: carrying an obligation of active military service in time of need. Nevertheless, sight must not be lost of the possibility of compliance with the letter thereof.

"One of the most frequently asked questions has been whether an employee who now joins any of the reserve forces will be entitled to salary differential under the statute when assigned to active duty, in view of the fact that a national emergency

already exists and such active duty is almost certain to follow such enlistment. The opinion of January 23, 1941, holding that those enlisting or re-enlisting in former National Guard units after their induction into Federal service will not be entitled to such differential, has been responsible for most of the inquiries on this point. Analysis of the two situations discloses the distinction between them. The National Guard is the organized State militia, having a dual status as part of the National Guard of the United States in so far as federally recognized (32 U. S. C. A., §§4, 4a). Upon draft for Federal service it, or any part or member thereof, is relieved from State duty and becomes part of the Army of the United States so long as in the active service of the United States. As pointed out in the above mentioned opinion, when a man's enlistment expired during such service he was discharged under then existing federal regulation. Enlistment or re-enlistment was in the Army of the United States for active service and entirely voluntary. Upon discharge of the unit from active service, such person normally was discharged from all further obligation. No National Guard or reserve membership was attained. The assumption of active duty was entirely voluntary and on no different basis than service pursuant to voluntary enlistment in the Regular Army. The extension of enlistment and service under the subsequent Service Extension Act, hereinafter considered, has now obviated the question decided in the opinion of January 23, 1941, but there has been no alteration in the principle upon which it was based.

"In the case of the reserve corps, above mentioned, enlistment or obtaining a commission results in voluntary membership in a recognized reserve force. Such enlistment or commission, however, does not of itself place the reservist on active service. Such duty will follow only upon an order applicable because of such reserve membership. If not dependent upon consent and even if immediately to be anticipated, service thereunder will satisfy all the requirements upon which the protection and benefits of Section 245 are dependent. The situation is much more analogous to that where an employee enlisted in a National Guard unit before its induction into

federal service but after orders therefore had been issued, as to which we held, in the opinion of October 22, 1940, that Section 245 had been complied with.

"In immediate practical result the employee now joining the reserve and being ordered to duty in consequence, might appear to be in no different situation from the situation presented if he enlists or re-enlists in a unit of the Army of the United States on active service after its induction from the National Guard. The distinction is compelled by the foregoing considerations in view of the purpose and operation of Section 245. Its reality is apparent upon taking into account the full consequences in each case. As above pointed out, re-enlistment in a former National Guard unit terminated upon its discharge from active service, whereupon the individual did not revert to National Guard status but was free from all further obligation. The reservist, however, upon release from active duty remains a member of the Reserve Corps (if his enlistment has not meanwhile terminated without extension), subject to subsequent order if his services should again be needed.

"The question of acceptance of a commission in the Army of the United States while on active service by an enlisted man inducted from the National Guard has likewise been the subject of doubt raised by the re-enlistment opinion of January 23, 1941. Paragraph 152 of Army Regulations (AR 130-10) provides that all appointments and promotions of officers of the Army of the United States inducted from the National Guard will be temporary for the duration of the national emergency and for six months thereafter unless sooner relieved. A letter dated June 4, 1941, from the Adjutant General of the Army on the subject of 'status of National Guard enlisted men inducted as officers,' indicates that expiration of State enlistments will not relieve such officers from liability to serve for twelve months under Public Resolution No. 96. It follows that, by accepting a commission an employee, who might have otherwise been discharged at the expiration of his enlistment, may be required to remain longer in active service. This result is brought about by the change from enlisted to commissioned status. Rather than a voluntary assumption of a new period

of active service, it is, in my opinion, a promotion incident to the original ordered duty to which Section 245 was applicable and does not disqualify such officer from continued receipt of civil compensation thereunder. This will not be the result of acceptance of a commission in the Regular Army, however, since that branch of the service is the 'permanent military establishment' (10 U. S. C. A. 3) and not within Section 245.

"II—What constitutes ordered military duty.

"The other equally important requisite of Section 245 is 'performance of ordered military or naval duty.' Here again the State statute employs a general characterization and it is the provisions of Federal statutes or regulations which will govern whether or not duty is ordered within its meaning. These are subject to change from time to time, as the Service Extension Act of 1941 and subsequent regulations demonstrate.

