

JOURNAL OF THE SENATE
Eighty-Third Regular Session

MONDAY, August 21, 1978.

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

PETITIONS AND COMMUNICATIONS

**State Historical Society
of Wisconsin**

August 8, 1978.

Donald Schneider

Senate Chief Clerk

State Capitol

Madison, Wisconsin

Dear Mr. Schneider:

Under the new state historic preservation law, adopted in 1977 as Sections 15.705 and 44.22 of the Wis. Stats., I am required to report to you "results of all attempts to ameliorate adverse effects" of state actions on historic buildings and sites.

The Historic Preservation Negotiating Board, which must review proposed state facilities development projects affecting historic properties, met for the first time on May 5, 1978. This is a report of that meeting.

RICHARD A. ERNEY

Director

A copy of this report may be obtained in room 131A, South.

2432

JOURNAL OF THE SENATE

State of Wisconsin Claims Board

July 27, 1978.

Don Schneider
Senate Chief Clerk
State Capitol
Madison, Wisconsin 53702

Dear Mr. Schneider:

Enclosed is the report of the State Claims Board covering claims heard on June 19, 1978.

The amounts recommended for payment under \$1000 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board.

The Board is preparing the bill(s) on the recommended award(s) over \$1,000, and will submit such to the Joint Finance Committee for legislative introduction.

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.

Sincerely,
EDWARD D. MAIN
Secretary

BEFORE THE CLAIMS BOARD OF WISCONSIN

The Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin, on June 19, 1978, upon the following claims:

- | | |
|-------------------|----------|
| 1. George Lewis | \$400.69 |
| 2. Jeanne Neesvig | 400.69 |
| 3. George Douglas | 42.50 |

In addition, the following claims were considered and decided without a hearing:

- | | |
|-----------------------------|--------|
| 4. American Family Ins. Co. | 272.00 |
| 5. Venice Applebeck | 141.80 |
| 6. Michael F. Binning | 187.20 |
| 7. John J. Breight | 18.00 |

JOURNAL OF THE SENATE

| | | |
|-----|----------------------------|--------|
| 8. | Steven L. Carpenter | 14.00 |
| 9. | Susan M. Vance | 78.00 |
| 10. | Ronald Vollmer | 70.72 |
| 11. | Mrs. William Wolowick | 43.37 |
| 12. | Thomas Forsythe | 156.20 |
| 13. | Zalman Friedman | 67.08 |
| 14. | Estate of Henry B. Knispel | 307.00 |
| 15. | Ernie P. Lehr | 32.69 |
| 16. | Shawano Municipal Utility | 436.92 |
| 17. | Richard L. Koller | 50.00 |
| 18. | Leone Beier | 529.35 |

THE BOARD FINDS:

1. and 2. *George Lewis and Jeanne Neesvig*

George Lewis and Jeanne Neesvig of Madison, Wisconsin, claim \$400.69 each for reimbursement of attorney fees related to matters arising out of an appeal from the rescission of their reclassification from Personnel Specialist 3 to Personnel Specialist 4. Their reclassification initially was approved on March 30, 1977, to be effective May 22, 1977. On May 5, 1977, their reclassification was rescinded. Claimants filed appeals to the State Personnel Board on May 17, 1977. Legal services were performed for claimants from June 14, 1977, through February 28, 1978, totalling \$801.39. Stipulations were filed on February 6, 1978, dismissing the claimants' appeals. The negotiated settlements provided for the reclassification of claimants effective August 1, 1977, instead of May 22, 1977. There was no provision for the payment of attorney fees. The Board concludes that the negotiated settlements resulted in the final disposition of these matters, and in the absence of any provision for attorney fees, not only is the state not legally liable for the payment of these claims, but also concludes the claims should not be paid on equitable principles. (Member Main not participating)

3. *George Douglas*

George Douglas of West Allis, Wisconsin, claims \$42.50 for damages not covered by insurance caused by two residents on escape status from Lincoln Hills School who broke into claimant's home on or about August 21, 1977. There is insufficient evidence that their escape was attributable to negligence by a state employe. The residents were discovered missing within twelve minutes of the time they had commenced unsupervised outside recreational privileges. The residents had been performing well at the school. Proper escape procedures were instituted, including timely notification of local authorities. The Board concludes the claim is not one for which the

JOURNAL OF THE SENATE

state is legally liable, nor one which the state should assume and pay on equitable principles. (Member Fox dissenting)

4. *American Family Ins. Co.*

American Family Insurance Co. of Appleton, Wisconsin, makes a subrogation claim of \$272.00 for damages paid to one of its insureds in Waupun who had his property damaged on November 8, 1977, by two escaped inmates from the Fox Lake Correctional Institution. Consistent with a long-standing policy of this Board concerning subrogation claims, the Board concludes the claim is not one for which the state is legally liable nor one which the state should pay on equitable principles.

