REPORTS

OF

Cases Argued and Determined

IN THE

COURT of CLAIMS

OF THE

STATE OF ILLINOIS

VOLUME 30

Containing cases in which opinions were filed and orders of dismissal entered, without opinion, between July 1, 1974 and June 30, 1975.

SPRINGFIELD, ILLINOIS
1977

(Printed by authority of the State of Illinois.)

14

PREFACE

The opinions of the Court of Claims herein reported are published by authority of the provisions of Section 18 of the Court of Claims Act, approved July 17, 1945, as amended; Ill. Rev. Stat., 1973, Ch. 37, Sec. 439.18, et seq.

The Illinois Court of Claims hears and determines claims against the State of Illinois based on its laws and administrative regulations, other than claims arising under the Workmen's Compensation Act or the Workmen's Occupational Diseases Act.

The Court also has exclusive jurisdiction to hear and determine all claims against the State: (1) based upon any contract with the State; (2) based on tort by an agency of the State; (3) based on time unjustly served by innocent persons in Illinois prisons; (4) based on tort by escaped inmates of state controlled institutions; (5) for recovery of funds deposited with the State pursuant to the Motor Vehicle Financial Responsibility Act; and, (6) to compel replacement of a lost or destroyed state warrant.

Programs to compensate the next of kin of law enforcement officers, firemen, national guardsmen and naval militiamen killed in the line of duty are administered by the Court.

In 1973, the General Assembly established a program to alleviate the financial hardship and tragedy suffered by innocent victims of crimes of violence and their families, and to encourage cooperation with law enforcement officials. This program is administered by the Court of Claims under the Crime Victims Compensation Act.

There has been a substantial increase in the number of claims arising solely as the result of the lapsing of an appropriation from which the obligation could have been paid. This is an outgrowth of the July 1, 1969, change from biennial to annual fiscal planning with the consequent lapsing of appropriations on September 30 of each year in accordance with the State Finance Act. Because of both the volume and general similarity of their content, opinions in such cases have not herein been reproduced in full.

OFFICERS OF THE COURT

HARRY F. POLOS, ***Chief Justice***
Chicago, Illinois
December 6, 1976—

S. J. HOLDERMAN, ***Judge***
Morris, Illinois
March 10, 1970—

LEO J. SPIVACK, ***Judge***
Chicago, Illinois
December 6, 1976—

MAURICE PERLIN, ***Chief Justice***
Chicago, Illinois
February 1, 1963—December 6, 1976

MARION E. BURKS, ***Judge***
Chicago, Illinois
January 13, 1971—December 6, 1976

ALAN J. DIXON
Secretary of State and Ex Officio Clerk of the Court
January 10, 1977—

MICHAEL J. HOWLETT
Secretary of State and Ex Officio Clerk of the Court
January 8, 1973—January 10, 1977

ROBERT S. O'SHEA, ***Deputy Clerk***
Springfield, Illinois
November 1, 1973—

TABLE OF CASES REPORTED IN THIS VOLUME

Page

188 Randolph Building Corp. 80

A

A-OK Products. Inc. 150

A & T Movers 570

Abbott Laboratories 91

Academic Press. Inc. 263, 330

Ace Glass. Inc. 626

Acme Visible Records. Inc. 405

Acco Seed 597

Acoutesch. Inc. 111

Adams. Veola 908

Adams. Engineers. Inc., William 334

Addressograph Multigraph Corporation 356. 357. 383. 501. 541. 594

Agar. Katherine D., Executor 369

Air Illinois. Inc. 83

Albertine. Robert 361

Alberto-Culver Company 364

All Wheel Drive Company 51

Allegheny Valley School 669

Allied Van Line. Inc. 116

Allstate Insurance Company. Subrogee. etc. 466

American Appraisal Co., Inc. 667

American Cystoscope Makers. Inc. 451

American Hospital Supply Corporation 55

American Institute of Physics 20

Amoco Oil Company 140, 363, 433

Anandappa. Eugene. C., M.D. 91

Anderson Jacobson. Inc. 364

Anderson Witte Engraving Company 570

Anderson. Esther J. 958

Page
Andrews University 448
Andrews. Cara Lee. a Minor. Et Al 1114
Angelica Uniform Company 218
Angelica Uniform Group. Inc..... 284
Angelo. Joe D..... 586
Angus. Esterline 26
Archway. Inc..... 410
Arevalos. Juan 842
Arrow Road Construction Co..... 214
Arthur's Sales Company 279
Association for Educational
Communications & Technology 283
Atlantic Richfield Company ..... 20. 31. 54. 76.
105. 134. 190.319. 571
Avenue State Bank. Administrator. Et Al 179
Avery Gravel Co., Inc..... 426
Austin. Clarence 767

B

B & H Blueprint and Supply Co., Etc..... 278
BN Transport Company 219
Bacon. Raymond H..... 321
Badalpour. Ashour 862
Baker & Taylor Company, The 440
Baker, C. Lee 658
Baker, Charles 429
Baker and Son, Co., Peter 73
Balsis, Barbara J., Et Al 1104
Bankers United Life Assurance Company 438
Baren, Barbara L..... 162
Barnes Hospital 624
Barnes, James E..... 428
Barrage, Lillie 998
Barrash, Ruth 493
Barron, Nancy J..... 1084
Barth, Mary, Et AI 822
Barth, Mary Ann, Et Al 1085
Bartlett, Charles H..... 490

Page
Bauer. Zella 598
Bayly. Lawrence Eugene 316
Beastall. Lambert 488
Beato. Frank 752
Bee Jay Industries 221
Beinke, Victor H., M.D. 482
Benck Turf Nursery 90
Bero & Company, Inc., F. J 220
Berron, William J., Et Al 855
Berz Ambulance Service 199
Best Plumbing & Heating Supply Co., E 409
Bethesda General Hospital 382
Bevens, Matthew 955
Beverly, Azalea 665
Beverly Farm Foundation 140, 373
Bey, Rosa Lee Hopkins 1051
Bigford, Victor L., D.D.S. 473
Bismarck Hotel 333, 448, 471, 572
Blades, Inc., Harrison F 388
Blazis, William J 359
Board of Governors of State Colleges & Universities, Et Al 372
Board of Regents, Et Al 278
Bobrowsky, George and Judith 191
Bodnar, Gloria, Wife, Et Al 1091
Boghandel, Munksgaard 89, 115
Boland, Wilbur 1060
Boles, Naomi 142
Booth Memorial Hospital 350, 472
Boswell, William F 740
Bowker Company, R. R 623
Bowles, Sue J 21
Boyd, Lois R 883
Bradford, Everett W 701
Bradley Supply Co., R. W 115
Brandis, Donna M 591
Breen, Ray E 118
Brewer, Donald E 300
Brinkmann Industries, Inc 503
Brinks Security Service 283

Page
Bronicki. Edward J. 182
Broughton & Sons. Inc., P. H. 475
Brown. Inez and Payton. Amazon 354
Brown. Nathan & Clementene 74
Brown Schools. The 370
Bruce Electronics 441
Buchanan. Irene. Administrator. Et Al 534
Buchanan. Leonard C. 487
Bunny Bread Company 372
Bunselmeyer. Earl J. 212
Bureau County Treasurer. Madge Noble. 578, 599
Burgett. Martha. Administrator. Et Al 510
Burkland. Grace L. 1048
Burkle & Sison. Drs. 340
Burnham City Hospital 369
Burns. Eva M., etc. 536
Bury. Mildred A. 330
Buske Lines. Inc. 484
Butler. Earley. Jr., M.D. 198
Buttacavoli. Phyllis C., Administratrix. Et Al 223
Buzan. Sonja. Et Al 762
Byrd Watson Drug Co. 177

C

C & H Electric Company 669
Cabrera. Orlando. M.D. 502
Caldwell Electric Company 438
Cali. Neva. Widow. Et Al 1119
Calvert. Wade A. and Constance S. 210
Calvin. Michael R. 347
Campbell GMC. Inc. 504
Cantrall. Village of 668
Cannonball. Inc. 82, 338
Capital Chrysler Plymouth 11
Capitol Glass Company 634
Capitol Publications. Inc. 481
Cargill, Inc. 584, 585
Case Power & Equipment 665
Catholic Charities of Archdioceses of Chicago. 356, 611

Page
Cato. Sarah Lee 865
Ceja. Nancy J. 579
Cenco Medical Industries. Inc. 186
Cenco Medical Health Supply Corp. 436
Central Illinois Light Co. 619
Central Illinois Public Service Co. 535
Central Office Equipment Co. 82, 140. 261. 263. 284. 367. 486. 522. 660
Central Scientific Company 25
Central YMCA School 524
Certanuim Alloys and Research Co. 255
Chanen's, Inc. 351
Chapman. Laurence I., M.D. 154
Checker Express Co. 111
Chicago Avenue Motors. Inc. 476
Chicago Heights Currency Exchange. Inc. 48
Chicago Lakeshore Hospital. Etc. 211, 352
Chicago Litho Products Co. 219
Chicago Osteopathic Hospital 386
Chicago Press Corporation 82
Chicago. University of 668
Chislom & Son. Inc., James 200
Choiniere. Kenneth 174
Christian Welfare Hospital 143
Cimoski. Frank J. Et Al 498
Cities Service Oil Company 116. 336. 522
City National Bank of Kankakee 413
City Waste System 86
Clark. Bobby C. Et Al 32
Clark Equipment Co. 576
Clark Oil and Refining Corp. 281, 331
Clayton. Alberta M. 427
Clearbrook Center 477
Coleman. Dolly S. 898
Collier. Elberta 1108
Collins. Joseph 360
Colt Industries Fairbands Weighing Division 282
Commonwealth Edison Company 10. 221. 540. 544. 589. 590. 591. 603

Page
Condre. Pamela K. 21
Constructive Playthings 207
Continental Bank 366
Cosby, Willis Russell 589
Costanzo, Cecilia 471
Costelli, Dominic 542
Coulombe, Mary M. 25
Courtwright, Ben 472
Cowdin, Maragaret B. 147
Creviston, Patrick Owen 358
Crittenton Peoria Home, Florence 182
Cunningham Movers, Inc. 22
Curtin Matheson Scientific, Inc. 478, 479
Cyclops Welding Co. 258

D

D. K. Agencies 627
Da Com Corporation 261, 385
Dahlquist. Signe O. 679
Daily Courier News 429
Dameron. Frank. Et Al 203
Dannenberger. Walter 326
Davenport. Harold L. 290
D'Aversa, Angela J. 207
Davis. Inc., George A. 320
Day. Rhonda L. 711
Dayton Currency Exchange. #6 45
Decker. Glenn Oliver 405, 447
Deir. James H., Father. Et Al 694
Dekoven. Marvin P. 196
Denson's Pharmaceutical Center 608
De Paul University 609
Desaulniers & Company 354
De Simone. Carmen C. 830
Dickerson. Marie I. 664
Dictaphone Corp. 522
Difco Laboratories 353
Dillion, James S. 73
Dishman, James R., Sr. 621

Page
Dixie Mills Company 262
Doherty. Phil 16
Dolio & Associate. Inc., John 432
Don & Company. Edward 430, 607
Donelson Corporation 387
Doty. Donald L., Sr. 925
Douglas. Anna M. Et Al 1033
Drapa Signs 536
Druger. Richard C., D.D.S. 388
Dulin. Judith. Et Al 776
Duncan. Harley 598
Dunn. Richard T. 145
Dyer. Nyle Lee 340
Dzierzawski. Julia 838

.E

Easton, J. Donald. M.D. 205
Eckels. Marcel 215
Eckstein. Robert E. 31
Edgewater Hospital. a Non-Profit
Illinois Corp. 3. 447. 578. 621
Edgewater Uptown Community Mental
Health Council 656
Educational Service Region Adams County 189
Eldredge. Margaret H. 80
Eldridge. Edgar F. 344
Elim Christian School 282
Elmore, Maurice 78
Emerson. Ethel H. 420
Ernstmeyer. Robert and Doris V. 367
Estey Corporation 89
Evart. Ada S. 662
Evergreen Cemetery 89
Exxon Company. U.S.A. 147, 188. 188. 197. 214

F

Fain. Helen Clare 424
Fairbanks Morse Weighing Systems Division 482

Page
Falvey. Robert Et Al 192
Family Service Winnetka-Northfield 582
Fandl. William J..... 936
Farns Associates. Inc..... 608
Farris. Mose 487
Fath. Harold L. Et AI 153
Federal Landscaping Co., Inc..... 1
Federal Sign & Signal Corp..... 489. 579. 580. 581
Feldott Brothers 151
Fenimore Book Store 55
Fenton, Arthur A..... 663
Fentress. Ray 917
Finlen. Mary E., Wife Et Al 1076
First National Bank of Belleville. The 71
Fischer. Linda D..... 48
Fisher Scientific Company 659, 660
Fishbach Bros. Inc..... .436, 450
Flaim. Christina 635
Flax Company. The 281, 363. 588
Flynn. Claude J..... 290
Fontainbleau Hotel 475
Ford. Ivan Lavern 314
Forest Hospital 332
Forestry Suppliers. Inc..... 475
Foster. James. III 677
Foster Company. L. B..... 384
Fox. Kathleen 845
Freedman. Howard 151
Freeman. Anna M., Et Al 1106
Freivogel. William M..... 113
Frese. Lawrence and John 15
Frye Williamson Press. Inc..... 451

G

Gaffron. Barbara H..... 46
Gailey Eye Clinic. Ltd..... 370
Gallagher Asphalt Corp..... 577.
Gannon. John E..... 593
Garman, George F..... 3

Page
Garrison. Edna. Mother. Et Al 1097
Gar-Wood Chicago Truck Equipment. Inc. 349
Gast International 485
Gathard, Archie F. 78
General Binding Corporation. Et Al 605
General Electric Supply Company 181, 296
George. Louise K. 857
Gerber-Barthel Truck and Tractor Company 162
Germantown. Village of. Jerome J. Eversgerd 293
Gettis. Guy 922
Gialloreto. Theodore 233
Gianos. Peter 373
Gillespie. Mary E. 195
Glass. Joseph E. 286
Glen Food Mart 185
Golden Dragon Restaurant 496
Gonzalez. Corrine 965
Good Samaritan Shelter Care Home 625
Grace. Lyle 206
Grand Elm A.M.C., Inc. 183
Grand Spaulding Dodge. Inc. 496, 500, 585
Grand Valley State College 477
Graphic Sciences. Inc. 543
Greaney. Michael 524
Great Atlantic & Pacific Tea Co., Inc. 619
Great Lakes Fire and Safety Equipment Co. 476
Great Lakes Solvents Division 152
Greenbaum. Marvin. Et Al 26
Greenwood Press. Inc. 628
Greer. Ray Bogue 312
Gregg. Henry E., Sr. 1054
Grossman. Sidney 45
Grove Press. Inc. 156
Grove Storage. Inc. 106
Guaranty Credit Corporation 277
Guard. Sammuel R. 179
Guinart. Torriente D. 77
Gulf Oil Corporation. 52, 145. 199. 352. 365. 620
Gunther. William C. 75
Gunthrop-Warren Printing Co. 30, 137

Page

H

Hagen, James E. 195
Haggerty. Phillip J. 27
Hainline. Edgar. Heir Et Al 108
Hall. Henry 852
Hall. Robert 602
Hallet & Sons Expert Movers. Inc. 471
Halsted & 69th Currency Exchange 427
Hansen. Edith. Et Al 643
Hardiman. Carl F. 470
Harpstreith. Valentine 546
Harrington. Clarence 67
Harris. Eleanor 493
Harris. James R. 287
Harris. Jerry M. 292
Harrison Company. Sidney 620
Harvard Educational Review 441
Harvard University 654
Harvey. Kevin B. 543
Harza Engineering Company 605
Haupt. Lawrence A. 756
Haupt. Mable. Wife. Et Al 1081
Hawkins-Walters Electric. Inc. 2
Hawkins, Judith 113
Headlee. Kenneth D. 119
Heath, E. C. 331
Heinemann's 442
Henderson. Jack 112
Hendree. Olivia. Mother Et AI 1099
Henke Manufacturing Co. 496
Henry. Inc., Vernon 92
Herila. Mary 1016
Herrel. Michael D. 212
Herschel Mfg. Corp., R. 13
Hester. Charles L. 303
Hesting, Nelson 287
Hickam, Aubrey A. 21
Hill. Elizabeth W., M.D. 48
Hill. Josephine. Wife. Et Al 1073

Page
Hill Camera Repair Service 622
Hilliard. John H. 317
Hires Trucking Company 214, 538
Hobart North Welding Supply Co. 434
Hoe Supply Company 624
Hoeffken Bros., Inc. 453
Hoeszle. C. C. 602
Hoffman-La Roche. Inc. 439
Holder Moving and Storage 467
Holder. James E. 144
Holiday Inn of Macomb 178
Holland. John J., M.D. 142
Honeywell Information Systems. Inc. 490
Hood. George and Myrtle 156
Hope. Emma 1057
House. Saundra K. 23
Howard Uniform Company 114
Howard. Mary, Mother. Et Al 1112
Howell Company. The 387
Hub Clothiers. The 533, 534
Hunter Webb Lumber Co. 209, 218
Hurst-Rosche Engineers. Inc. 652
Hurst. Dr. Charles G., Jr. 153
Hutchinson. Joseph 1013

I

IBM Corporation 186, 205. 209. 217. 596. 657
Illinois Bell Telephone Co. 114
Illinois Electric Works 262
Illinois Power Company 506
Indiana Harbor Belt Railroad Co. 56
Industrial Park Maintenance 106
Inslee, George E. 543
Instant Printing Corp. 488
International Harvester Co. 478

Page

J

Jackets Company. W B. 526
Jackson. Lawrence 47
Jacobsen. John E. 449
Jaffe. Jules 206
Jamison, Mildred C. 492
Jankovsky. Wife. Et Al 1101
Jasinowski. Dennis G. 197
Jean Transportation 203
Jeffery Pharmacy 193
Jenkins. Merchant & Nankivil. Et Al 442
Jennings. Mark B. 673
Jensen. Dan 253
Jer-Lee Home for Children. Inc. 371
Jerry's Frame & Anxel Service 280
Jewish Children's Bureau of Chicago. The 43
Jewish Hospital of St. Louis. The 109
Jim's Auto Supply 56
Johns. Gene 302, 303
Johnson. Calvin 988
Johnson. Clarence E. 803
Johnson. Darrell E. 253
Jones Funeral Home. Earl 108
Jones. Forrest Neal 294
Jones. Virginia MacLeish, Executor. Et Al 428
Jordan. Florence 44
Jurgens. Emmett H. 623

K

Kaepplinger. Raymond 806, 807
Kahn. Robert H. 49
Kalvar Corporation 320
Kankakee Daily Journal Co. 207
Kankakee Industrial Supply 209, 653
Keefe. L. J. Company 148
Keely. Larry L. 691
Keller. Henry S. 435

Page
Kelly. Thomas A. 868
Kerr. William S. 487
Kettler. Paul C. 688
Kewaunee Scientific Equipment Corporation 76
Killebrew. Joseph 342
Kiddy Kademy Kindergarten 201
Kincaid. Rhona J. 73
King. Alfred T., Dr. 47
King. James O. 457
Klaus Radio. Inc. 655
Kleppe. Melvina 623
Kline. Amelia 874
Klock. Marjorie 592
Kloese. Fred Paul 4
Koehler. Merle D. 406
Koeneman. Don P. 208
Kranz Automotive Body Co. 182
Kroch's and Brentano's 110, 136. 139. 383. 532. 573
Kropp. Leroy 46
Kurth. Fred J. 1029
Kydan. Manfred. M.D. 132, 133

L

Labcono Corporation 27
La Copo. Michael R. 545
Laird. Kenneth E. 336
Lamer. Hewitt 152
Landers. Marie 968
Lane, Raymond H. 352
Lanier Business Products 351
Laurel Haven School 604
Lavery, Harry D. 117
Lawless, Edward J. 407
Lawson Products, Inc. 485
Lee, Robert A. 529
Leffler, Doris D. 405
Leger, Rene Saint 662

Page
Lehnen. Pete 406
Lehner, Leonard R..... 368
Leonardz, Tanalayo 494
Leu, Luella M..... 731
Levine, Bruce C..... 971
Levy, Linda S..... 587
Lewis Building, Inc..... 95
Lewis & Clark Community College 509
Lewis University Campus Shop 12, 137
Licata Moving and Storage Co..... 9,10
Leidberg, Eleanor, Administrator, Et Al 518
Lincoln Transfer Company 154, 155, 156
Linz, Michael 199
Littler, John Frances 804
Lopez, Edith, Et Al 903
Love, Eugenia, Wife, Et AI 1110
Love, Larry 654
Loyola University Medical Center 365
Luce Brothers 23
Ludin, Albert P.,M.D. 188
Ludmann, Phyllis E..... 202

Mc

McCarthy, John F..... 152
McCarver, Donna 580
McCaskill, Camille 180
McClaren, Bruce 190
McConnell, Susan L..... 583
McCorkle, Charles. Jr..... 44
McCue. Frank C..... 298
McCurry, Paul D..... 531
McDonald. John 361
McDougall, Cecil L.,Et Al 629
McGath, David E..... 1063
McGaw Hospital. Foster G..... 570
McHenry County Association for the Retarded 490
McKinney, Charles L..... 85
McMaster-Carr Supply Company 610
McVary, Patrick 371

Page

M

M.S.P., Inc., Genesis Group. Inc. 516
Maass, Ray 430
Macek. Mary. Wife. Et Al 1071
Mack. Cornelius 366
MacMillian Arts & Crafts 261
MacMurray College 428, 429
Maddox. Robert S. 521
Madison County. Treasurer 31
Manor. Gracell 532
Manos. Margaret. Administrator. Et Al 639
Marmel. Laurel Beth 946
Marshall Field & Company 495
Martin Brothers Implement Company 278
Master Aurora Supply Co., Div. 219
Material Services Corporation 92
Matthews. John T. 1068
Mauzy. Frederick William 309
Maxwell. Clyde B. Jr. 1042
Mayborne. Terry Lynn (Anderson) Wife. Et Al 1087
Mazurek. Louise 247
Means Service 583
Medica. Excerpta 22, 222
Mennonite Hospital 658
Mental Health Center 480
Mental Health Service of Franklin
& Williamson Counties 599
Mercy Center for Health Care Services. 216, 606
Methodist Hospital of Central Illinois 222
Methodist Hospital 363
Metropolis. City Treasurer. Don Sullivan 296
Mewes. Eugene 684
Meyer. John E., M. C. 539. 540. 655
Michel. Danny N. 113
Mid-City Typewriter Exchange 545
Midlothian Pharmacy 502
Midwest Air Service Co. 88
Midwest Newsclips. Inc. 26
Miller. Andrea 1036

Page
Miller. Irene H. 961
Miller. Artesian Well Co., J.P. 203
Miller & Dilenbeck 264
Milton Roy Company 450
Mims. Mahlon 284
Mine Safety Appliances 284, 530
Mirmelli. Dr. E. J. 180
Mittendorf's Food Center 193
Mobil Oil Corporation. 17. 18. 19. 22. 28. 29
52. 84. 108. 138. 144. 211. 666
Moe. Lois 538
Moffett Realty and Management Co. 11
Mogul-Ed 628
Monitor Labs. Inc. 285
Monroe. The Calculator Co. 501
Montgomery County Sheriff's Office 109
Moore. Evan Gregory Moore 576
Moore. Gordon F., M.D. . . . . .
Moore Business Forms. Inc. 526
Morehouse Wells Company 138
Morgan Oil Company 660
Morris. Minnie . . . . . .
Morris. Laura L. Et Al 816
Mostafa. Mohammed 567
Motorola. Inc. . . . . .491, 492. 494. 523.
535. 582. 582. 610
Mounstsier. Robert W. 1065
Multigraphics Division 433
Murphy. Timm. Lennon & Spesia 434
Murray. Cyril 324

N

Nagy. Steve 888
National Advertising Company 265
Neal Ford. Inc., Bob 106
Neuman. Linda L. 593
Newsletters. Inc. 81

Page
News Sun 501
Niemotka. Helen 985
Nolan. Vivian D. Et Al 1078
Norman. Eddit. Et Al 980
North Greene Unit District #3 452
Northern District Reporters. Inc. 498
Northwest Suburban Special Education
Organization 197

O

Oakley Furniture Company 148
Oberheide Coal & Oil Company 530
O'Connor, Mary E. 80
O'Donnell 194
Office Equipment Company of Chicago 23. 213. 354. 407
Office Supply Company 497, 525
O'Hearn, Mildred 565
Ohio Casualty Group . . . . . .
Ohms. Harry A., Jr. Administrator. Et Al 410
Old Shawneetown. Village of 596
Olivetti Corporation of America 78
O'Neill, Derek Sean 810
O'Neill, Marie 586
Orkin Exterminating Co., Inc. 530
Orlando Auto Top. Inc. 201
Orr Construction Company 266
Osborne. D. Sharon 79
Owen. Donald R. 607
Ozimek. Joseph J. 827

P

P-M Clinical Laboratories. Inc. 583
Page. Bill D. 587
Parham, Kattie. 333, 355
Park Chrysler Plymouth. Inc. 15, 16. 50. 107. 210. 332
Parkland College 659

Page
Parr. Terry. Et AI 97
Passavant Memorial Area Hospital Assn..... 145
Passis, Dennis 84
Patton. Theodore 288
Payton. Mary. Et Al 849
Pebbles. Eugene. Jr..... 671
Penwell, Elva Jennings 506
Peoria Motors. Inc..... 187
Perkins. Richard C..... 322
Peters. Jerome 721
Peters. Louis 88
Peterson. Michael 943
Peterson. Rodney K..... 791
Petty. Catherine. Et Al 963
Pflatz & Bauer. Inc..... 480
Pfoltner. David 356
Phrmedent Credit 334
Phelan. James W..... 606
Piontkowski. Joann 305
Pitchford. Dorothy. Et Al 251
Pitney Bowes 573
Pizano. Vernon J..... 880
Pitts. Albert L..... 265
Plummer. Mina 705
Poindexter. Douglas 939
Poleet. Robert E., Et AI 124
Pollution Control Board 574, 575. 576
Pollard Motor Company 204
Pomianowska. Elizbieta 877
Pomp. Lynn White 592
Pontiac Osteopathic Hospital 24
Powers. Homer P..... 28
Powers 24-Hour Towing 384
Preston. Robert. Et Al 1026
Price. Elnora 771
Price. Joan M..... 786
Professional Audit Bureau 484
Prosser. Peter J..... 259
Proviso Association of Retarded
Citizen. Inc..... .475, 495

Page
Psychiatric Evaluation and Treatment Center 141
Public Electric Construction Company. Inc. . . . 177. 368. 664
Pullen, Arne. Sr., Et Al 1045
Purcell. Loretta 79
Puts Radio Sales 260

Q

Quality Lime Company 452
Quality Sheet Metals. Inc. 2
Quint Cities Drug Abuse Council. Inc. 187
Quiroz. Edward J 871
Quitno, Clarence N. and Jessie L. 149

R

R. K. Petroleum Company 143
Radio Shack 449
Radley. Gilbert 362
Rampley. Jack 96
Randolph. County of ..... .71, 469
Randolph Paper Company 505
Rao, K. P. N.. M.D. 526
Rau. Gary 15
Ravenswood Hospital Medical Center 135. 154. 216. 217
Rayson, Leland H. 611
Reaco, Inc. 437
Redactrom Corporation 482
Redenbo. James Edward 13
Reed, Ronald M. 913
Reese. Howard E. 362
Reese Hospital. Michael 668
Reeves Walgreen Agency ..... .430, 431
Regan. Alice E. 833
Regas, William T. 436
Regli. Leo. Et Al 698
Reichle LP Gas Service 264
Reis Equipment Company 285

Page
Reliance Electric Co. 480
Reliance Elevator Mfg. Co. 573
Reo Movers & Van Lines, Inc. 201
Revell, Inc., Elaine 594, 667
Richardson. Carl 331
Richmond. David 195
Right Girl Temporary Service. Inc. 609
Riveredge Hospital 350
Riverside Hospital 592
Roads and Transportation Association
of Canada 178
Robinson. Charles S. 605
Robinson. Donna J. 11
Robison, Eleanor. Executor. Et Al 665
Rochford. James M. 221
Rockford Anesthesiologist Association 280
Rockford Memorial Hospital 335
Rockford Store. The 537
Roe. Robert **A**. 95
Rodriguez. Gaspar 949
Roeder. Fred W. 795
Root Bros. Mfg. & Supply Company 544
Rose. George W. 658
Rosenbaum. Jean 560
Royal Typewriter Company 141, 579
Rudlick Screw Co., J. P. 279
Ruehl. Emma B. 982
Ruklic Screw Company. J. P. 498, 499, 500
Rush Presbyterian St. Lukes
Medical Center 533

S

S *G* A Scientific. Inc. 542
S & H Feed & Seed Co. 208
Sabatini. William J. 598
Saint Joseph Hospital 382
St. Louis Paper and Box Company 451
St. Mary Hospital 185, 194

Page
St. Mary of Providence School 483
St. Vincent's Community Living 204
Sakornsin. Flora. M.D. 256
Salzman. James R. 456
Sanders. James W. 441
Sangamon. County of 527
Sangamon County Sheriff's Department 87
Sansone. Joseph 1023
Sapp, Arnold L. 675
Sargent-Welch Scientific Co. 505
Sassoon, Charles, M.D. 53, 54
Saunders & Company 286
Savin Business Machines Corporation 612
Scarlett, Barry M. 307
Scientific Procuts 626
Schmidt, Thomas 74
Schmitt, Michael J. 179
Schnepp & Barnes 371
School of the Art Institute of Chicago 191
Schwager, Wayne F. Et AI 263
Schwartz, Barney 149
Schwartz, Judy L. 835
Schwarz, Marvin J. 594
Scribner's Sons, Charles 627
Scrutchions, Helen J. 432
Sears, Roebuck & Company 407, 540, 597, 608
Seebach, Gary 286
Seminar Press 538
Serritella, Dorothy 758
Service-All, Inc. 504
Sexton, James M. 118
Shafer, Raymond C. 327
Shalco Chemical Corporation 259
Sharp, Lt. Stanford 253
Sheely, Ronald T. 211
Sheer, Diane 977
Sheraton-Joliet Motor Inn 572
Sherman Hospital Association 185, 574
Shipley, Martha B. 45
Short, Gale G. 223

