

JOURNAL OF THE SENATE

THURSDAY, April 1, 1971.

The chief clerk makes the following entries under the above date.

AMENDMENTS OFFERED

Senate substitute amendment 1 to Senate Bill 244 by Senators McKenna and Thompson.

Senate substitute amendment 1 to Senate Bill 266 by Senator Heinzen.

Senate amendment 1 to Senate Bill 285 by Senator Heinzen.

INTRODUCTION OF RESOLUTIONS

Senate Joint Resolution 41

A joint resolution requesting the President of the United States to exercise his powers of executive clemency on behalf of Lieutenant William L. Calley, Jr.

By Senators Whittow and Roseleip; co-sponsored by Representatives Schricker and Hephner.

Read and referred to committee on Judiciary.

BILLS INTRODUCED

Read first time and referred:

Senate Bill 339

Relating to free admission to state parks for residents 65 years of age or older.

By Senator Roseleip; co-sponsored by Representative Greider.

To committee on Natural Resources.

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Senate Bill 340

Relating to the determination of residency of unmarried persons for voting purposes.

By Senator Roseleip; co-sponsored by Representative Greider.

To committee on Governmental and Veterans' Affairs.

PETITIONS AND COMMUNICATIONS

State of Wisconsin
Claims Board

March 30, 1971.

Mr. William P. Nugent
Senate Chief Clerk
State Capitol
Madison, Wisconsin

Dear Mr. Nugent:

The State Claims Board is submitting the attached report to you in accordance with the provisions of Section 16.007, Wisconsin Statutes, covering claims heard by it.

The amounts recommended for payment under \$500 on claims included in this report have, therefore, under the provisions of the statutes, been paid directly by the Board. The Board is preparing a bill on the award over \$500 and will submit it to the Joint Finance Committee for legislative introduction. The awards made under the provisions of s. 16.008, Wis. Stats., have been paid directly to those municipalities.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature as to the nature of the claims which come before it for consideration.

Sincerely,

DONALD STERLINSKE,
Secretary.

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BEFORE THE CLAIMS BOARD OF WISCONSIN

Hearings were held at Madison, Wisconsin, on March 1, 1971, upon the following claims:

| <i>Name of Claimant</i> | <i>Amount of Claim</i> |
|--|------------------------|
| 1. Gladyce Fenner ----- | \$ 376.13 |
| 2. Bruce P. Flood ----- | 729.60 |
| 3. City of Whitewater (16.007) ----- | 2,363.94 |
| 4. Everett J. Fee ----- | 187.59 |
| 5. Martha Hall ----- | 192.50 |
| 6. State Farm Mutual Auto Ins. Co. ----- | 187.28 |
| 7. Dane County (16.008) ----- | 2,916.31 |
| 8. City of Madison (16.008) ----- | 2,397.42 |

THE BOARD FINDS:

1. *Gladyce Fenner, legatee, on behalf of L. H. Chudacoff, Co-Executor of the Estate of George A. Roll, deceased*

Gladyce Fenner, legatee, claims on behalf of L. H. Chudacoff, Co-Executor of the Estate of George A. Roll, deceased, \$376.13 for overpayment of Wisconsin inheritance taxes. Included in the taxable assets of the deceased's estate was a bank account of \$2,956.75 which did not belong to the deceased. The error was not discovered until after the period for amending the Notice and Order Determining Inheritance Tax had terminated (s. 72.15 (11), Stats.). The correct amount of the overpayment, however, is only \$292.15 instead of the \$376.13 claimed. The Board concludes that the claim is one which on equitable principles the State should assume and pay. Of the allowed claim of \$292.15, the county's share is \$16.85 and should be charged back against Outagamie County.

2. *Bruce P. Flood, Jr.*

Bruce P. Flood, Jr. claims \$729.60 for reimbursement of a payroll check which he indorsed in blank and lost on December 1, 1970, somewhere between Baker Hall of Wisconsin State University-Whitewater and First Citizens State Bank. The claimant took steps to arrange for stopping payment of the check, on December 2, 1970, but a stop payment order was not issued until December 21, 1970. The check was cashed by an unknown person on December 4, 1970.

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Any evidence of causal negligence on the part of officers, agents or employees of the State is not as great as the negligence of the claimant, and the Board concludes that the claim is not one for which the State is legally liable, and not one which, on equitable principles, the State should assume and pay.

3. *City of Whitewater*

The City of Whitewater claims \$2,363.94 for extraordinary fire protection services furnished on February 7, 8, 9, 12 and 14, 1970, to the Wisconsin State University-Whitewater campus located in the City of Whitewater in connection with the "Old Main Fire." No contract exists between the claimant and State for such services. The services furnished were extraordinary as to their nature and time involved. The Board is satisfied that the services were performed as claimed and at the request of an appropriate State agency. The Board concludes that the claim is one which on equitable principles the State should assume and pay. (Member Sterlinske is opposed to the conclusion reached by the other four members of the Board).

