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The 162nd session of the Legislature which ended on May 20, 1939, was one of the longest sessions in the past twenty years. Very little civil service legislation of a constructive nature was enacted and the session was noteworthy chiefly for the controversy over the constitutionality of the lump sum budget substituted by the Legislature for the line-item budget submitted by Governor Lehman. The Legislature, in the early part of May re-wrote practically the entire appropriation bill for the support of State government and, in addition to changing the form of the bill from an itemized budget to a lump sum budget, it reduced the appropriations for State departments and institutions by approximately $9,000,000.

The legislative proposals were promptly and strenuously opposed by the Association. As soon as the proposal was announced a brief was submitted by the Association to all members of the Legislature and widely distributed throughout the State, in which the proposed lump sum budget was condemned as unconstitutional. Civil Service employees saw in the lump sum budget a serious threat to the merit system. So long as the present constitution remains unchanged, the Civil Service employees of the State of New York are assured that the Legislature was without power to alter the budget submitted by the Executive by transforming it into a lump sum budget.

Civil Service employees have every reason to be gratified by the decision of the Court of Appeals which removes this serious threat to the merit system. So long as the present constitution remains unchanged, the Civil Service employees of the State of New York are assured that the budgets hereafter submitted must be enacted in itemized form.

The amount the Legislature will cut from the appropriation bill is still uncertain. Of the $9,000,000 in cuts originally enacted, approximately $2,000,000 were restored in the supplemental budget. The protests of the Civil Service employees and the heads of the various departments of the State government resulted in a restoration of a few of the drastic cuts made in the general appropriation bill. Of the proposed cut of $1,546,140 in the Department of Mental Hygiene, $1,140,000 was restored; $190,000 was restored to the Division of State Police; most of the cut for the Civil Service Department was restored and there were further restorations of small amounts in other departments. Whether additional restorations will be made depends entirely upon the outcome of the special session of the Legislature.

As this report is being written, the Legislature has just reconvened in extraordinary session. Governor Lehman has issued a special message requesting restoration of the appropriations for highways, state aid, and for the support of government. The Republican leaders of the Legislature have announced that the cuts here-tofore made will be reenacted in constitutional form. The whole subject however, has been reopened and there is widespread opposition to the reenactment of the cuts. The Association has pointed out to members of the Legislature that the continuance of these cuts will result in the layoff of many hundreds of employees and has vigorously protested against the crippling of many departments and institutions and the abandonment of necessary and useful state services. At this time, no one can foretell the final outcome.

The controversy over the budget has overshadowed all other legislation affecting Civil Service employees. During the session, 2,298 bills were introduced in the Senate and 2,340 were introduced in the Assembly, a total of 4,638 bills. Of these, 1,233 were passed in both houses. Governor Lehman vetoed a total of 306 bills and only 927 were finally enacted into law. Because of the fact that over 300 bills affecting the Civil Service status, pension rights and working conditions of Civil Service employees, were introduced during the session, it is impossible, within the limits of this report, to do more than summarize the new laws which were enacted and refer briefly to the bills which were vetoed by the Governor or which failed to pass the Legislature.
Court Decision on
TEMPORARY APPOINTMENTS

An important decision with reference to the legality of temporary appointments was handed down this month by Supreme Court Justice Francis Bergan.

The petitioner, Philip Hilsenrad, who was represented by Attorney John T. DeGraff, had been given an appointment in the Department of Labor "for a temporary period of one to five months, with possibility of permanency." The court held that the limitation in the appointment was illegal and that he had, in fact, been given a permanent appointment.

This decision brings to the foreground the violation of the Civil Service Law inherent in the practice of making temporary appointments for extended periods, and the Civil Service Commission is considering an amendment to its rules to clarify the situation with respect to temporary appointments.

Judge Bergan's decision reads as follows:

"The letter of Elmer F. Andrews, then Industrial Commissioner, to the petitioner, dated February 18, 1939, advised him that he had 'been selected for appointment to the position of labor welfare investigator at a salary of $1,700 per annum.' A condition was imposed by the appointing officer that the appointment was to be 'for a temporary period of one to five months, with possibility of permanency.' The court held that the limitation in the appointment was illegal and that he had, in fact, been given a permanent appointment.

"A 'temporary' appointment cannot exceed one month in duration. (Civil Service Law, Sect. 15, Subd. 3). The need of such service must be 'important and urgent.' There cannot be successive temporary appointments to the same position, or to any other position in the competitive class within four months unless such person shall be one of the three highest on the list willing to accept such employment." (Civil Service Rule VIII, Subd. 7).

"The power to make temporary appointments under the permission of a statute allowing such appointments to be made for one month cannot be enlarged to include a period of 'one to five months.' This condition, added to the appointment by the industrial commissioner, was invalid. It is in violation of the express language of the statute. The Civil Service Commission could not waive the limitations of the statute or informally waive the provisions of its own rules promulgated in accordance with the statute. No temporary appointment can, under any circumstances, exceed one month. A temporary appointment may, in conformity with Rule VIII, be made again for a period of one month at the end of the first period, if the appointee is in the proper position on the list, or it may be made after four months. In either event it is a new and separate temporary appointment. The scheme of the statute is plainly prohibitory of any continuity in temporary appointments exceeding one month in duration.

"I construe petitioner's appointment on March 1, 1938, as a permanent appointment. When made it was for a probationary term, fixed by rule at three months. (Civil Service Law, Sect. 9; Rule XII). A continuous appointment exceeding three months becomes permanent. The respondents are wholly without power, by the means here adopted, to extend the probationary period. I think petitioner is entitled to reinstatement.

"The manner in which the state acquires the funds to pay petitioner's salary has nothing whatever to do with the issues here. If there are no funds, he is placed on a preferred list; if there are funds available for his position, whatever their source, he, and not someone else, must be retained. The fundamental principles and rules governing civil service render this conclusion inescapable."

PAY YOUR DUES TODAY!

Champlain Canal Workers Dine

The Second Annual Dinner of the Champlain Chapter of the Barge Canal Civil Service Employees Association was held at the Hotel Schuyler, Schuyler-ville, N. Y., on April 8, 1939. Present at the dinner besides members of the Chapter were a number of guests from the Eastern and East Central Chapters of the Canal Association. Above is a picture of the members attending.
Within forty-eight hours of the time the Group Life Insurance Plan arranged and sponsored by this Association took effect on June 1st, the first death of a member insured under this plan occurred. This claim was settled within twenty-four hours of the time the Insurance Company was notified. The beneficiary of the deceased received $500.00, while only one deduction was made from the salary of the deceased to cover the premium, and this deduction was in the amount of 50c.

The second, third, fourth, fifth and sixth claims were likewise settled most promptly, for deaths to members occurring June 8, 11, 13 and two on the 18th. The theory adopted by numerous young employees in State Service that only the older employees need life insurance protection, was thoroughly discredited by the fact that the third claim was for the death of a young man of only 31 years of age. Two of the claims were for accidental deaths.

The Association has received numerous messages of commendation from department heads, institution heads and employees of every rank, upon the successful culmination of many months of effort to put the group plan in effect. Since the effective date of the plan, new applications for the life insurance have been received daily, joining with the thousands of lives of State workers already insured under the plan.

**No Medical Examination**

Any State employee, who is a member of the Association, or eligible for membership, may still apply for this low-cost life insurance. No medical examination will be required if you apply NOW. However, failure or neglect to apply NOW may subject the applicant to the customary medical examination of the Insurance Company, and to the possible refusal of the application. Applications for or information about the group life insurance may be secured from Association Headquarters, or from any Association Representative. Completed applications should be sent to Association Headquarters, Room 156, State Capitol, Albany.

**New Applications**

New applications as received will be placed in order for payroll deductions with the greatest expediency, and the insurance will take effect on the Insurance Day following the date of the payroll check from which the deduction was made. Insurance Days under the Group Life Plan will be the 1st and 16th of each month. In submitting new applications, employees are urged to fill out the card in detail, and thereby prevent unnecessary delays.

**Payroll Deductions**

In the event that no deduction is made from the pay of a member insured under the plan, whether due to an error in preparing the payroll, or to the fact that the member has no pay due him for any one of many reasons, it will be the responsibility of the insured member to make necessary payment to the Association, in order to keep the insurance in effect.