"Section 245 contains no limitation of time with respect to the duration of salary differential payments except that an employee will be entitled thereto only so long as he is on ordered duty as a reservist, National Guardsman or Naval Militiaman. Officers of the National Guard of the United States and members of the Officers Reserve Corps and Enlisted Reserve Corps normally could not be called to duty for more than fifteen days without consent except where a national emergency was expressly declared by Congress (32 U. S. C. A. 81c; 10 U. S. C. A. 369. 426). Public Resolution No. 96, passed by Congress, altered this to the extent of permitting the President to order all personnel of reserve components of the Army of the United States to active duty for twelve consecutive months. In an opinion to the Superintendent of Public Works, dated February 14, 1941, I held that any order to duty under Public Resolution No. 96 came within the requirements of Section 245, since under army instructions consent of the individual was not a factor therein, but that in any case where consent was a prerequisite to an assignment to duty, such service could not be considered as ordered duty within the statute. The principle upon which this conclusion was reached furnishes a guide for determination of questions raised by

subsequent federal action with respect to duration of service. On August 18, 1941, the Service Extension Act was approved by the President (Public Law No. 213). This authorized the President to extend for eighteen months the periods of service, enlistment, appointment or commission of any or all members of reserve components of the army then, or who might thereafter be, in or subject to active service. Pursuant thereto, on August 21, by Executive Order No. 8862, the President extended the period of service of members of the Regular Army Reserve, Enlisted Reserve and of the National Guard for eighteen months, and at the same time extended the periods of enlistment of all such persons for a like period, unless sooner discharged.

"It now follows that no person will be released from active service solely because of the normal expiration of his period of enlistment in the reserve or National Guard. His extended duty will not be dependent upon consent but upon executive order and he will continue to meet the requirement of ordered duty under Section 245.

"I am unable to find that there has yet been any ordered extension of service on the part of members of the Officers Reserve Corps and it follows that, barring such action, service beyond twelve months under Public Resolution No. 96 will, in accordance with the opinion of February 14, 1941, not be ordered duty.

"I am also unaware of any change in the policy of the War Department not to order reserve nurses to duty without their consent and there is, accordingly, no basis for altering the conclusion reached in my opinion of January 28, 1941, to your office concerning them.

"The Service Extension Act, in Section 4, contains a provision that the Secretary of War shall release from active service those persons applying therefor where retention would cause undue hardship to their wives or dependents. Public Resolution No. 96 had provided in Section 3-e that persons below the rank of captain could resign or be discharged upon request in dependency cases. Executive Order No. 8862, extending terms of service and enlistment, provides for earlier discharge or release under regulations by the Secretary of War after completion of twelve months service. A letter of

the Adjutant General's Office of the War Department, dated August 22, 1941, contains detailed instructions concerning release of enlisted men from active service. This provides for release on request in specified instances.

"Question has been raised whether men, eligible to apply for release, continue on ordered duty within the meaning of Section 245 where they do not do so. This presents an entirely different situation from that where entry into active service is dependent upon consent of the individual and he is, therefore, free to serve or not, as he chooses in advance. To obtain release under the above provisions affirmative application must be made establishing the right thereto and it must be acted upon favorably by the military authorities. Where employees have been placed on active service by obligatory order, no reasonable view of Section 245 requires that they take every available step to secure release before they may claim its protection.

"The War Department instructions provide in detail for the order of release or discharge of personnel in active service but state that those desiring to remain on active duty may do so either by enlisting or re-enlisting in the Regular Army or by extending their terms of active duty up to a total of thirty months as authorized by the Service Extension Act. The Regular Army is not covered by Section 245 and it is obvious that where the period of active service is extended in other cases at the request of the individual, he will not be on duty without his consent. In either case no salary will be payable under Section 245 beyond the date he would have been discharged in due course except for such re-enlistment or voluntary extension.

"The State Adjutant General has presented the question of whether the \$10.00 bonus per month, provided for enlisted personnel by Section 8 of the Service Extension Act, in addition to the amount otherwise payable, for each month of active service in excess of twelve, should be added to the pay for grade as military salary. In my opinion this amount must be considered as an increase in compensation paid for performance of military duty and should be taken into account in computing salary differential.