Page
Shroyer. Delbert P. 447
Shufeldt. Warren 302
Siebold. Harry J. 656
Simpson. Paula Christine 734
Sims. Robert J. 995
Singer Business Machines 50
Slad. Jerome 992
Smith Oil Corporation 621
Smith. Earl 288
Smith. Glen 167
Smith. Willie 289
Smoot Oil Company 604, 625
Snow. Margaret D. 115
Spadoni. Alex J., M.D. 13
Speare. Morris D. 813
Specialized Services. Inc. 52
Sperindeo. Arlene. Et Al 127
Springfield Anesthesia. Ltd. 509
Springfield Bakers Supply Co. 191
Spivak. Celia. Et AI 892
Spoon River College 474
Sokol. Kenneth 193
Solano. Juan A. 749
Solhkhan. Nariman 473
Solovy. Joseph S., M.D. 54
Southwest Inn 30
Stabler. L. G., M.D. 216
Stade. Charles Edward 531
Staff. Norman 14
Staley. Gene 360
Standard Industrial Products Co. 353
Standard Oil Company 603
Standard Oil Division 96
Standard Rewashed Wipers Co. 523
Standard Stationery Supply Co. 385
Star National. Inc. 365
Starling. Larry 900
Starr Commonwealth for Boys 252
Staszewski. Zygmunt 493
Stauber Wholesale Hardware. Inc., Edward 335

Page
Stebbing. Donald E. 933
Steele. Dalbert. Minor. Et Al 725
Steele. Harold B. . . . . .
Stehman. Paul E. 588
Stein. Charles D. 117
Stein. Clyde F. 368
Stein. Robert H. 1007
Stein & Company. S. 355
Stetson Hat Company. Inc. 107
Stewart. Doris J. 305
Stewart Warner Alemite Sales Co., Inc. 611
Stivers Lifesavers. Inc. 81
Stone Exterminating Company 135
Storms Laundry Supply Company 282
Stout Mech. Contractor. G. F. 137
Stratmeyer. Paul 50
Stratton. Richard 333
Strugala. Christine V., Wife. Et Al 1117
Stubing. Peter. M.D. 625
Stuckeys 77
Sullivan. Don 297
Sumter Memorial Hospital 256
Sun Electric Corporation 90
Sunnyside Dodge Company 198
Superior Ambulance Co. 622
Surratt. Delmont E. 426
Sutclif Pharmacy 205
Svaniga. Lora J. 435
Swain. Tim. II 280
Swank. James Packer 627
Swanson, William H. 587
Sweeney. Thomas Edward 56
Swift. Diane L. 928
Szczesnowski. Edmund 1010

T

Tanaka. June 930
Teledyne Philbrick 481

Page
Telemed Corporation ..... .409, 440
Tenth Street Hardward. Inc..... 577
Texaco. Inc..... .387, 387
Thallman. Mary Lynn 51
Thoburn. Charles H..... 297
Thomas. Charles R..... 1004
Thomas, Frank A..... 345
Thomas. Howard. Et AI 329
Thomas. James C..... 288
Thomas. Roger L..... 546
Thompson. Norman T..... 408
Thornton. Irwin S..... 503
Tiberi. Carol Ann 1089
Tomaszewski. Dorothy 349
Touche Ross & Company 147
Tracer. Irving H..... 202
Traffic Institute. Northwestern University 296
Tri-City Electric Company 325, 326
Trump. Kenneth. Et AI 93
Truss. Kelly 289
Turkin. Nathan. Et Al 416
Turner Construction Co..... 489

U

Uarco. Inc..... 585
Uniline Corporation 187
Union Electric Company 532
Union Oil Company of California ..... 86. 87. 94.
110. 136. 181. 192. 572
Unistrut Service Company of St. Louis 260
United Parcel Service. Inc..... 439
U.S. Geological Survey 524
United Visual Aids. Inc..... 525
University Park Press 220
Utlaut Memorial Hospital 264
Utopia Enterprises. Inc..... 541

Page

V

Vachula. Ellyn Marsek. Mother. Et Al 1093
Valk Manufacturing Company 359
Vanderbilt. Thomas. Et Al 708
Vanderheide. Henry 14
Variety Travel. Inc. 603
Veratex Corporation 112
Vergil. Raul V. 242
Victor Comptometer Corporation-
Business Products 12
Video. Barco 449
Virgo. Marie L. 859
Von Bergen, Florence V., Et Al 335
Vulcan Signs and Stampings. Inc. 256. 257. 258

W

Walker. Claude Lynn 338
Wallace. Inc. 189
Wallin, William R. 468
Walsh. Francis E. 600
Walters, Edwin R. 310
Walters-Cahill Construction Co. 213
Walthill Transportation Co. 75
Washington. Coresia. Et Al 910
Washington University 135
Watermann. Violet Mae 744
Watland. Lester P. 486
Wedeking. Jerry 19
Weinberger. Kenneth J. 783
Weitzman. Howard Roy 919
Wendzinski. Howard 714
West Publishing Company 657
West Side Organization Health
Services Corp. 666
Western Baptist Hospital 184
Western Materials Co. 259
Western Traffic Control. Inc. 663

Page
Westinghouse Security Systems. Inc. 589
Weston, Inc., Roy F. 539
Whalen. Wayne W. 117
Whalen. Kathleen J. 1103
Wheaton. Gary 793
Wheeler's Farm Home School 485
Wheelock. Sharon 149
Wildman, Harrold. Allen & Dixon 183
Wilkens-Anderson Co. 433
Wilks. Ernest 359
Willer. Anne 142
Williams. Annie Delores 251
Williams. David 661
Williams. Evelyn 940
Williams. Gale 552
Wilson. Mary Ella 319
Wilson. Robert D. 686
Windler. William F. 75
Winnebago, County of 184
Winston Park Northwest Corporation 228
Wise. George 361
Wishnick Pharmacy 497
Wittkopp 1020
Wodarczyk. Patricia. Wife. Et Al 1095
Wolfe. Rosenberg & Assoc., Inc. 408
Woods. Arthur L. 146
Woods. Curtis and Edwina 305
Woods. Division of Hesston. Corp. 358
Wooters Lumber Company 150
Wright Building Center 2

X

Xerox Corporation 1.83. 439
Xonics. Inc. 478

CASES ARGUED AND DETERMINED IN THE COURT OF CLAIMS OF THE STATE OF ILLINOIS

(No. 6784—Claimant awarded $7,395.53.)

XEROX CORPORATION, Claimant, *vs.* STATE OF ILLINOIS, NORTHEASTERN ILLINOIS STATE UNIVERSITY, Respondent.

Opinion filed *July* I, *1974.*

XEROX CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; FRANK M. BRADY, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award **for** the amount due claimant.

PER CURIAM.

(No. 74-CC-409—Claimant awarded $34,344.00.)

FEDERAL LANDSCAPING CO., INC., US. STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed *July 1, 1974.*

FEDERAL LANDSCAPING CO., INC., Claimant pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award **for** the amount due claimant.

PER CURIAM.

(No 74-CC-439 — Claimant awarded $15,199 80)

QUALITY SHEET METALS, INC., Claimant, *vs.* STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD, Respondent.

Opinion filed July 1, 1974

JOHN C. FEIRICH ASSOCIATES, CHARTERED, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant

PER CURIAM.

(No. 74-CC-467 — Claimant awarded $13,806.59.)

HAWKINS-WALTERS ELECTRIC, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed July 1, 1974.

HAWKINS-WALTERS ELECTRIC, INC., Claimant pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-473 — Claimant awarded $15,021.79.)

WRIGHT BUILDING CENTER, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed July 1, 1974.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant

PER CURIAM.

(No 74-CC-539— Claimant awarded $3,655 75)

EDGEWATER HOSPITAL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.**

Opinion filed *July 1, 1974.*

WILLIAM L. **SILVERMAN,** Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation* When the appropriation from which **a** claim should have been paid has lapsed, the Court will enter an award for the amount due claimant

PER CURIAM.

(No 74-CC-600—Claimant awarded **$5,271** 16)

GEORGE F. GARMAN, **Claimant,** *us.* **STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.**

Opinion filed *July 1, 1974*

KLEIMAN, CORNFIELD & FELDMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General, **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant

PER CURIAM.

(No. 6309—Claim denied.)

FRED PAUL KLOESE, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC WORKS AND BUILDINGS, Respondent.

Opinion filed July 10, 1974.

TOPPER & WEISS, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; JOHN W. PURNEY, Assistant Attorney General, for Respondent.

HIGHWAYS—*violation of statute.* **Negligence based upon violation of the Motor Vehicle Act when a person is actually engaged in work upon the surface of the road.**

SAME—negligence. **A State employee engaged upon work on a highway is held to standard of ordinary care in performing his work.**

PERLIN, C. J.

Claimant, Fred Paul Kloese, has brought this action seeking damages for personal injuries sustained when the automobile in which he was a passenger collided with the rear of a dump truck being operated by respondent, Andrew Ferrucci, an employee of the State of Illinois.

Claimant contends that Ferrucci was negligent in stopping his truck in the middle of a roadway, in violation of Chapter 95½, Section 11-1301(a), Illinois Revised Statutes; in stopping the vehicle without displaying parking lights or emergency lights, in violation of Chapter 95½, Section 12-104, Illinois Revised Statutes; in operating the truck without sufficient lights, in violation of Section 12-102 of Chapter 95½, Illinois Revised Statutes; in failing to keep a proper lookout for vehicles on the highway; and in being otherwise careless and negligent in operating his vehicle.

The incident occurred on January 9, 1970, at approximately 11:30 p.m. Claimant was traveling in an easterly direction on 95th Street in a forest preserve area of Cook County, Illinois, in an automobile being driven

by one Elwood Stanley. Respondent Ferrucci was also traveling in an easterly direction on 95th Street. He was alone in his vehicle, a four-ton dump truck, on a routine "ice and snow patrol" which required him to travel the roads in the area and salt patches of ice.

At the site of the occurrence, 95th Street is a two-lane, unlighted roadway with one lane for westbound traffic and one lane for eastbound traffic. Approximately 200 feet west of the crash site, the road travels over a hill.

Ferrucci described the truck as bearing six red lights on the rear, placed in a "V" shape pattern. Each light was four inches in diameter. The two lower running lights were two feet apart and approximately three feet off the ground in the center of the truck. The two middle running lights were four feet apart and four feet off the ground, and the upper lights were six feet off the ground and five feet apart. The top of the truck bore a revolving amber "Mars" light and two flashing red lights extending from the sides of the truck. The "Mars" light and the flashing lights were operated by two separate switches located in the cab of the truck.

The weather was clear, although the sides of the road were snow covered.

The testimony of the claimant and Elwood Stanley, the driver of the car in which he was driving, directly contradicts that of respondent Ferrucci as to the circumstances of the accident. Stanley testified that he cleared the crest of a hill about 200 feet west of the crash site, traveling approximately 35 miles per hour. He saw the taillights of respondent's truck and kept going until he noticed that the truck was stopped. He said he applied his car brakes when he was four to five car lengths

behind the truck but was unable to stop before striking the truck. He testified that he could not swing into the westbound lane of traffic because of an oncoming car, and he could not drive onto the right shoulder of the road because of a car stalled on the shoulder to the right of the truck.

According to Stanley, the truck was stopped at the moment of impact and neither the "Mars" light nor the flashing red lights on the sides of the truck were operating.

Ferrucci radioed for police following the accident, and invited claimant and Stanley to await their arrival in the cab of his truck. Stanley said that while sitting in the cab, he noticed for the first time the reflection of the truck's blinking lights.

Stanley was ticketed for driving too fast for conditions, and entered a plea of guilty to the charge. He said he did so on the advice of his parents, since it was his first ticket.

Claimant testified that when Stanley's car cleared the crest of the hill just west of the accident site, he noticed two small obscure red lights "ahead of them on respondent's truck. He could not tell if the lights were moving. He did not see a "Mars" light or other flashing lights on the truck. He said that he called Stanley's attention to the truck when they were about 75 to 100 feet away. When the collision occurred, he was thrown against the dashboard of the car and he fell stunned to the floor of the car. His glasses flew off, and he had to search for them. He got out of the car "five or ten minutes" after the accident.

Claimant testified that while they awaited the arrival of police in the cab of Ferrucci's truck, he saw

Ferrucci turn on the "Mars" light and the flashing red blinking lights. Claimant said that he never saw the "Mars" light or flashing lights on the truck prior to the impact.

Claimant described the truck as being "large, dark, and heavy."

Andrew Ferrucci, called by the claimant as an adverse witness, testified that he was in the process of salting an ice patch at the time of the accident. He said his vehicle "was moving very slow, five or ten miles per hour" at the moment of impact. He said he radioed in to report an abandoned auto on the shoulder of the road "probably" at the same time as he was salting. He estimated that approximately two or three minutes elapsed between his call about the abandoned car and the accident. He said that the accident occurred at, or shortly beyond, the eastern most end of the ice patch.

Phillip Alyoyino, Ferrucci's supervisor at the time of the accident, was called to the crash site. He described Ferrucci's truck as being "bright orange," and said it was cleaned after every snowstorm. He said that when he arrived at the scene, the "Mars" light and flashing red lights on the truck were operating.

He said that respondent's truck was resting on an ice patch, and the wheels of Stanley's car just touched the western edge of the patch.

Claimant sustained damage to eight of his teeth in the accident. Two were removed, and a bone graft was performed to fill the hole caused by the extraction. Several other teeth had to be capped, and two bridges inserted. Claimant's hospital and dental bills totalled $1,841.00.

To recover for his injuries, claimant bears the burden of establishing by a preponderance of the evidence that the respondents were negligent; that he was free from contributory negligence; and that the negligence of the respondents was the proximate cause of the injuries. Respondents contend that these elements of liability were not proven by the claimant, and after a careful consideration of the record, we agree.

Claimant initially alleges in his complaint, that respondent was negligent in stopping his vehicle in the middle of a roadway without displaying parking or emergency lights, in violation of certain provisions of the Illinois Motor Vehicle Act. Aside from the fact that the evidence is contradictory as to whether Ferrucci did indeed stop his vehicle in the middle of the **roadway** without proper lights, claimant cannot prevail upon this theory. At the time of the occurrence, Section 120 (f) of the Illinois Motor Vehicle Act, Chapter 95½, Ill. Rev. Stat. 1969, Sec. 120 (f), provided:

> "The provisions **of** this Act, with the exception of Articles IV and V, **do** not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface **of** the highway, but apply to such persons and vehicles when traveling to **or from** such work."

While contradictory in other respects, the record is clear that at the time of the occurrence, Ferrucci was engaged in work upon the surface of the highway. Respondent's charges of negligence, based upon the respondent's violation of provisions of the Motor Vehicle Act while so engaged, must therefore fail.

Notwithstanding the provisions of Section 120(f) of the Illinois Motor Vehicle Act, however, a State employee engaged in work upon a highway is held to a standard of ordinary care in performing his work. **Creamer** *v.* ***Rode,*** **37** Ill.App. 2d **148, 185** N.E. 2d **345** (1962); ***Lusietto*** *v. Kegan,*

107 Ill. App. 2d 239, 246 NE 2d 24 (1969). Ferrucci was, therefore, obliged to perform his work upon the highway as would an ordinarily prudent person under similar circumstances.

Both claimant and Elwood Stanley, the driver of the car in which claimant was riding, testified that Ferrucci's truck was stopped at the moment of impact, and that warning lights with which the truck was equipped were not operating. Ferrucci stated that the truck was moving, and the warning lights, fully operational. Claimant further testified that the truck was dark in color, whereas Ferrucci's supervisor, who arrived at the accident site shortly after the collision, testified that the truck was bright orange in color. It is uncontradicted, however, that the rear of Ferrucci's truck bore six red lights, each of which was four inches in diameter. Both claimant and Stanley, the driver of the car, observed lights on the truck as they passed over the crest of a hill several hundred feet from the crash site.

The Court must conclude from the evidence before it, that the respondent's truck was being operated with adequate lights to warn the motoring public. In our view, claimant's injuries were proximately caused by the failure of Stanley, driver of the car in which claimant was riding, to keep a proper lookout and to keep his automobile under proper control.

The claim is hereby denied.

(No. 73-CC-465—Claimant awarded $527,00.)

LICATA MOVING AND STORAGE CO., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed July 10, 1974.

WARREN KRINSKY, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-270—Claimant awarded $399.15.)

COMMONWEALTH EDISON COMPANY, Claimant, *vs.* STATE OF ILLINOIS, SECRETARY OF STATE, Respondent.

Opinion filed July *10, 1974.*

GEORGE O. SHAFFNER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-444—Claimant awarded $200.00.)

LICATA MOVING & STORAGE CO., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed July *10, 1974.*

WARREN KRINSKY, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-569—Claimant awarded $105.00.)

DONNA J. ROBINSON, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed ***July*** 10, 1974.

DONNA J. ROBINSON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-602—Claimant awarded $262.50.)

MOFFETT REALTY AND MANAGEMENT CO., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed ***July*** 10, ***1974.***

MOFFETT REALTY AND MANAGEMENT COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-646—Claimant awarded $84.44.)

CAPITAL CHRYSLER PLYMOUTH, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed ***July 10, 1974.***

IRMA L. MUNCY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-698—Claimant awarded $398.00.)

LEWIS UNIVERSITY CAMPUS SHOP, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed ***July 10, 1974.***

LEWIS UNIVERSITY CAMPUS **SHOP,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant **Attorney General, for Respondent.**

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 74-CC-713—Claimant awarded $571.64.)

VICTOR COMPTOMETER CORPORATION—BUSINESS PRODUCTS GROUP, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed ***July 10, 1974.***

VICTOR COMPTOMETER CORPORATION—BUSINESS PRODUCTS GROUP, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid'has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 74-CC-714—Claimant awarded $141.15.)

R. HERSCHEL MFG. CORP., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed July 10, 1974.

R. HERSCHEL MFG. CORP., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-737—Clalmant awarded $165.91)

JAMES EDWARD REDENBO, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF LAW EFORCEMENT, Respondent.

Opinion filed July 10, 1974.

JAMES REDENBO, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-739—Claimant awarded $255.00.)

ALEX J. SPADONI, M.D., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed July 10 1974.

ALEX J. SPADONI, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-749—Claimant awarded $365.25.)

NORMAN STAFF, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed July 10, 1974.

NORMAN STAFF, Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court'of Claims for payment.

PER CURIAM.

(No. 74-CC-750—Claimant awarded $302.62.)

HENRY VANDERHEIDE, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed July 10, 1974.

HENRY VANDERHEIDE, Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-75PClaimant awarded $116.25.)

GARY RAU, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed July ***10, 1974.***

GARY RAU, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. **15,** Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-766—Claimant awarded $141.00.)

LAWRENCE & JOHN FRESE, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed July 10, 1974.

LAWRENCE & JOHN FRESE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue **a** replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-768—Claimant awarded $10.00.)

PARK CHRYSLER PLYMOUTH, INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF PERSONNEL,** Respondent.

Opinion filed July ***10, 1974.***

PARK CHRYSLER PLYMOUTH, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-769—Claimant awarded $661.30.)

PARK CHRYSLER PLYMOUTH, INC., Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF PUBLIC HEALTH, Respondent.**

Opinion filed *July 10, 1974.*

PARK CHRYSLER PLYMOUTH, INC., Claimant, pro se.

WILLIAM J, SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-775—Claimant awarded $185.16.)

PHIL DOHERTY, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed *July 10, 1974.*

PHIL DOHERTY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; EDWARD L. S. ARKEMA, JR., Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-792—Claimant awarded $114.73.)

MOBIL OIL CORPORATION, Claimant, us. STATE OF ILLINOIS, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed *July* 10, *1974.*

JAMES LESTIKOW, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-793—Claimant awarded $1,246.89.)

MOBIL OIL CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed July *10, 1974.*

JAMES LESTIKOW, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-795—Claimant awarded $495.44.)

MOBIL OIL CORPORATION, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF AGRICULTURE, Respondent.

Opinion filed July *10, 1974.*

JAMES LESTIKOW, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-798—Claimant awarded $105.10.)

MOBIL OIL CORPORATION, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF PUBLIC HEALTH,** Respondent.

Opinion filed July *10, 1974.*

JAMES M. LESTIKOW, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-803—Claimant awarded $9.60.)

MOBIL OIL CORPORATION, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF PERSONNEL,** Respondent.

Opinion filed July *10, 1974.*

GIFFIN, WINNING, LINDNER, NEWKIRK, COHEN, BODEWES & NARMONT, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-806—Claimant awarded $6.83.)

MOBIL OIL CORPORATION Claimant, *us.* **STATE OF ILLINOIS, ILLINOIS ARTS COUNCIL, Respondent.**

Opinion filed July *10,* ***1974***

JAMES LESTIKOW, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-809—Claimant awarded $42.49.)

MOBIL OIL CORPORATION, Claimant, *us.* **STATE OF ILLINOIS, Respondent.**

Opinion filed July ***10, 1974.***

JAMES LESTIKOW, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-814—Claimant awarded $245.00.)

JERRY WEDEKING, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF PERSONNEL, Respondent.**

Opinion filed July 10, ***1974.***

JERRY WEDEKING, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-833—Claimant awarded $53.79.)

ATLANTIC RICHFIELD COMPANY, Claimant, *vs.* **STATE OF ILLINOIS, SECRETARY OF STATE, Respondent.**

Opinion filed July 10, *1974.*

D. K. MC INTOSH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-844—Claimant awarded **$50.00.)**

AMERICAN INSTITUTE OF PHYSICS, Claimant, *vs.* **STATE OF ILLINOIS, Respondent.**

Opinion filed July *10, 1974.*

AMERICAN INSTITUTE OF PHYSICS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-846—Claimant awarded $3,158.10.)

SUE J. BOWLES, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion ***filed*** *July 10,* ***1974.***

SUE J. BOWLES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; **or** if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-856—Claimant awarded $145.65.)

AUBREY A. HICKAM, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion ***filed*** *July 10,* ***1974.***

AUBREY A. HICKAM, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-885—Claimant awarded $101.58.)

PAMELA K. CONDRE, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion ***filed July*** *10,* ***1974.***

PAMELA K. **CONDRE,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 6888—Claimant awarded $398.75.)

CUNNINGHAM MOVERS, INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.**

Opinion filed ***July 19, 1974.***

BERNARD A. **HENNING &** ASSOCIATES, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed apprdpriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 74-CC-782—Claimant awarded $6,360.91.)

MOBIL OIL CORPORATION, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF LAW ENFORCEMENT, Respondent.**

Opinion filed ***July 19, 1974.***

GIFFIN, WINNING, LINDNER, NEWKIRK, **COHEN,** BODEWES & **NARMONT,** Attorney **for** Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-839—Claimant awarded $362.78.)

LUCE BROTHERS, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed ***July 19, 1974.***

LUCE Brothers, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-841—Claimant awarded $260.00.)

SAUNDRA K. HOUSE, Claimant, *us.* STATE OF ILLINOIS, SUPERINTENDENT OF PUBLIC INSTRUCTION, Respondent.

Opinion filed ***July 19, 1974.***

SAUNDRA K. HOUSE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W FELDMAN, Assistant Attorney General, for Responden

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-842—Claimant awarded $1,842.38.)

OFFICE EQUIPMENT COMPANY OF CHICAGO, Claimant, *us.* STATE OF ILLINOIS, INDUSTRIAL COMMISSION, Respondent.

Opinion filed ***July 19, 1974.***

OFFICE EQUIPMENT COMPANY OF CHICAGO, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-862—Claimant awarded $1,614.10.)

EXCERPTA MEDICA, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed July 19, 1974.

EXCERPTA MEDICA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—replacement warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-871—Claimant awarded $32.00.)

PONTIAC OSTEOPATHIC HOSPITAL, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed July 19, *1974.*

PONTIAC OSTEOPATHIC HOSPITAL, Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller re-

fuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. **15,** Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-872—Claimant awarded $151.80.)

MARY M. COULOMBE, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed ***July 19, 1974.***

MARY M. COULOMBE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. **If** the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 6531—Claimant awarded $4,513.62.)

CENTRAL SCIENTIFIC COMPANY, Claimant, *vs.* STATE OF ILLINOIS, NORTHEASTERN ILLINOIS UNIVERSITY, Respondent.

Opinion filed *July* ***25, 1974.***

CENTRAL SCIENTIFIC COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; FRANK M. BRADY, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which **a** claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-236—Claimant awarded $329.47.)

MIDWEST NEWSCLIPS, INC., Claimant, *us.* STATE OF ILLINOIS, OFFICE OF THE LIEUTENANT GOVERNOR, Respondent.

Opinion filed July 25, *1974.*

MIDWEST NEWSCLIPS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **EDWARD** L. S. **ARKEMA, JR.,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-252—Claimants awarded $746.33.)

MARVIN GREENBAUM, MANUEL TOLEDO, EDWARD WHALEN, CLARENCE LIPMAN, Claimants, *us.* STATE OF ILLINOIS, OFFICE OF THE LIEUTENANT GOVERNOR, Respondent.

Opinion filed July 25, *1974.*

MARVIN GREENBAUM, MANUEL TOLEDO, EDWARD WHALEN, CLARENCE LIPMAN, Claimants, pro se.

WILLIAM J. SCOTT, Attorney General; **EDWARD** L. S. **ARKEMA, JR.,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-690—Claimant awarded $168.82.)

ESTERLINE ANGUS, Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed July *25, 1974.*

ESTERLINE ANGUS, Claimant pro se.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-732—Claimant awarded $199.36.)

LABCONCO CORPORATION, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed July 25, ***1974.***

LABCONCO **CORPORATION,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E.** WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-761—Claimant awarded $20.00.)

PHILLIP J. HAGGERTY, Claimant, *us.* STATE OF ILLINOIS, BOARD OF VOCATIONAL EDUCATION AND REHABILITATION, Respondent.

Opinion filed July 25, ***1974.***

PHILLIP J. HAGGERTY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a

claim should have been paid has lapsed, the Court will enter an award for the amount, due claimant.

PER CURIAM.

(No. 74-CC-765—Claimant awarded $10.00.)

HOMER P. POWERS, Claimant, *us.* **STATE OF ILLINOIS.,** Respondent.

Opinion *filed* July *25, 1974.*

HOMER P. POWERS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-791—Claimant awarded **$20.08.)**

MOBIL OIL CORPORATION, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF LOCAL GOVERNMENT AFFAIRS,** Respondent.

Opinion *filed* July 25, *1974.*

JAMES M. LESTIKOW, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-794—Claimant awarded $150.76.)

MOBIL OIL CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed July 25, *1974.*

JAMES LESTIKOW, Attorney **for** Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 74-CC-796—Claimant awarded $329.87.)

MOBIL OIL CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed July 25, *1974.*

JAMES M. LESTIKOW, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-800—Claimant awarded $184.92.)

MOBIL OIL CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF REVENUE, Respondent.

Opinion filed July 25, *1974.*

JAMES M. LESTIKOW, Attorney **for** Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General,.for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-815—Claimant awarded $23.35.)

SOUTHWEST INN, Claimant, *us.* STATE OF ILLINOIS, SECRETARY OF STATE, Respondent.

Opinion filed July 25, 1974.

SOUTHWEST INN, Claimant, pro *se.*

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-840—Claimant awarded $173.01.)

GUNTHROP-WARREN PRINTING Co., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LABOR, Respondent.

Opinion filed *July 25, 1974.*

GUNTHROP-WARREN PRINTING Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-848—Claimant awarded $105.64.)

ATLANTIC RICHFIELD COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed ***July*** 25, ***1974.***

D. K. MCINTOSH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER.CURIAM.

(No. 75-CC-48—Claimant awarded $18,493.50.)

TREASURER, MADISON COUNTY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed ***July*** 25, ***1974.***

GEORGE Musso, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER.CURIAM.

(No. 75-CC-49—Claimant awarded $1,000.00.)

ROBERT E. ECKSTEIN, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed ***July*** 25, ***1974.***

ROBERT E. ECKSTEIN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; **or** if a warrant has not been paid after one year from date of issuance; persons who would be entitled under **Ch. 15,** Sec. **210.10,** Ill. Rev. Stat., **1973,** to request a replacement warrant may file an action in the Court **of** Claims for payment.

PER CURIAM.

(Nos. **5137** and 5144—Claims denied.)
Consolidated

BOBBY C. and MARY CLARK, DELLA MAE CLARK, Claimants,
us. **STATE OF ILLINOIS, Respondent.**

Opinion filed ***July*** 29, ***1974.***

HARRIS & LAMBERT, Attorney for Claimants.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

HIGHWAYS—duty *of* State. The State of Illinois is not guilty of negligence unless it has reasonable notice of a dangerous condition and fails to warn the motoring public.

SAME—negligence. Evidence indicated that the proximate cause of the claimants' accident was the drivers failure to keep his car under control after a front tire blew out and not the lack of a sign warning of **a** culvert nor the failure to mow weeds along the culvert.

BURKS, J.

The three claimants in these consolidated claims seek damages for personal injuries allegedly caused by respondent's negligence in failing to keep the weeds mowed on the shoulder of a highway; in allowing a concrete culvert on the shoulder to be obscured from view by weeds growing up around it; and in failing to provide any warning of this alleged dangerous condition.

All three claimants were injured in the same accident. They were riding in the front seat of a car, owned

and driven by Bobby Clark, when the right front tire blew out. The car, after pulling off the paved highway onto the shoulder, struck the foot high concrete culvert, which claimants contend was unmarked and covered by weeds.

Sitting next to the driver, Bobby Clark, was his wife, Mary, and to her right was Mary's sister, Della Clark. About midday on July 17, 1963, they were driving north on Route 148, a 2-lane paved highway with wide shoulders. When they were about a mile and a half south of Christopher, traveling at a speed of 55 to 60 MPH, the right front tire blew out. It made a loud noise like a gun going off. The driver, Bobby, said he "slowed down gradually, put on the brake and dropped the car off the pavement onto the shoulder". The shoulder was over 8 feet wide, fairly level with the roadway, and Bobby said he didn't see anything but high grass on the shoulder. He was still traveling at a speed of 40 MPH when he hit the culvert, which was approximately 250 feet from the point of the blowout.

Bobby, the driver, said he did not see the culvert, because of the weeds, until he was about a car's length from'it and, at that point, he was not able to turn his car in any manner to avoid it.