In establishing the payroll deduction system made possible through the kind cooperation of the State Controller, several errors have occurred in the amounts deducted. Also, several employees had cancelled their insurance before the plan became effective. Through error, however, deductions to cover premiums were made. Such employees should notify Association Headquarters so that necessary adjustments may be made at the proper time.

**Certificates of Insurance**

The Group Master Policy, under which the members of the plan are insured, has been issued by the Travelers Insurance Company, Hartford, Connecticut, to the Association.

Certificates of Insurance will be issued under the terms of the Master Policy by the Insurance Company to the Association, so that each individual member insured under the plan shall receive his Certificate of Insurance in the very near future. In the meantime, however, the member’s insurance is in effect if the proper deduction is made from his pay, or if cash payment is made in lieu thereof, as stated heretofore.

**The Member’s Responsibility**

Any State worker owes it to himself, to his family, spouse and dependents to investigate the opportunity for low-cost life insurance protection offered through this plan. In addition to the Low-Cost feature, made possible through the group purchasing power of the Association, one must consider the ease of making payments through convenient deductions automatically made from paychecks. If you are a prison guard, a ward attendant in a mental institution, a State Trooper or have some other hazardous occupation, it has no effect on the rates under our group plan. The same rates are in effect, regardless of your job. If you leave state service, retire or reach age 70, you may convert your insurance into any other form of insurance written by the company, except term insurance, without medical examination, at the attained age rate. Also upon retirement, the employee may remain in the plan, making payments to the Association at the group rates, until age 70 is reached. The low cost, and many special features of our Group Life Insurance Plan should persuade you to apply for it TODAY.

**Your Cooperation is Urged**

Every present member of the plan should bring the special features of the Association’s Group Life Insurance Plan to the attention of his fellow State workers. Everybody needs life insurance protection. In spite of the intensive efforts of the Association and the Insurance Company, there are still many employees who do not understand the plan, or who were not contacted at the time the plan was explained to employees. New State employees should certainly be familiarized with the plan without delay.

The ultimate degree of success of the plan will depend on the number of members insured under the plan.
Appeal to the Legislature

By personal letter, President of the Association, Charles A. Brind, Jr., under date of June 26th, again appealed to each member of the Legislature for the restoration of appropriations to prevent lay-offs or dismissals among State workers, and for the application of the Feld-Hamilton Law and other salary adjustment measures. President Brind's letter follows:

"We appeal to you, on behalf of the New York State Civil Service Employees, to reconsider your action as to all statutes recently enacted reducing the wage scale of State workers for the year 1939-40.

"We believe sincerely that restoration of the appropriation for personal service would restore a confidence and morale amongst State employees vastly more beneficial to taxpayers than the savings made by dismissing and reducing the salaries of low-paid State workers. It is now evident that the reduction imposed at the regular session will embarrass many departments and institutions, and require the abandonment of many necessary and useful governmental services.

"Many State employees have been notified that their services will not be required after July first. During the regular session, individual members of the Legislature repeatedly stated to State employees generally, and on the floor of the Senate and Assembly, that no dismissals of Civil Service employees were contemplated. Yet, despite these assurances, widespread lay-offs are inevitable because of the reduction in the appropriation for the support of State Government.

"Furthermore, the Legislature has never provided unemployment insurance for State workers. Dismissed State employees do not have the protection which the State has required of private employers. The Pension System, to which all State employees must contribute, does not take care of the situation, because pensions are paid only to aged and disabled workers. Many of the dismissed employees have served the State for ten, twelve, fifteen years or more. They will receive no pension or unemployment insurance, but will be thrown upon a business and industrial world already oversupplied with workers. Civil Service employees, who are now performing necessary and useful public service, will in many instances be forced to go on the relief rolls. We do not believe that the citizens of the State fully understand this situation.

"The reduction of wages by the State of New York is very logically looked upon as a weakening of the wage scales generally throughout industry, bringing about a reduction of purchasing power and containing a real threat to agricultural and industrial prosperity. It should be remembered that the money paid to State workers finds its way into the channels of New York State trade very quickly. It is generally recognized that the maintenance of wage scales and purchasing power is vital to business recovery.

"A review of the facts will show that State employees have borne the brunt of practically all economies of State government for many years. During the past seven years a continuous State policy of retrenchment has reduced the number of employees to a minimum. The carefully prepared statutes which provide increments and time service for State employees may not honestly be considered as increases in pay, because these statutes constitute a sound, long range, economical wage plan. The Feld-Hamilton Law has won commendation from administrators and citizens throughout the country, and its extension to every agency of the State government would exemplify statemanship of the highest order. Is it economy to suspend and emasculate this fair and equitable wage plan to accomplish a saving of $650,000?

"This Association, which has a membership of over 30,000 State workers, has sought at all times to promote honest, loyal and efficient State service. We are confident that you will give serious thought to the importance of protecting and upbuilding the Civil Service, and we trust that you will recognize the fairness and the justice of our request for the restoration of appropriations for the support of the State government."

Feld-Hamilton Baby!

State employees will read, with interest, the following excerpt from the column of John Mooney entitled "In Politics," which appeared in the "Albany Knickerbocker News" on June 17:

"Mr. Moffat, the GOP ax-man of the budget, has received some scorching letters from persons protesting the Republican economy cuts. Among these have been many from Civil Service employees protesting the action of the Legislature in suspending for one year, at least, the pay increases guaranteed them under the Feld-Hamilton Law, which went into effect a year ago. But a communication of this nature yesterday took all pieces. It was one of those small birth announcement cards and had a picture of a stork and a basket bearing a baby.

"The envelope was addressed to "Honorable' Abbot Low Moffat, Capitol, Albany, and was from a state worker living in Watertown. It disclosed the birth on January 2 of a son weighing 8 pounds 12 ounces. On the reverse side in ink was written: "This is a Feld-Hamilton baby. He wouldn't have come if it hadn't been for this law for which you voted and which gave me my first small increase (in pay) after six years in the state service. BUT I CAN'T SUSPEND HIM NOW. WHAT SHALL I DO?"

Chapters Approved

At a meeting of the Executive Committee held Thursday, May 25th, applications and constitutions for six new chapters of the Association were presented and approved.

The new chapters are: Elmira State Reformatory Chapter, of Elmira; Kings Park State Hospital Chapter, of Kings Park; Letchworth Village Chapter, of Thiells; Biggs Memorial Hospital Chapter, of Ithaca; Warwick State School Chapter, of Warwick; and Dannemora State Hospital Chapter, of Dannemora.

Reports as to membership for 1939 were made at this meeting indicating that well over 25,000 paid 1939 memberships were thus far received at Association Headquarters, and that over 7,000 additional applications were awaiting action.
Your Retirement System

By F. B. HOLMES
Director, State Retirement Fund

Doubtless all members of the Retirement System are interested in the amendments to the Law by the Legislature of 1939.

The present members of the Hospital Retirement System are granted the privilege to transfer on or before January 1, 1940, to the Statewide Retirement System. The Law provides that transfer may be made with all credits for service but the contributions of the member in the Hospital System are not physically transferred yet credit is given in the amount that would be due the Retirement System for the amount that is left in the Hospital System.

The doors were opened to January 1, 1940, inclusive, for credit for prior service on becoming a member of the Retirement System if contributions are paid to the System that would have been in the System to the credit of the member had the person become a member on first date of eligibility.

The Law further provides that such member must render two years of service after actually becoming a member before credit for such prior service and member service is allowed.

The Law further provides that if one could have transferred to this System under Section 73 of the Law he may not take advantage of simply paying contributions to this System with no reserve transferred from the System to which the person was formerly a member.

Section 64 was amended to permit the Comptroller to fix any date for the beginning of an ordinary disability retirement allowance.

Heretofore such payment could begin by law only within ninety days after application was received. In many instances a member would leave the service on account of ill health with the thought of returning to service within a short time but he was unable to do so and thus the person was without income for a period of time. The amended Law permits the Comptroller to fix a day which will be the next day after last payment of salary to the member.

Section 68-c relative to State Police was amended to permit State Police to take advantage of this section to and including January 1, 1941.

When quasi-public organizations were permitted to participate in the Retirement System by Section 75-a the Law provided that the System would not be liable for payments to members. The Law was amended to exclude Boards of Education from the provision of advancing money before payments were made.

Many of the municipalities were delinquent in forwarding contributions to the Retirement System for the reason that the exact amount to be forwarded could not be determined by the Retirement System until the annual valuation had been made by the Actuary.