"The Naval and Marine Reserve Corps, as well as the Coast Guard

Reserve, are subject to order to active duty without consent in an emergency declared by the President, to serve until such emergency ceases to exist (34 U. S. C. A. 853c; 14 U. S. C. A. 305). Since such emergency has been proclaimed by the President, these provisions became operative without Congressional action. A Navy Department release, dated July 16, 1941, indicates that the Secretary of the Navy on June 10, 1941, directed that all enlisted naval reserve personnel, other than the members of the sixteen and twenty year classes of the Fleet Reserve, then or thereafter on ordered duty, be retained thereon for the duration of the emergency, without discharge, re-enlistment or extension of enlistment. Prior to this the Navy had been retaining on active duty men not requesting release or who re-enlisted or extended their enlistments in the Naval Reserve (Bureau of Navigation Circular Letter 11-141, Feb. 14, 1941). While such duty would appear to have been within the requirements of Section 245 in accordance with views hereinbefore expressed, there can now remain no question of the ordered character of active duty by enlisted naval reservists in view of the direction of the Secretary of the Navy that they will be required to remain in service.

"Since a number of men have already been and will continue to be released from service under present circumstances, the question of when those in public employment must report back for work in order to retain their positions is of importance. Section 246 of the Military Law, in sub-division 2, provides for reinstatement in public employ upon application within sixty days after termination of military duty and, in the discretion of the appointing officer, at any time within one year thereafter. This applies to all public employees now in military service under any circumstances, but Section 245, which provides for salary payments, as well as continuation of employment, to a limited class of employees, contains no such sixty-day provision. It follows that an employee receiving compensation under Section 245 will not be entitled to any salary payments between the time of his release from military service and his report for work in his civil employment, allowing him, however, a reasonable time within which to

(Continued on page 33)

Suggested For Reading

Prepared by the
Book Information Section of the
New York State Library

FICTION

The Big Snow; Christmas at Jacoby's Corners, by Jake Falstaff, pseud. Houghton. \$1.75.

Young Lemuel, the city boy whose happy discovery of life in the country was so delightfully recorded in *Jacoby's Corners*, now makes a winter visit to his Grandma Nadeli on her Ohio farm, arriving just in time for the first great snow-storm of the season; snow rising to the attic windows and keeping the boy away from the school he is to attend during his vacation. A warm evocation of mid-western farm life of the '80's, as the temporary-farmer boy enters into all the activities of work and play as the weeks roll on to Christmas and the New Year with their attendant festivities.

London Pride, by Phyllis Bottome. Little. \$2.

What doubtless happened to thousands of people living in London's Dockland when "that bloke 'itler began dropping 'is bombs" on them, and how they adjusted their lives with stubborn heroism and with generosity to each other, aided and befriended by "People of Power and riches" is exemplified in this story of the harrowing and exciting experiences of seven-year-old Ben Barton, whose wise, kind mother, a charwoman, is harried by fears for her children, yet is loath to let them be evacuated. One day Ben and his tough little playmate, Em'ly, are buried alive, while Em'ly's family is wiped out of existence. How Ben's mother comes to adopt Em'ly and how Ben finally finds peace in the country is related with compassionate, humorous understanding and pride.

Tapiola's Brave Regiment, by Robert Nathan. Knopf. \$1.75.

Tapiola, the pampered little Yorkshire terrier who leads a literary life in the home of the Poppels, famous publishers, senses something menacing in the air and is filled with uncertainty after a dream of destructive herds of giant-aurochs. Convinced that the enemy aurochs, though extinct, "have popped up again," and feeling he must fight for freedom or perish, Tapiola raises a regiment

composed of his friend, Jeremiah, the clever old rat, and Micah, a young rat desirous of becoming a Corporal, Henry, the pigeon, dubious about leaving his flirtatious wife, and Richard the timid canary. What happens when the regiment, nervously bivouacking in the park meets the enemy, a straying little honeybear, brings to a close a little story, symbolic in implications, touching, yet delicately satiric and delightfully humorous.