5. and 6. *Venice Applebeck and Michael Binning*

Venice Applebeck of Irma, Wisconsin, claims \$141.80, and Michael Binning of Unity, Wisconsin, claims \$187.20 for damages to their motor vehicles on November 19, 1978, caused by residents on escape status from Lincoln Hills School. The Department of Health and Social Services acknowledges the damage also resulted from the failure of a state employe to maintain adequate supervision. The escape was not discovered for almost two hours and in this instance the failure to supervise was a substantial factor in contributing to the damages. The Board concludes the claims should be paid.

7. *John J. Breight*

John J. Breight, a state employe from Reedsburg, Wisconsin, claims \$18.00 for damages to his trousers which were torn by a prisoner trying to escape while attending a funeral in Milwaukee on July 11, 1977. The Board concludes the claim should be paid on equitable principles.

8. *Steven L. Carpenter*

Steven L. Carpenter, a state employe from LaValle, Wisconsin, claims \$14.00 for damages to his shirt caused by a prisoner trying to escape while attending a funeral in Milwaukee on July 11, 1977. The Board concludes the claim should be paid on equitable principles.

9. *Susan M. Vance*

Susan M. Vance of Winnebago, Wisconsin, claims \$78.00 for articles of clothing she stored at the Winnebago Mental Health Institute and which were lost by the institute on or about November 9, 1977. The Department of Health and Social Services admits negligence by state employes in failing to exercise reasonable care for the claimant's clothing. The Board concludes the claim should be paid.

JOURNAL OF THE SENATE

10. *Ronald L. Vollmer*

Ronald L. Vollmer of Racine, Wisconsin, claims \$70.72 for damages to his car caused by a resident of Southern Colony while his car was parked outside of the resident's cottage on February 2, 1978. The Board concludes the claim should be paid on equitable principles.

11. *Mrs. William Wolowick*

Mrs. William Wolowick of Boyd, Wisconsin, claims \$43.37 for damages to her car caused by a resident of Northern Wisconsin Center while parked on the grounds of the institution on March 9, 1977. The Board concludes the claim should be paid on equitable principles.

12. *Thomas Forsythe*

Thomas Forsythe of Madison, Wisconsin, claims \$156.20 for damages to his stereo caused by a leak in the roof at the student dormitory where he resided on February 2, 1978. The University acknowledges that water leaked into claimant's room. The Board concludes the claim should be paid on equitable principles.

13. *Zalman Friedman*

Zalman Friedman of Milwaukee, Wisconsin, claims \$67.08 for damage to his car when he parked it in a stall of the parking pavilion of UW-Milwaukee on January 19, 1978. An exposed metal bracket for a removed concrete stopper slashed his tire. The ticket he received from the parking garage contained a statement that UW-Milwaukee was not responsible for damages or any lost contents of cars. Also, claimant should have exercised care to avoid driving over the exposed brackets. The Board concludes the claim is not one for which the state is legally liable, nor one which the state should assume and pay on equitable principles. (Members Fox and Hubbard dissenting)

14. *Estate of Henry B. Knispel*

The estate of Henry B. Knispel claims \$307.00 for a wheelchair which belonged to Henry B. Knispel, but was lost at the University Hospital while he was a patient there. The Board concludes the claim should be paid on equitable principles.

15. *Ernie P. Lehr*

Ernie P. Lehr of Waupun, Wisconsin, claims \$32.69 for damages to his car and loss of gasoline on February 16, 1978, at the State Patrol Headquarters Parking Lot in Fond du Lac when he backed his car into a parking stall. A steel rod holding parking blocks in place had heaved up due to frost in the ground and punctured the gas tank,

JOURNAL OF THE SENATE

causing gas to leak onto the ground. The Board concludes that claimant should have exercised more care in parking his vehicle, and that the claim is not one for which the state is legally liable nor one which the state should assume and pay on equitable principles. (Members Fox and Hubbard dissenting)

16. *Shawano Municipal Utility*

Shawano Municipal Utility claims \$436.92 for damages to underground street light cables cut by state employes erecting a sign at W. Green Bay Street on July 29, 1977. The Board concludes the claim should be paid.