The Law is amended so that the participating municipalities shall pay to the Retirement System within thirty days after notice of the amount to be paid and shall borrow in anticipation of receipt of taxes to pay the amount to the Retirement System.

Chapter 856 of the Laws of 1939 amends Section 58 and repeals the privilege relative to purchase of additional annuity and the contributions to the savings fund. It provides that any contributions other than normal contributions will draw the prevailing savings bank interest rather than four per cent interest.

As all members know, the Retirement System has grown rapidly. Although Table No. 1 shows total membership of 78,093 as of June 30, 1938, the membership on May 31, 1939, was 85,889, or an average net gain of 708 for the eleven months. By net gain we mean deducting withdrawals and retirements from the number of new members.

The largest net new membership was for January, 1939, when we added 1,378 net new members to the Retirement System.

Another large month was March, 1939, when 1,241 net new members were added.

The high spots of the Retirement System for the eleven months ending May 31, 1939, were as follows:

- Cash on hand $ 3,456,439.78
- Investments in bonds $98,502,252.83
- Investments in F.H.A. 13,047,444.61

The System paid in retirement allowances for the eleven months a total of $3,556,043.20.

The Loans for the same period were $2,400,125.00.

The Ordinary Death Benefits paid for the same period amounted to $418,388.97.

The contributions returned during the same period amounted to $1,901,000.39.

No bill reaching the Governor amending your Retirement System not approved by the Commission on Pensions was approved by the Governor — several were vetoed.

The members of the Retirement System should appreciate the efforts of the Commission on Pensions in keeping the Retirement System free from inroads by special legislation.

Table No. 1 below indicates the distribution of members by groups as of June 30, 1939.

Table No. 2 indicates a classification of retirement allowances paid for the fiscal year ending June 30, 1938.

TABLE No. 1

Number and aggregate salaries of members, without credit for service prior to membership, as of June 30, 1938

<table>
<thead>
<tr>
<th></th>
<th>Men</th>
<th>Women</th>
<th>Salaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clerical and administrative employees</td>
<td>15,490</td>
<td>11,849</td>
<td>$ 50,286,681.00</td>
</tr>
<tr>
<td>Laborers</td>
<td>8,838</td>
<td>1,487</td>
<td>15,297,046.00</td>
</tr>
<tr>
<td>Institutional Employees</td>
<td>11,370</td>
<td>11,384</td>
<td>33,001,005.00</td>
</tr>
<tr>
<td>Firemen</td>
<td>490</td>
<td></td>
<td>798,154.00</td>
</tr>
<tr>
<td>Policemen</td>
<td>2,324</td>
<td></td>
<td>5,274,133.00</td>
</tr>
<tr>
<td></td>
<td>38,512</td>
<td>24,720</td>
<td>$104,657,019.00</td>
</tr>
</tbody>
</table>

Number and aggregate salaries of members, with credit for service prior to membership, as of June 30, 1938

<table>
<thead>
<tr>
<th></th>
<th>Men</th>
<th>Women</th>
<th>Salaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub total</td>
<td>38,512</td>
<td>24,720</td>
<td>$104,657,019.00</td>
</tr>
</tbody>
</table>

Continued on page 92

June
THE ASSOCIATION OF STATE CIVIL SERVICE EMPLOYEES
OFFICIAL PUBLICATION OF THE STATE OF NEW YORK
Room 156 State Capitol Albany, N. Y.

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Budget Situation
It is unconstitutional to set up the salary items in the state budget by lump sums. The only exception to this rule is where circumstances are such that it would be impractical to do so. The Court of Appeals has laid down these rules and the position of the Association has hence been vindicated and sustained.

The Association through its counsel, John T. DeGraff, filed a brief amicus curiae in both the Appellate Division and the Court of Appeals, seeking to establish the principles laid down by these courts.

Lump sum appropriations and civil service (merit system) are polar extremities. If the lump sum appropriations prevailed, the merit system goes out the window. It is impossible to offer security of position and any fairness or equity where the purse strings are so loose that the head of the department or the director of the budget or any other administrative official can administer the salaries to be paid in his discretion. There can be no merit in the state service where the parceling out of money to be paid for a service is not stated and is under the continued control of administrative officials. The lump sum budget substitutes the possibility of political maneuvering and favoritism for promotion and appointment and not on the basis of merit and fitness. This is the reason that the employees of the state rejoice in the clear cut unanimous statement of the seven judges of the Court of Appeals, Republicans and Democrats. It is a victory for the merit system and that solely.

The Legislature is returning as this is being written to reenact the budget. The friends of education are insisting that the public school system be not injured through failure to appropriate sufficient funds to enable it to be maintained upon its present high level. The employees of the state are also expecting the Legislature to accord the state service like consideration.

It is just as important to maintain pure food, highways, health service and a thousand and one other services performed by state government at a high level as it is education.

The various departments have indicated that the service to the people of the state will be materially curtailed if the Legislature by a process of reelimination continues its false economy program. It has been pointed out many times in the past by this Association that the state service has been pruned and pruned during the years of economy to the extent that it cannot survive further slashing without serious impairment. Notwithstanding the additions of new services which have been demanded by the people, such as social security, etc., the cost of maintenance of the state government itself has decreased in the last ten years over nine million dollars. While, of course, further moneys can be eliminated, they involve the elimination of real services.

The nine million dollars saved has been saved in a large measure due to failure to fill positions through vacancies and the gradual elimination of service at the time and when it appears that it is no longer needed. This process should go on. To provide for the arbitrary dismissal of faithful employees who have no other vocation, who have devoted a good portion of their lives to the public service, without warning and without basis is the worst kind of statesmanship. It gives to their co-patriots who remain a feeling of insecurity, of hopelessness. It kills ambition. It does as much to ruin the theory of a "career" for state employees as the Feld-Hamilton Law did to encourage it and the failure to have provided these same employees with the same kind of protection by way of unemployment insurance that the state does for its private employees makes the situation deplorable. To ask the Legislature to treat the employees of the state as well as it treats the teachers and those in private employment is a fair proposition. The state civil service employees must not be sold down the river.

President Brind Honored
At the annual meeting of the Union Chapter of Phi Beta Kappa, Charles A. Brind, Jr., the President of the Association, was elected to membership. Ordinarily only college under-graduates are elected to Phi Beta Kappa, and it is an unusual honor for an alumnus to be elected to membership.

Front Cover
The unusually attractive summer scene used on the Front Cover of this issue is a picture of the Oswego Lake Yacht Club Dock. The photograph was supplied through the courtesy of the New York State Bureau of Publicity. Robert Gross was the photographer.

Attention: Safe Drivers!
No doubt you have noticed the new white lines on the roadways throughout the State. They are placed there for your safety. However, the correct understanding as to what the different markings mean is necessary. According to Motor Vehicle Commissioner Carroll E. Mealey, they mean:

1. A broken line consisting of a series of dashes 15 feet long, and 25 feet apart, merely defines traffic lanes and can be crossed.

2. A single solid line denotes caution, separates opposing lines of traffic, and a driver may cross it when conditions are favorable.

3. The double solid line, used principally on hills and curves, definitely prohibits crossing and demands "keep in line."
Civil Service Commissioner

HON. HOWARD P. JONES

Mr. Jones has had long and active contact with agencies devoted to the advancement of public personnel administration and is admirably fitted for the position of Civil Service Commissioner.

He represented the United States Government at the International Union of Cities, at Lyons, France, in 1934; he was a member of the research staff of the New York State Commission for the Revision of Tax Laws; a member of the governing board of the United States Public Administration Service; a member of the American Committee for International Union of Local Authorities; Public Relations Secretary to the National Municipal League from 1929 to 1933, and Secretary to the League since that time.

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Accident and Sickness Group Plan Growing

With a new form of policy just approved, which was especially designed for the employees of New York State's institutions, and such divisions as the field forces of the Public Works Department, the Labor Department, motor vehicle inspectors, etc., our Accident and Sickness Insurance Plan has begun to expand very rapidly.

Effective July 15th, premiums to cover the accident and sickness plan will be deducted from the paychecks of insured members, through the kind cooperation of the State Com­troller. Charles A. Carlisle, Jr., of TerBush & Powell, Inc., Schenec­tady, N. Y., who is caring for the State-wide application of this plan, has arranged so that employees already in the plan who wish to con­tinue paying their premiums direct, may continue to do so on a semi­annual or annual basis. However, a savings in premiums accrues to the insured by use of the deduction sys­tem, and 95% of the policyholders have already indicated their desire for the deduction plan.

