

JOURNAL OF THE SENATE

TUESDAY, April 16, 1974.

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

PETITIONS AND COMMUNICATIONS

State of Wisconsin
Claims Board

April 11, 1974

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

Dear Mr. Nugent:

Enclosed is a copy of the report and recommendation of the State Claims Board covering additional claims which were heard on January 17, 1974.

The amount recommended for payment has, therefore, under the provisions of s.16.007, Wisconsin Statutes, been paid directly by the Board.

The report is for the information of the legislature.

Sincerely,
EDWARD MAIN
Secretary

BEFORE THE CLAIMS BOARD OF WISCONSIN

A hearing was held on January 17, 1974, at Madison, Wisconsin, on the claims of Ralph Albrecht in the amounts of \$12,590 and \$2,650 and the claims of Donald Samuelson in the amounts of \$7,109.50 and \$321.

Claimants claim \$12,590 and \$7,109.50 for the loss of their personal property in a fire on March 26, 1972, at a house rented by them from the University of Wisconsin near the northeastern end of the Picnic Point Peninsula. Claimants claim an additional \$2,650 and \$321 for the destruction of salvageable personal property by the University of Wisconsin on or about April 3, 1972.

Claimants were both employed at the time of the fire as caretakers and night watchmen for the Picnic Point area. They each spend about 20 hours per week patrolling the area for the

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University in cooperation with the University police. They paid a nominal rent of \$5 per month to live in a house owned by the University at 2502 University Bay Drive on the Picnic Point Peninsula. A condition of their employment as caretakers and night watchmen was to live in the house. In addition to this job, claimant Samuelson also was employed by the Institute for Environmental Studies at the University of Wisconsin.

On Sunday, March 26, 1972, while claimants were away, their rented house on Picnic Point was severely damaged by a fire. Also, a shed adjoining the house was destroyed. Claimants lost a considerable amount of personal property as a result of the fire. Only \$4,000 of claimant Albrecht's loss was covered by his insurance policy. None of claimant Samuelson's loss was covered by insurance.

Claimants were under the impression that the University was insuring all of their personal belongings kept at the house. Claimants were unable to recall the specific details of any conversation on the subject of insurance with Robert Lindsay, a representative of the University who employed them. The Board finds that Robert Lindsay, Associate Director of Physical Plant, University of Wisconsin, or any other employe of the University, did not advise claimants either orally or in writing that their personal belongings would be insured by the University. Robert Lindsay's method of operation would have been to refer claimants to the risk management department if an inquiry had been made about insurance coverage. On another occasion involving these claimants, he referred them to the safety officer when an inquiry had been made about the adequacy of fire protection for the house. The burden was upon the claimants, as tenants, to ascertain whether their personal belongings were in fact properly insured, and the record in this regard indicates that more care and diligence should have been exercised by them.

Claimants also allege that there was not a proper plan for fighting a fire. Prior to the fire a relative of claimant Albrecht, who was a volunteer fireman, advised claimants that in his opinion there would be a problem fighting a fire in the house since the Madison Fire Department obtained its water from fire hydrants. Also the house was located on high ground, and water could not be easily pumped from the lake, even though lake water was only 100 feet away. The closest fire hydrant was .7 mile away. When claimants brought this to the attention of proper University officials, the plan was reviewed. The University concluded that there was no better plan to fight a fire for that house than the plan available at that time. Part of the University's rationale was governed by the terms

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of a mutual assistance pact between Cities of Madison and Middleton whereby the Madison Fire Department was to be called first in the event of a fire and the Middleton Fire Department was to be called in by Madison, if necessary. A hose and fire extinguishers were placed on the premises by the University.

Lt. Vincent Wonn, a fire inspector for the City of Madison with over 25 years experience, investigated the fire. The fire was first observed at about 11:15 P.M. by someone on Observatory Hill across University Bay, which is more than a mile from the house. The fire already had progressed to blazing proportions when reported to the Madison Fire Department at 11:15 P.M. The City of Middleton Fire Department was called in at 11:30 P.M., and responded with a 7,500 gallon tanker truck. The City of Madison followed its normal procedures for fighting the fire, and the plan was reasonable under the circumstances.

The exact cause of the fire is unknown, although there is a strong possibility the fire may have been caused by defective electrical wiring, an overheated extension cord, or the heat from a light bulb in a snake cage. Claimants, unknown to the University, kept a live bull snake in the shed next to the house. They devised an electrical apparatus to keep the snake in a cage at a constant 70° temperature. The fire started in the shed and spread to the house.

Claimants salvaged some items after the fire and stored them in the house. Other items were hauled away by the claimants. On Monday, April 3, 1972, Donald Karlen, along with two other employes of the University, went to the house to clean up the area. He arrived at the house about 9:00 A.M. after his early morning coffee break. No one else was there, except the University employes. He looked about the ruins of the house, and did not observe any items neatly stacked in or out of the house. He did not observe any boxes of books or file cabinets. His instructions were to level the house while the other two employes were to haul the debris away in their trucks to a designated dumping area. Before the demolition operation began, claimant Samuelson arrived on the scene and was observed placing items in a white panel truck. No one inquired of the employes where the items were being hauled. Claimant Samuelson never indicated to the employes that they were destroying personal property of the claimants. The demolition operation began at about 10:00 A.M. and continued for three or four days, during which time claimants never inquired as to where the debris was being hauled nor indicated that their personal belongings were being destroyed. If claimants had made the

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attempt to do so, much of the personal property could have been salvaged even after being deposited at the dumping site.

Personal property of claimant Samuelson, listed on Exhibit E along with other items, was used by him in his work with the Institute for Environmental Studies. The Board finds the value of these particular items destroyed by the fire to be \$499.

The Board finds there is insufficient evidence of negligence on the part of officers, agents or employes of the State, and concludes the claims are not ones for which the State is legally liable, nor ones which the State should assume and pay on equitable principles, and therefore denies the claims with one exception. The Board concludes the claim of claimant Samuelson relating to the loss of personal property used by him in his work with the Institute of Environmental Studies should be paid in the amount of \$499 on equitable principles.

Dated at Madison, Wisconsin, this 5th day of April, 1974.

WALTER G. HOLLANDER
Chairman, Senate Finance
Committee

RAYMOND J. TOBIASZ
Chairman, Assembly Finance
Committee

JOSEPH SENSENBRENNER
Representative of Governor

EDWARD D. MAIN
Representative of Secretary of
Administration

ALLAN P. HUBBARD
Representative of Attorney
General

CHIEF CLERK'S REPORT

The chief clerk records:

Senate Bill 175

Correctly enrolled and presented to the Governor on Thursday,
April 11, 1974.