The concrete culvert, running parallel to the highway, was 10 feet long, 7 inches wide, and one foot high at the end struck by claimant's car. The culvert was set back 8 feet 5 inches from the edge of the pavement on the outer edge of the shoulder, a set-back distance of nearly 3 feet more than the width of a passenger car. Bobby said his car, a '59 Buick, struck the culvert headwall about a foot inside the right front wheel. This means that the right side of claimants' car was about 10 feet off the edge of the pavement, and the left side about 4 feet off the

pavement. The car struck the headwall with such force, that it ended up "straddle the culvert". The car was a total wreck, and all three passengers suffered personal injuries.

The position of claimants' car at impact indicates that it narrowly missed running off the shoulder and plunging into a drainage ditch which runs parallel to the shoulder and culvert. The ditch is plainly visible in claimants' photo exhibits. The accident occurred in bright daylight, about noon, on a warm, clear, dry day.

Respondent contends that the proximate cause of this accident was the apparent failure of the driver, Bobby Clark, to keep his car under control after the tire blew out. Respondent also denies that anything it did, nor failed to do, contributed in any way to the accident.

The court finds that the preponderance of the evidence supports the respondent's position on both issues.

First, we find that the weight of the evidence fails to confirm claimants' major premise that the culvert was obscured from view by high grass and weeds. All of claimants' photo exhibits show the headwall of the culvert to be plainly visible from a reasonable distance. There is some uncertainty in the record as to exactly when the photos were taken and as to whether the photos show the condition of the culvert substantially the same as it appeared at the time of the accident. Testimony of claimants' witnesses is conflicting on this point. It is certain that the pictures were taken a day or more after the accident and before the grass was cut around the culvert.

Claimants introduced eight photo exhibits showing the culvert, the grass, and the weeds as claimants viewed the area from their approach. Claimant, Bobby Clark

said that two of the pictures were taken by him and the other six were taken by his brother several days later. When counsel for the claimants showed Bobby the photos marked as claimants' exhibits A-1 through A-8, we find the following questions and answers in the record:

Q Do those photographs correctly show the condition of the culvert, and the surrounding area at the time of the accident?

A [Bobby Clark] Yes sir.

Q Is the condition of the grass and the weeds, as shown in that picture, as it was on the occasion of the accident?

A [Bobby Clark] I think they'd mowed the right-of-way off, but the culvert still hadn't been cleaned up at the time these pictures were taken.

The court, examining the same photos, and accepting Bobby Clark's testimony that the culvert had not been cleaned up when the photos were taken, finds that the culvert was clearly visible at the time of the accident. It was certainly not hidden by the weeds at the end fating claimants' on-coming car. The entire 10 feet top is also visible. Although the photos show the weeds are as high as the culvert in the middle facing the highway, where the culvert is only 7 inches high, this is not the portion claimants would have seen when approaching the culvert on the shoulder. Claimants' car struck the south end of the 12 inch high culvert which claimants' photos show was plainly visible from a reasonable distance. Bobby Clark, the driver, said these photos "correctly show the condition of the culvert at the time of the accident". We emphasize that this statement, corroborated by several of claimants' witnesses, and accepted by the court, is factual, totally contradicts claimants'

main contention that their view of the culvert was obscured by weeds until they were just a car's length from it.

We have carefully considered the testimony of claimants' seven witnesses, who viewed the culvert after the accident, and find a profusion of contradictions as to what they saw. All of them saw high grass and weeds around the culvert. Raymond Marks: Lester Simpson, and Grover Whiteside said that the culvert was completely concealed by the weeds. Others agreed with Bobby Clark's statement that claimants' photos correctly show' the condition of the culvert at the time of the accident.

Three of claimants' witnesses, Bill Marks, Robert Gene Lindsay, and George Linsley, friends of the Clarks, after visiting Bobby, Mary, and Della in the Miners Hospital in Christopher, went out to view the scene of the accident. These witnesses went there about midnight after the accident had occurred about noon that day. They had a flashlight when they viewed the culvert. Bill Marks was asked the following question and gave the following answer:

Q I show you petitioner's exhibits A-1 to A-8, being the photographs of the culvert, and ask you if the weed condition shown there is the same as you saw it that night?

A [Bill Marks] Well, pretty much the same.

George Linsley seemed to contradict the above statement by his testimony that you couldn't see the culvert unless you were "right on it". Then, on cross examination, he gave the following answers:

Q How far back could you see the culvert?

A Well, from where he run off the road he couldn't see it at all.

Q Where did he run off the road?

A It was farther back.

Q How far back?

A I don't know how far.

Q You don't know whether he could have seen it in an automobile when he was 100 feet, or 200 feet back from it?

A No, **I** don't know exactly how far.

Henry Linsley, who went out to see the culvert on the next day after the accident, gave a completely different description from that of the other witnesses. He said, "Coming straight at the culvert from either end, the culvert was concealed, but from the middle of it you could see it".

Claimants' photos show just the opposite to be true. The culvert was concealed in the middle but both ends and the top were clearly visible.

Based on claimants' photo exhibits and the weight of the evidence, the court is impelled to conclude that the culvert was not obscured from claimants' view and was clearly visible from a reasonable distance.

We turn now to the unrefuted testimony of respondent's key witness which we believe further absolves respondent from any charge of negligence in connection with claimants' unfortunate accident.

Victor Yung, State Highway Maintenance Foreman for the section in which the accident occurred, conceded that the last time the weeds were mowed along this

particular stretch was 26 days prior to the accident. He said that this was in accordance with his mowing schedule or "pattern" of cutting the shoulders three times a year, during the growing season, with the mowing machines being followed by "brier hookers" who clean out the weeds around the headwalls of the culverts and the 4"×4" warning posts placed at the end of all culverts.

Mr. Yung said there were ten similar culverts within this particular 5-mile stretch from Ziegler to Christopher and that all of the headwalls, including the culvert struck by claimants' car, were marked with a 4" x 4" warning post which stood 30" high with a reflector attached.

The maintenance foreman said that he inspects this section of highway every other day, and that "I watch when I go down the road to see that these 4 x 4's are up". He was positive that a 4 x 4 warning post was in place at the culvert in question on the date of the accident. He said that on the day after the accident, he stopped at this culvert and found that the 4 x 4 post had been broken off and was laying right down there at the corner of this headwall. The statement finds support in claimants' photo exhibits A-3, A-4, and A-7 which clearly show the stump of a post at the end of the headwall, as Mr. Yung pointed out when he was shown these photos at the hearing. The court also takes notice that claimants' exhibit A-1 shows a warning post standing at the culvert on the opposite side of the highway, facing southbound traffic, just across the highway from the culvert in question. This fact tends to support Mr. Yung's statement that "there is a 4 x 4 warning post at all those culvert headwalls", including the one that claimants' hit. Mr. Yung stated flatly that whoever hit this particular culvert on the day of claimants' accident broke off the 4 × 4 warning post. He said that it could not have been broken

off the day before, because he had inspected the culverts that day and no warning posts were missing.

At least one conclusion seems obvious from Mr. Yung's testimony. Even if the **4 x 4** warning post had been mysteriously broken off before claimants' hit the culvert, respondent had no knowledge or notice that this might have occurred.

Claimants argue that, "with knowledge that weeds grow pretty fast, the State was on notice that the culvert would be hidden from view of a passing motorist". **Al**-though we have held that this culvert was not hidden from view at the time of this accident, we assume that the knowledge of such a possibility occurring, was one reason for the State erected the 3 0 high **4 x 4** warning posts at all such culverts on this section of highway.

Claimants call our attention to ***Hammond*** v. ***State,*** *24* C.C.R. **368** (1963), as being similar to the case at bar. In the ***Hummond*** case, we held the State guilty of negligence in failing to place a warning post or sign where it had removed the headwall of a culvert on the shoulder of a highway, leaving the remaining portion of the culvert and ditch invisible to users of the shoulder. The case at bar differs from ***Hummond*** in that neither the culvert nor the ditch were invisible. Both were clearly visible in claimants' photo exhibits. But a more important distinction in ***Hammond,*** is the essential fact of adequate notice to the State that a dangerous condition existed on its highway. In ***Hammond,*** we said at page **368:** "The State had ***adequate notice*** of the defect, and its plans called for a warning post to he in place at the scene of the injury, since at least the preceding April." There the accident occurred in October, some six months after the State had ***actual notice*** of the dangerous condition and still failed to put up a warning post.

Similarly, in ***Welsh*** v. ***State, 25*** C.C.R. ***270*** (1966), cited by claimants, we held the State guilty of negligence for permitting the existence of a big hole, **7** feet wide and **3** feet deep, in the shoulder of a highway. The hole was just **2.5** feet from the pavement, completely covered by weeds which had not been mowed for over two months, and there was no sign or warning posted. The State had adequate ***constructive notice*** of this dangerous condition and totally failed to take appropriate remedial measures.

The crux of the ***Hummond*** and ***Welsh*** cases, and all similar cases in which we have found the State guilty of negligence, was that the State permitted a dangerous condition to exist without any warning to the public for an unreasonable period of time, after having actual or constructive notice **of** the danger. In ***Pyle*** v. ***State, No. 5343, filed November 19, 1973,*** we reviewed a large body of case law from our own and other jurisdictions in which the notice requirement rule was applied in tort actions against various governmental entities.

In the case at bar, the evidence fails to establish any of the three essential elements of proof required to support a finding that the respondent was negligent in this case.

First, claimants' charge that the culvert was hidden by weeds was refuted by claimants' own photo exhibits showing the headwall of the culvert clearly visible. Moreover, this culvert was located at the outer edge of the shoulder, 8 feet **5** inches from the pavement, adjacent to a drainage ditch which is also plainly visible in claimants' photos. Under these circumstances, the culvert could hardly be called a dangerous hazard to a careful motorist who might pull off onto this broad shoulder in bright daylight.

Secondly, claimants charge that there was no warning of what claimants call a dangerous condition, was not established by the evidence. Respondent's witness testified that there was a **4 x 4** warning post **30"** high at the end of the culvert, facing oncoming traffic, with a reflector on it. The reflector, obviously, was to make the post more visible at night, and call a motorist's attention to the location of the culvert and the outer edge of the shoulder. In bright daylight, when this accident occurred, a warning post would apparently serve no useful purpose unless the culvert and the edge of the shoulder were, in fact, invisible because of weeds. Claimants' photos show that this was not a fact. Nevertheless, the only evidence in the record suggesting that the warning post at this particular culvert was not standing, and might have been broken off prior to the accident, was a general statement by two passengers in the car. Bobby Clark said that, "when I started for the shoulder, I didn't see anything but high grass along the shoulder". Della Clark said that she "saw nothing on the shoulder except the weeds". The other passenger in the car, Mary Clark, could not remember anything that she saw or might have seen prior to the accident.

Claimants do not deny respondent's evidence that there are numerous culverts on this stretch of highway; that all of the other culverts have warning posts standing; that the highway maintenance supervisor saw the warning post at this particular culvert in place on the day before the accident; nor do they deny that claimants' photos show the stump of a post broken off at the culvert after the accident.

Finally, even if a warning post at this culvert were deemed necessary in daytime, and if it had been broken off prior to the accident, there is no evidence that the

State had any prior notice of such a situation. There is unrefuted evidence that the warning post was in place on the day before the accident. As we said in the *Pyle* case (Supra), the State is not guilty of negligence unless it has reasonable notice of a dangerous condition and fails to warn the motoring public. Here, we find that the evidence not only fails to prove the alleged dangerous condition at the culvert, even in the absence of a warning post, but does not even suggest that the State had any prior notice that the warning post at the culvert was broken off.

It is apparent from the evidence, that the proximate cause of claimants' accident was the driver's failure to keep his car under control after a front tire blew out while the car was traveling at a speed of 55 to **60** M.P.H. Claimants' state in their brief that the driver did not panic, but slowed down gradually, applied his brake, and headed for the shoulder. Yet, he was still traveling at a speed of **40** MPH when his car hit the culvert which was 250 feet from the point of the blow out. This indicates that the car's speed was over **40** MPH when it left the pavement. The blowout did not cause the car to swerve onto the shoulder. Claimant said he "headed" for the shoulder at a speed of over **40** MPH. The court takes notice that experts in safe and careful driving advise that, in case of a blowout, a driver should not turn on to the shoulder of the road until the car is almost stopped.*

We are further led to believe, that the driver failed to keep his car under control by the position of the car at impact. Although he was on a big wide shoulder, his car was about to run off the outer edge of the shoulder and plunge into the drainage ditch when it hit the culvert. There was ample room on the shoulder for the car to pass

---

***Rules of the Road*, "Blowouts" page 37, Michael J. Howlett, Secretary of State.**

between the culvert and the pavement, yet the left side of claimants' car was 4 feet from the pavement when it struck the culvert.

Just why the driver failed to see the culvert in bright daylight until he was just a car's length from it, we do not know. We can only surmise that, in the excitement of the moments following the blowout, he simply failed to notice it. As we said in *McAbbe v. State, 24 C.C.R 374,* "A person will not be excused, who testifies that he looked and did not see".

Claimants contend in their brief that, "even if the court finds the driver, Bobby Clark, guilty of contributory negligence, that negligence cannot be imputed to his passengers, Della Clark and Mary Clark". We accept the rule, well supported by the authorities cited in claimants' brief, that "the negligence of a driver cannot be imputed to a passenger". But neither can it be imputed to the State. Since we have found the respondent to be free from any negligence in connection with this unfortunate accident, the claim of all three claimants in this action must be denied.

Claims No. 5137 and No. 5144, consolidated, are herewith denied and dismissed.

(No. **73-CC-68 — Claimant awarded $3,500.00.)**

THE JEWISH CHILDREN'S BUREAU OF CHICAGO, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed August 2, 1974.

AARON, AARON, SCHIMBERG & HESS, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-491—Claimant awarded $395.50.)

FLORENCE JORDAN, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF LABOR, Respondent.**

Opinion filed August 2, 1974.

FLORENCE JORDAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-695—Claimant awarded $698.17.)

CHARLES MCCORKLE, JR., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed August 2, 1974.

CHARLES MCCORKLE, JR., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-699—Claimant awarded $31.20.)

MARTHA B. SHIPLEY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed August 2, 1974.

MARTHA B. SHIPLEY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-700—Claimant awarded $22.77.)

#6 DAYTON CURRENCY EXCHANGE, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed August 2, 1974.

#6 DAYTON CURRENCY EXCHANGE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for **Respondent.**

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-705—Claimant awarded $50.79.)

SIDNEY GROSSMAN, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed August 2, 1974.

SIDNEY GROSSMAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-735—Claimant awarded $191.23.)

BARBARA H. GAFFRON, Claimant, *us.* **STATE OF** ILLINOIS, Respondent.

Opinion filed August 2, 1974.

BARBARA H. GAFFRON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-736—Claimant awarded $20.48.)

LEROY KROPP, Claimant, *us.* **STATE OF** ILLINOIS, Respondent.

Opinion filed August 2, 1974.

LEROY KROPP, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been

paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-741—Claimant awarded $14.00.)

DR. ALFRED T. KING, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed August 2, *1974.*

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* **warrants.** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-745—Claimant awarded $48.38.)

LAWRENCE JACKSON, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed August 2, *1974.*

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—replacement warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-755—Claimant awarded $49.88.)

LINDA D. FISCHER, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed August 2, 1974.

WILLIAM J. **SCOTT,** Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ***ACT—replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-759—Claimant awarded $347.00.)

ELIZABETH W. HILL, M.D., Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed August 2, 1974.

WILLIAM J. **SCOTT,** Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request **a** replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-762—Claimant awarded $171.68.)

CHICAGO HEIGHTS CURRENCY EXCHANGE, INC., Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed August 2, 1974.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ***ACT—replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-763—Claimant awarded $1,536.04.)

ROBERT H. KAHN, Claimant, *vs.* **STATE OF ILLINOIS, Respondent.**

Opinion filed August 2, 1974.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-764—Claimant awarded $483.18.)

ROBERT H. KAHN, Claimant, *vs.* **STATE OF ILLINOIS, Respondent.**

Opinion filed August 2, 1974.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date **of** issuance: persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-767—Claimant awarded $153.49.)

PARK CHRYSLER PLYMOUTH, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed August 2, 1974.

PARK CHRYSLER PLYMOUTH, INC., Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-773—Claimant awarded $675.00.)

PAUL STRATMEYER, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed August 2, 1974.

PAUL STRATMEYER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—replacement warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-777—Claimant awarded $6,779.64.)

SINGER BUSINESS MACHINES, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed August 2, 1974.

SINGER BUSINESS MACHINES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, **for** Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-778—Claimant awarded $189.21.)

MARY LYNN THALLMAN, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID,** Respondent.

Opinion filed August 2, 1974.

MARY L. THALLMAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **HOWARD** W. **FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-779—Claimant awarded $155.34.)

ALL WHEEL DRIVE Co., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES,** Respondent.

Opinion filed August 2, ***1974.***

THOMAS SMITH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-780—Claimant awarded $126.50.)

SPECIALIZED SERVICES, INC., Claimant, *us.* STATE OF ILLINOIS, BOARD OF VOCATIONAL EDUCATION AND REHABILITATION, Respondent.

Opinion filed August *2, 1974.*

SPECIALIZED SERVICES, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 74-CC-799—Claimant awarded $45.01.)

MOBIL OIL CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF REGISTRATION AND EDUCATION, Respondent.

Opinion filed August 2, *1974.*

JAMES M. **LESTIKOW,** Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD** W. **FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 74-CC-822—Claimant awarded $106.25.)

GULF OIL CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed August 2, *1974.*

R. E. BEKEN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-827—Claimant awarded $525.00.)

CHARLES SASSOON, M.D., **Claimant,** *us.* **STATE OF ILLINOIS, Respondent.**

Opinion filed ***August*** 2, ***1974.***

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—replacement warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-828—Claimant awarded $180.00.)

CHARLES SASSOON, M.D., **Claimant,** *us.* **STATE OF ILLINOIS, Respondent.**

Opinion filed ***August*** 2, *1974.*

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-829—Claimant awarded $300.00.)

CHARLES SASSOON, M.D., Claimant, *vs.* **STATE OF ILLINOIS, Respondent.**

Opinion filed August 2, 1974

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-834—Claimant awarded $125.70.)

ATLANTIC RICHFIELD COMPANY, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.**

Opinion filed August 2, 1974.

D. **K.** MCINTOSH, Attorney **for** Claimant.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-837—Claimant awarded $325.00.)

JOSEPH S. SOLOVY, M.D., Claimant, *vs.* **STATE OF ILLINOIS, BOARD OF EDUCATION AND REHABILITATION, Respondent.**

Opinion filed August 2, 1974.

JOSEPH S. SOLOVY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-838—Claimant awarded $12.50.)

FENIMORE BOOK STORE, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.**

Opinion filed August 2, ***1974.***

FENIMORE BOOK STORE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-854—Claimant awarded $1,007.40.)

AMERICAN HOSPITAL SUPPLY CORPORTION, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed August 2, ***1974.***

AMERICAN HOSPITAL SUPPLY CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-866—Claimant awarded $59.53.)

JIMS'S AUTO SUPPLY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed August 2, 1974.

JIM'S AUTO SUPPLY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-867—Claimant awarded $75.00.)

THOMAS EDWARD SWEENEY, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed August 2, 1974.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* ***warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 5311—Claim denied.)

INDIANA HARBOR BELT RAILROAD COMPANY, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed August 5, 1974.

RICHARD O. OLSON and JAMES L. DAUBACH, Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; **BRUCE J. FINNE,** Assistant Attorney General, for Respondent.

INDEMNITY—*law.* Common law of indemnity is recognized by the Court of Claims.

SAME—*joint* **tort-feasors.** The general rule in Illinois barring contribution between joint tort-feasors does not apply where a third person caused a liability for an employer under the strict terms of unique statutes, such as Federal Employees Liability Act or Workmen's Compensation.

SAME—burden of proof. The employer must show by a preponderance of the evidence that third party was primarily responsibile for injury and if evidence is evenly balanced the employer did not sustain its burden.

SAME—settlement. Fact that principle case is settled by employer does not preclude its right to seek contribution from third party.

ELECTION OF **REMEDIES—negligence.** Where an employee elects to proceed against his employer, that employee is not barred from proceeding against a third party based on a theory of active—passive negligence.

BURKS, J.

Claimant in this action seeks reimbursement or indemnification from the respondent in the sum of $14,000 which claimant paid to one of its own employees in settlement of a suit against the claimant for personal injuries suffered by its employee. Claimant contends that its employee's injuries were primarily caused by respondent's negligence, and that claimant was guilty only of passive technical negligence in connection with its employee's injuries.

Claimant seeks reimbursement from the State under the doctrine of common law indemnity which is recognized by our courts as a law of this State. Hence, our jurisdiction of the subject matter stems from §8(a) of the ***Court** of Claims **Act.***

Bearing in mind that the employee who suffered personal physical injuries is not a party to this action, we will hereafter, for the sake of clarity, frequently refer to claimant as "the Railroad" and to the respondent as "the State".

The Railroad maintains a large yard in Blue Island, in the vicinity of **13800** South Halsted Street. At that location, the State owns and maintains an overpass bridge which serves to carry Halsted Street traffic over the Railroad's yard.

On November 15, 1960, one of the Railroad's employees, Harvey P. Geiger, was walking in the Railroad's yard, under the State's overpass, when he was struck in the head by something which claimant said was a large plywood sign which the State had allegedly used as a part of a cement form and failed to remove from the area after completion of construction work on its overpass. Harvey Geiger was knocked to the ground by the object that struck his head, and he was rendered unconscious.

The Railroad was operating under and subject to the provisions **of** the "Federal Employers' Liability Act", ***Title 45, U.S.C.A.851 et seq.*** That statute obligated the Railroad to provide its employees with a safe place to work. The injured employee hired a lawyer and filed suit for damages against the Railroad in the Circuit Court of Cook County [No. 62C 15921.

The injured employee, having elected to sue his employer, the Railroad, under the ***Federal Employers' Liability Act,*** did not bring any action against the State. However, the Railroad gave due and timely notice to the State **of** the injury to its employee; advised the Attorney General and the Secretary of State that its employee's injury was due to the State's negligence; and invited the State to participate in the pending suit against the Railroad. The State ignored the Railroad's invitation to participate in the suit or in the ultimate settlement.

Railroad gave the State advance notice of the proposed settlement, and eventually paid its injured em-

ployee $14,000 in settlement of the Circuit Court action. Railroad then filed this claim against the State for indemnification.

During the course of the three separate hearings in this court, at the close of the Railroad's evidence, pursuant to §64(5) of the *Civil* ***Practice Act,*** the State moved for judgment in its favor and dismissal of the suit.

The State argued in its motion that is was entitled to judgment under one of two alternative theories:

(1) Since the evidence submitted by Railroad at the hearing all tended to prove that the State was negligent, and since the Railroad judicially admitted its own negligence by making a substantial settlement in the suit brought against it by its employee, the State could be in no worse position than that of a joint tort-feasor. **As** such, the State argued, it is not liable under the general rule and the common law principle that there is no right to indemnity between joint tort-feasors.

(2) If the Railroad were not in fact guilty of any negligence, as it seems to contend, then it acted only out of generosity in settling the suit filed against it by its injured employee, and, in effect, made a gift to its employee of $14,000.

We denied respondent's motion to dismiss, at the close of claimant's evidence, for several apparent reasons. First, the State did not concede its own negligence except for the purpose of advancing the argument in theory (1) of its motion. Since we felt that the outcome **of** this case may depend on the proof of facts concerning the State's negligence, respondent should proceed to adduce evidence in support of its defense on that issue.

Secondly, this court recognizes the well-established exceptions to the rule against contribution between joint tort-feasors. ***I.L.P. Contributions** §5.* One such exception, applicable here, is found in the cases where a third person [here allegedly, the State] caused a liability for the employer under the strict terms of the ***'Federal** Employers' Liability Act*** (Supra). F.E.L.A. is a unique statute governing the liability of railroads for injuries sustained by railroad employees in the course of their work. It is somewhat similar to a workmen's compensation act. It is described by the U. S. Supreme Court in ***Sinkler*** v. ***Missouri Pacific R.*** Co., ***353** U.S. **326*** at page **329** as ". . . an avowed departure from the rules of common law . . . a response to the special needs of railroad workers".

As the Railroad contends here, a company operating under the F.E.L.A., may be "guilty of only passive technical negligence" while the active and primary negligence is that of another. This rule is well stated by Justice Schwartz in ***Gulf, Mobile & Ohio R.*** Co. v. ***Arthur Dixon Transfer Co., 1951, 343** Ill.App. **148.*** Paragraph **4** of the syllabus gives the gist of this case as follows:

"[Indemnity—complaint by railroad for amount paid to its employee injured by transfer company.] Complaint by railroad company **to** recover from transfer company moneys paid in settlement of switchman's claim for injuries sustained during switching movement when he was caught between boxcar and transfer company's motor truck parked close to railroad tracks stated a cause of action, when understood as alleging that railroad company was guilty only of passive technical negligence and that the active and primary negligence was that of transfer company in placing its truck where it was a danger to employees of railroad company."

In a more recent common law indemnity case, ***Sleck*** v. ***Butler Brothers, 1964, 53** Ill.App. **2d** 7,* the court restated the Illinois law of common law indemnity.

In the ***Sleck*** case, involving a breach of the "Structural Work Act" *(Ill.Rev.Stat. **Ch. 48,** §§60-69)* the court said at page 15:

"A party who is legally responsible but not actively at fault may obtain contribution from the party who is actively at fault. In situations where *a* party is found guilty of common law negligence, the party may be found guilty of only passive negligence and therefore entitled to contribution from the active tort-feasor. ***Blaszak v. Union Tank Car Co., 37 Ill. App. 2d 12, 184 NE 2d 808 (1962).*** In situations where a party is charged with a violation **of** the Structural Work Act, he may seek contribution on the basis that his violation was passive, whereas another was guilty of an active violation of the act."

Significantly, in view of the claimant's allegations in the case at bar, the court further stated in *Sleck* at page 15:

"The fact that the principal case was settled and a consent judgment entered reflecting that settlement does not affect the third-party plaintiffs' right to seek contribution, whether the damages were sought for the violation of a statutory duty, as in the Sack case, **or** were sought for the violation **of** a common law duty, as in *Gulf, M. &* **O.*R.*** *Co. v.* ***Arthur Dixon Transfer Co., 343 Ill. App. 148, 98 NE 2d 783 (1951).***

This court has also tacitly recognized the right of a railroad-employer to reimbursement for sums paid to an injured employee where the injury resulted from the active negligence of the State. ***Quilty v. State of Illinois*** **(1961)** *24* ***C.C.R.*** 78, involved a claim for injuries to an employee of the Chicago, Rock Island and Pacific Railroad Company. The injuries were sustained when the employee was working in his employer's 'yard at Blue Island, and was struck in the head by a large block of cement. At the time of the injury, the State was repairing a bridge which passed over the railroad yard where the employee was working. Air hammers were being used in the repair work, the vibrations loosened the concrete, and caused it to fall in the railroad yard below. Although the railroad-employer had paid certain medical bills of the injured employee, we permitted the employee to recover the damages because, as we said at page 80, "no subrogation claim was made by the railroad company . . .".

The case at bar differs from *Quilty* (Supra) in that the employee here elected to proceed against his em-

ployer, the Railroad, for the latter's breach of a statutory duty under the ***Federal Employers' Liability Act.*** In ***Quilty,*** the employee proceeded against the State which was, in that case, admittedly the active tort-feasor. However, the method of procedure elected **by** the employee should not affect the rights of his employer to seek indemnity from the State, if the latter is found to be guilty of the negligence which caused the employee's injury.

So this case boils down to the questions of fact. To establish its claim for indemnity from the State, the Railroad must prove by the preponderence of the evidence that the injury to its employee, Harvey Geiger, was primarily caused by the negligence of the State.

The evidence is entirely circumstantial. There was no eyewitness to the injury of Harvey Geiger, the Railroad's employee. Geiger didn't know what hit him. He was dazed and temporarily unconscious by the blow to his head. He was told, after he got out of the hospital, that it was a board that hit him.

It appears from the evidence, that the board which hit Geiger was a large sign, painted on plywood ¾″ thick and **4' x 4'** square, advertising a friendly church. The sign read,

"Welcome to
Tinley Park
CHURCH of CHRIST
A Friendly Church"

This friendly church was located some 10 miles from the place of Geiger's injury. At some time before the State commenced the repair work on its bridge, and it was stipulated that "somewhere along the line," the church's sign had been posted for advertising purposes.

No witness could remember just where it had been posted. We think it is reasonable to infer that the church sign had been posted somewhere on the State's overpass. The State's construction foreman, William Raymond Hinshaw, remembered noticing the sign when he inspected the bridge and the area two weeks before the repair work started. However, Hinshaw said that the sign was gone when he came back to start the job, and that he never saw the sign again after that day, two weeks before the work commenced.

As job foreman, Hinshaw was at the work site every day while the repair work was in progress. The work commenced on August 3, and was completed on September 28. Geiger was injured on November 15, some 48 days after the State's work was finished, all of its equipment removed, and the work area cleaned up.

Railroad contends, that the church sign had been used by the State as a part of a cement form underneath the bridge; that, after the form was taken down, the sign was left on top of a pier from whence it became dislodged by the high wind on the night of the accident, fell or blew down, and struck Geiger on the side of his head.

The Railroad called two witnesses who said they saw the sign used by the State as a part of a cement form underneath the bridge in the area where Geiger was injured. Forrest Bennett, Railroad's yardmaster, said he could see the sign in use as a cement form every day from his work position on the high stand. Bennett was obviously confused, however, when he said that the first time he saw the sign used as a form was about two weeks before Geiger was hurt. As previously noted, the State's repair job was finished and the cement forms removed six weeks before Geiger's injury.

Bennett also said he saw the sign up there after it was no longer being used as a cement form; that he saw it laying down on the pier between two abutments, and that he had noticed it there for some period of time before Geiger was hurt.

Railroad's foreman, John Montsvil, confirmed Bennett's testimony as to seeing the sign used as a form, and later lying on the ledge of the pier. He said, "I saw it on the ledge, that is for sure." He described the sign as lying on the pier "at an angle with concrete chippings all over the place".