Under the new plan of Accident and Sickness Insurance, the employees receive 5 years non-occupa­tion al accident coverage and one full year coverage on sickness. Non-occupa­tion al accidents are those which are not caused by and do not arise out of, nor in the course of any employment for compensation, wage, profit or gain.

Statistics show that 95% of all accidents occur away from work, such as slipping in the bath-tub, falling from a step-ladder, falling off cliffs, stumbling in the woods, tripping, slipping on sidewalks, etc.

Under this New Plan, all sicknesses are covered beginning with the eighth day of disability; accidents from the first day of disability.

Premiums have been reduced consider­ably under the New Plan. Now $75.00 per month indemnity, for disability due to sickness or non-occupa­tion al accidents, can be pur­chased for as little as 90c per pay day.

Over $250,000 in benefits have been paid out to policy holders in the last 3 years to more than 3,000 members of the Association, insured under the plan.
Budget Decision of

Of great interest to many State workers is the decision adopted unanimously by the Court of Appeals upholding the original contention of the Association that the form of budget, adopted by the majority party of the Legislature, and which Governor Lehman allowed to become a law under protest, was unconstitutional. The opinion was written by Chief Justice Crane, and upheld the decision of the Appellate Division of the Supreme Court for the Third Department. The complete decision follows:

COURT OF APPEALS
People of the State of New York, Respondents.

v.
Morris S. Tremaine as Comptroller of the State of New York, Appellant.

No. 365

Appeal by the Comptroller from a judgment of the Appellate Division of the Supreme Court for the Third Department which granted judgment to plaintiffs on an agreed statement of facts.

Arthur A. Ballantine (Cloyd LaPorte, Charles C. MacLean, Jr., Rupert Warren, Richard E. Manning and Lyman M. Tondl, Jr. of counsel) for respondents;

John T. DeGraff for State Civil Service Employees and Herman E. Cooper for State, County & Municipal Workers of America.

CRANE, CH. J.

"Article VII of the present Constitution, if we take it as it reads, provides a clear and distinct plan for appropriation bills whereby money is to be raised to run the State. The first thing of course is to find out how much is needed and Section I directs the heads of each department in the State government, except the Legislature and the Judiciary, to furnish the Governor this information, which shall also be furnished to the Committees of the Legislature. Hearings shall be held upon these proposed estimates, at which members of the Legislative Committees shall be entitled to attend. In other words, before the Governor's budget is made up the whole matter is gone over by the Governor, the heads of the departments, and the appropriate members of the Legislature. The knowledge, thus acquired for the Legislature, anticipates the Governor's budget. The Legislature and the Judiciary are to furnish itemized estimates of the amounts required, which shall be put in the budget without revision. In other words, that part of the budget which relates to the Judiciary and the Legislature must be itemized.

"The next step is the Governor's budget, which shall contain a complete plan of the expenditures proposed to be made, containing full information. The words 'clearly itemized' are not used as in Article IV-A, Sec. 2, but the meaning appears to be the same, as there must be an explanation of the basis for all the estimates and recommendations and all information deemed proper. The Governor's budget is to be itemized so as to show of what the estimates consist. The information necessarily consists of items. The Constitution means that the budget, and the appropriation bills accompanying it, shall be broken down into items sufficient to show what money is to be expended, and for what purpose. It is information the Governor must give, and it is the items giving this information, which is embodied in his appropriation bills.

"The Constitution (Article VII) reads—

'Sec. 3. At the time of submitting the budget to the legislature the governor shall submit a bill or bills containing all the proposed appropriations and re-appropriations included in the budget and the proposed legislation, if any, recommended therein.'

"Sec. 4. The legislature may not alter an appropriation bill submitted by the governor except to strike out or reduce items therein, but it may add thereto items of appropriation provided that such additions are stated separately and distinctly from the original items of the bill and refer each to a single object or purpose. None of the restrictions of this section, however, shall apply to appropriations for the legislature or judiciary.'

When, therefore, we are told that the Legislature may not alter an appropriation bill submitted by the Governor, except to strike out or reduce items therein, we expect the appropriation bill to contain items. As stated before, the items must be sufficient to furnish the information necessary to determine whether in the judgment of the Legislature all that is demanded should be granted or is required.

"The Governor in this case, according to the agreed statement and the exhibits, on January 30, 1939, submitted to the Legislature a budget duly itemized. At the same time the Governor, pursuant to Sec. 3 of Article VII, submitted four bills containing all his proposed appropriations itemized.

"It is the bill containing the general appropriations for the support of the government which is the subject of this litigation. The bill under discussion contained in Part I thereof appropriations for the departments of the State government. In each instance, as required by Sec. 36 of the State Finance Law, the appropriations for the department, division or bureau were divided into two main items, namely—expenses for personal service and expenses for maintenance and operation. The appropriations for personal service were by an accompanying schedule itemized so that amounts should be available for each of the various positions or groups of positions in the department, division or bureau. These items are commonly referred to as 'line items.' Likewise in each instance of an appropriation for maintenance and operation, there is an itemized statement accompanying the schedule showing the amounts which were to be available for the various expenses. This was in accordance with the Constitution, as we read it, unless we consider a lump sum appropriation for a department an item. Under Section 4 of the Constitution, above quoted, the Legislature could strike out or reduce any of these items, or could strike them all out, which it did in some instances.

"The Governor's appropriation bills were referred to the Ways and Means Committee of the Assembly, and on April 25, 1939, that Committee amended and reported to the Assembly, as so amended, the general appropriation bill for the support of government. It struck out substantially every item contained in Part 1 of the bill, as submitted by
the Governor, and substituted therefor a single item of appropriation to each of the various departments, or divisions of departments, combining expenses of maintenance and operation, personal service, travel outside the state, and the purchase or exchange of automobiles. In some cases it substituted such a single item of appropriation plus certain items of appropriation for special functional activities of the department, division or bureau—in other words, it made what is commonly known as 'lump sum appropriations.'

"People v. Tremaine, 252 N. Y. 27, was not an authority justifying lump sum appropriations, True, in that case there were lump sum appropriations, the same as there are in this case. The point, however, in the Tremaine case was the power of segregation, and this was the sole question decided, although there were strong intimations throughout the opinions that the whole spirit of the Constitution was against lump sum appropriations and in favor of appropriations showing the items of expenditure. I said:

"****, in fact the spirit and apparent intention of the budget amendment to the Constitution is that there shall be itemized appropriations. The best thing to do is to put the purpose in the appropriation and limit the expenditure to the amount of the appropriation for each item. The Governor and Legislature have apparently done this for the major part of the budget bill. But it is also conceded that there are times when item appropriations would be almost impossible or impracticable, as in the case of the reorganization of an office, and lump sum appropriations are made.'

"Of course in these matters, as in every other case of the interpretation of a Constitution or of a law, the evils result from the extreme exercise of a power and not in the general principle—from a system pushed too far.

"The present Constitution emphasizes the necessity of items, not lump sums, for an entire department or bureau. On the other hand, there are cases in which it would be impracticable, if not impossible, to itemize the sum required. Departments with uncertain contingent expenses or seasonal occupations, building or road construction may require lump sum appropriations. We expect in all these matters that the spirit of the Constitution shall be observed and that good sense in its application will govern. In the Tremaine case the lump sum appropriations were recognized as it was impossible to tell beforehand exactly what might be needed in reorganization of the government. In fact the question was not directly in issue or the point raised. However, in the departments containing personal staffs of clerks and assistants, and which have been functioning for years, there is every reason for items the same as there is in making up the Judiciary Budget for the Legislature. In this Governor's appropriation bill there are many places where the lump sum appropriation is necessary. These are readily recognized and will afford no disagreement between the Executive and the Legislature. Where, however, a whole appropriation has been stricken out, including the items of which it is made, and compensation for clerks and services as well as maintenance is lumped together, the words of the Constitution have not been followed and such appropriation is illegal.

"The crux of this controversy turns upon the meaning of the word 'items.' It is claimed by the appellant that the Legislature by its reserve power may make lump sum appropriations in any case, guided simply and solely by the information furnished in the Governor's budget or otherwise. The Governor's budget, containing the information necessary for the running of the various departments of government, is more than a mere source of information. If this were not so, it would be unnecessary for the Governor to submit any appropriation bills. These appropriation bills originate with the Governor—not with the Legislature, and the control of the Legislature lies in the manner in which it may deal with these bills.