17. *Richard L. Koller*

Richard L. Koller of Madison, Wisconsin, claims \$50.00 for partial reimbursement of a fee for a medical examination taken on July 14, 1977, and a license issued on July 15, 1977. Commencing July 1, 1977, the fee for a license (with or without an examination) was reduced from \$100 to \$50. However, since the fee has to accompany the application for the license, and since claimant applied for his license prior to July 1, 1977, the Board concludes that the \$100 fee was required rather than the \$50 fee. The Board concludes the claim is not one for which the state is legally liable nor one which the state should assume and pay on equitable principles. (Members Fox and Hubbard dissenting)

18. *Leone Beier*

Leone Beier of Cudahy, Wisconsin, claims \$529.35 for medical expenses not reimbursed by insurance resulting from a fall outside of the grandstand at State Fair Park on August 20, 1977. Claimant alleges she slipped on discarded melted ice cream or beverages. The police report for the accident states that claimant slipped on the sandals she was wearing. There is no showing of negligence upon the part of state officers and employes. The Board concludes the claim is not one for which the state is legally liable nor one which the state should assume and pay on equitable principles. (Members Fox and Main dissenting)

THE BOARD CONCLUDES:

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

George Lewis
Jeanne Neesvig
George Douglas
American Family Insurance Co.
Zalman Friedman

JOURNAL OF THE SENATE

Ernie P. Lehr

Richard L. Koller

Leone Beier

2. Payment of the following amounts to the following claimants is justified under sec. 16.007, Stats.:

| | |
|----------------------------|----------|
| Venice Applebeck | \$141.80 |
| Michael F. Binning | 187.20 |
| John J. Bright | 18.00 |
| Steven L. Carpenter | 14.00 |
| Susan M. Vance | 78.00 |
| Ronald Vollmer | 70.72 |
| Mrs. William Wolowick | 43.37 |
| Thomas Forsythe | 156.20 |
| Estate of Henry B. Knispel | 307.00 |
| Shawano Municipal Utility | 436.92 |

Dated at Madison, Wisconsin, this 27th day of July, 1978.

GERALD D. KLECZKA

Senate Finance Committee

VIRGIL D. ROBERTS

Assembly Finance Committee

THOMAS P. FOX

Representative of Governor

EDWARD D. MAIN

Representative of Secretary of
Administration

ALLAN P. HUBBARD

Representative of Attorney
General

JOURNAL OF THE SENATE

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
Madison, Wisconsin

August 11, 1978.

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 Darold L. Strandberg, of Alma Center, as a member of the Veterinary Examining Board, to succeed Dr. Max Barth, to serve for the term ending July 1, 1983.

Sincerely,

MARTIN J. SCHREIBER

Governor

Read and referred to committee on Agriculture, Aging and Labor.

State of Wisconsin
Office of the Governor
Madison, Wisconsin

August 11, 1978.

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 Vernon E. Woodward, of Madison, as a member of the Athletic Examining Board, to succeed himself, to serve for the term ending July 1, 1979.

Sincerely,

MARTIN J. SCHREIBER

Governor

Read and referred to committee on Governmental and Veterans' Affairs.

JOURNAL OF THE SENATE

**State of Wisconsin
Office of the Governor
Madison, Wisconsin**

August 16, 1978.

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 Ruth L. Jansen, M.D., of Milwaukee, as a member of the Nursing Home Administrators Examining Board, to succeed Dr. Michael McLean, to serve for the term ending July 1, 1979.

Sincerely,

MARTIN J. SCHREIBER

Governor

Read and referred to committee on Human Services.

**State of Wisconsin
Office of the Governor
Madison, Wisconsin**

August 16, 1978.

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 Carl Nisen, of Union Grove, as a member of the Conservation Work Projects Board, to succeed himself, to serve for the term ending May 1, 1983.

Sincerely,

MARTIN J. SCHREIBER

Governor

Read and referred to committee on Natural Resources and Tourism.

JOURNAL OF THE SENATE

**State of Wisconsin
Office of the Governor
Madison, Wisconsin**

August 16, 1978.

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 Liesl M. Blockstein, of Madison, as a member of the Nursing Home Administrators Examining Board, to succeed Ruth Paynter, to serve for the term ending July 1, 1981.

**Sincerely,
MARTIN J. SCHREIBER
Governor**

Read and referred to committee on Human Services.