Both of Railroad's witnesses said they knew that the wind blows extra-ordinarily strong under the bridge, and that there was an unusually strong wind on the night of Geiger's injury. It couldn't be called a tornado, but the wind was too strong for a man to stand upon a railroad car.

At this point, it seems to the court that these two supervisory employees of the Railroad have admitted that they had knowledge of a dangerous condition, and did nothing about it. They saw the sign lying in a precarious position on top of a pier; knew the propensity for strong winds in the area; and should have known that the sign could blow off and fall on persons below. The least that such prudent men should have done, would be to notify the State to remove alleged dangerous sign. These supervisory employees are presumed to know that the ***Federal Employers' Liability Act*** required the Railroad to provide its employees with a reasonably safe place to work. Yet, according to their testimony, the State had left the sign on top of the pier when they finished their work six weeks before Geiger's injury. Thus, the Railroad had six weeks notice of this alleged dangerous condition and did nothing about it.

This tends to weaken Railroad's argument, that its negligence was only passive and technical, while the State's negligence was active and primary. Railroad states that its negligence consisted only of its failure to "discover" and "correct" a dangerous condition created by the State. Railroad's evidence shows that it had not failed to discover the alleged dangerous condition. It seems obvious that failure to correct an undiscovered and unknown dangerous condition suggests less guilt of negligence than failure to take any remedial measures after discovering a dangerous condition, regardless of who created it.

Before pursuing this reasoning to a conclusion, that the Railroad and the State were in ***pari delicto,*** or weighing their relative delinquencies which may have contributed to Geiger's injury, we are obliged to consider the State's evidence which completely contradicts the testimony of Railroad's witnesses on the essential facts concerning the State's alleged negligence.

Testifying for the State was its highway maintenance supervisor, Kenneth DeYoung, and its construction foreman in charge of the repair work on the bridge, William Raymond Hinshaw. Both men were on the job every day and inspected all work at the job site every working day during the forty-four day period required to complete the job. Neither of these men ever saw the church sign while the work was in progress, or during the clean-up afterwards. Each of them saw the sign only once. Hinshaw saw it hanging somewhere on the premises two weeks before the work started, but never saw it again after that day. DeYoung never saw it at all until several days after the accident when he went to the Railroad office to examine it at Railroad's request.

Both DeYoung and Hinshaw are positive that the

sign was not used as part of a cement form. They said that all plywood used for forms is either new wood or used forms that have been cleaned. They also said that the plywood used is always oiled so the cement will not stick to it. There is no evidence that the church sign had been oiled on either side.

DeYoung and Hinshaw were equally positive that no sign was left on top of any pier. They had personally inspected the tops of the piers from ladders and scaffolds. Hinshaw described the procedure for cleaning off the top of the piers where the work was performed. He said they use air hose to blow off mud and dirt.

Hinshaw said he called two men from the Railroad by the name of Smith and Drake, and they went over the bridge with him and inspected it before the State moved the lights and barricades from the top of the bridge. He said they had to **O.K.** the job before he could move out. The inspection of the piers with the two railroad men was a visual inspection from the ground, but we note that this is the same position from which Railroad's witness, Mr. Montsvil claims he saw the sign at an angle on top of the pier. It was not noticed by the Railroad men, Smith and Drake.

For that matter, the Railroad's injured employee, Harvey Geiger, never saw the sign before his accident. He was a yard foreman **who** worked under and around the bridge every day. Geiger testified that he never saw the sign until after he was hit. He did not see the sign used as a cement form nor lying on top of pier. We felt that Geiger's testimony was more favorable to the State than to the Railroad.

Altogether, there were four other witnesses who testified as to the essential facts. Two were employed, by

and testified for the Railroad. Two were employed by, and testified for the State. All gave equally credible testimony, producing a direct conflict in evidence which we find was evenly balanced. Under these circumstances, we must hold that the claimant has not proved its case by a preponderance of the evidence, nor, in other words, by the greater weight of the evidence. ***I.L.P. Evidence §345.***

As we said in ***Boelkow v. State, 24 C.C.R.47,*** "Where there is a direct conflict in evidence, which is evenly balanced, claimant has not met his burden of proof". This rule applies to the case at bar.

This claim must be and is hereby denied.

(No. 5969—Claimant awarded $450.42.)

CLARENCE HARRINGTON, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed August 8, ***1974.***

MEDLIN, ZIMMER & SOUTH, Attorney for Claimant.

WILLIAM **J. SCOTT,** Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

EMPLOYMENT—*termination date.* An employee who resigns one State position for another and who is paid for terminal vacation for a period extending into his new employment does not extend his termination date by taking the lump sum vacation payment and cannot be deemed to be on two State payrolls simultaneously.

SAME—*status of University* employee. State University employees are employees of the State.

PER CURIAM.

This case comes before this Court for consideration on the joint motion of the parties to waive hearing, inasmuch, as the facts are not in dispute and the departmental report attached to the Joint Motion to Waive Hearing established the correct amount of the claim to be

$450.42, and both parties agree to the accuracy of this figure. The question to be decided being one of application of the law as set forth in the statutes and rules in effect at the time, the parties, in conference, having waived the filing of briefs.

This case arose as a result of the claimant, Clarence Harrington, having terminated his employment on July **31, 1968,** with the Department of Transportation, then known as the Department of Public Works & Buildings, Division of Highways, and immediately going to work full time for Southern Illinois University. The question arose when the Department of Public Works & Buildings refused to pay the claimant his accumulated vacation pay because **of** the fact that the Department felt that the employee could not appear on two State payrolls at the same time. It was the Department's position, that the Southern Illinois University is an agency of the State of Illinois and the claimant would be carried as an employee of the Department of Public Works & Buildings during the period of time for which he was being paid vacation, which period coincided with his employment at Southern Illinois University.

Their contention, that the Southern Illinois University is an agency of the State for purposes of determining whether or not the claimant was still employed by the State of Illinois, appears to be correct. According to ***People ex rel. Redman*** v. ***Board of Trustees,*** **283** Ill. **494,** in speaking of the University, the Court states:

"It has no employees. Its employees are employees of the State"

This quotation was cited with approval in ***People*** v. ***Barrett,*** **382,** Ill. **321,** at **340. A** full reading of these cases leaves no doubt that the University of Illinois and Southern Illinois University are agencies of the State

insofar, as the employees are concerned, and that their employees are State employees. It is also true, that under present statutory law, Ch. **127,** Par. 150 (a),there would be no problem in that the intent of the, legislature is clearly set forth and the payment could be made. However, at the time of the accrual of this claim, there was no such expression by the legislature and we must look to the pay plans or Department of Personnel Rules in effect at the time.

In the rules of the Department of Personnel, effective November **1, 1967,** we find the following at Sec. 3-290:

"SALARY IN LIEU OF VACATION: No salary payment shall be made in lieu of vacation not taken except on termination of employment, in which case the effective date of termination is not extended by reason of said salary payment."

Other sections of the Rules worthy of consideration are Sec. **2-410** and **2-430** as follows:

"2-410. **INTERAGENCY TRANSFER:** An employee may be transferred to a position in the same class, or to a position involving similar classifications, duties, responsibilities and salary range, in another agency, with the approval of both agencies, the director, and with the consent of the employee."

"2-430. **RIGHT OF TRANSFERRED EMPLOYEES: A** transferred employee shall retain his status, and shall lose no vacation rights, sick leave or other benefits, nor shall such transfer affect his seniority rights or interrupt his continuous service. **A** transferred employee shall have transferred to the appropriate promotional eligibility list applicable to the organizational unit and work locality of his new position, his name and current grades resulting from promotional examinations."

It is possibly significant that the claimant in his complaint, paragraph **1** states:

"that on or about July **31,** 1968,claimant resigned his position as a janitor with the Carbondale District Officeof the Division of Highways, after giving due notice."

Paragraph 2:

"That after said date claimant went to work for Southern Illinois University."

Also, in the letter from the Department of Public Works & Buildings, dated March 26, 1971, we find the following:

"Mr. Harrington's monthly salary at the time of his resignation from the Division of Highways was $517."

It is significant to note, that neither the claimant nor the claimant's former employer (the Department of Public Works & Buildings) considered the change to be a transfer. Inasmuch, as neither the claimant nor the Department of Public Works & Buildings has made any allegations or brought forth any evidence with reference to the prior approval of the director or the prior approval of the agencies involved, it would appear the position taken by both the employee and the Department is correct in referring to the change of employment as a resignation from one agency and a hiring by the other, rather than a transfer.

Had the legal effect of the change of employment been interpreted as a transfer, it would appear from the Rules that the vacation should be recognized by the University inasmuch as the employee would carry that benefit with him to his new employment. However, it appears that the proper interpretation would be, that the employee merely resigned from the Department of Public Works & Buildings, rather than having transferred from that Department to the University. It would therefore seem to be appropriate that the problem be considered as a problem involving a resignation. Once it has been determined to resolve the problem in this manner, Section **3-290** of the Department of Personnel Rules effective at the time becomes significant when it states that in case of resignation the effective date of termination is not extended by reason of a salary payment for earned vacation. The question before the court, then,

appears to resolve itself to whether or not the employee was in fact on two payrolls simultaneously. If the lump sum payment does not extend the date of termination as per Sec. **3.290,** then there **would** have been no overlapping employment had the Department of Public Works & Buildings paid the claimant his lump sum vacation pay.

WE THEREFORE hold that the employee would not have been on two State payrolls at the same time and claimant is hereby awarded the sum of **$450.42,** FOUR HUNDRED FIFTY AND 40/100 DOLLARS.

(No. 6994—Claimant awarded $3,795.00.)

THE FIRST NATIONAL BANK OF BELLEVILLE, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID,** Respondent.

Opinion* filed *August 8, 1974.

THE FIRST NATIONAL BANK OF BELLEVILLE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. **73-CC-2—Claimant awarded $4,685.80.)**

THE COUNTY OF RANDOLPH, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion* filed *August 8, 1974.

HERBERT L. LANTZ, JR., State's Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

REIMBURSEMENT OF COUNTIES. The expenses, costs, and fees incurred by a County in habeas corpus proceedings involving non-residents of said County who are confined in State penal or charitable institutions shall be reimbursed by the State. (Ch. 65, Sec. 37, 38 and 39, Ill.Rev.Stat., 1947.)

PER CURIAM.

This cause coming on to be heard on the Joint Stipulation of the claimant, County of Randolph, and the respondent, State of Illinois, and the Court being fully advised in the premises, finds that this case arises pursuant to Illinois Revised Statutes, 1947, Chapter 65, paragraphs 37, 38, and 39, being:

"An Act to provide for the imbursement (reimbursement) of counties within the State of Illinois for expenses, costs and fees incurred in habeas corpus proceedings in the courts of such counties, involving non residents of such counties who may be confined in State penal or charitable institutions."

and that claimant is entitled to reimbursement of expenses, costs and fees as follows:

A.	15 habeas corpus filing fees at $25	$ 375.00
B.	95 habeas corpus filing fees at $30	2,850.00
C.	42 State's Attorney's fees at $20	840.00
D.	110 library fees at $1	110.00
E.	42 Sheriffs service fees plus mileage	510.80
	TOTAL	$4,685.80

IT IS HEREBY ORDERED that the parties' presence at a hearing and the filing of briefs is waived, and in pursuance of the statutes of the State of Illinois, as set out above, and based on claimant's complaint with attached Bill of Particulars, as revised by the parties and agreed and stipulated thereto, an award is hereby entered for claimant in the amount of $4,685.80 (FOUR THOUSAND SIX HUNDRED EIGHTY-FIVE DOLLARS AND EIGHTY CENTS).

(No. 74-CC-625—Claimant awarded $221.00.)

RHONA J. KINCAID, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LABOR, Respondent.

Opinion ***filed August 8, 1974.***

RHONA J. KINCAID, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-683—Claimant awarded $228.45.)

JAMES S. DILLION, Claimant, *us.* **STATE OF ILLINOIS, Respondent.**

Opinion filed ***August 8, 1974.***

JAMES S. DILLION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-685—Claimant awarded $96.48.)

PETER BAKER AND SON CO., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion ***filed August 8, 1974.***

PETER BAKER AND SON CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-703—Claimant awarded $153.00.)

NATHAN & CLEMENTENE BROWN, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed August 8, ***1974.***

NATHAN AND CLEMENTENE BROWN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-710—Claimant awarded $84.93.)

THOMAS SCHMIDT, Claimant, *us.* **STATE OF ILLINOIS, Respondent.**

Opinion filed August 8, ***1974.***

THOMAS SCHMIDT, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-728—Claimant awarded $108.59.)

WILLIAM C. GUNTHER, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed August 8, *1974.*

WILLIAM C. GUNTHER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-823—Claimant awarded $538.00.)

WALTHILL **TRANSPORTATION *Co.*,** Claimant, ***vs.*** **STATE OF ILLINOIS,** Respondent.

Opinion filed August 8, *1974.*

WALTHILL TRANSPORTATION Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-825—Claimant awarded $222.75.)

WILLIAM F. WINDLER, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed August 8, *1974.*

WILLIAM F. WINDLER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT--*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-832—Claimant awarded $59.36.)

ATLANTIC RICHFIELD COMPANY, Claimant, *us.* STATE OF ILLINOIS, ILLINOIS STATE POLICE, Respondent.

Opinion filed ***August* 8, *1974.***

D. K. MCINTOSH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-845—Claimant awarded $4,226.50.)

KEWAUNEE SCIENTIFIC EQUIPMENT CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed ***August* 8, 1974.**

KEWAUNEE SCIENTIFIC EQUIPMENT CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, €or Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a

claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-882—Claimant awarded $1,101.76.)

TORRIENTE D. GUINART, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed August 8, 1974.

TORRIENTE D. GUINART, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. **15,** Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-13—Claimant awarded $5.00.)

STUCKEYS, Claimant, ***us.*** **STATE OF ILLINOIS,** Respondent.

Opinion filed August 8, 1974.

STUCKEYS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-18—Claimant awarded $555.00.)

OLIVETTI CORPORATION OF AMERICA, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed August 8, 1974.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-51—Claimant awarded $284.47.)

ARCHIE F. GATHARD, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed August 8, 1974.

ARCHIE F. GATHARD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 73-CC-262—Claimant awarded $13.50.)

MAURICE ELMORE, Claimant, *vs.* STATE OF ILLINOIS, OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION, Respondent.

Opinion filed August 14, 1974.

MAURICE ELMORE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-65—Claimant awarded $3,023.00.)

LORETTA PURCELL, Claimant, *us.* STATE OF ILLINOIS, HEALTH CARE LICENSURE COMMISSION, Respondent.

Opinion filed August *14, 1974.*

LORETTA PURCELL, Claimant, pro *se.*

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-70—Claimant awarded $1,050.00.)

D. SHARON OSBORNE, Claimant, *us.* STATE OF ILLINOIS, HEALTH CARE LICENSURE COMMISSION, Respondent.

Opinion filed August *14, 1974.*

D. SHARON OSBORNE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(**No.** 74-CC-92—Claimant awarded $18,500.29.)

188 **RANDOLPH BUILDING CORPORATION, Claimant,** *us.* **STATE OF ILLINOIS, HEALTH CARE LICENSURE COMMISSION, Respondent.**

Opinion filed August ***14, 1974***

188 RANDOLPH BUILDING CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-94—Claimant awarded $1,213.25.)

MARGARET H. ELDREDGE, Claimant, *us.* **STATE OF ILLINOIS, HEALTH CARE LICENSURE COMMISSION, Respondent.**

Opinion filed August ***14, 1974.***

MARGARET H. ELDREDGE, Claimant, pro *se*.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-95—Claimant awarded $738.00.)

MARY E. O'CONNOR, Claimant, *us.* **STATE OF ILLINOIS, HEALTH CARE LICENSURE COMMISSION, Respondent.**

Opinion filed August ***14, 1974.***

MARY E. O'CONNOR, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-96—Claimant awarded $2,977.55.)

NEWSLETTERS INCORPORATED, Claimant, *us.* STATE OF ILLINOIS, HEALTH CARE LICENSURE COMMISSION, Respondent.

Opinion ***filed*** August ***14, 1974***

NEWSLETTERS INCORPORATED, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-103—Claimant awarded $790.50.)

STIVERS LIFESAVERS, INC., Claimant, *us.* STATE OF ILLINOIS, HEALTH CARE LICENSURE COMMISSION, Respondent.

Opinion filed ***August 14, 1974.***

STIVERS LIFESAVERS, INC., Claimant, pro ***se.***

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-105—Claimant awarded $954.60.)

CHICAGO PRESS CORPORATION, Claimant, *us.* STATE OF ILLINOIS, HEALTH CARE LICENSURE COMMISSION, Respondent.

Opinion filed August ***14, 1974.***

CHICAGO PRESS CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 74-CC-130—Claimant awarded $910.14.)

CENTRAL OFFICE EQUIPMENT Co., Claimant, *us.* STATE OF ILLINOIS, HEALTH CARE LICENSURE COMMISSION, Respondent.

Opinion filed August ***14, 1974.***

CENTRAL OFFICE EQUIPMENT Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 74-CC-179—Claimant awarded $20.30.)

CANNONBALL, INC., Claimant, *us.* STATE OF ILLINOIS, HEALTH CARE LICENSURE COMMISSION, Respondent.

Opinion filed August ***14, 1974.***

CANNONBALL, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-259—Claimant awarded $2,673.23.)

XEROX CORPORATION, Claimant, *us.* **STATE OF ILLINOIS, HEALTH CARE LICENSURE COMMISSION, Respondent.**

Opinion filed ***August 14, 1974.***

XEROX CORPORATION, Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-480—Claimant awarded $94.80.)

AIR ILLINOIS; INC., Claimant, *us.* **STATE OF ILLINOIS, HEALTH CARE LICENSURE COMMISSION, Respondent.**

Opinion filed ***August 14, 1974.***

AIR ILLINOIS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-501—Claimant awarded $74.11.)

MOBIL OIL CORP., Claimant, *vs.* **STATE OF ILLINOIS, OFFICE OF THE SECRETARY OF STATE,** Respondent.

Opinion filed August *14, 1974.*

J. F. MURRAY, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-702—Claimant awarded $1,306.00.)

DENNIS PASSIS, Claimant, *vs.* **STATE OF ILLINOIS, HEALTH CARE LICENSURE COMMISSION,** Respondent.

Opinion filed August 14, *1974.*

DENNIS PASSIS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-781—Claimant awarded $10,297.17.)

MOBIL OIL CORPORATION, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed August *14, 1974.*

GIFFIN, WINNING, LINDNER, NEWKIRK, COHEN, BODEWES, AND NARMONT, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-850—Claim denied.)

CHARLES L. MCKINNEY, Claimant, *vs.* **STATE OF ILLINOIS, Respondent.**

Opinion filed August 14, 1974.

CHARLES L. MCKINNEY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-88AClaimant awarded $1,149.45.)

OHIO CASUALTY GROUP, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed August 14, 1974.

OHIO CASUALTY GROUP, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-11—Claimant awarded $301.00.)

CITY WASTE SYSTEM, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed August ***14; 1974.***

CITY WASTE SYSTEM, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-22—Claimant awarded $2.75.)

UNION OIL COMPANY OF CALIFORNIA, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed August ***14,*** *1974.*

UNION OIL COMPANY OF CALIFORNIA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-25—Claimant awarded $3.55.)

UNION OIL COMPANY OF CALIFORNIA, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, Respondent.

Opinion filed August ***14, 1974.***

UNION OIL COMPANY OF CALIFORNIA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, **for** Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-29—Claimant awarded $2.75.)

UNION OIL COMPANY OF CALIFORNIA, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC HEALTH, Respondent.

Opinion filed August *14, 1974.*

UNION OIL COMPANY OF CALIFORNIA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-45—Claimant awarded $357.00.)

SANGAMON COUNTY SHERIFF'S DEPARTMENT, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed August *14, 1974.*

SANGAMON COUNTY SHERIFF'S DEPARTMENT, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **HOWARD** W. **FELDMAN,** Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-77—Claimant awarded $270.07.)

LOUIS PETERS, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed ***August 14, 1974.***

WILLIAM J. SCOTT, Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-100—Claimant awarded $27.65.)

MIDWEST AIR SERVICE Co., Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed ***August 14, 1974.***

WILLIAM J. SCOTT, Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-107—Claimant awarded $150.00.)

EVERGREEN CEMETERY, Claimant, *us.* **STATE OF ILLINOIS, Respondent.**

Opinion filed August 14, 1974

WILLIAM J. SCOTT, Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-120—Claimant awarded $24.25.)

MUNKSGAARDS BOGHANDEL, Claimant, *us.* **STATE OF ILLINOIS, Respondent.**

Opinion filed August 14, 1974.

MUNKSGAARDS BOGHANDEL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 73-CC-458—Claimant awarded **$6,145.00.)**

ESTEY CORPORATION, Claimant, *us.* **BOARD OF GOVERNORS OF STATE COLLEGES AND UNIVERSITIES, NORTHEASTERN ILLINOIS UNIVERSITY, Respondent.**

Opinion filed August 29, 1974.

RICHARD C. BOLLOW, AND JENNER & BLOCK, Attorneys for Claimant.

DUNN, BRADY, GOEBEL, ULBRICH, HAYES & MOREL, Attorney for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PERLIN, C. J.

(No. 74-CC-756—Claimant awarded $360.00.)

SUN ELECTRIC CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed August *29, 1974.*

SUN ELECTRIC CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-830—Claimant awarded $903.53.)

BENCK TURF NURSERY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed August 29, *1974.*

BENCK TURF NURSERY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller re-

fuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-865—Claimant awarded $905.00.)

EUGENE C. ANANDAPPA, M.D., Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed ***August 29, 1974.***

EUGENE C. ANANDAPPA, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-9—Claimant awarded $1,142.64.)

ABBOTT LABORATORIES, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed ***August 29, 1974.***

ABBOTT LABORATORIES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for **Respondent.**

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-37—Claimant awarded $94.05.)

MATERIAL SERVICE CORPORATION, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed August ***29, 1974.***

MATERIAL SERVICE CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-38—Claimant awarded $64.35.)

MATERIAL SERVICES CORPORATION, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed August ***29, 1974.***

MATERIAL SERVICES CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-67—Claimant awarded $213.20.)

VERNON HENRY, INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed August ***29, 1974.'***

VERNON HENRY, INC., Claimant, pro **se.**

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-486—Claimant awarded $150.00.)

MINNIE MORRIS, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF LABOR,** Respondent.

Opinion filed September *9, 1974.*

MINNIE MORRIS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-835—Claimant awarded $3,840.00.)

KENNETH TRUMP, d/b/a, **OGLESBY CONSTRUCTION CO.,** Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION,** Respondent.

Opinion filed September *9, 1974.*

WEILAND AND POTTHOFF, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-20—Claimant awarded $979.86.)

UNION OIL COMPANY OF CALIFORNIA, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF LAW ENFORCEMENT, Respondent.

Opinion filed September *9, 1974.*

UNION OIL COMPANY OF CALIFORNIA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-26Claimant awarded $13.14.)

UNION OIL COMPANY OF CALIFORNIA, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF AGRICULTURE, Respondent.

Opinion filed September *9, 1974*

UNION OIL COMPANY OF CALIFORNIA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-30—Claimant awarded $11.73.)

UNION OIL COMPANY OF CALIFORNIA, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF REGISTRATION & EDUCATION, Respondent.

Opinion filed September 9, *1974.*

UNION OIL COMPANY OF CALIFORNIA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-162—Claimant awarded $2,320.00.)

LEWIS BUILDING, INC., Claimant, *us.* STATE OF **ILLINOIS,** Respondent.

Opinion filed September ***9, 1974.***

LEWIS BUILDING, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—replacement warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-165—Claimant awarded $729.26.)

ROBERT A. ROE, Claimant, *us.* STATE OF **ILLINOIS,** Respondent.

Opinion filed September ***9, 1974.***

ROBERT A. ROE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been

paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-166—Claimant awarded $179.79.)

JACK RAMPLEY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed September 9, 1974.

JACK RAMPLEY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-314—Claimant awarded $260.21.)

STANDARD OIL DIVISION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed September 17, *1974.*

STANDARD OIL DIVISION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 6753—Claim denied.)

TERRY PARR, by WILLIAM PARR, SR., His Father and Next Friend, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed September 20, *1974*

WINSTEIN, KAVENSKY & WALLACE, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

NEGLIGENCE—duty of invitee. One who owns or is in control of property is not an insurer of the safety of an invitee.

SAME—The State is not an insurer of everyone who uses State property.

HOLDERMAN, J.

This is a cause of action brought pursuant to Section 8, Paragraph (d) of the Court of Claims Act for personal injuries sustained by claimant when he was injured as a result of diving into the Hennepin Canal, Rock Island County, Illinois, on June 4, 1971.

The State of Illinois, sometime prior to the accident in question, had taken over the Hennepin Canal. This canal is approximately 96.8 miles long and runs between the Illinois River and the Mississippi River. The canal at one time was used for barge transportation, but at the present time is used primarily for recreational purposes. This area was taken over by the State by deed from the Federal Government on, or about, August 12, 1970.

The evidence shows there was one ranger assigned to the canal.

The Izaak Walton League had had a lease on a portion of the canal for some time which included the area where the unfortunate accident happened.

The injured party, Terry Parr, was 16 years old and a sophomore in high school.

On the day in question, he went with his mother and various other members of his family to swim in the Hennepin Canal where it borders a public recreational area maintained by the Izaak Walton League. A small deposit was made by claimant's mother in the Izaak Walton League collection box where such donations are accepted.

Claimant knew how to swim and had been swimming in the canal perhaps fifteen times in the past years.

The first time claimant had been to swim in the canal in 1971, was on the date of the accident, which was also the last day of school.

There were two docks there which had been put in by boaters.

There were other people swimming in the canal at the time of the accident. Some of these people were claimant's schoolmates who were engaged in horseplay and began throwing mud at one another.

One of these individuals was Jimmy Stotlet, who was in the canal at the place where claimant dove in. When claimant saw him, Jimmy Stotler was in the water up to his neck; but he was apparently on his knees, as the water was quite shallow where the incident occurred.

Claimant thought the canal was approximately six feet deep where he dove, although the evidence is that he had previously dived there several times prior to the accident and had personal knowledge as to the depth of the canal and the grade of the bottom of the canal. The bottom of the canal at the place of the accident was hard

sand and as a result of the diving, he evidently struck his head on the bottom, fracturing a certain vertebra.

He lay motionless in the water until rescued by other members of the group who were present.

Claimant was paralyzed from the neck down, and was removed to the hospital. He has remained in a very critical condition since that time. Although he is slowly regaining the use of part of his body, it is apparent that he will always suffer a very severe limitation in the use of his body.

The record shows that there has been a very considerable amount expended by his parents in an effort to restore him to a normal condition so that he can have normal use of all his members.

The Izaak Walton League had maintained a recreational camp site and picnic area at the site of the accident since 1955, leasing the property from the Corps of Engineers of the United States Department of the Army. The general public had been using the canal, both before and after the Izaak Walton League lease, and there had always been swimming and swimming activities in the area surrounding the place where the accident occurred.

At the time of the accident, there were no "No Swimming" signs. At one time, there had been a "No Swimming" sign on the dock, but it was not there on the date of the accident. There were no signs warning about the depth of the water, and there were no lifeguards present.

The State Ranger indicated that he had seen swimmers at the Izaak Walton League leasehold but had not ordered them out because of the Izaak Walton lease.

There was some evidence to the effect that "No

Swimming" signs had been posted at various times, but they had been removed by vandals. It is clear there were no such signs on the date of the accident.

It is clear from the record that in the Fall of **1970,** shortly after the State took over the jurisdiction from the Federal Government of the Hennepin Canal and bordering land, the Department of Conservation posted 75 park rules and regulations signs along the length of the canal, posting approximately **25** in the Western Section. These were printed on canvas and attached to wooden poles. At the same time, the Department also began posting "No Swimming" signs in the same area. These signs were subject to almost immediate vandalism, and at the date of the hearing, there were no such signs in existence the **entire length of the canal.**

There are several issues involved here.

I. Was claimant an invitee of the State of Illinois or a licensee?

Jodlowski v. State of Illinois, **26** CCR **66,** which involved drownings from wading in Wolf Lake State Park, makes it clear that claimant should be treated as an invitee rather than a licensee. Although there were "No Swimming" signs posted in a few places in Wolf Lake State Park, this Court found that the Jodlowski brothers, who met their death while wading in the Lake, were invitees. In other words, entering the water contrary to park regulations did not change the status of the Jodlowski brothers from that of invitee to that of licensee or trespasser. Therefore, Terry Parr did not lose his status as an invitee and become a licensee because he swam in the Hennepin Canal contrary to the regulations of the Department of Conservation.

This is particularly true because prior to claimant's

accident, the State expressly refrained from posting "No Swimming" signs on the Izaak Walton League property, but posted them after the accident.

11. Did the State breach its duty toward the claimant?

The question here as to whether the swimming was the cause of the accident in question is relatively unimportant because swimming, per se, was not the cause of the claimant's injury. There was nothing dangerous about pool number 25 as a site for swimming, if we consider only the act of swimming and exclude the related act of diving. The injury in question came about not from swimming but from diving into shallow water, and arose either because he failed to consider the depth of the water, misjudged the depth of the water, or knowing the depth of the water failed to control his dive. All three possibilities can be found in claimant's testimony. He did not hit his head on any hidden object in the canal, and no positive act of the State misled him as to the depth of the water.

There are three cases that deal with situations such as this:

Jodlowski v. State, 26 CCR 66

Skaggs v. Junis, 27 Ill. App. 2d 251, 169 N.E. 2d 684

Hendricks v. Peabody Coal Company, 115 Ill. App. 2d 35, 253 N.E. 2d 56

In the ***Jodlowski*** case, several boys waded in shallow water from the shore of Wolf Lake, Cook County, Illinois, to a sand bar. The State had actual notice that on the east side of the sand bar there was a precipitous drop off to a depth of 20 feet. The boys in question did not know this. One Jodlowski brother, undertaking to wade from the

east side of the sand bar, dropped into the deep water. His brother tried to rescue him and both were drowned.

In passing upon this case, the Court held:

"Respondent failed to adopt and provide the requisite safety measures and procedures to warn visitors to the park of the dangerous condition of the lake bottom, and to protect them from it. The drownings of the Jodlowski brothers were the direct and proximate result of this failure."

In ***Skaggs v. Junis,*** 27 Ill. App. 2d 251, 169 N.E. **2d** 684, a 16-year-old boy, diving into a privately owned pond, struck his head on a submerged stump, the existence of which stump was unknown to the boy but known to the person who owned the pond. Following the accident, the pond owner marked the stump with iron pipes and wire. The Appellate Court reversed a directed verdict on a negligence count, and held that the issues of negligence and contributory negligence were for the jury.

In ***Hendricks v. Peabody Coal Co.,*** 115 Ill. App. 2d 35, 253 **N.E.** 2d 56, a 16-year-old **boy** dove into a water-filled strip mine, striking his head on a sandy ledge, the existence of which was known to the land owner but not known to the boy because previous swimmers had muddied the water and made the ledge invisible. The jury found for the plaintiff and the Appellate Court refused to reverse, stating that the issues were factual.

In the present case, we have no sudden drop off, no submerged stump, no sandy ledge, and no hidden dangers.

The test is, should the State have foreseen that an invitee, especially a person of the age of 16, would dive off the bank into the shallow water to his injury, unless warned or otherwise prevented from doing so?

This seems to be more a question of fact, not of law.

111. Was the claimant in the exercise of due care for his own safety?

It is clear from the two Appellate Court cases cited above, that the question of claimant's contributory negligence is a fact question and cannot be resolved as a matter of law. The evidence that would prejudice the claimant's case in this instance, is the fact that he had been swimming in the canal in previous years, was generally aware of the depth of the canal and its sloping bottom, and did not investigate the depth of the canal before diving, but ran "full blast" to the bank and dove in.

This act from a 16-year-old boy who was enjoying himself at a pool was not unusual, but that in itself does not make the State responsible for the unfortunate situation that arose.

Cases of this nature, dealing with the recreational areas of the State, pose a problem as to just how far does the State have to go after providing recreational facilities to protect the general public.

In this case, there are approximately 97 miles of canal which would mean 194 miles of shore line. It would be completely impossible for the State to patrol or provide lifeguards or personnel along thie entire length, and this would be the only way in which the public would be prevented from using it in a manner that might be detrimental to themselves. If such a strict rule applied, the State would be forced to abandon any, and all, recreational facilities of this type.

This Court has held many times that the State is not an insurer of everyone who uses State property.

This Court has also held that the State has a duty to

warn the public of danger in any hidden area; but it cannot be charged with the duty of protecting the public from every possible danger that might arise where they furnish the public with various recreational areas.

In the case of *Pulizzano* v. *State*, 22 Ill. CCR 234, the Court laid down the rule that "an invitation to use the parks is not absolute but an invitation to use particular facilities in the manner in which, and for the purpose for which, they were designed and intended" and further stated that "the State is not obligated to warn of every dangerous place in a park."

Volume 33A of the Illinois Law & Practice, Section 114, dealing with injuries in State Parks, makes the following statement:

> "With respect to liability in tort under the Court of Claims Act the State owes a duty to the public to exercise reasonable care in establishing, maintaining and supervising its parks, and it has a duty to warn of a danger that exists along a nature trail which could not be discovered by the public."
> Citing 24 Ill. Ct.Cl. 1, *Martin* vs *State.*

This Court passed upon a similar situation in the case of *Thomas Mooneyham, Administrator of the Estate of Ronald Scott Mooneyham, Deceased* vs. *State of Illinois,* No. 6412, where a 12-year-old boy drowned at Starved Rock State Park. In this case, the death occurred when the boy left the regular paths, attempted to climb a rock and fell into the river. The Court held that it was the result of the positive act of the unfortunate victim that caused the tragedy rather than any negligence on the part of the State.

In the present case, it appears that the State furnished a recreational area for the public to use, and that there were docks extending into the water from which individuals could dive, but that they were not used in this particular case.

The evidence is uncontradicted in that the claimant who was familiar with the area dove into the shallow water from the bank, and it was this act, that caused the unfortunate accident.

For claimant to recover, he must prove:

1. That he was in the exercise of due care and caution for his own safety.

2. That the State of Illinois was negligent as charged in the complaint.

3. That the negligence of the State of Illinois was the proximate cause of his injuries.

It is well settled that one who owns or is in control of property is not an insurer of the safety of an invitee, and that this particular rule applies to premises to which the public is invited. ***Thoele*** vs. ***Mazel,*** 8 Ill. App. 2d 237; ***Dietz*** vs. *Belleville* ***Co-op Grain Co.,*** 273 Ill. App. **164.**

Claimant has failed to sustain the burden of proof, and an award is, therefore, denied.

(No. **73-CC-446—Claimant awarded $24,888.58.)**

ATLANTIC RICHFIELD COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed September 25, *1974.*

D. K. Mc INTOSH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation, When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-167—Claimant awarded $139.20.)

INDUSTRIAL PARK MAINTENANCE, Claimant, us. STATE OF ILLINOIS, OFFICE OF THE SECRETARY OF STATE, Respondent.

Opinion filed September 25, 1974.

INDUSTRIAL PARK MAINTENANCE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-307—Claimant awarded $692.50.)

GROVE STORAGE, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed September 25, 1974.

RAPPAPORT AND MEYER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; EDWARD L. S. ARKEMA, JR., Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-371—Claimant awarded $14,459.22.)

BOB NEAL FORD, INC., Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed September 25, 1974.

ROBERT NEAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-639—Claimant awarded $43.75.)

PARK CHRYSLER PLYMOUTH, INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed September 25, ***1974.***

PARK CHRYSLER PLYMOUTH, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-711—Claimant awarded $5,050.00.)

STETSON HAT COMPANY, INC., Claimant, *us.* **STATE OF ILLINOIS, OFFICE OF THE SECRETARY OF STATE,** Respondent.

Opinion filed September 25, ***1974.***

UTZ, LITVAK, THACKERY, UTZ & TAYLOR, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant 'Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-738—Claimant awarded $194.87.)

EDGAR HAINLINE, Heir of ANN HAINLINE, Deceased, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed September 25, *1974.*

WOODS & BATES, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-785—Claimant awarded $100.90.)

MOBIL OIL CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed September 25, *1974.*

GIFFIN, WINNING, LINDNER, NEWKIRK, COHEN, BODEWES, AND NARMONT, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-864—Claimant awarded $281.25.)

EARL JONES FUNERAL HOME, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed September 25, *1974.*

EARL JONES FUNERAL HOME, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-877—Claimant awarded $860.45.)

THE JEWISH HOSPITAL OF ST. LOUIS, Claimant, *vs.* STATE OF ILLINOIS, BOARD OF VOCATIONAL REHABILITATION AND EDUCATION, Respondent.

Opinion filed September 25, 1974.

SHARON SAVENS, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-17—Claimant awarded $39.55.)

MONTGOMERY COUNTY SHERIFF'S OFFICE, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed September 25, 1974.

JOHN MARYLEY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-28—Claimant awarded $17.04.)

UNION OIL COMPANY OF CALIFORNIA, Claimant, *us.* **STATE OF ILLINOIS, OFFICE OF THE SECRETARY OF STATE, Respondent.**

Opinion filed September 25, 1974.

UNION'OIL COMPANY OF CALIFORNIA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-32—Claimant awarded $87.28.)

UNION OIL COMPANY OF CALIFORNIA, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.**

Opinion filed September 25, *1974.*

UNION OIL COMPANY OF CALIFORNIA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-65—Claimant awarded $38.87.)

KROCH'S AND BRENTANO'S, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, Respondent.**

Opinion filed September 25, *1974.*

KROCH'S AND BRENTANO'S, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-74—Claimant awarded $8.65.)

CHECKER EXPRESS CO., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed September *25, 1974.*

CHECKER EXPRESS, Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-125—Claimant awarded $40.22.)

ACOUSTECH, **INC., Claimant,** *us.* **STATE OF ILLINOIS, Respondent.**

Opinion filed September 25, *1974.*

ACOUSTECH, INC., Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under

Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-135—Claimant awarded $19.75.)

VERATEX CORPORATION, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed September *25, 1974.*

VERATEX CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-139—Claimant awarded $35.00.)

JACK HENDERSON, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed September 25, *1974.*

JACK HENDERSON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-158—Claimant awarded $2,983.12.)

WILLIAM M. FREIVOGEL, Claimant, *us.* **STATE OF ILLINOIS, ILLINOIS JUDICIAL INQUIRY BOARD, Respondent.**

Opinion filed September 25, 1974.

WILLIAM M. **FREIVOGEL,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 6983—Claimant awarded $600.00.)

JUDITH HAWKINS, Claimant, *us.* **STATE OF ILLINOIS, *Office* of the SPEAKER OF THE HOUSE, Respondent.**

Opinion filed September 26, 1974.

JUDITH HAWKINS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 73-CC-460—Claimant awarded $39.55.)

DANNY N. **MICHEL, SHERIFF, FAYETTE COUNTY, Claimant,** *us.* **STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.**

Opinion filed September 26, 1974

DANNY N. **MICHEL, SHERIFF, FAYETTE COUNTY,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-416—Claimant awarded $2,502.42.)

ILLINOIS BELL TELEPHONE Co., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES,** Respondent.

Opinion filed September 26, ***1974.***

L. **BOW PRITCHETT,** Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-577—Claimant awarded $28,237.00.)

HOWARD **UNIFORM COMPANY,** Claimant, *us.* **STATE** OF **ILLINOIS, DEPARTMENT OF CORRECTIONS,** Respondent.

Opinion filed September 26, ***1974.***

JEROME H. PUMPIAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-709—Claimant awarded $156.62.)

MARGARET D. SNOW, Claimant, us. **STATE OF ILLINOIS,** Respondent.

Oprnion filed September 26, 1974.

MARGARET D. SNOW, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-121—Claimant awarded $79.57.)

MUNKSGAARDS **BOGHANDEL,** Claimant, ***us.*** **STATE OF ILLINOIS,** Respondent.

Opinion filed September 26, 1974.

MUNKSGAARDS BOGHANDEL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-126Claimant awarded $150.75.)

R. **W. BRADLEY SUPPLY** CO., Claimant, us. **STATE OF ILLINOIS,** Respondent.

Opinion filed September 26, 1974.

DANIEL C. CHAPIN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-130—Claimant awarded $1,397.78.)

ALLIED VAN LINES, INC., Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed September 26, *1974.*

ALLIED VAN LINES, INC., Claimant pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-136—Claimant awarded $217.27.)

CITIES SERVICE OIL CO., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed September 26, 1974.

CITIES SERVICE OIL CO., Claimant pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-155—Claimant awarded $168.16.)

WAYNE W. WHALEN, Claimant, *us.* **STATE OF ILLINOIS, ILLINOIS JUDICIAL INQUIRY BOARD, Respondent.**

Opinion filed September 26, 1974.

WAYNE W. WHALEN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-159—Claimant awarded $1,320.00.)

HARRY D. LAVERY, Claimant, *us.* **STATE OF ILLINOIS, ILLINOIS JUDICIAL INQUIRY BOARD, Respondent.**

Opinion filed September 26, 1974.

HARRY D. LAVERY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

'(No. 75-CC-160—Claimant awarded $1,200.00.)

CHARLES D. STEIN, Claimant, *us.* **STATE OF ILLINOIS, ILLINOIS JUDICIAL INQUIRY BOARD, Respondent.**

Opinion filed September 26, 1974.

CHARLES D. STEIN, Claimant, pro *se.*

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-161—Claimant awarded $129.31.)

RAY E. BREEN, Claimant, *vs.* STATE OF ILLINOIS, ILLINOIS JUDICIAL INQUIRY BOARD, Respondent.

Opinion filed September 26, *1974.*

RAY F. BREEN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-195—Claimant awarded $164.76.)

JAMES M. SEXTON, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed September 26, *1974.*

JAMES M. SEXTON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 6270—Claimant awarded $6,300.00.)

KENNETH D. HEADLEE, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC WORKS AND BUILDINGS, Respondent.

Opinion filed October 3, 1974.

JOHN J. LAWLESS, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

DAMAGES—euidence. Proof required to establish damages must not be remote, speculative nor uncertain.

SAME—measure. When the cost of restoration of the damaged property exceeds the value of the property, the value of the property becomes the ceiling on the amount of damages that can be recovered.

HOLDERMAN, J.

Claimant seeks to recover the sum of $25,000.00 for damages to a commercial fish pond in an area owned by him in Champaign County, Illinois.

Complaint alleges that by the construction of Route 74 in Champaign County, the natural flow of water was diverted and impeded, and that as a result of said construction, his pond became so silted that it was unusable for the purpose of a commercial fish pond.

Claimant owns approximately 28 acres of land in Champaign County, on which he constructed two fish ponds in 1956. These ponds were fed primarily by springs with some run-off, and in extremely dry weather, well water was used to maintain the level. These two ponds were originally divided and the level of one pond was approximately 30 inches higher than the other.

After the construction of the ,highway, which was started in 1966, the ditch, which originally flowed from the east side of the highway area, was diverted to the west ditch by a 36 inch culvert under said highway.

It was also alleged in said complaint that the high-

way itself was constructed over some of the springs in the area which had previously flowed into the ponds in question.

The complaint alleges that prior to the existence of the highway, very little silting existed in the pond and the water was pure and clear but that after the highway was constructed, a great deal of sediment had washed into the pond which resulted in the water becoming very shallow.

With the sediment in the water and the change in depth to a comparatively shallow pond, the water, instead of being clear and cool, became impregnated with clay and other silt which would not settle. The temperature of the pond was increased considerably, due to the shallow water; and the quantity of sedimentation became so high that it became untenable for fishing with the result, that the commercial fishing he had carried on for several years in the pond was destroyed.

The claimant alleges that the pond was originally excavated to a depth of between **14** and **16** feet but that because of the highway, there was from **4** to 7 feet of sedimentation accumulated in the pond.

Claimant also alleges, that in the late **1950's** and early **1960's** when the air temperature was **95**" to 100°, the water temperature remained at *65"* to 70" but after the silting to said pond, the temperature ran about 75".

There is a direct conflict in the testimony of the witnesses as to the amount of sediment that accumulated in the pond. The claimant alleges that there was a large amount of sediment and in detailing as to how he arrived at the figures, he stated he used oars, a rake, and a marked fishing pole.

The State used a much more scientific and, undoubt-

edly, a much more accurate method of measuring the sedimentation of the pond and consequently came up with a considerably less amount of sediment than was claimed by Mr. Headlee.

The respondent's measure would indicate that the pond was never over 8 feet in depth, instead of the 16 feet as claimant stated. From the record, it appears that the respondent's method of measuring the depth of the pond and the amount of sediment that accumulated is decidedly more accurate than that of the claimant. Therefore, the claim that there was 7 feet of sediment, must be rejected.

In the Bill of Particulars, claimant asked damages of $37,450.00, with the foremost item in the Bill being a request for removal of 40,000 cubic yards of silt at 75¢ per cubic yard at a cost of $30,000.00.

The respondent's witness testified that 40,000 cubic yards of dirt on 2.7 acres would be in excess of 10 feet in depth, and had 40,000 cubic yards eroded during the construction, the embankment would have lowered 2 feet in depth of soil for a distance of 1500 feet in length, and that the sediment would be 2 feet above the water level.

It appears that these ponds were relatively shallow to begin with, that they did suffer some sedimentation prior to the construction of 1-74, and that claimant did suffer the following damages: Sedimentation, causing a change in depth of the water; a change in the type of water from clear, cool water to one with a much higher temperature and carrying a greater degree of sedimentation; and a change in the temperature of the water because of the shallowness of the pond.

The Department of Conservation, in their booklet entitled *POND FISH AND FISHING IN ILLINOIS*, Page

38, in speaking of pond problems calls attention to the fact that where there is considerable soil erosion from clay particles, problems will arise, and it further states:

> **"The clay suspensions require a special approach, for they are composed of very fine particles which have similar electrical charges and therefore repel each other and do not settle."**

This is evidently what has happened in this particular pond. As a result of the change in temperature and the change in the type of water, fish were unable to live.

It is apparent there was a permanent loss of spring water as a result of the construction, so unless another source of water is acquired, it is extremely doubtful whether these ponds will ever be of value as far as commercial fishing is concerned. This evidently is a continuing situation resulting in a permanent loss of use for the area for which it was originally built.

The evidence discloses that after the road was put through, it was necessary to remove the dam between Pond No. **1** and Pond **No.** 2, which was done at a cost of **$1,950.00.**

The record shows that in **1965,** claimant took in from $4,000.00 to **$5,000.00** in receipts from individuals who paid to fish in his ponds; and this income dropped to **$2,100.00** in **1971,** due, claimant alleges, to the condition of the water and poor fishing resulting from high temperatures and silted water.

It would be impossible, of course, to restore the premises to the way they were originally.

Although the claimant is entitled to the benefit of the rule of law, "that valuation should be adopted, which will be most beneficial to the injured party, as he is entitled to the benefit of his premises intact,'' ***Richards***

vs. ***Gundlach*, 245** Ill. App. **264, 267,** no measure of damages can be applied, which would give him a profit from damages suffered.

Certain Illinois cases hold that the rule to apply in a case of this type is to permit the measure of damages to be the cost of the restoration, if such can be done readily and at a relatively modest expense. ***Clark*** vs. ***Public Service Co.*, 278** Ill. App. **426, 447,** and cases sited therein; ***Cooper*** vs. ***Kankakee Elec. Light Co.*, 164** Ill. App. **581, 586,** and **21** C.C.R., Page **281.**

The rule that applies when the cost of restoration exceeds the value of the property, the value of the property becomes the ceiling on the amount of damages recoverable, especially when the property is old. ***McCormick on Damages, (Hornbook Series)* 1935,** Sec. **126,** pp. **482-484.**

In the present case, restoration of the premises would be impossible and the cost of restoring them would undoubtedly be more than the property is worth.

The rule regarding proof is that the burden of proving the element of damages is upon the claimant. "The proof required to establish damages must not be remote, speculative nor uncertain." ***Frega*** vs. ***State of Illinois*, 22 C.C.R. 399,400.**

The only evidence regarding the permanent damage, was a real estate agent who testified that in his opinion the property was worth **$25,000.00** before the road was put in, and was worth **$9,000.00** afterwards, a difference of **$16,000.00.**

It **is** clear, that claimant is entitled to the sum of **$1,950.00** for the bulldozing to take out the dam; and it is also clear, that there is approximately 1,800 yards of dirt to be removed at **75d** per yard, or **$1,350.00.**

It is also the opinion of this Court, that claimant suffered $3,000.00 permanent damages from loss of revenue from his ponds and for permanent injuries.

An award, therefore, is made to claimant in the amount of $6,300.00.

(No. 6173—Claimants awarded $6,485.58.)

ROBERT E. POLEET, GEORGE H. POLEET, WILLIAM N. POLEET and DONALD D. POLEET, Claimants, *us.* STATE OF ILLINOIS, ILLINOIS YOUTH COMMISSION, Respondent.

Opinion filed October 4, 1974.

KEITH H. FITZGERALD, Attorney for Claimants.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

EVIDENCE—prima facie case. Where respondent fails to offer any evidence in rebuttal to the complaint, departmental reports and evidence of the claimant, the court must assume there was no evidence which would contradict the facts proven by the claimants.

DAMAGES—***measure of damages.*** The measure of damages is the difference between the fair market value of the property prior to the damage and its fair market value after the damage.

HOLDERMAN, J.

This is an action brought by Robert E. Poleet, George H. Poleet, William N. Poleet and Donald D. Poleet for damages to a home in which Robert E. Poleet has a life interest and George H. Poleet, William N. Poleet and Donald D. Poleet have the remainder interest.

On November 18, 1970, a car being driven by a sixteen-year-old escapee from the Illinois Youth Commission assigned to Grafton, Illinois, accompanied by two other youths from the same camp, crashed into the home. The three youths involved were Michael Kleszewski, Patrick Doherty, and Michael Skuris.

In a report written by Mr. John Platt, Superintendent of Pere Marquette School Camp, he cited the dangers involved in referring youngsters with a history of runaways and auto thefts to open settings. The report also stated that all three boys had a history of runaways and auto thefts. The record further discloses that all three had been charged with various other types of illegal activities.

The car was being driven by Michael Kleszewski, who had been charged with stealing an auto on a previous occasion, violation of parole, and runaway.

The State did not introduce any evidence in its defense of this action.

The applicable law in this instance is stated in the case of *Redebaugh* vs. *State of Illinois*, 22 C.C.R. 306,308 (1956), where the Court said: "Since respondent did not offer any evidence in rebuttal that would show that reasonable efforts were made to prevent the escape of the inmates or any other facts of circumstances surrounding their escape, the Court must conclude there were no such facts or circumstances to justify respondent's action." Therefore, a prima facie case was established, based on the complaint, departmental reports and stipulations, in favor of claimant.

It is further supported by the statements of the Court in Finch vs. *State of Illinois*, 22 C.C.R. 376 (1956), where the Court said: "In fact, we have nothing to govern ourselves as to whether or not the State was negligent in allowing this patient the freedom, which he apparently had, so that the truck in question was stolen and consequently damaged. In the absence of such a showing, we think claimant was correct in his advancement of the doctrine of res ipsa loquitur, and that the burden would

be upon respondent to make some showing as to this patient, i.e., whether or not he was one who could be trusted in the manner in which he was in this particular case to work out in the field." The Court went on to say, "There being nothing in the record pertaining to this patient, other than the fact that the truck was stolen by him and damaged, we have no alternative but to find in favor of claimant."

In 26 C.C.R. 278, the Court, in discussing a situation where the State failed to produce any evidence, referred to the case of *U.S. Fidelity and Guaranty Company*, a *Corporation* vs. *State of Illinois*, 23 C.C.R. 188, and stated, "that it was incumbent upon the State to come forward with evidence to show that they were not negligent in a situation such as this. Without such showing it will be presumed that the State was negligent based upon the inferences to be drawn from the fact of the escape."

The Court believes the same cause and rule should be applied in this case, and that the State of Illinois was negligent in allowing the escape of the individual who caused the damage.

It appears that in view of the past records of all three of the escapees, and particularly the driver of the car, they should have been kept under greater surveillance than the ordinary inmate. The evidence clearly indicates that the respondent did not take any special steps to prevent the escape of the youth who drove the car, even though his record indicated prior escapes.

As to the question of damages, claimants allege that replacement costs would be $15,454.00.

It is the opinion of this Court, that the measure of damages applied in cases such as this should be the

difference between the market value of the house prior to the incident and the market value after. The only evidence as to market value was furnished by the witness, Mr. Oller, who appraised the property at $9,200.00 and the lot on which the property is located at $5,000.00. The repair cost was shown to be $6,485.58.

It is the opinion of the Court, that $6,485.58 is the proper amount and an award is hereby made in said amount.

(No. 6425—SPERINDEO awarded $3,600.00, PAUL denied.)

ARLENE SPERINDEO and ROBERT PAUL, Claimants, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed October 4, 1974.

SHELDON N. REIBMAN, Attorney for Claimants.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

NEGLIGENCE—duty to warn. Where the public has been accustomed to travel on a well-defined road, the landowner is liable to the invitee for personal injuries accessioned by a wire or rope stretched across the road, where no sufficient warning of the obstruction is given.

EVIDENCE—question of fact. Whether or not sufficient warning of the existence of wire stretched across the road had been given by landowner is a question of fact.

NEGLIGENCE—freedom of *contributory negligence.* Claimant who operated motorcycle at night on park road with headlight on at 5 mph was guilty of contributory negligence in failing to see wire strung across road and a warning barricade erected by park employees.

PERLIN, C. J.

This is an action for personal injuries suffered by claimants in the Illinois Beach State Park when a motorcycle on which they were riding, collided with a metal cable strung across a park road. The park, and all roads therein, were under the jurisdiction of the respondent.

Claimants arrived at Illinois Beach State Park at approximately 8:30 p.m. on July 10, 1971, intending to camp overnight. On entering the park, they passed an unoccupied ranger station and proceeded to set up their camp without obtaining a permit. Claimant Paul, who had previously camped overnight in the park on at least six prior occasions, testified that a sign at the station directed campers to report to the ranger station the next morning if no one was present. However, a park ranger testified that a sign on the booth directed campers to await the return of the ranger before proceeding inta the park.

Claimants testified that at approximately 11:00 p.m. that evening, Claimant Paul left the park to repair a leak in the tire **of** his motorcycle. They said he returned at about 11:20 p.m., and that at about 11:45 p.m., they left their campsite on the motorcycle to drive to a beachhouse on the opposite side of the park in order to wash for the night.

Claimants testified that they used the same road to the beachhouse as Claimant Paul had earlier used to leave and re-enter the park after fixing his flat tire. This road was one of several which radiated in various directions from the park's main parking lot to the interior of the park. To get to the beachhouse from their campsite, it was necessary for claimants to ride to the main parking lot and there get on another road leading to the beachhouse. Although the road from their campsite to the parking lot was designated a "fire lane," it was open to vehicular traffic prior to the time the park closed for the night.

When the park closed, in an effort to keep vehicular traffic out of the camping area, employees of the State Department of Conservation placed a white, wood barri-

cade in the center of this road, and strung a steel cable across the entire width of the road about three feet off the ground. The barricade and cable were erected near a point where the road fed into the main parking lot. Of the several roads which led into the park from the parking lot, this was the only road shut to traffic.

At the point of the barricade, the road was approximately twenty feet wide. The wood barricade was sixteen feet wide, thus leaving a gap of two feet between the edge of the road and the barricade on each side of the barricade. The steel cable extended over the entire width of the road and was secured to posts on each side of the road.

The weather was clear on the night of the accident, but the road was unlighted. The approach to the barricade from claimants' campsite was straight and unobstructed. Claimants testified that the headlight on their motorcycle was operating.

Claimants said that as they rode toward the parking lot from the interior of the park at about five miles per hour, they drove into the cable and were thrown from the motorcycle. Claimant Paul said he never saw a wood barricade in the center of the road.

Robert Boone, a park employee stationed at the permit booth on the night in question, witnessed the accident. He said it appeared that claimants were attempting to ride around the barricade when their motorcycle struck the cable. Boone said he noticed scrapes on the right side of the barricade where it was struck by the motorcycle.

Boone said he erected the cable across the road on the night in question at 10:00 p.m. when the camping area closed for the night. He also said that at 11:00 p.m.

an announcement was made over the loudspeaker that the park was closed.

This Court has previously determined that visitors to a State park are invitees to whom the state owes a duty of reasonable care in the maintenance of its parks. ***Damermuth*** v. ***State,*** 25 C.C.R. **353,356;** ***Kamin*** v. ***State,*** 221 C.C.R. **467.** Claimants contend that respondent breached its duty in erecting the steel cable across an unlighted road without providing an adequate warning of the existence of the cable. Respondent urges that the barricade provided adequate warning of the existence of the cable, and that claimants' injuries were proximately caused by the negligence of Claimant Paul.

A review of the pertinent Illinois authorities compels a finding that in erecting the steel cable across a dark road, over a barricade which did not extend across the full width of the road, the respondent was negligent. In ***Moore*** v. ***Ohio Oil*** Co., 241 Ill. App. **388** (1962), the court held that a landowner who stretches a wire across a roadway without giving warning of the change in condition of the roadway, is liable to one injured as a result thereby. The Court said:

> **"Where the public has been accustomed to travel a well-defined road across one's land, he is liable to a licensee for personal injuries occasioned by a wire or rope stretched across the road if he has given no warning of the changed conditions."**

In ***Wrigley*** v. ***Electric and Machine Company,*** **419 F.** 2d **972** (7th Cir. **1969**), the defendant stretched a steel wire across a private road about three feet off the ground. Attached to the wire were two flags, six to seven inches wide and approximately a foot and one-half long. Wrigley, who was riding his motorcycle along the road during daylight hours, collided with the cable and was killed. The trial court set aside a jury verdict that found the

defendant guilty of wilfull and wanton misconduct. After reviewing the Illinois authorities on point, the court of appeals reversed and remanded with directions to reinstate the verdict. The Court found the defendant's actions "not sufficient to effectively warn travelers of the danger created by the cable," and held that the facts would support a finding of wilfull and wanton conduct.

While we find respondent negligent in erecting the cable barricade, the facts of the case at bar unlike those in ***Wrigley*** v. ***Electric and Machine Company,*** supra., will not support a finding of wanton and wilfull misconduct. In ***Wrigley,*** the approach to the portion of the road across which the cable was strung was not in plain view, but was at the end of a sharp curve in the road. Further, the only warning of the existence of the wire was two grey rags. Here, the wire was strung at a point where the approach to the barricade was straight and unobstructed and a 16-foot wide white barricade covered most of the road and provided some warning of an obstruction.

Having determined that respondent was negligent but not guilty of wanton and wilfull misconduct, we next consider whether claimants have established their freedom from contributory negligence. Claimant Paul testified that he was traveling about 5 miles per hour when his motorcycle struck the wire, and that the headlight on his motorcycle was operating. Yet, he said he never saw the 16-foot wide, white barricade which blocked the road at the point of the accident. Chapter 95½, Illinois Revised Statutes, Section 12-201, requires a motorcycle to be equipped with a headlight of sufficient power to project a beam over a minimum distance of 500 feet. Had Claimant Paul been acting with reasonable regard for his own safety, he certainly would have seen the white barricade as he approached along a straight road at 5

miles per hour with his motorcycle'sheadlight operating. We, therefore, find that Claimant Paul has failed to establish his freedom from contributory negligence, and his claim must be denied.

Claimant Sperindeo had no control over the operation of the motorcycle, and respondent concedes that she was free of contributory negligence.

Claimant Sperindeo was taken by ambulance to a hospital following the accident, where she remained for one week. Her teeth were driven through her lip in the collision, and her mouth required stitches. She suffered a cerebral concussion and bruises of the face, back, and head. She testified that her right eye was swollen shut for three weeks and alleged a loss of vision in the eye. However, an optometrist examined Miss Sperindeo at respondent's request and reported that her vision was within normal limits. Her medical expenses totalled $807.35, and she lost approximately $450.00 in wages.

The Court finds that her injuries were proximately caused by the negligence of the respondent.

The claim of Claimant Paul is hereby denied.

Claimant Sperindeo is hereby awarded the sum of **$3,600.00.**

(No **6702—Claimant awarded $135.00**)

MANFRED KYDAN, M.D., **Claimant,** *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, **Respondent.**

Opinion* filed *October 4, 1974.

MANFRED KYDAN, M.D., Claimant, pro se.

WILLIAM J. *SCOTT*, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* **When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.**

PER CURIAM.

(No. 6703—Claimant awarded $110.00.)

MANFRED KYDAN, M.D., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent

Opinion filed October *4, 1974.*

MANFRED KYDAN, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 6704—Claimant awarded $65.00.)

MANFRED KYDAN, M.D., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed October *4, 1974.*

MANFRED KYDAN, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 6705—Claimant awarded $105.00.)

MANFRED KYDAN, M.D., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL** Health, Respondent.

Opinion filed October *4, 1974.*

MANFRED KYDAN, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 73-CC-220—Claimant awarded $481.13.)

ATLANTIC RICHFIELD COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed October *4, 1974.*

ATLANTIC RICHFIELD COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, **Assistant Attorney General, for Respondent.**

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-&Claimant awarded $125.95.)

ATLANTIC RICHFIELD COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed October *4, 1974.*

D. K. MCINTOSH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-671—Claimant awarded $35.00.)

STONE EXTERMINATING COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LABOR, Respondent.

Opinion filed October *4, 1974.*

MILTON N. SHAFFNER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-733—Claimant awarded $1,711.80.).

RAVENSWOOD HOSPITAL MEDICAL CENTER, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed October *4, 1974.*

RAVENSWOOD HOSPITAL MEDICAL CENTER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1—Claimant awarded $4,880.00.)

WASHINGTON UNIVERSITY, Claimant, *us.* STATE OF ILLINOIS, INSTITUTE FOR ENVIRONMENTAL QUALITY, Respondent.

Opinion filed October *4, 1974.*

WASHINGTON UNIVERSITY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-23—Claimant awarded $47.49.)

UNION OIL COMPANY OF CALIFORNIA, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed October ***4, 1974.***

UNION OIL COMPANY OF CALIFORNIA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-57—Claimant awarded **$34.30.)**

KROCH'S AND BRENTANO'S, Claimant, US. **STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.**

Opinion filed October ***4, 1974.***

KROCH'S AND BRENTANO'S, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-89—Claimant awarded $117.00.)

LEWIS UNIVERSITY CAMPUS SHOP, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed October *4, 1974.*

LEWIS UNIVERSITY CAMPUS SHOP, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-91—Claimant awarded $19,404.80.)

G. F. STOUT, MECH. CONTR., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed October *4, 1974.*

G. F. STOUT, MECH. CONTR., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-98—Claimant awarded $2,779.97.)

GUNTHORP-WARREN PRINTING CO., Claimant, *vs.* STATE OF ILLINOIS, OFFICE OF THE ATTORNEY GENERAL, Respondent.

Opinion filed October *4, 1974.*

GUNTHORP-WARREN PRINTING CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-105—Claimant awarded $47.60)

MOREHOUSE WELLS COMPANY, Claimant, *us.* **STATE** OF **ILLINOIS,** Respondent.

Opinion filed October 4, ***1974.***

MOREHOUSE WELLS COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-797—Claimant awarded $562.04.)

MOBIL OIL CORPORATION, Claimant, *us.* **STATE** OF **ILLINOIS, SECRETARY OF STATE,** Respondent.

Opinion filed October *11,* ***1974.***

JAMES M. LESTIKOW, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-54—Claimant awarded $250.80.)

KROCH'S AND BRENTANO'S, Claimant, US. STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed October 11, 1974

KROCH'S AND BRENTANO'S, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-56—Claimant awarded $34.45.)

KROCH'S AND BRENTANO'S, Claimant, US. STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed October 11, 1974.

KROCH'S AND BRENTANO'S, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-61—Claimant awarded $19.95.)

KROCH'S AND BRENTANO'S, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed October 11, 1974.

KROCH'S AND BRENTANO'S, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-610—Claimant awarded $280.50.)

CENTRAL OFFICE EQUIP. Co., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed October 18, 1974.

ROBERT H. GOLDMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-656—Claimant awarded $1,236.69.)

AMOCO OIL COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed October 18, 1974.

AMOCO OIL COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which **a** claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-811—Claimant awarded $282.00.)

BEVERLY FARM FOUNDATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed October *18, 1974.*

JOHN C. MUELLER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-896—Claimant awarded $30.07.)

ROYAL TYPEWRITER COMPANY, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID,** Respondent.

Opinion filed October *18, 1974.*

ROYAL TYPEWRITER COMPANY, Claimant, **pro *se*.**

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-104—Claimant awarded $90.00.)

PSYCHIATRIC EVALUATION AND TREATMENT CENTER Claimant, *us.* **STATE OF ILLINOIS, DIVISION OF VOCATIONAL REHABILITATION,** Respondent.

Opinion filed October *18, 1974.*

PSYCHIATRIC EVALUATION AND TREATMENT CENTER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-118—Claimant awarded $160.00.)

JOHN J. HOLLAND, M.D., Claimant, *us.* STATE OF ILLINOIS, DIVISION OF VOCATIONAL REHABILITATION, Respondent.

Opinion filed October *18, 1974.*

JOHN J. HOLLAND, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-156—Claimant awarded $74.83.)

ANNE WILLER, Claimant, *us.* STATE OF ILLINOIS, ILLINOIS JUDICIAL INQUIRY BOARD, Respondent.

Opinion filed October *18, 1974.*

ANNE WILLER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-222—Claimant awarded $215.63.)

NAOMI BOLES, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed October *18, 1974.*

NAOMI BOLES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-240—Claimant awarded $1,600.00.)

R. K. PETROLEUM COMPANY, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed October 18, 1974.

R. K. PETROLEUM COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-292—Claimant awarded $1,335.15.)

CHRISTIAN WELFARE HOSPITAL, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed October 25, 1974.

CHRISTIAN WELFARE HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-414—Claimant awarded $374.25.)

JAMES E. HOLDER, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.**

Opinion filed October 25, ***1974***

JAMES E. HOLDER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-789—Claimant awarded $20.66.)

MOBIL OIL CORPORATION, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION Respondent.**

Opinion filed October 25, ***1974.***

JAMES M. **LESTIKOW,** Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-817—Claimant awarded $293.10.)

PASSAVANT MEMORIAL AREA HOSPITAL ASSOCIATION, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed October 25, ***1974.***

PASSAVANT MEMORIAL AREA HOSPITAL ASSOCIATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-66—Claimant awarded $965.65.)

GULF OIL COMPANY, U.S., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.**

Opinion filed October 25, ***1974.***

GULF OIL COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-151—Claimant awarded $15.60.)

RICHARD T. DUNN, Claimant, *us.* **STATE OF ILLINOIS, ILLINOIS JUDICIAL INQUIRY BOARD, Respondent.**

Opinion filed October 25, ***1974.***

RICHARD T. DUNN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-154—Claimant awarded $51.45.)

GORDON F. MOORE, M.D., Claimant, *vs.* **STATE OF ILLINOIS, ILLINOIS JUDICIAL INQUIRY BOARD,** Respondent.

Opinion filed October 25, *1974*

GORDON F. MOORE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-157—Claimant awarded $167.41.)

ARTHUR L. WOODS, Claimant, *vs.* **STATE OF ILLINOIS, ILLINOIS JUDICIAL INQUIRY BOARD,** Respondent.

Opinion filed October *25, 1974.*

ARTHUR L. WOODS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-217—Claimant awarded $62.51.)

EXXON COMPANY, U.S.A., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LAW ENFORCEMENT, Respondent.

Opinion filed October *25, 1974.*

JAMES M. LESTIKOW, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-269—Claimant awarded $150.53.)

MARGARET B. COWDIN, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed October *25, 1974.*

MARGARET B. COWDIN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-570—Claimant awarded $23,500.00.)

TOUCHE ROSS & COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed November 6, *1974.*

BELL, BOYD, LLOYD, HADDAD & BURNS, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-595—Claimant awarded $346.75.)

OAKLEY FURNITURE COMPANY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed November *6, 1974.*

OAKLEY FURNITURE COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-727—Claimant awarded $30.00.)

L. J. KEEFE CO., INC., Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed November *6, 1974.*

L. J. KEEFE CO., INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-6—Claimant awarded $161.34.)

BARNEY SCHWARTZ, Claimant, *us.* STATE OF ILLINOIS. Respondent.

Opinion filed November 6, 1974.

BARNEY SCHWARTZ, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-10—Claimant awarded $200.00.)

CLARENCE N. QUITNO, AND JESSIE L. QUITNO, Claimants, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed November 6, 1974.

CLARENCE N. QUITNO, AND JESSIE L. QUITNO, Claimants, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-39—Claimant awarded $60.00.)

SHARON WHEELOCK, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed November 6, 1974.

SHARON WHEELOCK, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—replacement warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment9

PER CURIAM.

(No. 75-CC-43—Claimant awarded $99.44.)

WOOTERS **LUMBER COMPANY,** Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed November 6, ***1974.***

WOOTERS **LUMBER COMPANY,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—replacement warrants. **If** the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-46—Claimant awarded $79.04.)

A-OK **PRODUCTS,** INC., Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed November 6, ***1974.***

A-OK **PRODUCTS, INC.,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, **for** Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been

paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-52—Claimant awarded $250.00.)

HOWARD FREEDMAN, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed November 6, ***1974.***

HOWARD FREEDMAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-69—Claimant awarded $537.75.)

FELDOTT BROTHERS, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed Nobvember 6, ***1974.***

FELDOTT BROTHERS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-81—Claimant awarded $31.80.)

JOHN F. MCCARTHY, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed November 6, 1974.

JOHN F. MCCARTHY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-82—Claimant awarded $209.50.)

HEWITT LAMER, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed November 6, 1974.

HEWITT LAMER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-101—Claimant awarded $121.55.)

GREAT LAKES SOLVENTS DIVISION, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed November 6, 1974.

GREAT LAKES SOLVENTS DIVISION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-153—Claimant awarded $79.77.)

DR. CHARLES G. HURST, JR., Claimant, *us.* **STATE OF ILLINOIS, ILLINOIS JUDICIAL INQUIRY BOARD,** Respondent.

Opinion filed November 6, ***1974.***

DR. CHARLES G. HURST, **JR.,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-181—Claimant awarded $50.51.)

HAROLD L. **FATH** d/b/a **KEY REXALL DRUGS,** Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF PUBLIC HEALTH,** Respondent.

Opinion filed November 6, ***1974.***

HAROLD L. FATH d/b/a **KEY** REXALL DRUGS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-193—Claimant awarded $589.11.)

RAVENSWOOD HOSPITAL MEDICAL CENTER, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed November 6, 1974.

RAVENSWOOD HOSPITAL MEDICAL CENTER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-211—Claimant awarded $395.00.)

LAURENCE I. CHAPMAN, M.D., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed November 6, 1974

LAURENCE I. CHAPMAN, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-248—Claimant awarded $10.80.)

LINCOLN TRANSFER COMPANY, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF REVENUE, Respondent.

Opinion filed November 6, 1974.

LINCOLN TRANSFER COMPANY, INC., Claimant pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-249—Claimant awarded $12.96.)

LINCOLN TRANSFER COMPANY, INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF REVENUE, Respondent.**

Opinion filed November 6, 1974.

LINCOLN TRANSFER COMPANY, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—***lapsed appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-250—Claimant awarded $19.08.)

LINCOLN TRANSFER COMPANY, INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF REVENUE, Respondent.**

Opinion filed November 6, 1974.

LINCOLN TRANSFER COMPANY, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—***lapsed appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-251—Claimant awarded $20.75.)

LINCOLN TRANSFER COMPANY, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF REVENUE, Respondent.

Opinion filed November *6, 1974.*

LINCOLN TRANSFER COMPANY, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-270—Claimant awarded $604.85)

GROVE PRESS, INC., Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed November *6, 1974.*

GROVE PRESS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch 15, Sec. 210.10, Ill.Rev Stat , 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 5805—HOOD awarded $12,613.15, COOK COUNTY HOSPITAL awarded $4,886.85.)

GEORGE HOOD AND MYRTLE HOOD, Claimants, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed November *7, 1974.*

GREGORY TUMBARELLO, Attorney for Claimants.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

HOSPITAL LIENS. The Court is required by statute to recognize a lien properly filed by a nonprofit hospital or a hospital maintained and operated entirely by a county. The amount of such lien shall not exceed the limit imposed by law.

EVIDENCE—burden *of* proof. In order for injured patient of hospital to recover on a claim against the hospital for injuries to the patient caused by the hospitals negligence, claimant must prove that (1) hospital breached its duty to protect patient; (2) the patient was free from contributory negligence; and (3) that the breach of duty by the hospital was the proximate cause of the injuries to the patient.

PERLIN, C. J.

Claimant, George Hood, seeks damages for injuries suffered by him while a patient at Chicago State Hospital, a facility operated by respondent for the detention, care, and treatment **of** the mentally ill. Claimant Myrtle Hood, his wife, claims damages for loss of the support, services, care, and companionship **of** her husband as a result of those injuries.

George Hood was admitted to Chicago State Hospital on December **4, 1969,** pursuant to a finding of a judge of the Circuit Court of Cook County, Illinois, that he was in need of mental treatment. On January **18,1970,** George Hood escaped from Ward Six, a locked section of the hospital. Subsequent investigation placed the time of his escape at approximately 5:30 p.m. The average temperature on the day in question was eight degrees above zero. George Hood was found by hospital security guards about one and one-half hours after his escape on the hospital grounds in waist-high snow, with his frostbitten hands clutching a wire fence which surrounded the hospital.

George Hood did not testify at the hearing in this cause, and the record is indefinite as to how he effected his escape. Lawrence Atkins, a security officer at the

hospital who conducted an investigation into the incident, testified that he had been told by LeRoy Robinson, the aide in charge of Hood's ward, that the west door to the tract had been unlocked by an unknown party, and that it was also possible that a set of keys to the ward had been stolen. A report prepared by Atkins following his investigation stated that personnel in Ward Six had found the west door to the ward open following Hood's escape.

A report of the Illinois Department of Mental Health which was introduced into evidence by respondent stated in part:

> **"George Hood did not have permission to leave the unit at any time. However, investigation has brought out that garbage was removed from the unit sometime between 5:00 and 5:30 p.m , and it is believed at this time the west door was left unsecured for a short time while the garbage was being emptied. This permitted time for Mr. Hood to leave the unit without anyone's knowledge * * *."**

LeRoy Robinson, the psychiatric aide in charge of Ward Six at the time of the incident, testified that the ward contained a mixture of both passive and violent patients. He said that Ward Six was a locked building, but that the lock on the west door was defective. He had reported the defective lock to employees on the shift following his work shift a number of times prior to the occurrence, but the lock had not been repaired.

Robinson further testified that there was a "high rate" of patients escaping from Ward Six. He said that patients had removed the handles from the front door of the building, and could get out the door by simply pushing it open.

Hospital records introduced into evidence, established that on December 7, 1969, George Hood had been placed in restraints after he wandered into rooms of other patients. On January 11, 1970, seven days prior to

the incident, George Hood became disturbed and broke two windows. Robinson said that prior to the incident, Hood was strong, robust, and very active and was "always trying to get out-of-doors.''

In ***Karulski*** v. ***Board of Trustees,*** 25 C.C.R. 295, at 299, this Court described the duty owed a patient by a hospital in these terms:

> **"A hospital is not an insurer of a patient's safety, but owes the patient the duty of protection, and must exercise reasonable care as the patient's known condition may require . . ."**

See also, ***Peterson*** v. ***State of Illinois,*** 22 C.C.R. ***381.***

To recover for the damages alleged, therefore, claimants must prove by a preponderance **of** the evidence that the respondent breached the duty of protection owed George Hood; that George **Hood** was himself free of contributory negligence; and that the breach of duty by the respondent was the proximate cause of the damages alleged by claimants.

While claimants have been unable to prove the exact manner in which Hood left Ward Six, there is ample evidence in the record from which to conclude that his escape was occasioned by the negligence of employees of Chicago State Hospital. Hood had a history of creating disturbances, and the aide in charge of Hood's ward said he "was always trying to get out-of-doors." Yet, Ward Six was a "locked ward in name only. The lock on the west door **of** the ward was defective, and this condition had been reported to employees of respondent on several occasions prior to the incident. Although the ward contained a mixture of active and passive patients, patients were apparently permitted to go outside the ward to dispose **of** garbage without supervision. Patients had removed the handles from the front door of the ward, which allowed them to open the door by simply applying

pressure to it. Again, this condition was known to employees of Chicago State Hospital, but never remedied.

As a result of these conditions, patients escaped from Ward Six at a "high rate." The Court therefore finds that respondent breached the duty of protection owed George Hood, in failing to maintain proper security in Ward Six.

Respondent concedes that given George Hood's mental condition on January 18, 1970, he was incapable of contributory negligence.

Claimants have established that the physical injuries to George Hood were proximately caused by the negligence of employees of Chicago State Hospital. Hood was taken to Cook County Hospital for treatment of his frostbitten extremities. He remained hospitalized there from January 2, 1970, to March 13, 1970, and part of his left index finger and middle finger were amputated. The other fingers of both hands and both forearms are scarred from frostbite, and he has suffered a permanent, partial loss of use of his left arm, right hand, and both feet. Cook County Hospital claims a lien against claimant for services rendered him in the amount of $4,886.85.

Upon his release from Cook County Hospital, George Hood received further treatment for his injuries as an outpatient at the Fantus Clinic for four months. Hood, who was 57 years old at the time of the incident, thereafter attempted to return to work, but was rejected by his former employer.

Claimant's wife, Myrtle Hood, seeks damages for loss of support, services, care, and companionship caused by claimant's injuries. We have carefully considered the voluminous evidence introduced with respect to George Hood's earning capacity, and his physical and mental condition prior to the incident. While he was a steady

worker all of his life, George Hood last worked in October, of 1969. In November, 1969, he was admitted to Garfield Park Hospital in a "confused and tremulous state" and had to be placed in arm and leg restraints. He was transferred to Cook County Hospital on November 29, 1960; and hospital records indicate that he was "hearing things and seeing things". Cook County Hospital records state that on his admission he was "very confused"; and by December 11, 1969, he was placed in restraints.

The court finds that the physical and mental condition of George Hood had seriously deteriorated prior to January 18, 1970, the date of his escape from Ward Six. His inability to work and support Myrtle Hood was not caused by the incident of January 18, 1970, but rather is the result of a condition which already existed at the time of his escape from Chicago State Hospital.

Therefore, the separate claim of Myrtle Hood, George's wife, must be and is hereby denied.

We find that the claimant, George Hood, is entitled to an award in damages for his physical injuries in the total sum of $17,500.00.

However, we are required by statute, *Ill. Rev. Stat. 1973, Ch. 82, §98,* quoted in part below, to honor the lien filed in this case by the Cook County Hospital for services rendered in the treatment and care of this claimant. The said statute concerning certain hospital liens reads in pertinent part as follows:

"98. Lien to attach to verdict, judgment or decree, etc.] §2. The lien of any such nonprofit hospital, or hospital maintained and operated entirely by a county, shall, from and after the time of service of the aforesaid notice, attach to any verdict, judgment or decree secured in any suit or action by the injured party based on the negligent or wrongful act, and to any money or property which may be recovered by compromise settlement, or in any suit or action brought by such injured person on account of such claim or right of action."

Since the lien'of $4,886.85, filed herein by Cook County Hospital, does not exceed one-third of the amount due the claimant in this decree, the limit on such liens imposed by 997 of the said Act does not apply, and the full amount of the hospital lien must be deducted from claimant's award, and the said amount awarded to the hospital.

1. The claimant, George Hood, is hereby awarded the net sum of **$12,613.15** in damages.

2. Cook County Hospital is hereby awarded the sum of $4,886.85 in satisfaction of its lien duly filed in this cause.

(No. 75-CC-145—Claimant awarded $2,849.17.)

GERBER-BARTHEL TRUCK AND TRACTOR COMPANY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion* filed November *7, 1974.

WILLIAM D. STIEHL, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 5620—Claimant awarded $1,200.00.)

BARBARA L. BAREN, Claimant, *vs.* STATE OF ILLINOIS, DIVISION OF HIGHWAYS, Respondent.

Opinion filed November *12, 1974.*

GARBUTT & JACOBSON, **by** THOMAS LEE, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

NEGLIGENCE — -duty. **States duty to all persons who use its streets and roads is limited to using reasonable care in their maintenance and repair.**

EVIDENCE—*constructive* ***notice.*** **The existence of hole in public street for over a month gave State constructive notice of its existence to either make repairs or erect a warning to pedestrians or vehicular traffic.**

PERLIN, C. J.

Claimant, Barbara Baren, seeks damages for injuries sustained on July 17, 1967, when she fractured a bone in her left foot as she stepped into a depression in a street maintained by respondent. Claimant contends that respondent was negligent in maintaining the street in that it had constructive notice of the defect, but failed to take remedial action. Respondent contends that claimant has failed to establish either that the State of Illinois had constructive notice of the defect, or that she was free of contributory negligence.

On July 17, 1967, at approximately noon, claimant, a twenty-four-year-old woman, parked her car in front of a cleaning store located at 2127 South 17th Avenue, Broadview, Illinois. She had previously visited the store on several occasions, parking in approximately the same place. She got out of her car on the driver's side with a load of laundry clutched to her chest, and walked around to the rear of the automobile. Claimant denied that her vision was in any way obstructed by the laundry bundle.

As she walked around the car and approached the curb separating the street from the sidewalk, she stepped into a depression in the street with her left foot and fell to the ground. Claimant testified that she was looking straight ahead at the time, and never saw the hole into which she stepped until after she fell.

Claimant was taken by ambulance to Oak Park Hospital, where it was determined that she sustained a fracture of the fifth metatarsal bone in her left foot. The foot was placed in a walking cast, which claimant wore for four weeks. For several weeks thereafter the foot was bandaged, and claimant walked with the aid of a cane. She was treated by Dr. Albert E. Rodriguez, an orthopedic surgeon, whose medical report was introduced into evidence.

Claimant, who earned $76 net per week at the time of the occurrence, did not return to work for four days. When she did return, she allegedly suffered pains in the foot and elected to take her paid vacation at that time. At the hearing herein, claimant alleged that she was still experiencing a throbbing pain at the fracture site, and that she was unable to continue participation in certain activities such as bowling and skating. A report of an examination of claimant on November 18, 1972, by Dr. Donald S. Miller was introduced into evidence and states that there is a deformity at the site of the healed fracture. However, a report of Dr. Carl Scuderi, who examined Claimant on August 31, 1973, at the request of respondent, states that the fracture had healed well.

Photographs of the hole into which claimant stepped were introduced into evidence by claimant, and show a depression in the street adjacent to the curb measuring approximately 3 feet long, 2 feet wide, and 3 to 4 inches deep. These photographs were authenticated by Lt. Robert Markey of the Broadview Police Department, who was called to the accident site and was present when they were taken.

William Saunders, the owner of the cleaning store at 2127 South 17th Street, witnessed the accident. He said that he happened to be looking out the window of his

store when he saw claimant step into the hole and fall to the ground. Saunders said that the hole was visible from his store. On direct examination, Saunders said that the hole had existed for from three to four months prior to the incident. On cross-examination Saunders was less certain as to the length of time it had existed, but was sure that it was over one month.

This Court has repeatedly held that the State is not an insurer of the safety of all persons upon its streets and highways, and the State's duty is limited to using reasonable care in the maintenance and repair of its streets. (*Weygandt* v. *State, 22* C.C.R. 498) To recover for her injuries therefore, claimant bears the burden **of** establishing by a preponderance of the evidence that the respondent was negligent; that she herself was free of contributory negligence; and that the negligence **of** the respondent was the proximate cause of her injuries.

Claimant does not contend that the respondent had actual knowledge of the defect in 17th Street, but rather seeks to charge the respondent with constructive knowledge of the depression. Constructive notice of a dangerous condition may be charged to a party when, considering all the circumstances of a case, it is determined that in the exercise of reasonable care the party should have known of the existence of the condition. In ***Joyner** v.* ***State,*** **22** C.C.R. **213,** 217, we said:

> "Notice of the existence **of** a defect or obstruction in a municipal street may be implied, if the condition existed for such a length **of** time that the corporate authorities should have ascertained its existence and effected a remedy. This is always a question to be determined under the circumstances of the evidence in each case."
>
> * * *
>
> "We * * * must require strong and convincing proof to establish this element."

The primary factor to be considered in determining whether the respondent may properly be charged with

constructive notice of the existence of the hole in the street, is the length of time the defect existed. The only evidence offered on this issue was the testimony of William Saunders, the owner of the cleaning store adjacent to the accident site, who said that the hole was present for over one month, and possibly as long as three to four months.

While Saunders's testimony was somewhat less than precise as to the length of time the defect existed, claimant has established by a preponderance of the evidence, that the hole had existed for a sufficient period to have put the respondent on notice of its existence, and to enable respondent to either make repairs or erect a warning to pedestrian and vehicular traffic. See, *Gillespie* v. *State,* 25 C.C.R. 309.

Respondent claims that it was under no duty to maintain the road where the accident occurred for pedestrian traffic, because claimant was not walking in a designated pedestrian cross-walk. However, respondent owes a duty to maintain its roads in a reasonably safe condition for the purpose to which the portion in question is devoted. *Vanda* v. *State of Illinois,* 25 C.C.R. 213,218. Here claimant had parked her car in a lawful manner, and was simply walking from her car to the sidewalk when the accident occurred. Her use of the portion of the pavement in question was entirely reasonable.

Nothing in claimant's actions, either immediately before, or at the time of the occurrence, gives rise to any question as to her exercise of due care for her own safety, and we find that she has established her freedom from contributory negligence.

We conclude that the claimant has established that respondent had constructive notice of the existence of the

hole in the pavement, and was negligent in failing to repair the defect. We further find, that the negligence of the respondent proximately caused claimant's injuries, and that claimant was free of contributory negligence.

Claimant's medical bills incurred as a result of the accident total **$367.75** and she lost four days from work. We have considered the testimony as to the alleged permanency of claimant's injury, and find that she has made a normal recovery.

Claimant is hereby awarded the sum of **$1,200.**

***(No.* 6794—Claimant awarded $877.30.)**

GLEN SMITH, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed November 12, 1974.

LAND OF LINCOLN LEGAL ASSISTANCE FOUNDATION, INC., by JOSEPH R. BARTYLAK, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

NEGLIGENCE— -duty of State to third person by acts of inmates. **The State is required to exercise reasonable care in restraining and controlling dangerous insane persons committed** to **its custody,** ***so*** **that they will not have the opportunity** ***to*** **inflict a foreseeable injury upon others.**

BURKS, J.

In this tort action, claimant seeks payment for damages to his automobile caused by an inmate mental patient of Alton State Hospital who, in making an escape from the hospital, forcibly removed the claimant from his parked car, drove it away, and damaged the car so badly that the estimated cost of repairs exceeded the car's value.

Claimant charges that the respondent was negligent in failing to exercise sufficient restrictive control over the patient, Will Henry Ellis, which would have prevented the occurrence that resulted in claimant's loss.

The material facts in this case are not in substantial dispute. On January 11,1972, claimant was the owner of a 1966 Buick automobile which was in good condition. At about 2:45 in the afternoon on that date, claimant went to the Alton State Hospital to pick up his wife, who was employed there, at the hospital. He parked his car along a driveway next to one of the buildings where he usually picked up his wife. As claimant was seated waiting for his wife, with his windows rolled down, a mental patient named Willy Ellis approached his car and demanded that he be taken to East St. Louis. Claimant refused. The patient grabbed claimant around the neck, pulled him out of the car, got in the car and drove it away. Claimant reported the theft to the Security Office at Alton State Hospital. No one witnessed the incident between claimant and the mental patient.

A fellow employee took the claimant and his wife from the Alton State Hospital to the Alton police station. On the way there, claimant saw his car sitting on College Avenue in Alton. It was pulled off of the concrete surface of the street onto some brick siding. The claimant, his wife, and his wife's friend saw the mental patient, Willy Ellis, walking toward the State Hospital on College Avenue. The car was headed toward Alton. Claimant testified that he could not see any physical damage to the *outside* of his car, but that there was oil and anti-freeze "all out in the front of the car".

The car would not start, and claimant had the car towed by Paul Bruns Towing Service to Bruns garage at

a cost of **$22.50.** Bruns made an estimate of repair in the total sum of **$854.80.**

On cross-examination, claimant conceded that there were signs on the Alton State Hospital grounds telling visitors to keep their cars locked, but that the signs said to do so "when the car ***was unattended*".**

Claimant testified that he disposed of the damaged car by selling it to Russell Swarringin for the price of $100, and said that he had purchased the car about a year before for the sum of $1,300.

Claimant testified that someone "at the State level" authorized him to dispose of the car, but he did not know who it was nor how long after the incident he was told that he could sell the car, but he estimated "It was over a month".

Paul Bruns, owner of the garage that gave claimant the estimated cost of repairs, said that the car was previously in good condition. After the incident involved, Bruns examined the automobile and found that it had a "rod thrown through the side of the motor". Bruns testified that, in his opinion, the car had been driven at a high rate of speed and that the engine was ruined.

The State's witness, Melba King, a social worker and a caseworker at the Alton State Hospital, testified that she was familiar with the record of Mr. Ellis, the patient who had accosted the claimant, and that she had studied his record. Ellis had an alcohol problem. She said that when Ellis drank, sometimes he would be impulsive and "do things". She testified that she did not know whether Ellis had a violent temper problem when he was not drinking, and said there was no place on the Alton State Hospital grounds that alcoholic beverages could be obtained. She admitted that Ellis had left the Alton State

Hospital on occasions other than the one in question, but there was no violence recorded as being associated with Ellis' elopement on other occasions. Mrs. King testified that Alton was not a security institution; that it was basically a hospital, not for violent inmates, and they had an open door policy.

On cross-examination of Mrs. King, claimant's counsel established that on October 22, 1971, Ellis had grabbed one of the workers and began pushing her inside a dorm. On October 25, 1971, there was a notation in Ellis' file that he had struck another patient because the other patient would not let him have a cigarette. On November 11, there was a notation in Ellis' records that he kicked out a piece of a chair for no apparent reason. Further notations indicated that on November 19, 1971, Ellis began a fight when in line for his morning meal. On December 19, 1971, the security officer in Ellis' ward said that Ellis had been rifling visitors' cars, and that security officer demanded that Ellis be kept in the ward. The caseworker further testified, that she knew that Ellis had been involved in problems with the police at various times when he had been discharged from Alton State Hosiptal. She conceded that patients admitted to Alton State Hospital are usually admitted on the grounds that they are dangerous to themselves or others.

The respondent called the man who had purchased claimant's car to testify as to the damage of claimant's car. Swarringin testified that he had repaired the vehicle for $280.00, doing the repair work himself, and that "it worked fine" after that. The car was subsequently stolen from Swarringin and destroyed. The insurance paid for the loss, was $760.00. We do not find this evidence to be necessarily in conflict with claimant's contention as to

the cost of having the car repaired by an expert mechanic, which Swarringin admitted that he was not.

Claimant argues that the facts as shown at the hearing establish his right to recover from the State, citing certain authorities which we will briefly review.

In Maloney v. State, 22 *C.C.R.* 567 (1957), the mental patient who caused the injury was in the physical presence of two of the hospital attendants when the patient attacked a visitor, causing the visitor personal injury. We found, from the record as a whole, that there was enough negligence on the part of the State and the State's agents to justify an award. We found that the State's agents had sufficient warning of the patient's propensities to have justified their manually removing him from the immediate physical presence of visitors at the hospital. Our opinion in Maloney, as stated at page 569, was based on the fact that the patient was obviously disturbed, and was within a few feet of the visiting women, one of whom was injured. We found that this situation, in and of itself, was sufficient to warrant our conclusion that the attendant or attendants, present with the patient, should not have allowed him to attack and injure the claimant. The Maloney case is distinguished from the case at bar only in that here there is no showing that any agent, employee, or servant of the State had knowledge of the dangerous situation that did immediately confront the claimant. There is no explanation as to why the patient in the present case was permitted to be in the area of claimant's vehicle, other than the general explanation, that Alton State Hospital has "an open door policy".

In Callbeck v. State of Illinois, 22 *C.C.R.* 722 (1958), the claimant was an employee at the Illinois State School of Psychiatric Nursing. She lived on the premises of the school. At 10:00 p.m. one night, she was attacked in her

bed and injured by a psychiatric patient. At pages 728 and 729 of the *Callbeck* opinion, we went into considerable detail in pointing out that the patient in that case was indeed a dangerous person due to countless incidents, which had occurred while he was in the charge of the respondent. We concluded that the State is required to exercise reasonable care in restraining and controlling dangerous, insane persons committed to its custody, so that they will not have the opportunity to inflict a foreseeable injury upon others. We said that, in view of the patient's history, it became the duty of the State to exercise utmost viligence in controlling his activities. However, in the *Callbeck* case, there was proof that the attendant on duty allowed the patient to go alone from a ward to the hospital office, and from there to the dining room to await other inmates. The attendant in the *Callbeck* case testified that the patient then was a "pretty good trustee", "one you can trust", and that the attendant had not been given a history on the patient, nor knew his history until after the assault on the claimant. The *Callbeck* case presents a situation where the history of the patient was far more compelling than in the case at bar to force the conclusion that restraints should have been placed upon the patient.

In *Crim* v. *State of Illinois, 24 C.C.R. 202* (1962), three delinquents escaped the Dixon State School at Dixon, Illinois, and one of them destroyed the claimant's barn by burning it down. The parties in that case stipulated to the fact that one of the escapees had a history of delinquency prior to his commitment to the Dixon State School, and that he had been known to set small fires prior to his commitment. He had left the school, on at least one occasion, before the incident in question, and a small fire was discovered beneath one of the institution buildings. One of the escapees in the *Crim* case was

strongly implicated in that prior incident. Similar to the case at bar, the Dixon State School was operated in accordance with accepted standards and practices of institutions of similar type; the school was operated on an "open cottage" principle. The grounds of the Dixon State School were not fenced or regularly patroled.

In the *Crim* case, we cited *Dixon Fruit Company, et al* v. *State, 22 C.C.R. 271,* and concluded that there was evidence ample to justify an award against the State for the damages to claimant's barn and its contents.

In *Dixon Fruit* Co. v. *State of Illinois, 22 C.C.R. 271,* the court again found that the patient causing the damage to the claimant was a mental defective, with an exhibited tendency toward incendiarism, and should not have been allowed to wander at will without supervision in an institution where there were no restraining laws, or other means of controlling his movements. We found, on the basis of the preceding fact, that the State was negligent.

Both the *Dixon Fruit Company* case and the *Crim* case are sufficient authority to justify an award in the present case. **As** we discussed in the fact situation above, there was ample evidence in this record to the effect that the inmate, Willy Ellis, had a history of violent activities and had on at least one occasion, other than the occasion in question, escaped from Alton State Hospital.

There is no suggestion in the record that the claimant was in any manner guilty of contributory negligence.

The claimant proved by his exhibits, that he paid towing bills in the sum of $22.50, and the reasonable cost of repairing his vehicle for the damage done totalled $854.80. We find that claimant is entitled to an award to

cover the total amount of his property damages in the sum of $877.30.

Claimant is hereby awarded the sum of $877.30.

(No. 7086—Claimant awarded $2,500.00.)

KENNETH CHOINIERE, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed November 12, 1974.

ROBBINS, COE, RUBINSTEIN & SHAFRAN, Ltd., Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

NEGLIGENCE—***duty of State to third person for acts of inmates.*** **Duty of respondent to exercise reasonable care in restraining and controlling dangerous insane persons committed to its custody, *so* that they will not have the opportunity to inflict a foreseeable injury upon others.**

HOLDERMAN, J.

Claimant, Kenneth Choiniere, has filed a claim against the State of Illinois for injuries sustained on June 12, 1972, while he was a patient at the Read Mental Health Center for the treatment of alcoholism.

It appears that he had been at the Center since March of 1972.

On the evening of June 12, 1972, claimant was in the sun room at said hospital. Also in the sun room was a woman patient and another male patient, Michael Morabito.

Michael Morabito left the sun room and the female patient entered and sat in the seat he had vacated. When Mr. Morabito returned, he demanded the female patient

relinquish her seat to him. When the claimant came to the assistance of the female patient, Michael Morabito struck him, knocking him to the floor and kicking him in the face with his feet.

As a result of this assault, claimant suffered multiple fractures of his jaw.

He was kept overnight at the Read Mental Health Center and later was transferred to the University of Illinois Research Hospital where he remained until June 29, 1972.

Claimant, testifying in his own behalf, stated that his mouth was wired and that he remained on a liquid diet for approximately 9 weeks.

As a result of the injuries, claimant was required to have certain dental work done on his mouth. He further testified, that his lower lip is partially numb and he has problems speaking clearly.

Claimant was billed $1,201.33 by the University of Illinois Research Hospital for the services it rendered to him, and the hospital has asserted a lien for this amount.

The State of Illinois, through the Attorney General, has filed a Counter-Claim against the claimant in the amount of $4,677.40 on behalf of the Read Mental Health Center for treatment rendered claimant. The respondent seeks a lien, or setoff in this amount. Respondent presented no rebuttal evidence. The facts, the amounts, and the resulting award were, in fact, stipulated to by the parties to this claim.

Claimant contends that the State of Illinois is responsible for his injuries because it permitted a dangerous mentally ill person to be in the sun room occupied by the claimant and other patients. Claimant further al-

leges that the respondent knew, or should have known, of the vicious propensities of the mentally ill patient, Michael Morabito.

The record is devoid of any evidence as to what actual knowledge the State had as to the tendencies of the assailant, but it can be safely assumed, that there were facts in the hospital record apprising the State of Illinois of the vicious propensities of the assailant.

We are satisfied that the claimant is free from any contributory negligence in this matter.

We find the rule applicable to the case at bar stated in ***Hazel Robinson*** v. ***State of Illinois, 25 C.C.R. 67*** at page **74:**

"This Court had long held that it is the duty of respondent to exercise reasonable care in restraining and controlling dangerous, insane persons committed to its custody, so that they will not have the opportunity to inflict a foreseeable injury upon others." [Citing cases] Also in point, see ***Mitchell Lewinski*** v. ***State, 26 C.C.R. 166.***

Since the respondent tacitly conceded its liability in this matter, we are justified in assuming that there were facts in the hospital records concerning Michael Morabito that would apprise the State of the mental condition of the offender, and particularly his tendency to be violent. The State was, therefore, negligent in failing to keep him under proper supervision, which would have prevented the injury to this claimant.

Under these circumstances, the court believes that the agreed suggestion of the parties as to the amount of the award is fair and reasonable. The total amount of the award will be **$8,378.73** from which amount respondent

is entitled to a set-off in the total sum of $5,873.73, pursuant to §8(e) of the Court of Claims Act, as payment for services rendered to the claimant **by** the two State hospitals. [viz: the sum of $1,201.33 to satisfy the lien of the University of Illinois Research Hospital, and a further sum to be deducted in the amount of $4,677.40 to satisfy the lien of the Chicago-Read Mental Health Center for services and treatment rendered to the claimant.] After the satisfaction of the respondent's aforesaid counter-claims for recoupment, claimant is entitled to a new award in the sum of $2,500.00.

The claimant, Kenneth Choiniere, is hereby awarded the net sum of $2,500.00 in damages for his personal injuries.

(No. **73-CC-423—Claimant awarded $538.00.)**

PUBLIC ELECTRIC CONSTRUCTION COMPANY, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES.

Opinion filed November 12, 1974.

LANDESMAN & SCHWARTZ, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* **When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.**

PER CURIAM.

(No. **74-CC-20PClaimant awarded $35.97.)**

BYRD WATSON DRUG CO., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed November 12, 1974.

BYRD WATSON DRUG CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-232—Claimant awarded $40.95.)

HOLIDAY INN OF MACOMB, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed November *12, 1974.*

HOLIDAY INN OF MACOMB, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 74-CC-628—Claimant awarded $86.40.)

ROADS AND TRANSPORTATION ASSOCIATION OF CANADA, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed November *12, 1974.*

ROADS AND TRANSPORTATION ASSOCIATION OF CANADA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-810—Claimant awarded $125.90.)

AVENUE STATE BANK, ADMINISTRATOR OF ESTATE OF WILBUR MC HUGH, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed November 12, 1974.

AVENUE STATE BANK, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No'.74-CC-824—Claimant awarded $14.25.)

MICHAEL J. SCHMITT, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed November 12, 1974.

MICHAEL J. SCHMITT, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-883—Claimant awarded $22.45.)

SAMMUEL R. **GUARD,** Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed November 12, 1974.

SAMMUEL R. GUARD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-897—Claimant awarded $49.00.)

DR. E. J. MIRMELLI, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed November *12, 1974.*

DR. E. J. MIRMELLI, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-19—Claimant awarded $19.60.)

CAMILLE MCCASKILL, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed November *12, 1974.*

CAMILLE MCCASKILL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-31—Claimant awarded $104.87.)

UNION OIL COMPANY OF CALIFORNIA, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed November ***12, 1974.***

UNION OIL COMPANY OF CALIFORNIA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-40—Claimant awarded $1,200.00.)

GENERAL ELECTRIC SUPPLY COMPANY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed November ***12, 1974.***

GENERAL ELECTRIC COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-41—Claimant awarded $475.00.)

FLORENCE CRITTENTON PEORIA HOME, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES,** Respondent.

Opinion filed November *12, 1974.*

WESTERVELT JOHNSON, NICOLL & KELLER, Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant

PER CURIAM.

(No. 75-CC-78—Claimant awarded $37.93.)

EDWARD J. BRONICKI, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed November *12, 1974.*

EDWARD J. BRONICKI, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER. CURIAM.

(No. 75-CC-95—Claimant awarded $149.00.)

KRANZ AUTOMOTIVE BODY Co., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES,** Respondent.

Opinion filed November *12, 1974.*

KRANZ AUTOMOTIVE BODY Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-108—Claimant awarded $1,105.88.)

WILDMAN, HARROLD, ALLEN & DIXON, Claimant, *us.* STATE OF ILLINOIS, OFFICE OF THE ATTORNEY GENERAL, Respondent.

Opinion filed November *12, 1974.*

WILDMAN, HARROLD, ALLEN & DIXON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-114—Claimant awarded $1,169.30.)

GRAND ELM A.M.C., INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed November *12, 1974.*

GRAND ELM A.M.C., INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-122—Claimant awarded $2,125.00.)

COUNTY OF WINNEBAGO, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF LOCAL GOVERNMENT AFFAIRS,** Respondent.

Opinion filed November 12, *1974.*

WILLIAM H. GATES, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-137—Claimant awarded $990.45.)

WESTERN BAPTIST HOSPITAL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS,** Respondent.

Opinion filed November 12, *1974.*

WESTERN BAPTIST HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-152—Claimant awarded $16.60.)

HAROLD B. STEELE, Claimant, *us.* **STATE OF ILLINOIS, ILLINOIS JUDICIAL INQUIRY BOARD,** Respondent.

Opinion filed November 12, *1974.*

HAROLD B. STEELE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-163—Claimant awarded $356.64.)

ST. MARY HOSPITAL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed November ***12, 1974.***

ST. MARY HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, 'Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-187—Claimant awarded $239.00.)

SHERMAN HOSPITAL ASSOCIATION, Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed November ***12, 1974.***

SHERMAN HOSPITAL ASSOCIATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-220—Claimant awarded $265.37.)

GLEN FOOD MART, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed November ***12, 1974.***

GLEN FOOD MART, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-242—Claimant awarded $1,614.00.)

CENCO MEDICAL INDUSTRIES, INC., Claimant, *vs.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed November *12, 1974.*

LEON E. LINDENBAUM, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-284—Claimant awarded $4,950.00.)

IBM CORPORATION, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF REVENUE, Respondent.

Opinion filed November *12, 1974.*

IBM CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-298—Claimant awarded $181.45.)

UNILINE CORPORATION, A DELAWARE CORPORATION, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed November 12, 1974.

UNILINE CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-326—Claimant awarded $615.00.)

QUINT CITIES DRUG ABUSE COUNCIL, INC., Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed November 12, 1974.

QUINT CITIES DRUG ABUSE COUNCIL, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-603—Claimant awarded $301.47.)

PEORIA MOTORS, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL Services, Respondent.

Opinion filed November 25, 1974.

PEORIA MOTORS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-149—Claimant awarded $460.00.)

ALBERT P. LUDIN, M.D., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed November 25, ***1974.***

ALBERT P. LUDIN, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-212—Claimant awarded $3.47.)

EXXON COMPANY, U.S.A., **Claimant,** *us.* **STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.**

Opinion filed November 25, ***1974.***

JAMES LESTIKOW, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-213—Claimant awarded $7.00.)

EXXON COMPANY, U.S.A., Claimant, *vs.* STATE OF ILLINOIS, CIVIL DEFENSE AGENCY, Respondent.

Opinion filed November 25, 1974.

JAMES LESTIKOW, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-318—Claimant awarded $123.33.)

WALLACE, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF LAW ENFORCEMENT, Respondent.

Opinion filed November 25, 1974.

WALLACE INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-320—Claimant awarded $60.00.)

EDUCATIONAL SERVICE REGION ADAMS COUNTY, Claimant, *vs.* STATE OF ILLINOIS, SUPERINTENDENT OF PUBLIC INSTRUCTION, Respondent.

Opinion filed November 25, 1974.

EDUCATIONAL SERVICE REGION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-337—Claimant awarded $136.20.)

BRUCE MCCLAREN, Claimant, us. **STATE OF ILLINOIS, COMMISSIONER OF BANKS AND TRUST COMPANIES,** Respondent.

Opinion filed November 25, ***1974.***

BRUCE MCCLAREN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-9—Claimant awarded $79.82.)

ATLANTIC RICHFIELD COMPANY, Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed December ***4, 1974.***

D. K. MCINTOSH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-23—Claimant awarded $155.31.)

SPRINGFIELD BAKERS SUPPLY CO., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed December *4, 1974.*

GEORGE E. EGIZII, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-385—Claimant awarded $150.00.)

GEORGE AND JUDITH BOBROWSKY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed December *4, 1974.*

GEORGE AND JUDITH BOBROWSKY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; EDWARD L. S. ARKEMA, JR., Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-821—Claimant awarded $833.00.)

SCHOOL OF THE ART INSTITUTE OF CHICAGO, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF VOCATIONAL REHABILITATION, Respondent.

Opinion filed December *4, 1974.*

SCHOOL OF THE ART INSTITUTE OF CHICAGO, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-24—Claimant awarded $5.50.)

UNION OIL COMPANY OF CALIFORNIA, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed December ***4, 1974.***

UNION OIL COMPANY OF CALIFORNIA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-35—Claimant awarded $750.00.)

ROBERT FALVEY, GUARDIAN OF THOMAS J. FALVEY, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed December ***4, 1974.***

KLINK AND KLINK, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-70—Claimant awarded $54.15.)

KENNETH SOKOL, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed December *4, 1974.*

KENNETH SOKOL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-144—Claimant awarded $2,445.80.)

JEFFERY PHARMACY, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed December *4, 1974.*

JEFFERY PHARMACY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-147—Claimant awarded $407.66.)

MITTENDORF'S FOOD CENTER, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed December *4, 1974.*

J. W. MITTENDORF, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-164—Claimant awarded $594.40.)

ST. MARY HOSPITAL, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed December *4, 1974.*

ST. MARY HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-170—Claimant awarded $10.00.)

JEANNE O'DONNELL, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed December *4, 1974.*

JEANNE O'DONNELL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-172—Claimant awarded $857.50.)

MARY E. GILLESPIE, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LABOR, Respondent.

Opinion filed December 4, 1974.

MARY E. GILLESPIE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the ***Court*** will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-173—Claimant awarded $602.00.)

DAVID RICHMOND, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LABOR, Respondent.

Opinion filed December 4, 1974.

DAVID RICHMOND, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—***lapsed appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-174—Claimant awarded $637.00.)

JAMES E. HAGEN, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LABOR, Respondent.

Opinion filed December 4, 1974.

JAMES E. HAGEN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-175—Claimant awarded **$637.00.)**

MARVIN P. DEKOVEN, Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF LABOR,** Respondent.

Opinion filed December 4, 1974.

MARVIN P. DEKOVEN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-177—Claimant awarded **$637.00.)**

HERBERT L. YABLONG, Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF LABOR,** Respondent.

Opinion filed December 4, 1974.

HERBERT L. YABLONG, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-180—Claimant awarded $300.00.)

DENNIS G. JASINOWSKI, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed December *4, 1974.*

DENNIS G. JASINOWSKI, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-190—Claimant awarded $147.00.)

NORTHWEST SUBURAN SPECIAL EDUCATION ORGANIZATION, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed December *4, 1974.*

NORTHWEST SUBURAN SPECIAL EDUCATION ORGANIZATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-216—Claimant awarded $75.89.)

EXXON COMPANY, U.S.A., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed December *4, 1974.*

JAMES M. LESTIKOW, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-238—Claimant awarded $148.20.)

EARLEY BUTLER, JR., M.D., Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed December *4, 1974.*

EARLEY BUTLER, JR., M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-241—Claimant awarded $35.95.)

SUNNYSIDE DODGE CO., Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICE,** Respondent.

Opinion filed December *4, 1974.*

SUNNYSIDE DODGE CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-246Claimant awarded $1,547.22.)

GULF OIL COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed December *4, 1974.*

R. E. BEKEN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-273—Claimant awarded $53.00.)

BERZ AMBULANCE SERVICE, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed December *4, 1974.*

BERZ AMBULANCE SERVICE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-321—Claimant awarded $83.20.)

MICHAEL LINZ, Claimant, *us.* STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD, Respondent.

Opinion filed December *4, 1974.*

MICHAEL LINZ, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-322—Claimant awarded $235.20.)

VERNON V. ZIMMERMAN, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed December 4, 1974

VERNON V. ZIMMERMAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-327—Claimant awarded $12,008.00.)

JAMES CHISHOLM & SON, INC., Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.**

Opinion filed December 4, 1974.

JAMES CHISHOLM & SON, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-217—Claimant awarded $5,736.00.)

REO MOVERS & VAN LINES, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed December *6, 1974.*

REO MOVERS & VAN LINES, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; EDWARD L. S. ARKEMA, JR., Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 74-CC-483—Claimant awarded $800.00.)

KIDDY KADEMY KINDERGARTEN, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed December 6, *1974.*

KIDDY KADEMY KINDERGARTEN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-772—Claimant awarded $22.50.)

ORLANDO AUTO TOP, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LAW ENFORCEMENT, Respondent.

Opinion filed December 6, *1974.*

ORLANDO AUTO TOP, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-90—Claimant awarded $2,450.00.)

IRVING H. **TRACER,** M.D., **SC., Claimant,** *us.* **STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.**

Opinion filed December 6, ***1974.***

IRVING H. TRACER, M.D., SC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-128—Claimant awarded $731.84.)

PHYLLIS E. LUDMANN, Claimant, *us.* **STATE OF ILLINOIS, Respondent.**

Opinion filed December 6, ***1974.***

PHYLLIS E. LUDMANN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court ***of*** Claims for payment.

PER CURIAM.

(No. 75-CC-176—Claimant awarded $637.00.)

FRANK DAMERON FOR MILDRED C. DAMERON, Deceased, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LABOR, Respondent.

Opinion filed December 6, *1974.*

FRANK DAMERON FOR MILDRED C. **DAMERON,** Deceased, Claimant, pro ***se.***

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PERLIN, C. **J.**

(No. 75-CC-192—Claimant awarded $386.50.)

JEAN TRANSPORTATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed December 6, *1974.*

JEAN TRANSPORTATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have **been** paid has lapsed, the Court will enter an award for the amount due claimant.

PERLIN, C. **J.**

(No. 75-CC-247—Claimant awarded $8,918.74.)

J. P. MILLER ARTESIAN WELL *Co.*, Claimant, *us.* STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD, Respondent.

Opinion filed December 6, *1974.*

J. P. MILLER ARTESIAN WELL Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-272—Claimant awarded $821.90.)

POLLARD MOTOR COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed December 6, ***1974.***

POLLARD MOTOR COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-285—Claimant awarded $216.96.)

ST. VINCENT'S COMMUNITY LIVING, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed December 6, ***1974.***

ST. VINCENT'S COMMUNITY LIVING, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-311—Claimant awarded $5,106.00.)

IBM CORPORATION, Claimant, *us.* **STATE OF ILLINOIS, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,** Respondent.

Opinion filed December 6, 1974.

IBM **CORPORATION,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-330—Claimant awarded $103.29.)

SUTCLIF PHARMACY, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed December 6, 1974.

SUTCLIF PHARMACY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—***lapsed appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-348—Claimant awarded $45.00.)

J. DONALD EASTON, M.D., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed December 6, 1974.

J. DONALD EASTON, M.D., Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-367—Claimant awarded $2,895.00.)

JULES JAFFE, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT,** Respondent.

Opinion filed December 6, *1974.*

JULES JAFFE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-410—Claimant awarded $276.00.)

LYLE GRACE, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed December 6, *1974.*

LYLE GRACE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-420—Claimant awarded $15.78.)

ANGELA J. D'AVERSA, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed December 6, 1974.

ANGELA J. D'AVERSA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-427—Claimant awarded $128.20.)

KANKAKEE DAILY JOURNAL CO., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed December 6, 1974.

KANKAKEE DAILY JOURNAL Co, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-752—Claimant awarded $662.68.)

CONSTRUCTIVE PLAYTHINGS, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed December 12, 1974.

MICHAEL KLEIN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-196—Claimant awarded $378.66.)

DON P. KOENEMAN, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed December 12, 1974.

DON P. KOENEMAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—***lapsed appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-288—Claimant awarded $253.80.)

S & H FEED & SEED CO., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed December 12, 1974.

S & H FEED & SEED CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—***lapsed appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-292—Claimant awarded $165.45.)

KANKAKEE INDUSTRIAL SUPPLY, Claimant, *us.* **STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY,** Respondent.

Opinion filed December *12, 1974.*

KANKAKEE INDUSTRIAL SUPPLY CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-312—Claimant awarded $1,757.98.)

IBM CORPORATION, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed December *12, 1974.*

IBM **CORPORATION,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-325—Claimant awarded $202.50.)

HUNTER WEBB LUMBER CO., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed December *12, 1974.*

HUNTER WEBB LUMBER Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-489—Claimant awarded $400.00.)

WADE A. CALVERT AND CONSTANCE S. CALVERT, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed December *12, 1974.*

JAMES J. GENDE, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-555—Claimant awarded $100.08.)

PARK CHRYSLER PLYMOUTH, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed December *31, 1974.*

PARK CHRYSLER PLYMOUTH, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-632—Claimant awarded $2,510.40.)

CHICAGO LAKESHORE HOSPITAL, FAIRVIEW HOSPITAL, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed December *31, 1974.*

CHICAGO LAKESHORE HOSPITAL, FAIRVIEW HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-790—Claimant awarded $74.18.)

MOBIL OIL CORPORATION, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.**

Opinion filed December *31, 1974.*

JAMES M. LESTIKOW, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-873—Claimant awarded $52.35.)

RONALD T. SHEELY, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed December *31, 1974.*

KLEIMAN, CORNFIELD, & FELDMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

Opinion filed December 31, *1974.*

KLEIMAN, CORNFIELD & FELDMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-875—Claimant awarded $104.70.)

EARL J. BUNSELMEYER, Claimant, *vs.* **'STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed December 31, *1974.*

KLEIMAN, CORNFIELD, & FELDMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-880—Claimant awarded $332.39.)

OFFICE EQUIPMENT CO., OF CHICAGO, Claimant, *us.* STATE OF, ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed December 31, ***1974.***

OFFICE EQUIPMENT Co. **OF CHICAGO,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-202—Claimant awarded $24,619.90.)

WALTERS-CAHILL CONSTRUCTION CO., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.**

Opinion filed December 31, ***1974.***

KELLER & MAGDICH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-2lLClaimant awarded $30.45.)

EXXON COMPANY, U.S.A., A FOREIGN CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF AGRICULTURE, Respondent.

Opinion filed December *31, 1974.*

GIFFIN, WINNING, LINDNER, NEWKIRK, COHEN, BODEWES, & NARMONT, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-226—Claimant awarded $26.46.)

HIRES TRUCKING Co., INC., Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed December *31, 1974.*

HIRES TRUCKING Co, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-257—Claimant awarded $9.63.)

ARROW ROAD CONSTRUCTION Co., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed December *31, 1974.*

ARROW ROAD CONSTRUCTION Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-258—Claimant awarded $393.00.)

MARCEL ECKELS, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion fled December 31, *1974.*

MARCEL ECKELS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-259—Claimant awarded $786.00.)

MARCEL ECKELS, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed December 31, *1974.*

MARCEL ECKELS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-26AClaimant awarded $45.00.)

L. G. STABLER, M.D., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed December 31, 1974.

L. G. **STABLER, M.D.,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-276—Claimant awarded $740.88.)

MERCY CENTER FOR HEALTH CARE SERVICES, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed December *31, 1974.*

MERCY CENTER FOR HEALTH CARE SERVICES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-278—Claimant awarded $1,931.05.)

RAVENSWOOD HOSPITAL MEDICAL CENTER, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed December 31, *1974.*

RAVENSWOOD HOSPITAL MEDICAL CENTER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-279—Claimant awarded $1,895.60.)

RAVENSWOOD HOSPITAL MEDICAL CENTER, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed December *31, 1974.*

RAVENSWOOD HOSPITAL MEDICAL CENTER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-283—Claimant awarded $365.75.)

IBM CORPORATION, Claimant, us. STATE OF ILLINOIS, OFFICE OF THE SECRETARY OF STATE, Respondent.

Opinion filed December *31,* 1974.

IBM CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-303—Claimant awarded $70.50.)

HUNTER WEBB LUMBER COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed December *31, 1974.*

HUNTER WEBB LUMBER COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-313—Claimant awarded $18.60.)

ANGELICA UNIFORM *Co*,, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed December *31, 1974.*

ANGELICA UNIFORM Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-328—Claimant awarded $8.08.)

BN TRANSPORT COMPANY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed December *31, 1974.*

BN TRANSPORT COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-354—Claimant awarded $578.69.)

CHICAGO LITHO PRODUCTS CO., INC., Claimant, *vs.* STATE OF ILLINOIS, SECRETARY OF STATE'S OFFICE, Respondent.

Opinion filed December *31, 1974.*

CHICAGO LITHO PRODUCTS CO., INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-357—Claimant awarded $2,212.50.)

MASTER AURORA SUPPLY CO., DIV., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed December *31, 1974.*

MASTER AURORA SUPPLY CO. DIV., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-363—Claimant awarded $15.20.)

UNIVERSITY PARK PRESS, Claimant, *vs.* **STATE OF ILLINOIS, SUPERINTENDENT OF PUBLIC INSTRUCTION,** Respondent.

Opinion filed December *31, 1974.*

UNIVERSITY PARK PRESS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-37PClaimant awarded $2,671.00.)

F. J. **BERO & COMPANY, INC.,** Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS,** Respondent.

Opinion filed December *31, 1974.*

F. J. BERO & COMPANY, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-402—Claimant awarded $4,992.77.)

COMMONWEALTH EDISON Co., Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed December *31, 1974.*

GEORGE O. SHAFFNER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-448—Claimant awarded $465.00.)

BEE JAY INDUSTRIES, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, Respondent.

Opinion filed December *31, 1974.*

BEE JAY INDUSTRIES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-470—Claimant awarded $2,540.80.)

JAMES M. ROCHFORD, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LAW ENFORCEMENT, Respondent.

Opinion filed December *31, 1974.*

RICHARD L. CURRY, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-169—Claimant awarded $23 04)

EXCERPTA MEDICA, Claimant, *us.* **STATE OF ILLINOIS, Respondent.**

Opinion filed January *2,* 1975.

EXCERPTA MEDICA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-436—Claimant awarded $240.95.)

METHODIST HOSPITAL OF CENTRAL ILLINOIS, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed January 2, ***1975.***

METHODIST HOSPITAL OF CENTRAL ILLINOIS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS-lapsed appropriation. When the appropriatlon from which a

claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-519—Claimant awarded $200.00.)

GALE G. SHORT, Claimant, **us. STATE** OF **ILLINOIS,** Respondent.