Windswept, by M. E. Chase. Macmillan. \$2.75.

On a high, bare and windswept Maine promontory, hitherto shunned by man, Philip Marston, in the '80's, decides to build a home for himself and John, his fourteen-year-old son. Dead in a hunting accident before the consummation of his dream, Philip is buried near the site of *Windswept*, leaving John to carry out the plan.

NON-FICTION

Aztecs of Mexico; Origin, Rise and Fall of the Aztec Nation, by G. C. Vaillant. Doubleday. \$4.

Based on years of archeological and documentary research by the Associate Curator of Mexican Archeology at the American Museum of Natural History, this is a definitive and fascinating history of the Indians of the Valley of Mexico and the civilizations which they wrought. Chapters are devoted to Aztec craftsmanship, fine arts, religion, ritual, their social organization and economy. Copiously illustrated from photographs.

Secret History of the American Revolution, by Carl Van Doren. Viking Press. \$3.75.

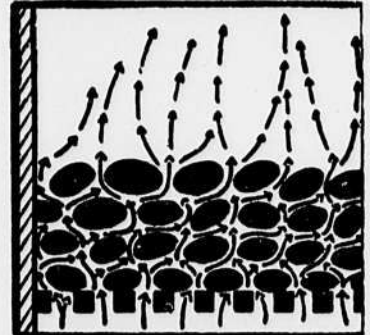
"Beneath the open war (of the American Revolution) there was a hidden war, more dangerous to the

Americans than has ever been realized." The secret history of that hidden war is "only a part of the whole history of the Revolution;" and as revealed here it is not solely the story of the bold, crafty, unscrupulous Benedict Arnold's treason, but also a general history of other similar transactions.

Good Neighbors, by Hubert Herring. Yale University Press. \$3.

In these times of war, when American unity and hemisphere planning are so imperative and the doctrine of "the Good Neighbor" faces so many hazards, the author, long familiar with Latin America, writes candidly and with understanding of the twenty nations to the south of us, but more particularly of Argentina, Brazil and Chile.

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Attorney General Rules

(Continued from page 31)

return under the individual circumstances.

"Section 246 was passed after the nation had taken steps to meet an existing national emergency by calling upon its man power. Its purpose is to preserve and protect the positions and rights of all those public employees who chose or were required to meet that call. Section 245, however, has long been a part of the Military Law, providing salary protection for public employees responding to a mandatory call for military service because of an obligation incurred by Reserve Corps or National Guard membership. Observance of this basic purpose has led to the foregoing conclusions with respect to its application. They are submitted for your guidance in administering the statute in view of the numerous questions of a general nature which have been presented under existing circumstances. It must be observed in conclusion, however, that subsequent events, the outbreak of war, changes in federal statutes or regulations, or even of military policy under existing authorization, may require different conclusions, either generally or in given cases, in accordance with the principles herein expressed."

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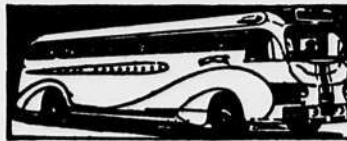
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June —, 1941

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PLEASE READ CAREFULLY, Answer Each Question \$500 Date _____ 19__

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I am employed as _____ My regular duties are _____ (Explain Fully)

Have you to the best of your knowledge and belief any diseases or infirmities, have you ever been treated for or advised that you have tuberculosis, except as follows? (Answer Yes or No) _____

Have you within the past five years had medical or surgical advice or treatment or any departures from good health or have you had, or been advised to have, an operation? If so, (give details) (Answer Yes or No) _____ Month _____ Year _____

Nature and Cause _____ Duration _____

Has any application for Life, Accident or Health Insurance ever made by you been declined, postponed or rated up? _____

Name of Beneficiary (in full) _____ Relationship _____

Address of Beneficiary _____ (Must be Estate or Relative)

Street _____ City _____

I understand and agree that the policy to be issued upon the basis of this application shall be void unless I am on duty and regularly employed at the time this insurance becomes effective, even though payment has been made by deduction or otherwise and I represent that each and all of the foregoing answers are true and complete.

I apply herewith for membership in | The Association of State Civil Service Employees of the State of New York

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