4. *Everett J. Fee*

Everett J. Fee claims \$187.59 for reimbursement of items of clothing and other articles stolen from a State owned vehicle parked on October 25, 1970 in downtown Chicago while the claimant was conducting state business in the vicinity. There is no evidence of negligence on the part of officers, agents or employees of the State, and the Board concludes the claim is not one for which the State is legally liable, and not one which on equitable principles the State should assume and pay.

5. *Martha Hall*

Martha Hall claims \$192.50 for reimbursement of various personal items left at the University Hospitals in Madison, Wisconsin on October 23, 1970 for a routine sterilization. Claimant's items subsequently disappeared or were inadvertently destroyed while left in the custody of the University Hospitals. The Board concludes the claim is one which on equitable principles the State should assume and pay.

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6. *State Farm Mutual Auto Insurance Company*

State Farm Mutual Auto Insurance Company, as subrogee of Norbert C. Barwasser, M.D., claims \$187.28 for reimbursement of a claim paid to its policy holder for a broken antenna to his 1968 Cadillac occurring on or about May 4-12, 1970, while in storage lot #41 University Hospital Parking Lot, Madison, Wisconsin, during a student demonstration. There is no satisfactory evidence of negligence on the part of officers, agents or employees of the State, and the Board concludes the claim is not one for which the State is legally liable, and not one which on equitable principles the State should assume and pay.

7. *Dane County*

Dane County claims \$2,916.31, pursuant to sec. 16.008, Stats., for extraordinary police services furnished on the University of Wisconsin Madison Campus for controlling onlookers and overseeing the general area of destruction following the bombing of Sterling Hall on August 24, 1970. The Board is satisfied that the services were performed as claimed and at the request of an appropriate State agency, and concludes that the statement of charges is proper under sec. 16.008, Stats., and that the claim of \$2,916.31 should be paid.

8. *City of Madison*

The City of Madison claims \$2,397.42 pursuant to sec. 16.008, Stats., for extraordinary police services furnished on the University of Wisconsin Madison Campus for crowd control on November 1, 1970, in connection with the SMC Peace Rally. The Board is satisfied that the services were performed as claimed and at the request of an appropriate State agency, and concludes that the statement of charges is proper under sec. 16.008, Stats., and that the claim of \$2,397.42 should be paid.

THE BOARD CONCLUDES:

1. The claims of the following named claimants should be denied:

Bruce P. Flood, Jr.

Everett J. Fee

State Farm Mutual Auto Insurance Company

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2. Payments of the following amounts to the following claimants, respectively, is justified under sec. 16.007 (6), Wis. Stats.:

| | |
|--|----------|
| L. H. Chudacoff, Co-Executor of the Estate of George A. Roll, deceased ----- | \$292.15 |
| Martha Hall ----- | \$192.50 |

3. Payment of the following amounts to the following claimants, respectively, is proper under the provisions of sec. 16.008, Wis. Stats.:

| | |
|-----------------------|------------|
| Dane County ----- | \$2,916.31 |
| City of Madison ----- | \$2,397.42 |

THE BOARD RECOMMENDS:

That payment of \$2,363.94 be made to the City of White-water.

Dated at Madison, Wisconsin, this 23rd day of March, 1971.

WALTER G. HOLLANDER,
Chairman, State Committee on
Finance

GEORGE MOLINARO,
Chairman, Assembly Committee on
Finance

DONALD STERLINSKE,
Representative of Secretary of
Administration

ALLEN WILLIAMS,
Representative of Governor

ALLAN P. HUBBARD,
Representative of Attorney General

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
Madison, Wisconsin

March 30, 1971.

To the Honorable, the Senate:

Pursuant to the provisions of the statutes governing, I

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have nominated and with the advice and consent of the Senate do appoint Mr. John M. Lavine, of Chippewa Falls, as a member of the Board of Regents of the State Universities, to serve for a term ending May 1, 1976.

Respectfully submitted,

PATRICK J. LUCEY,
Governor.

Read.

Referred to committee on Education.

To the Honorable, the Senate:

Pursuant to the provisions of the statutes governing, I have nominated and with the advice and consent of the Senate do appoint Mr. Bertram N. McNamara, of Milwaukee, as a member of the Board of Regents of the State Universities, to serve for a term ending May 1, 1976.

Respectfully submitted,

PATRICK J. LUCEY,
Governor.

Read.

Referred to committee on Education.

CHIEF CLERK'S CORRECTION

Suggested by Legislative Reference Bureau

Senate Bill 268

On page 1, line 21, insert "owned" after the second "property".

Senate Bill 272

On page 2, line 3, change "counsins" to "cousins".

Senate Bill 278

On page 2, line 4, "or" is substituted for "of".

Senate Bill 313

On page 1, line 1, and page 3, lines 5 and 6, substitute "256.65 (8)" for "256.65 (h)".