Opinion filed January 2, ***1975.***

GALE G. SHORT, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* ***warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 5619—Claimant awarded $25,000.00.)

PHYLLIS C. BUTTACAVOLI, Administratrix **of** Estate of ANDREW **J. BUTTACAVOLI,** deceased, Claimant, **us. STATE** OF **ILLINOIS, DIVISION OF HIGHWAYS,** Respondent.

Opinion filed January 6, ***1975.***

ARNOLD AND KADJAN, by DANIEL N. KADJAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

EVIDENCE—*constructive* notice. Where road around sewer was broken and sewer was four to seven inches above pavement for approximately one year prior to accident, State had constructive notice of defect.

SAME—contributory negligence. Where motorcycle driver was driving his vehicle at posted speed limit, wearing safety helmet, his failure to see sewer four to seven inches above pavement was not evidence of contributory negligence on his part.

PERLIN, C. J.

This is an action for the wrongful death of one Andrew Buttacavoli, who died as a result of injuries received on August 18, **1968,** when thrown from a motorcycle while riding eastbound on Illinois Highway Alternate **30,** commonly known as Roosevelt Road, near First Avenue in Maywood, Illinois.

The pertinent portions of the complaint allege that on the date of the incident, Roosevelt Road was under the jurisdiction and control of the State of Illinois; that at the site of the accident, the highway was broken, jagged, and angulated; and that the respondent disregarded its duty to warn users of the highway of the hazardous condition. The complaint further alleges that as a result of respondent's failure to warn of the dangerous condition, the deceased's motorcycle struck a sewer cover which, because of the condition of the highway, had been raised above the surface of the highway, throwing the deceased to the pavement, and causing injuries which resulted in his death.

On August **18,1968,** the deceased, then 28 years old, and three friends were riding motorcycles eastbound on Roosevelt Road near First Avenue in Maywood, Illinois. Roy T. Swallow, one of the riders accompanying the deceased, testified that they were traveling about **30** miles per hour, the posted speed limit, and that the deceased was wearing a safety helmet. Swallow said that at a point about 200 feet west of a forest preserve entrance on Roosevelt Road, the deceased's motorcycle hit a sewer cover which was raised four to six inches above the plane of the road, and went out of control. The deceased was dragged several hundred feet by the motorcycle and was thrown into a sign post at the side of the road. Andrew Buttacavoli suffered multiple internal injuries as a result of the accident, and died a few hours thereafter.

Swallow identified a photograph of the sewer cover as an accurate portrayal of the accident site. The photograph shows that while the sewer cover was properly seated on the sewer, the pavement immediately surrounding the sewer was jagged and had erupted, forcing the sewer and the sewer cover four to six inches above the plane of the highway.

The deceased's brother, Robert Buttacavoli, testified that at the time of his death the claimant's decedent was a journeyman tool and die maker, was married and was the father of three children. He said that the decedent was in good health, had no chronic diseases, and was a good worker. It was shown that at the time of his death the decedent had a life expectancy of 42.6 years. The decedent's income tax returns were introduced into evidence, and showed that he earned $9,765 in 1966, $12,337 in 1967, and that for 1968 he would have earned $16,800.

The claimant also introduced into evidence, a letter from the State of Illinois Department of Public Works and Buildings, which stated that Roosevelt Road was a state constructed highway, and was "100% under the jurisdiction of the State of Illinois during the month of August, 1968."

Gary L. Doss, a police officer employed by the Village of Park Forest, testified for claimant that he had driven a motorcycle over the sewer cover in question many times, and had always received a severe jolt. He said that the sewer cover was raised about seven inches above the surface of the road, and that this condition had existed for at least one year prior to August, 1968.

On cross-examination, Doss stated that he had reported the condition of the road and sewer cover to the police dispatcher of Forest Park, but he did not know

whether the report was ever forwarded to the State of Illinois. The parties stipulated that Officer Doss had searched the records of the Forest Park Police Department, and was unable to find a copy of his report.

Marina De Michael, a supervisor for the Metropolitan Sanitary District of Greater Chicago, testified for respondent that the sewer cover in question belonged to the Sanitary District. He said that prior to the accident, they had no complaints concerning the sewer cover, and that ordinarily sewer covers belonging to the Metropolitan Sanitary District on state highways are maintained by the District.

Joseph Kostura, the Regional Safety Claims Administrator of the Illinois Department of Transportation, testified that the job of repairing a protruding manhole cover belonging to the Metropolitan Sanitary District, was the responsibility of the District, rather than the State of Illinois.

To recover damages for the death of her decedent, claimant bears the burden of establishing by a preponderance of the evidence that respondent breached a duty owed to Andrew Buttacavoli; that Andrew Buttacavoli was free of contributory negligence; and that the respondent's breach of its duty was the proximate cause of the death of Andrew Buttacavoli.

It is respondent's position that it cannot be charged with breaching a duty owed the claimant's deceased because the sewer cover involved in the accident was under the jurisdiction and control of the Metropolitan Sanitary District of Greater Chicago. However, claimant does not allege that the sewer cover per se was the cause of the occurrence, but rather that it was the broken, jagged, and angulated condition of Roosevelt Road which

forced the sewer cover above the plane of the highway, thus causing the accident. The evidence introduced by claimant supports these allegations. The photograph of the accident site shows that Roosevelt Road had erupted into a jagged plateau around the sewer, forcing the sewer and the sewer cover about six inches above the plane of the highway. The sewer cover itself rested firmly upon the sewer and constituted a danger to users of the highway only because of the condition of Roosevelt Road.

This case is thus readily distinguishable from ***Smith and Hall*** v. ***State,*** **22** C.C.R. **369,** relied upon by respondent. There, the court sustained a motion to dismiss a complaint alleging injuries resulting from an automobile striking an open manhole cover on an Illinois road, on the ground that the manhole cover in question was under the jurisdiction **of** a municipality. Here, the manhole cover was in place, and firmly seated upon the sewer. The defective condition of Roosevelt Road, which forced the sewer cover above the plane of the highway, was the instrumentality that caused the accident.

Claimant has proven that Roosevelt Road was under the jurisdiction **of** the respondent at the time of the accident, and it is well established that the State is responsible for maintaining roads under its jurisdiction in a reasonably safe condition. ***Shuck*** v. ***State of Illinois,*** **25** C.C.R. **209.** Officer Doss testified without contradiction that the defect in Roosevelt Road around the manhole cover had existed for approximately one year, and this is a sufficiently lengthy period to charge respondent with constructive notice of the existence of the dangerous condition. ***Joyner*** v. ***State,*** **22** C.C.R. **213, 217;** ***Gillespie*** v. ***State, 25*** **C.C.R. 309.** We find respondent negligent in failing to either correct the condition or post warnings of its existence.

Andrew Buttacavoli was traveling at the posted speed limit at the time of the accident, and was wearing a safety helmet. A toxicologist's report, introduced into evidence, revealed no trace of barbituates or alcohol in his blood. After a careful examination of the photograph of the accident site, we conclude that the dangerous condition of the highway was not so apparent to one lawfully proceeding upon the highway that Andrew Buttacavoli can be charged with contributory negligence in failing to avoid the manhole cover. The instant case can therefore be distinguished from *Schnell* v. ***State,*** 24 C.C.R. 257, where we held a motorcyclist contributorily negligent for failing to avoid a hole in the pavement which was six inches deep and approximately five feet in length and two to three feet in width, where other cyclists accompanying the claimant observed and avoided the hole.

We find that claimant has established that her intestate was free of contributory negligence, and that his death was proximately caused by the negligence of respondent.

At his death, claimant's intestate was 28 years old, had a life expectancy of 42.6 years, and left a wife and three children. His tax returns for 1966, 1967, and 1968, were introduced into evidence, and show that he was a steady wage earner. It is apparent that the monetary and personal loss to his survivors is substantial.

Claimant is hereby awarded the sum of $25,000.

(No. 5389 — Claimant **awarded** $5,440.00.)

WINSTON PARK NORTHWEST CORPORATION, Claimant, ***us.***
STATE OF ILLINOIS, DIVISION OF HIGHWAYS, Respondent.

Opinion filed January 14, 1975

MARVIN SACKS, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; BRUCE FINNE, Assistant Attorney General, for Respondent.

DAMAGES—*private property.* Adjacent landowners can recover from State compensation for expenses incurred in repairing damages to their property caused by construction by State on adjacent land.

PERLIN, C. J.

This action was instituted in February, 1967, when claimant. filed a complaint seeking compensation for damages to its property arising from the construction of a roadway by the Illinois Department of Highways in 1965 and 1966.[1] In 1956, claimant, a corporation engaged in real estate development, purchased the following described parcel of real estate in Palatine, Illinois, for purposes of residential development:

"Winston Park Northwest Unit One, being a subdivision in Section 13, Township 42, Range 10, East of the Third Principle Meridian, in Cook County, Illinois."

[1] In view of the lapse between the filing and disposition of this matter, the Court feels it appropriate to state that a substantial portion of the delay was occasioned by respondents failure to proffer any defense in the original proceedings, including failure to introduce either testimony or a departmental report at the hearing on October 20, 1967. Subsequently, on motion of the successor Assistant Attorney General assigned to this case, leave was granted to re-open the proceedings to permit the State to present a defense. Additional testimony and documentary evidence was received in November and December, 1969, and an amended Commissioner's report was filed on June 3, 1970. Disposition of the case was then further delayed when, because of circumstances beyond the control of this Court, it became necessary to reconstruct the transcripts and exhibits herein.

The eastern border of lots 1 through 4 of Block I, and lots 1 through 21 of Block 8 of this parcel, abutted 'the western edge of what was then known as Old Wilke Road, a north-south thoroughfare. In 1965, after claimant had graded the lots but before any construction thereon, the Department of Public Works and Buildings

of the State of Illinois commenced reconstruction and repaving of Old Wilke Road into a frontage road for Route 53. In the course of reconstructing the road, respondent raised the grade of Old Wilke Road, now known as West Frontage Road, approximately one foot.

Claimant contends that as a result of the rise in the grade of the road, he was compelled to raise the grade of the lots abutting the road both to prevent the lots from flooding, and to satisfy the requirements of the Village of Palatine for residential construction. Claimant seeks to recover the sum of $10,880, which was spent for landfill to bring the grade of the lots up to the grade of the reconstructed roadway.

Joshua Muss, the President of Winston Park Northwest Corporation, testified that before reconstruction of Old Wilke Road all 21 lots in Block 8 in the subdivision generally sloped from the back lot line to the east, or in the direction of the roadway, while after reconstruction of the road, he was forced to raise the grade of the lots so that water could drain off in the direction of the road.

After the lots were regraded, they were subdivided for residential construction and all had been sold to individual owners by late 1966.

Muss said that claimant paid $10,880 for the landfill utilized in bringing the lots up to grade, and a copy of the bill in that amount, which had been paid by claimant, was introduced into evidence.

Thomas Moody, an engineer who worked on construction of the subdivision for claimant, was familiar with the ordinances and practices of the Village of Palatine concerning residential construction. He testified that it was the practice of the Village to require that sidewalks, curbs, and gutters be built in all residential

developments, and that the Village further required that homes be built above the grade of the sidewalks. In developing the lots in question, claimant did construct sidewalks, curbs, and gutters along the reconstructed roadway.

Moody also said that it was necessary to regrade the lots to prevent standing water from accumulating thereon, once the grade of the roadway was raised. However, he could cite no instance of flooding after reconstruction and before the lots were regraded, and he admitted that the drains and sewers, which respondent installed along the West Frontage Road, should have been adequate to control flooding.

Alan Bobka, an engineer for the State of Illinois Department of Highways, worked on reconstruction of Old Wilke Road. He affirmed that after the road was rebuilt, the grade of the roadway at its center line was raised approximately one foot. Bobka also said that after the grade was raised, claimant would have had to purchase additional landfill to bring the lots up to the grade of the reconstructed road.

However, Bobka also testified that a portion of claimant's property was below the grade of Old Wilke Road prior to reconstruction of the roadway. Referring to a cross-sectional diagram of the area which was introduced into evidence, Bobka said that at a point fifty feet to the west of the center line of the roadway, which was within the State's right of way, claimant's lot line was lower than both the new and old pavements. He also said that at a point one hundred feet west of the center line, claimant's lots were approximately level with Old Wilke Road; and that at a point one hundred fifty feet west of the center line, claimant's property was alternatively higher and lower than the grade of the original road.

Bobka also testified as to the steps respondent took to insure that claimant's property would not flood after reconstruction of the road. Respondent deepened an already existing drainage ditch between claimant's lots and the State's right of way, and installed new catch basins in the ditch. Respondent also constructed a new sewer line on the east side of the roadway, and drained the catch basins across the road into the sewers.

Claimant bases its claim for compensation upon Article II, Section **13** of the Illinois Constitution of 1870, which provides:

"Private property shall not be taken or damaged for public use without just compensation."

We have previously awarded compensation to landowners under this provision, where State construction on adjoining land damaged their property. See, *Dillard* v. State, **23** C.C.R. **139;** *Doerr* v. *State*, 22 C.C.R. **314,318.** It is apparent that claimant was put to an additional expense in grading his lots as a result of reconstruction of the highway, and that compensation should be awarded. The more difficult issue, however, is what portion of the expense incurred by claimant in regrading the lots is attributable to the rise in the grade of the roadway.

The testimony and engineering drawings introduced into evidence, establish that a portion of claimant's property was below the grade of Old Wilke Road before reconstruction, and the claimant would have had to raise the grade of the property to conform to the requirements of the Village of Palatine had respondent not reconstructed the roadway. In raising the grade of the road, however, respondent did cause claimant to purchase additional fill to bring the lots up to grade. After a careful examination of the engineering drawings, the Court concludes that the respondent, in raising the grade of the

roadway, was responsible for one half of the expense incurred by claimant in bringing the lots up to the grade of the reconstructed roadway.

(No. 5663—Claimant awarded $4,200.00.)

THEODORE GIALLORETO, Claimant, *us.* STATE OF ILLINOIS, DIVISION OF HIGHWAYS, Respondent.

Opinion filed January 14, 1975.

THEODORE SHARF, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** and **BONNIE G. WALT,** Assistant Attorneys General, for Respondent.

EVIDENCE—*title to bushes and shrubs.* **Person who plants bushes and shrubs on real property owned by another, transfers title to property to owner of the real property the moment they were planted.**

DAMAGES—*liability.* **State is liable for damages caused to adjacent landowner's property by improvements made on public right of way.**

BURKS, J.

This is an action for property damages. Claimant alleges that respondent's Division of Highways, in reconstructing an underground drainage sewer that crossed claimant's residential property, demolished a retaining wall, damaged his garage, and destroyed certain trees and bushes on claimant's premises, known as 705 N. First Avenue in Maywood.

Claimant's lot, about an acre in size and triangular in shape, is bounded by First Avenue on the west (approximately **360** feet), Chicago Avenue on the south (approximately 200 feet), and the DesPlaines River on the northwest border, the lot line along the river being

approximately 260 feet. Near the north end where claimant's lot comes to a point, respondent has an easement through claimant's land for its drainage sewer running approximately 20 feet underground carrying storm water from North Avenue and emptying into the DesPlaines River. The underground sewer pipe was there when claimant purchased the property some 27 years earlier.

The end of the sewer pipe facing the river had a concrete headwall or retaining wall around it prior to the construction work on the sewer done by the respondent at the time it also resurfaced First Avenue, reconstructed the highway, and installed sewers and curbs adjacent to claimant's property. This construction project commenced in September of 1968.

Claimant charges that respondent came upon his premises without notice and without his consent, demolished the retaining wall and installed another sewer, covering the same with "rap-rap" or broken pieces of concrete; that the removal of the retaining wall, which he estimates would cost $6,700 to replace, caused the adjacent land to sink and wash away, resulting in damage to his garage which would cost $5,500 to repair. Claimant also asks damages in the amount of $10,200 for the loss of 7 trees, valued at $600 each, and 60 bushes, valued at $100 each. These claims make the total ad damnum $22,400 according to the revised figures in claimant's reply brief.

Both parties, in support of their respective positions, have invoked various sections of the "Illinois Drainage Code", *Ill. Rev. Stat. Ch. 42 §1-1 et seq.*, which are applicable to the issues involved in this controversy.

Answering claimant's allegations as to the State's

entry upon his property, respondent cites the Drainage Code in support of its contention that it had a perpetual easement to enter claimant's land for the purpose of repairing or replacing the sewer:

"Section **2-10** of the Drainage Code provides:

"Drains and levees deemed to be for the mutual benefit of the lands connected or protected shall constitute a perpetual easement on such lands and shall not be filled, obstructed, breached, or impaired in any way without the consent of the owners of all such lands." I.R.S. Ch. 42, Sec. 2-10.

"The owner of any land connected to or protected by such a mutual drain or levee may, at his own expense, go upon the lands upon which the drain or levee is situated and repair the drain or levee, and ***he shall not be liable for damages to lands or crops unless he is negligent in performing the work."*** I.R.S. Ch. 42, §2-11. (emphasis supplied)

We hold that this statute is applicable to the facts of the instant case. First, the sewer in question was a "drain" within the meaning of the Code:

" 'Drain' includes ditch and means any water course or conduit, whether open, covered or enclosed, natural or artificial, or partly artificial, by which waters coming or falling upon lands are carried away." I.R.S. Ch. 42, §1-2(d).

part:

"When a ditch, covered drain or levee is, or has been, constructed by mutual license, consent or agreement, either separately or jointly, by the owners of adjoining lands so as to make a continuous line across the lands of such owners, . . . such ditch, covered drain or levee shall be deemed to be a drain or levee for the mutual benefit of all lands connected to, or protected by, it. The mutual license, consent or agreement required in this section need not be in writing, but may be established by parole or inferred from the acquiescence of the parties . . ." I.R.S. Ch. 42, §2-8.

If the drain was constructed by mutual consent, the only fact necessary to prove that the drain was for mutual benefit is that the drain ran in a continuous line through land belonging to the claimant and the State.

The Appellate Court has said:

> ". . . as provided by §2-8, if the ditch is a continuous line across the adjoining lands included in the agreement, it is deemed for the mutual benefit of all. Evidence of actual benefit is unnecessary. *Jones* v. *Williamson, 74 Ill. App. 2d 367, 220 N.E. 2d 645 (3d Dist. 1966) at 648."*

Mutual consent, the statute declares, need not be in writing, but may be inferred from the acquiescence of the parties. *Ill. Rev. Stat. Ch. 42, §2-8.* There is no evidence in the record that either the claimant or his predecessor in title, ever did anything to protest the presence of the sewer on their property. Claimant cannot maintain he was without knowledge of the easement, because he admits such knowledge of the sewer at the time he bought the property, as he stated at the hearing. As the court noted in *Jones, supra:*

> "It seems clear that plaintiff in purchasing lands burdened with the open, visible marks of an apparent drainage ditch easement in favor of an adjoining dominant estate, is chargeable with the duty of inquiry. *220 N.E. 2d at 648."*

Because of claimant's acquiescence, and the statutory easement, the admitted failure of State Highway Department personnel to request permission to enter his land, which claimant dwells on in his brief, is immaterial. See also *King* v. *Manning, 305 Ill. 31, 136 N.E. 730 (1922)* dealing with acquiescence in drainage system for over **30** years.

The authorities cited by claimant dealing with prescriptive easements are inapplicable, since we hold that respondent's easement is based on statute. However, one case cited by the claimant, *Camp* v. *Union Drainage Dist. No. 1, 315 Ill. App. 22, 42 N.E. 2d 327 (3d Dist. 1942)*, merits discussion.

In *Camp,* the defendant drainage district had an easement to lay an underground tile pipe across 2200 feet of plaintiffs land. Although the pipe caused a small depression in the ground, plaintiff was able to plant crops

over it. Eighteen years after the creation of the easement, the defendant entered plaintiff's land and dug a wide, open drainage ditch where the pipe had lain. In digging the ditch, defendant piled some 1500 cubic yards of earth on either side, creating hugh spoil banks. Plaintiff was unable to farm in the area of the ditch and the spoil banks, and access from one part of his farm to the other was inhibited. The court held that an easement to lay an underground tile pipe was not an easement to dig a large open drainage ditch, and that defendant had committed trespass in failing to secure permission to enter plaintiffs land. *42 N.E. 2d ut 329.*

In the case at bar, however, we must agree with respondent's contention that replacement of the head-wall with a rap rap wall was not sufficient change in the character of the easement to bring the instant case within the rule of *Camp.* There is strong evidence in the record that the rip rap wall constructed by the respondent was, according to the testimony of two engineers, an improvement over the pre-existing head-wall, and a more effective plan to deter soil erosion.

Claimant argues that, even if we hold that the sewer is a drain for the mutual benefit of the parties, as we have, respondent's right to repair the drain does not include the right to demolish the head-wall and replace it with a different type of construction, which respondent believes is better, without claimant's consent. claimant argues this point by suggesting some interesting analogies which, if accepted as analogous, would have little weight on the question of monetary damages, unless the new construction was shown to be inferior.

Moreover, claimant's argument overlooks the fact that the headwall at the end of the cement sewer was already virtually destroyed by the ravages of time and erosion before respondent undertook the repair work.

Respondent's expert, Valdek Kivirist, a design engineer for the State Highway Department, testified that he conducted a field inspection before construction began. He stated that the head-wall was cracked and tilted, that it had separated from the concrete pipe outlet, and that the entire embankment area was washed out. Soil erosion was so advanced, he stated, that the entire embankment and guard rail required reconstruction. The witness stated that, because of the failure of the head-wall to prevent erosion, it was decided to use a different solution, the rip rap wall, which was built of better material for drainage purposes and was deemed to be a more effective method to stabilize the embankment.

Mr. Kivirist and respondent's resident engineer, Donald Kash, explained that the underground cement sewer was not changed nor disturbed. Its length was extended to a point closer to the river by a corrugated metal pipe inserted into the existing sewer and the joint sealed by a concrete collar. This extension was covered by the rip rap wall, and the slope down to the river was made more gradual. These witnesses both testified that, in their expert opinion, the rip rap wall was the most effective way of combatting erosion from an engineering standpoint.

Against this evidence we have weighed the testimony of claimant's expert witness, Leonard Moline, a general contractor who was not an engineer, had never put in sewer pipes, and said he did not know the distinction between a head-wall and a retaining wall.[1] He had built retaining walls for buildings in Chicago. Mr. Moline said he examined claimant's premises about three weeks before he appeared at the hearing in this matter, and stated that, in his opinion, a concrete retaining wall

would have been better than the rip rap wall which the respondent installed. He estimated that the cost of building the type of retaining wall he had in mind would be $6,700. We do not believe that Mr. Moline could have been talking about the same kind of head-wall around the sewer pipe that he said he had seen there on claimant's premises 11 or 12 years ago and which he said was "cracked" due to "settlement" even that long ago.

'Respondent's engineer, Mr. Kash, had explained earlier in the hearing that a head-wall, as previously existed on claimant's property, is a concrete construction at the end of a sewer pipe; that it has no function without that pipe, and served no useful purpose in keeping the river from flowing on to the land. A retaining wall, he said, is built to sustain or hold back a slope, dirt, earth or whatever it may be from collapsing into a roadway or river.

The issue is not whether the old head-wall should have been replaced, nor whether the respondent's engineers were correct in concluding that a rip rap retaining wall was the best possible method of combatting further soil erosion at this location. The issue is, whether the removal of the old head-wall caused the adjacent land to sink and wash away, resulting in damage to claimant's garage. Claimant withdrew his original allegations that his driveway was also damaged by the respondent.

We are compelled to conclude, from a careful review of the evidence, that any damage to claimant's garage due to soil erosion pre-existed the work done by State Highway Division. It is an undisputed fact that there was substantial soil erosion in the area adjacent to the garage before the repair work was started. There is no creditable evidence in the record of any significant or abnormal erosion since the project was completed.

Donald Kash, the resident engineer for the State Highway Division, testified that he visited claimant's property about two weeks before the start of construction to make a preliminary survey and he noticed that the

garage was leaning "slightly". Although claimant testified that his garage was leaning at an angle of 25 degrees at the time of the hearing, two of claimant's witnesses, George Okubo and Leonard Moline, described the angle as about ten degrees. This estimate is more consistent with the photo exhibits in the record and with the observation of the State's engineer,before the respondent's repair work commenced. Claimant and his son testified that the garage was 20 years old. We also notice that paragraph 8(A) of the complaint, filed less than a year after the repair project was completed, speaks of the "gradual deterioration" of the garage' and driveway.

Nor is evidence of erosion prior to September 1968, confined to respondent's witnesses. Claimant's expert witness, Leonard Moline, testified that he had inspected the head-wall 11or 12years before the hearing. The wall was cracked, he stated, because of settlement of the soil.

We need not question the merits of claimant's contention that, under §2-6 of the ***Illinois Drainage Code,*** he would be entitled to recover any actual damages to his property in this case without proof of negligence on the part of the state. We simply find that the evidence fails to prove any actual damage to claimant's garage caused by the State in performing the repair work in this case. The evidence also fails to support the claim that the old head-wall of the sewer was, in fact, a retaining wall which the claimant contends should be replaced. The old head-wall was not a retaining wall, according to the preponderance of the evidence, and it had gradually collapsed prior to the respondent's construction work. Hence, the claim for $6,700 to install a retaining wall and for $5,500 to repair the garage must be denied.

We turn now to the claim for the loss of 7 trees and

60 lilac bushes that were admittedly removed or destroyed by the respondent during construction of the rip rap wall, the sewer and the curb.

It was clearly established at the hearing that the **60** bushes in question which claimant had planted some 25 years ago, were all located on respondent's right-of-way along First Avenue and were removed by the respondent to put in a curb. Claimant protests in his brief that these bushes were located near the sewer, but this is not in accordance with his testimony at the hearing, recorded on page **22** and **23** of the record, that they were located where the curb was being installed. Respondent introduced conclusive evidence of its acquisition of a right-of-way along First Avenue consisting of a strip between **7.3** and **11.5** feet in width, east of the ***new*** curb.

The rules of law applicable here are stated as follows: "Growing trees and shrubs form part of the land and constitute real property". *I.L.P.* ***Property,*** *§10.* Title to trees or shrubs passes from the person who plants them to the owner of the estate on which they are planted at the moment of planting. ***Swain Nelson & Sons*** v. ***Department of Finance,*** **365** *Ill. 401, 6 N.E. 2d 632* (1937). When claimant planted the lilac bushes along First Avenue, he gave title to the bushes to whomever owned the land on which they were planted. Since the State owned the bushes, it had the right to remove them. Hence, the claim for loss of the bushes must be denied.

Finally, we come to the part of this claim for which we believe compensation is justified, namely, the loss of 7 large old shade trees which respondent removed from claimant's property. The record shows that these 7 trees were 50 to 75 years old and would take just as many years to grow to be replaced. They were located near the underground drainage sewer which crossed claimant's

property, and apparently were removed to prevent root damage to respondent's sewer. Such taking or damaging of private property for public use without just compensation is prohibited by the *U.S.* ***Constitution, Amendment*** Vand by the ***Constitution of the State of Illinois Art. I §15:***

"Private property shall not be taken or damaged for public use without just compensation."

Our finding that this constitutional provision is applicable to the taking of claimant's trees is supported by our reviewing courts in ***Public Service Co.*** v. ***McCloskey, 235 Ill.App. 387*** and ***Aldis*** v. ***Union Elevated R.R. Co., 203 Ill. 567.*** Our Supreme Court's opinion in the ***Aldis*** case, supra, makes it clear that the claimant may recover under the above quoted language in ***§15 of Article I of the Illinois Constitution,*** the same as though a condemnation proceeding had been brought to determine the damages prior to the taking of his trees, and the claimant's right is not limited to tortious acts **by** the State. Respondent does not contend that claimant has over estimated the value of his 7 trees at **$600** each. Considering the age of the trees, we believe the amount claimed for the loss of the seven trees is fair and reasonable.

Claimant is hereby awarded property damages in the total sum of $4,200. [Four Thousand Two Hundred Dollars].

(No. **5941—Claim denied.)**

RAUL V. VERGIL, Claimant, ***us.*** **STATE OF ILLINOIS, MEDICAL CENTER COMMISSION,** Respondent.

Opinion filed January 14, 1975.

GARY A. **TOPPER,** Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, and WILLIAM F. SCANNELL, Special Assistant Attorney General, for Respondent.

NEGLIGENCE—*duty of landlord.* Landlord is *not* liable **for** injuries to a tenant caused by defect in the demised premises where defect is of such a nature that the Lessee can or does discover it.

SAME—freedom of contributory negligence. Where Lessee knows **of** torn carpet **for** two **or** three months prior to his tripping over it, he was not in exercise of ordinary care for his own safety at the time of his injury.

PERLIN, C. J

This is an action to recover for personal injuries suffered by claimant in a State-owned building on October **5,** 1969, when he fell down a flight of stairs after tripping on worn carpeting.

On October 5, 1969, claimant, then twenty-five years old, lived with his mother and father in the second floor apartment of a two-story building located at **744** South Leavitt Street, Chicago, Illinois. Respondent has stipulated that it was the owner of the building at the time in question.

The building contained three apartments. Two steps down from ground level, was a basement apartment. An exterior stairway led from ground level to the door to the first floor landing. Inside the first floor landing, there was a door to the first floor apartment, and a second door which opened to a flight of stairs leading to the second floor landing where claimant's apartment was located.

There was no door separating claimant's apartment from the second floor landing. The door at the foot of the stairs leading to the second floor landing was thus, the only door barring entrance to claimant's apartment from the first floor landing. Claimant described the door at the

foot of the stairway, as the door to his family's apartment.

The stairs from the first floor landing to claimant's apartment were not used by any other tenants in the building and were used exclusively to enter and leave claimant's apartment. Claimant testified that his family kept the stairs clean and said that he personally swept the stairs from time to time when they became dirty.

The upper three stairs of the stairway to claimant's apartment were carpeted, and photographs of the stairway introduced into evidence show that the carpeting was extremely worn, torn, and frayed. Claimant testified that the carpeting had been in place when his family moved into the apartment in 1965. When asked how long the carpeting had been torn, claimant is quoted in the transcript to have said, "Since, March, January, it got bigger little by little."

At about 2:00 p.m. on October 5, 1969, as claimant descended the stairway from his apartment, his shoe caught on the frayed carpeting and claimant was thrown down the entire flight of stairs. