

Sacramento, California,

February 2, 1931.

The Civil Service Board of the City of Sacramento met in special session on the above date at 6:45 o'clock P. M. in the office of the Board, Room 106 City Hall, President Chenu presiding.

PRESENT: Commissioners Maloney, Weisman, and Chenu.
ABSENT : None.

The minutes of the special meeting of January 26, 1931, were read and approved as read.

The review of the examination papers in the Firemen's examination was postponed until Friday, February 6, 1931.

An opinion was received from the City Attorney relative to the discharge from Naval service presented to the Board by Frank J. Ochsner in order to obtain preference under Section 45 of the City Charter. The opinion of the City Attorney follows:

"February 2, 1931.

Re: Frank J. Ochsner.

Municipal Civil Service Board,
Sacramento, California.

Dear Sirs:

Relative to inquiry as to status of the above named, we note that the Veteran's Welfare Act of the State of California provides that: " 'Veterans' includes any citizen of the United States who has served on active duty in the army, navy or marine corps of the United States in time of war and has received an honorable discharge therefrom or who has been released from active duty under honorable conditions."

Section 45 of our Charter reads: "Honorably discharged soldiers, sailors or marines." In neither of the above provisions is it provided that an "honorable" discharge is required. I am informed by the Veteran's Welfare Board that 95% of the navy discharges upon which they have acted favorably are identical in form with that of Mr. Ochsner.

The words "honorably discharged" in our charter are used in contra-distinction to dishonorably discharged and will

necessarily include exactly the same class as is governed by the California Veteran's Act. Mr. Ochsner's record, as shown by his discharge, is good and he is recommended for re-enlistment. Under these circumstances, there cannot be any question that Mr. Ochsner was honorably discharged from the navy.

In reply to your second question as to the application of the provisions of Section 45 of the City Charter to soldiers, sailors and marines who have not served during time of war. This was one of the express conditions considered in the action of Cook v. Mason, 103 Cal. App. 6, and it was determined that the preference applies to those who served in time of peace as well as to veterans.

In regard to your third question, Mr. Ochsner, being entitled to a preference, cannot be deprived of his rights by any failure of the Civil Service to recognize his discharge; it is immaterial whether the list is posted or not. If the Board has erroneously deprived any applicant of preference to which he is entitled or erroneously given any applicant a preference to which he is not entitled, the list can and must be amended to state the correct situation or the applicant is entitled to go before the court and mandamus the board to correct the list.

It is only in regard to grades or marks given that the list can become final.

Yours truly,

CITY ATTORNEY
By Joseph Knowles
Assistant City Attorney"

HBB/GGH

Commissioner Maloney moved that in accordance with the opinion received from the City Attorney, that the name of Frank J. Ochsner be placed in its proper position upon the eligible list for Patrolman with those candidates receiving preference under Section 45 of the City Charter. The motion was seconded by Commissioner Weisman. The vote was as follows:

AYES: Commissioners Maloney, Weisman, and Chenu.
NOES: None.

An opinion was received from the City Attorney relative to the employment records of Mrs. Mary B. White, an employee in the Health Department. Commissioner Weisman moved that this case be laid over. The motion was seconded by Commissioner Maloney. The vote was as

follows:

AYES: Commissioners Maloney, Weisman, and Chenu.
NOES: None.

The following resolution, Number 114, dated January 29, 1931, a copy of which was directed to the Civil Service Commission was read:

"RESOLUTION NO. 114.
Adopted by the Sacramento City Council on date of
January 29th, 1931.

TO: CIVIL SERVICE COMMISSION

WHEREAS, Section 128 of the City Charter reads in part as follows:

"Sec. 128, The City Attorney shall be the legal adviser of and attorney and counsel for the City and for all officers, boards and departments thereof and for the Board of Education in all matters relating to their official duties.*****"

AND WHEREAS, the City Council has full confidence in the ability of the City Attorney and the soundness of his opinions.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

That all officers, boards and departments of the municipal government of the City of Sacramento are instructed and directed to confer with the City Attorney and be guided by his opinion in all matters relating to the construction and interpretation of the city charter and ordinances of the City, or other legal matters.

Adopted by the City Council at its regular meeting held on date of January 29th, 1931, by the following vote:

AYES: Anderson, Baker, Bellhouse, Ferguson, Maddox, Miller and Scollan.

H. G. DENTON
CITY CLERK

JOHN H. MILLER
PRESIDENT PRO TEM"

Commissioner Weisman moved that the resolution be ordered filed. The motion was seconded by Commissioner Maloney. The vote was as follows:

AYES: Commissioners Maloney, Weisman, and Chenu.
NOES: None.

The Board next considered the position of Superintendent of Traffic. Commissioner Maloney moved that the matter of the position of Superintendent of Traffic be referred to the City Attorney for an opinion as to whether the position should be classified as employment under Civil Service, or as a Chief Deputy in accordance with Section 43 of the City Charter. The motion was seconded by Commissioner Weisman. The vote was as follows

AYES: Commissioners Maloney, Weisman, and Chenu.
NOES: None.

A letter was received from the City Manager in reply to a communication from the Civil Service Board, with reference to the present status of Patrolman Kaminsky and requesting the correction of records to conform to the appointment. Commissioner Weisman moved that a letter be directed to the City Manager acknowledging receipt of his communication, and stating action of the Board with regard to request contained in his letter would be held in abeyance until the Board received a reply to a communication directed to the City Attorney requesting an opinion on Section 43 of the City Charter. The motion was seconded by Commissioner Maloney. The vote was as follows:

AYES: Commissioners Maloney, Weisman, and Chenu.
NOES: None.

Mr. Arthur Leiva appeared before the Board relative to the salary being paid A. J. Angelo, an employee of the City at the Incinerator. Mr. Leiva stated he believed that Mr. Angelo's salary had been reduced from a prior salary received. The question also arose as to the employment of Stationary Firemen from the outside instead of making transfers within the division. Commissioner Weisman moved that the Secretary be instructed to communicate with Mr. Hobson through proper channels requesting his

appearance before the Civil Service Board. The motion was seconded by Commissioner Maloney. The vote was as follows:

AYES: Commissioners Maloney, Weisman, and Chenu.

NOES: None.

Commissioner Maloney introduced the following resolution and moved its adoption:

WHEREAS, there has recently appeared in the public press statements attributed to Councilman Anderson and Councilman Maddox, made at a recent meeting of the City Council of the City of Sacramento, the meaning and effect whereof would appear to be that the Civil Service Board was engaging in political activity and that its attitude was antagonistic to the Charter and Laws of the Council, had otherwise been insubordinate and that there should be some method of temporarily suspending its activities, copies of published statements attached hereto;

AND WHEREAS, if such expressions were in fact made, that they are unwarranted by the facts, are unjust and unfair to the Civil Service Board, and it is further believed that if such expressions were so made that they are not representative expressions of the sentiment and attitude of the City Council toward the Civil Service Board, but were merely expressions of the individual opinions of the members making the same,

AND WHEREAS, the Civil Service Board feels that such comments appearing in the public press will induce many readers thereof to believe that the sentiment and attitude of the City Council toward the Civil Service Board is that attributed to said members of the City Council aforesaid, and said Civil Service Board desires that an erroneous impression be not given the public that strife or friction exists between the Board and your honorable body;

NOW, THEREFORE, BE IT RESOLVED by the Civil Service Board of the City of Sacramento that the Honorable City Council be and it is hereby requested to take such appropriate action as may correct any erroneous impression which may have been created by the aforesaid statements published and attributed to members of its honorable body to the end that harmony and good will may combine and continue to exist between the City Council and the Civil Service Board.


The motion to adopt the resolution was seconded by Commissioner Weisman. The vote was as follows:

AYES: Commissioners Maloney, Weisman, and Chenu.
NOES: None.

Adjournment was taken at 9:00 o'clock P. M. to meet again Friday, February 6, 1931, at 7:00 o'clock P. M.


Secretary.

APPROVED:


President.