"Itemized estimates of the financial needs of the Judiciary and of the Legislature, certified by the comptroller, shall be transmitted to the Governor for inclusion in the budget without revision; in other words, the budget for the Judiciary is itemized; so is that for the Legislature (Sec. 1, Art. VII). In our Judiciary budget, which was thus submitted, every place and position are stated with the salary connected therewith. There are small lump sum appropriations which are rendered necessary because of the uncertainty of events. To itemize means to give items. Does the word 'item' or 'items' in Section 1 have a different meaning than the word 'item' in Sec. 4? Does the meaning of the same word change in the same Article? Thus in Article IV-A of Section 2 of the Constitutional Amendment of 1928, we find that the Governor's budget shall contain all the estimates revised or certified and clearly itemized. In Article VII of the Constitution of 1938, these words are changed so that the budget shall contain a complete plan of expenditures proposed 'together with an explanation of the basis of such estimates and recommendations as to the proposed legislation, if any.' The appropriation bills which the Governor shall submit shall contain all the proposed appropriations included in the Budget. The word 'item' or 'itemized' is not used in connection with either the budget or the appropriation bills in the present Article VII of this Constitution of 1938. In this respect there is a change in phrasing, but neither in the statement issued by the Convention for the guidance of voters, nor in the brief of the appellant is there any claim that the meaning or purpose of Article IV-A, Sec. 2 of the former Constitutional amendment has been changed. And this is necessarily so. Can the word 'itemized,' as used in this amendment of 1928, have a different meaning than the use of the word 'items' in Section 4 of Article VII of the present Constitution? For instance, in the appropriation bill for the Banking Department, items were stricken out and the substitution made as follows—'For general expenses of maintenance and operation, including personal service and travel outside of the State at not to exceed $3,000, $965,000.' Read this appropriation in conjunction with Section 4: 'The Legislature may not alter an appropriation bill submitted by the Governor except to strike out or reduce items therein.' The reference here is not to the items in the

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Group Life Insurance Claims Paid

Continued from page 85

plan. The larger the number insured, the more successful the plan will be. The Association's officers, counsel, insurance committee, representatives and the Insurance Company have worked untiringly to make the plan possible, and the cooperation of every Association member is urged in bringing the plan to the attention of every State worker.

For new employees of the State or old employees who overlooked or neglected to carefully consider the low-cost life insurance protection afforded by the plan we repeat herewith the insurance schedule and monthly cost to insured employees:

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

**SALARY AND INSURANCE SCHEDULE**

<table>
<thead>
<tr>
<th>Annual Salary</th>
<th>Amount of Insurance</th>
<th>Males</th>
<th>Females</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $900</td>
<td>$ 500</td>
<td>$ 500</td>
<td></td>
</tr>
<tr>
<td>$ 900 but less than 1,400</td>
<td>1,000</td>
<td>1,000</td>
<td></td>
</tr>
<tr>
<td>1,400 but less than 1,700</td>
<td>1,500</td>
<td>1,000</td>
<td></td>
</tr>
<tr>
<td>1,700 but less than 2,100</td>
<td>2,000</td>
<td>1,000</td>
<td></td>
</tr>
<tr>
<td>2,100 but less than 2,700</td>
<td>2,500</td>
<td>1,000</td>
<td></td>
</tr>
<tr>
<td>2,700 but less than 3,500</td>
<td>3,000</td>
<td>1,000</td>
<td></td>
</tr>
<tr>
<td>3,500 but less than 4,500</td>
<td>4,000</td>
<td>1,000</td>
<td></td>
</tr>
<tr>
<td>4,500 and over</td>
<td>5,000</td>
<td>1,000</td>
<td></td>
</tr>
</tbody>
</table>

The monthly cost to insured members will be based on the following table:

<table>
<thead>
<tr>
<th>Attained Age* (nearest birthday)</th>
<th>Semi-Monthly Payment per $1,000 of Insurance</th>
</tr>
</thead>
<tbody>
<tr>
<td>39 and under</td>
<td>$ .30</td>
</tr>
<tr>
<td>40 to 44, inclusive</td>
<td>.38</td>
</tr>
<tr>
<td>45 to 49, inclusive</td>
<td>.50</td>
</tr>
<tr>
<td>50 to 54, inclusive</td>
<td>.70</td>
</tr>
<tr>
<td>55 to 59, inclusive</td>
<td>1.00</td>
</tr>
<tr>
<td>60 to 64, inclusive</td>
<td>1.50</td>
</tr>
<tr>
<td>65 to 69, inclusive</td>
<td>2.25</td>
</tr>
</tbody>
</table>

*Calculated as of June 1, 1939, August 1, 1940, and each August 1 thereafter.

The Group policy will provide that on August 1, 1940, and each August 1 thereafter, the amount of insurance for each member whose annual salary has changed so as to place him in a class providing a different amount of insurance than provided for the class under which he was previously insured will be changed to the amount for the class in which his new annual salary places him, but no change in insurance resulting from such reclassification shall become effective as to any member away from work because of disability until he returns to work. Change in the semi-monthly cost to the member will be effective from the effective date of his new amount of insurance.

Your Retirement System

Continued from page 87

<table>
<thead>
<tr>
<th>Men</th>
<th>Women</th>
<th>Salaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clerical and administrative employees</td>
<td>5,009</td>
<td>3,552</td>
</tr>
<tr>
<td>Laborers</td>
<td>2,640</td>
<td>345</td>
</tr>
<tr>
<td>Institutional employees</td>
<td>566</td>
<td>687</td>
</tr>
<tr>
<td>Firemen</td>
<td>747</td>
<td>1,459,804.00</td>
</tr>
<tr>
<td>Policemen</td>
<td>1,315</td>
<td>2,772,644.00</td>
</tr>
</tbody>
</table>

Sub totals | 10,277 | 4,584 | $35,611,141.00 |

Grand totals | 48,789 | 29,304 | $140,268,160.00 |

**TABLE No. 2**

<table>
<thead>
<tr>
<th>Ages From To Retired</th>
<th>Service and discontinued service retirements</th>
<th>From Pension Accumulation Fund</th>
<th>From Pension Reserve Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cl erical and administrative employees</td>
<td>Men 48 94 1,389</td>
<td>$322,159</td>
<td>$1,063,976</td>
</tr>
<tr>
<td></td>
<td>Women 48 84 303</td>
<td>44,831</td>
<td>166,169</td>
</tr>
<tr>
<td>Laborers</td>
<td>Men 46 93 894</td>
<td>95,836</td>
<td>300,918</td>
</tr>
<tr>
<td></td>
<td>Women 54 84 165</td>
<td>11,896</td>
<td>33,901</td>
</tr>
<tr>
<td>Institutional employees</td>
<td>Men 51 92 320</td>
<td>44,816</td>
<td>137,139</td>
</tr>
<tr>
<td></td>
<td>Women 49 89 359</td>
<td>50,487</td>
<td>118,668</td>
</tr>
<tr>
<td></td>
<td>Firemen 60 80 29</td>
<td>2,908</td>
<td>19,759</td>
</tr>
<tr>
<td></td>
<td>Policemen 55 86 37</td>
<td>5,160</td>
<td>22,352</td>
</tr>
<tr>
<td>Ordinary and accidental disability retirements</td>
<td>Clerical and administrative employees</td>
<td>Men 42 76 70</td>
<td>14,786</td>
</tr>
<tr>
<td></td>
<td>Women 37 75 68</td>
<td>7,504</td>
<td>30,736</td>
</tr>
<tr>
<td>Laborers</td>
<td>Men 32 81 57</td>
<td>7,870</td>
<td>25,516</td>
</tr>
<tr>
<td></td>
<td>Women 44 75 13</td>
<td>937</td>
<td>3,074</td>
</tr>
<tr>
<td>Institutional employees</td>
<td>Men 33 68 29</td>
<td>3,866</td>
<td>10,886</td>
</tr>
<tr>
<td></td>
<td>Women 41 79 59</td>
<td>7,852</td>
<td>25,823</td>
</tr>
<tr>
<td></td>
<td>Firemen 35 72 20</td>
<td>1,183</td>
<td>20,381</td>
</tr>
<tr>
<td></td>
<td>Policemen 32 59 40</td>
<td>2,395</td>
<td>12,037</td>
</tr>
</tbody>
</table>

Totals | 3,852 | $624,486 | $2,035,004 | $145,195 |

The State Employee
Broad Coverage
OF NEW INSURANCE PLAN

ACCIDENTS
The Plan covers all non-occupational accidents except suicide, and air travel accidents are covered if you are a fare paying passenger on regular air lines, for five years.

SICKNESS
The Plan covers all sickness for 12 months. Tuberculosis is covered for a total of twelve months in the aggregate.

SALARY GROUPINGS, BENEFITS AND PREMIUMS

<table>
<thead>
<tr>
<th>Annual Salary</th>
<th>Monthly Indemnity</th>
<th>Principal Sum</th>
<th>Annual Premium</th>
<th>Semi-Monthly Premium</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $600</td>
<td>30</td>
<td>$500</td>
<td>$9.85</td>
<td>$.40</td>
</tr>
<tr>
<td>$600 but less than $1,000</td>
<td>50</td>
<td>500</td>
<td>15.85</td>
<td>.65</td>
</tr>
<tr>
<td>1,000 but less than 1,200</td>
<td>60</td>
<td>500</td>
<td>18.25</td>
<td>.75</td>
</tr>
<tr>
<td>1,200 but less than 1,600</td>
<td>75</td>
<td>500</td>
<td>21.85</td>
<td>.90</td>
</tr>
<tr>
<td>1,600 and over</td>
<td>100</td>
<td>500</td>
<td>30.25</td>
<td>1.25</td>
</tr>
</tbody>
</table>

Write to your Association Headquarters or contact any Association Representative throughout the State for circulars, application blanks and salary deduction cards. You should join this cooperative plan NOW. It is provided for your use.

Rome State School Champs

Standing left to right: Frank Fitzgerald, Walter Shattuck, Captain, Neal Passer.
Kneeling, left to right: Andrew McArthur, Frank Martin and Rickard Patterson.
The above team was the championship team of Rome State School League for the season 1938-1939, compiling a splendid record.
Officers of the League elected for 1939-40 were: Leslie Patterson, President; Francis Murphy, Vice President; Fred Gubbins, Secretary; and Leo Burke, Treasurer.

June

KEEP COOL IN
WHITE . . .

The Roxy Cleaners have proper cleaning facilities to replace that "like-new" appearance to the sheerest of white fabrics.

On Capitol Hill
ROXY CLEANERS
152 STATE STREET
Below the Telephone Co.
Phone 3-6663
Chapter Activities

**Fort Stanwix Chapter**

About four hundred members of the Rome State School Fort Stanwix Chapter, and friends gathered in the Amusement Hall to attend the May Dance and Bingo Party, the evening of May 4th. This affair was unique in that it was the first of this particular type held at the institution, as well as the primary social function of the Chapter.

Bingo was enjoyed by about half of the patrons, while the remainder “tripped lightly” in the melodious setting, as prepared and served, a-la Silver Moon Society Orchestra.

The Bingo Party was particularly enthusiastic and it was necessary to hang out the “standing room only” sign early in the evening. The committee maintained good order throughout, however, and many useful and appropriate prizes were received by the players.

The affair, complete in every respect, gave positive evidence of the personnel of the Chapter and their associates; and, undoubtedly, each member felt a little proud to be considered one of this group.

The decorations and refreshments were exceptionally fine and showed the results of untiring efforts on the part of those responsible. We cannot forget that the financial and social success of this party is exclusively due to those committees in charge.

Committees in Charge:
- Eleanor Bucknell
- Grace Hildebrand McGuire
- Howard C. Van Scoy
- Walter Shattuck
- Raymond Butler

Sub-Committees:
- Bingo:
  - Albert Wardale
  - William Mathers
  - Ernest Hay
  - Genevieve Tuttle

Decorations:
- Helena P. Mahoney
- Mary Searrow
- Joseph Searrow
- Helen Rabin
- Hobart Pitts
- Lorne Brennan
- Albert Harrington
- Arthur Curtis
- Elsie Carpenter
- Ralph Trask

*(From “Rome State School Herald”)*

**Utica State Hospital Activities**

At a meeting in Hutchings Hall, April 3rd, President George H. Cook of the Employees’ Association at Utica State Hospital, named a committee of twelve persons to study the feasibility of an energetic well-organized group at that institution.

The committee went into action at a noon meeting on April 5, when assignments for study were given to each member. Representing widely varied groups of employees in different parts of the hospital, they solicited the ideas and impressions of their fellow workers and proceeded to draft a tentative program at a committee meeting the evening of April 12.

The Planning Committee was described as a temporary board of study which did not constitute permanent officers in any sense. The roster of the committee consisted of Anne M. Darby, Leola Dye, Catherine Jones, Celestine Latus, Theodore O’Keefe, Clyde Simpson, Carl Zeh, William Sultenfuss, Waldo Dunn, David Currier, Harvey Hughes and George L. Cantzlair, Chairman.

*(From “The Pillars”)*

**Letchworth Elects**

At a recent meeting of members of the newly organized Letchworth Village Chapter of the Association, the following employees were elected to membership on the Executive Council of the Chapter:
- Earl Gay—Shop Group
- Mrs. Mildred Abrams—Women’s Group
- Lillian Kent—Girls’ Group
- James Barr—School Group
- Thomas Mitchell—Boys’ Group
- Marion Clark—Administration
- N. Nielsen—Adults’ Group
- Joseph Carney—Male Infirm Group

Leonard Schilling—Farm Group
Mrs. Earl Gay—Service Buildings
Margaret Douglas—Hospital
Mrs. Hulse—Female Infirm Group

A very successful block dance was held for the benefit of the new chapter on Friday evening, June 16th. Over 500 attended.

*(From “Rome State School Herald”)*

**Buffalo Chapter News**

Congratulations of the Buffalo Chapter are extended to Mike See-reiter, our Treasurer, whose wedding to Miss Marie Merlihan took place in St. Paul’s Church, Kenmore, on Saturday morning, June 10th. Mike has long been active in the work of the Association in the Buffalo district, having been one of the organizers of the local Chapter. We have been waiting a long time for Mike to take this step, but evidently he has been too busy with the Association and Credit Union work, and neglected his social duties, or maybe being Treasurer of the Buffalo Chapter made it possible for him to take a bride.

Clare Brown, Secretary of the Association for many years, has just returned from an extended trip to Florida, and Bill McKernan, President of the Chapter, took in the World’s Fair opening week.

**West Coxsackie Seeks Chapter**

Following several meetings of employees of the State Vocational Institution at West Coxsackie, application and constitution for a proposed chapter of this Association at that institution has been adopted and sent to Association Headquarters for presentation to the Executive Committee. It is hoped that action on this chapter may be taken at a meeting of this committee scheduled for the very near future.

**Woodbourne Meeting**

A meeting of employees of the State Institution at Woodbourne, N. Y., was held on May 5th. A lengthy discussion was had concerning affiliation with the State Association as a chapter. Executive Secretary Joseph D. Lochner attended and explained the benefits and advantages of membership affiliation, the group insurance and outlined the budget situation to date.
The Association can feel gratified by the fact that the only important Civil Service measures of a constructive nature which were enacted at the past session, were those sponsored by the Association. Although the major part of the Association's program failed of enactment, the following bills, introduced at our request, were adopted:

Chapter 904
The Oster tag Bill, A. Intro. 1959, Pr. 3049. Despite the suspension of a major part of the increments required by the Feld-Hamilton Law, the passage of this bill assures the continuance of the work of the Standardization Board and of the Classification Division created to carry on the policies embodied in the Feld-Hamilton Law. Under the terms of this bill the Standardization Board is reconstituted and continued until December 1, 1940. The procedure for filling positions occupied by employees receiving less than a minimum fixed for their grade is clarified to correspond with the practice that has been followed during the past year.

Under the new practice, when a vacancy occurs, the employee receiving the salary next below the minimum fixed for the grade is to be forthwith increased to the minimum and other employees holding positions in the same salary adjustment unit are to be increased correspondingly, and the new appointee is to be paid the salary remaining after making the foregoing adjustments.

By the terms of the bill, section 41 of the Civil Service Law is amended to provide that annual increments shall take effect on July first of each year. Employees appointed prior to January first in each year will be eligible to receive an increment on the following July first but employees appointed after January first will not be eligible to receive an increment until the first day of July in the next succeeding calendar year.

The powers of the Classification Division are amended to permit the reclassification of employees not heretofore classified under a standard title. This will permit the continuance of classification work in the State institutions where the employees have never been classified and to lay the foundation for the extension of the Feld-Hamilton Law to institution employees.

The bill also sets up a procedure, effective in 1940, whereby the budget director is authorized to determine the fair value of food, maintenance or commutation and to deduct the amount so fixed from the salary schedules contained in the Feld-Hamilton Law. It is hoped that this procedure will permit a fair equalization of salaries and eliminate many of the unfair and inequitable practices with respect to commutation and maintenance, so that ultimately employees with maintenance will receive a salary that equitably corresponds with the salary of employees who do not receive maintenance.

The bill also ratifies and confirms all the changes in title made during the past year by the Classification Division and the reallocations made by the Standardization Board. The legal status of these changes, affecting some two thousand employees, had been thrown in doubt by the striking out of the items in the Executive budget.

All of these amendments were essential to carry on the provisions of the Feld-Hamilton Career Law, and even though the full operation of that law has been suspended during the coming year, there is hope that these drastic amendments may be reinstated at the special session, and the passage of the Oster tag bill is an assurance that the Feld-Hamilton principle will be maintained and extended in the coming years.

Chapter 742
Martin-Foy Bill, S. Intro. 1314, Pr. 2931. This bill provides that no State employee shall be required to work more than six days in any calendar week. It is not applicable to State Troopers who work almost continuously during the summer but who have corresponding time off in the winter months, because the limited personnel in the division of State Police makes a six-day week impracticable. There are, however, many employees throughout the State, not covered by other statutes, who are still working seven days every week. This bill gives assurance that, after July first, 1940, no State employee shall be required to work more than six days a week, and the bill also provides that no employee shall receive any reduction in the total weekly compensation paid him.

Among the other bills enacted at this session, are the following:

Chapter 862
Fite Bill, A. Intro. 2023, Pr. 2324, creating a commission, with an appropriation of $20,000, to recommend the best method of extending the Civil Service to counties, villages and other governmental units.

Chapter 747
Murray Bill, S. Intro. 1506, Pr. 1741, prohibiting discrimination against the blind on Civil Service examinations.

Chapter 767
Babcock Bill, A. Intro. 1490, Pr. S. 2405, requiring that all applicants for Civil Service examinations be citizens of the United States.

Chapter 799
Desmond Bill, S. Intro. 786, Pr. A. 2988, requires the payment of a fee, ranging from 50c to $5 from all applicants taking Civil Service examinations. This bill, which requires fees for both open-competitive and promotion examinations after July 1, 1939, was enacted over the opposition of the Association.

Chapter 547
Devany Bill, A. Intro. 132, Pr. S. 2726, prohibiting employment in the Civil Service to any person who advocates the overthrow of the government by force or violence.

Chapter 748
Babcock Bill, A. Intro. 369, Pr. 2105, permitting prior service credit in the Retirement System to employees who join before January 1, 1940, and serve at least two years after joining the system.

Chapter 656
Seelye Bill, S. Intro. 1403, Pr. 2767, repealing the provisions of

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Budget Decision of Court of Appeals
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budget but to items in the Governor's appropriation bill. Is this substitution to be considered the striking out or reducing of an item? When it refers to striking out an item, we cannot conceive it as meaning striking out the entire appropriation for a department—all the items, and putting in a lump sum. The section must have reference to the items, which go to make up the sum total of the appropriation for the department. The Governor is obliged to furnish the items or information making up the appropriation, and cannot submit it as a lump sum. The appropriation for a department must be in such form that the Legislature may be able to strike out or reduce any of its items. When the word 'item' or 'items' is used in connection with the budget, as it was in 1928, or as used in 1938 for the estimates of the Legislature and the Judiciary, and in Section 4 in reference to the ability and power of the Legislature to strike out or reduce 'items,' the meaning of the words is the same. The appropriations so far as practicable or possible are to be itemized as submitted, and the limitation on the Legislature is to reduce or strike out the items. To strike them all out and substitute lump sums is to revert to the old system which years of agitation and endeavor have sought to abolish.

"Again, in this connection, in laying down this broad principle for the interpretation of this Constitution, we must remember what I have heretofore said, that details must not run into absurdities, and only those details need be given which are necessary or appropriate to show where and for what the money is to be spent. For instance, it is not necessary to state the salaries of all clerks or of all stenographers, but it may be appropriate to state the number that is required to do such class of work and the lump sum that is to be appropriated for the purpose.

"We cannot deal with every provision of these budget bills and of the action of the Legislature thereon. We do, however, state that the Legislature cannot strike out the itemized appropriations in the Governor's appropriation bills and substitute therefor lump sums for the same personal services and maintenance. The Legislature has complete power over appropriations. It does not have to make them, but when it does attempt to do so, it is obliged to follow the provisions of the Constitution. The control of the purse strings is not unlimited control; it is subject to veto in some instances and to method of action in all.

"Again, the Legislature may not alter an appropriation bill by striking out the Governor's items and replacing them for the same purpose in different form. Thus reads the fundamental law binding on us all, Judiciary, Governor, Legislature. It may, however, add items of appropriation, provided such additions are stated separately and distinctly from the original items of the bill and refer each to a single object or purpose. The items thus proposed by the Legislature are to be additions, not merely substitutions. These words have been carefully chosen. The added items must be for something other than the items stricken out. This Article VII was prepared after years of experience and after many appropriation bills in the last ten years had been submitted in various forms—some in compliance with the Constitutional provision and others departing therefrom. The application of the Constitutional provisions has not been uniform, acquiescence no doubt on the part of all accounting for the failure to question the action. However, the matter having been brought into the courts, we are forced to give this explanation in hopes that it may somewhat clarify and assist future legislation. It is easier to state a rule than to apply it. Many conditions arise which create doubts. The utmost we can do is to state the fundamental principles in hopes that the parties acting under them will give a practical and useful application. As said before, it is the extreme which causes disputes or danger. Items should not be carried out in full detail; it is sufficient when they give information as to the necessities for or purposes of the expenditures. During the course of the year these may prove inadequate or excessive, but no system works perfectly.

"Again, the lump sum appropriation may be carried to the extreme so that the theory of the Constitution is evaded. Here, too, the way is clear. In between the two extremes we must rely upon the Executive and Legislative branch of the government to provide a budget sufficiently itemized to comply with the spirit and words of the Constitution, and yet containing lump sum appropriations when experience in the line of work or in the department shows that details and items in a budget would be impracticable or almost impossible—unworkable.

"The full and complete brief of the appellant is very interesting and contains much matter bearing upon the wisdom of the Constitutional limitations in the amendment of 1928 and present Constitution, stating the manner in which the Legislature may exercise its plenary power over appropriations. Writers upon the subject, as quoted, take the view that experience has inclined them to believe that an appropriation bill should contain a few lump sums, leaving to administrative officers to make proper segregation or expenditures. The parliamentary system of England is given as an instance. We are not a parliamentary government where the Executive branch is also part of the Legislature. The conflict of views upon this subject; in fact upon all forms of government expenditures and taxation has waged for years and will continue, I dare say, for a long time to come. Much has been and may be said on all sides. These are, however, not for our consideration. We start with a Constitution which it is our province to interpret as it is written, and not as we think it might have been written. Thus in this case, we are content with the words used, giving to them not only their ordinary meaning, but that which previous acts, measures and reports intended them to have.

"All agree that the 'general provisions' are unconstitutional and have no place in the budget.

"The Appellate Division has by inadvertence included in its judgment certain provisions about which there is no controversy, i.e., the appropriation for state highways, Part III, page 909, with the exception of the part conceded to be illegal, and the provision for common schools, Part VI, page 1003. Those provisions are constitutional and the judgment of the Appellate Division as to those is modified, and as so modified affirmed without costs."
Legislative Report of Counsel

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law providing for pensions for veterans of the Civil War.

Chapter 856
Rules Committee, A. Intro. 2318, Pr. 2946, prohibiting the payment of additional contributions to the Retirement System for the purpose of purchasing additional annuity and providing that all contributions for annuity, heretofore made, shall bear interest at the rate allowed by savings banks, instead of 4% as at present. This law applies only to additional annuities. The normal contributions required of members of the Retirement System will continue to draw interest at 4%.

Chapter 346
Thompson Bill, S. Intro. 1569, Pr. 1829, permits members of the State Hospital Retirement System to transfer to the State Employees Retirement System, until January 1, 1940.

Chapter 228
Babcock Bill, A. Intro. 370, Pr. 377, permits members of the Division of State Police, prior to January 1, 1941, to join the State Retirement System and receive credit for prior service.

Chapter 653
Washburn Bill, A. Intro. 1970, Pr. A. 2226. This bill, introduced at the request of the Association, consolidated two sections of the law dealing with working hours of employees in the State institutions.

Chapter 811
Schwartzwald Bill, S. Intro. 1065, Pr. 2691. This bill, designed to eliminate discrimination in the public service was approved by the Governor, accompanied by a message which read, in part, as follows:

"It would permit any person denied appointment or promotion, or suspended or dismissed on racial or religious grounds, to appeal to the Civil Service Commission or, if in a city, county or village, to the municipal civil service commission.

"The Commission is empowered to hold a hearing upon due notice to the appointing officer. If satisfied that considerations of race, creed or color have dictated the appointing officer's acts, it must order appropriate relief for the petitioner."

The companion Schwartzwald Bill, S. Intro. 1064, Pr. 1150, which would have required an appointing officer, who did not appoint the highest man on the list, to state under oath his reasons for making such appointment, and his failure to appoint the person graded higher, accompanied by a certificate that his choice was not motivated by reasons of race, color or creed, was vetoed by Governor Lehman.

Among the bills opposed by the Association, which were, nevertheless, enacted as part of the Republican program of Budget reductions, are the following:

Chapter 910
Rules Committee, A. Intro. 2328, Pr. 3074. This bill prohibits the payment of increments for the fiscal year 1939-40. It permits the payment of increments, however, to employees under the Feld-Hamilton Law who are receiving less than the minimum of their grade and who are allocated to grades providing for a minimum of $3,500 or less.

All other statutory increases for service in the institutions, and all other statutory increments for Prison Guards, State Troopers and other groups are suspended. It was originally planned to reduce the salaries of all employees receiving more than the maximum for their grade, but, after it was pointed out that employees in this category are victims of incorrect classification, this proposal was abandoned.

The Association, at the Special Session, will seek to obtain the repeal of this bill. The total saving accomplished by suspending increments is approximately $650,000, and employees feel that this comparatively small saving is not sufficient justification for the suspension and emasculation of the statutes regulating the salaries of State employees.

Chapter 99
Rules Committee, A. Intro. 2321, Pr. 2949. This bill provides that employees in institutions in the Department of Health, Social Welfare and Education who receive more than $3,500 a year shall not be entitled to time service or allowance for maintenance.

While it is unfortunate that so many destructive Civil Service bills were enacted, we were fortunate in procuring the defeat of many harmful bills.

The first controversy of the session came up with reference to the Wicks Bill, Senate No. 6, Pr. A. 2581, which passed the Senate on February 15, containing provisions that the work incident to grade crossing elimination should be done by the railroads themselves. The Association immediately opposed this measure on the ground that it would require the layoff of many employees in the Department of Public Works, and that the work should be performed by the State itself, inasmuch as the State will pay practically the entire cost of the elimination.

The bill was finally amended in the Assembly to provide that the work should be done by the State, and the bill was subsequently passed in the amended form.

The Young Bill, S. Intro. 2243, Pr. 2860, which would have jeopardized the "professional" service by adding

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two additional grades in the Feld-Hamilton schedules, one with a minimum of $900 and the other with a minimum of $1,200, was vetoed by Governor Lehman.

The Ives Bill, A. Intro. 2333, Pr. 3030, which would have deprived the State Social Welfare Department of supervision over local home relief, and incidentally required the dismissal of many employees in this department, was vetoed in a message which read, in part, as follows: "This bill would deprive the State of any supervision over local administration and local expenditures for home relief.

"The Department of Social Welfare, in its Annual Report to the Legislature, stated: "For public assistance in all its phases the aggregate expenditures in 1938 was $202,318,736. Of that amount, State supervision cost less than 1/2 of 1%.'"

I am firmly convinced that a complete surrender by the State of the administration of relief to local officials might throw the entire home relief situation into the field of local politics, would greatly lessen efficiency and, in my opinion, would increase the cost of relief to the tax payers of this State by at least $10,000,000 per year."

The controversial Page Bill, S. Intro. 993, Pr. 1078, which provided that all employees of the TERA, who had served at least three years, there be given permanent positions in the Department of Social Welfare, without regard to their standing on any eligible list, which had been strenuously opposed by the Association, was vetoed by the Governor in his message, which declared: "Not only does the bill violate the principle of the merit system, but it is obviously unfair and discriminatory to the thousands of persons who competed in the examinations and who are today on civil service lists awaiting appointments."

Several important bills, sponsored by the Association, failed of enactment.

The Fite Bill, A. Intro. 1323, Pr. S. 2694, designed to give employees additional protection from removal upon charges, by providing for a review before the Civil Service Commission, passed the Assembly but died in the Senate Civil Service Committee.

All the bills to extend the Feld-Hamilton Law to employees in State institutions were killed in committee. While the economy issue prevented the passage of these bills at this session, the necessity of extending the Feld-Hamilton Law to cover the remainder of the employees of the State is everywhere recognized, and it is hoped that these bills will be enacted next year.

Among the Association bills killed in committee, were the Feinberg-Ostertag Bill, A. Intro. 545, Pr. 561, extending the Feld-Hamilton Law to Prison Guards and other employees in the Department of Correction; the Hampton-Barrett Bill, S. Intro. 1364, Pr. 1530, extending the Feld-Hamilton Law to employees in the Department of Mental Hygiene; the Rupp Bill, A. Intro. 2164, Pr. 2599, extending the Feld-Hamilton Law to employees in the Departments of Social Welfare, Health and Education; and the Pease Bill, A. Intro. 682, Pr. 2417, extending the provisions of the Feld-Hamilton Law to cover forest rangers.

All these bills provided for the repeal of existing salary schedules and time service increments. Many employees have misunderstood the purpose and effect of these bills and, in many cases, have interpreted them as salary reduction measures, because by their terms, they repeal existing statutes.

The Feld-Hamilton Law provides that it is applicable to all employees in the competitive and non-competitive classes, except those whose salaries are fixed by other statutes. Consequently it is necessary to repeal the existing statutes in order to extend the Feld-Hamilton Law to these groups of employees. and, upon the repeal of these statutes, the Feld-Hamilton Law is automatically extended to these employees.

The Ehrlich Bill, A. Intro. 1893, Pr. 2953, sponsored by the Association, which directed the head of each department to establish reasonable sick leave rules for institutional employees, was vetoed by Governor Lehman for the following reasons: "This bill provides that the head of various departments shall adopt rules to give sick leave to persons employed in State institutions.

"To begin with, no law is necessary to empower the head of a department to adopt an administrative rule for sick leave. Departments now have adequate power.

"I do not favor mandatory legislation applicable only to a portion of the employees of the State. Furthermore, this bill makes no provision for any equitable adjustment by reason of special benefits now conferred upon certain employees. For instance, some institutional employees are given both free medical and hospital service and maintenance during periods of illness.

"This bill would undoubtedly increase the cost of government."

While it is true that no law is required to extend the sick leave rules to institutional employees, the Association feels very strongly that this bill should have been signed. We know of no sound reason why employees of the Mental Hygiene Department should not be given any sick leave whatever, while, at the same time, satisfactory sick leave rules are in effect in other State departments and institutions.

The Governor, we feel, is in error in stating that the bill made no provision for equitable adjustment by reason of special benefits, in the nature of medical and hospital service, now conferred upon certain employees. The bill prescribed no period of sick leave. It declared that rules should be adopted by each department with the approval of the Governor, and there is no sound reason why rules cannot be adopted which will recognize the value of medical and hospital service in determining what constitutes reasonable sick leave. The fact that some employees receive medical and hospital service is, in our opinion, no reason why every employee of the department should be denied any sick leave whatever.

The Association will continue its efforts, looking to the adoption of fair and uniform sick leaves for employees of the Mental Hygiene Department.

Other bills vetoed by the Governor are:

The Barrett Bill, A. Intro. 1914, Pr. 2157, extending the eight hour day to watchmen in State institutions.

The Hampton Bill, S. Intro. 1005, Pr. 1091, increasing the salary grades of Insurance Examiners.

The Condon Bill, S. Intro. 2282, Pr. 2936, which provided that Trial Examiners in the Labor Relations Board should be in the exempt class of the Civil Service.
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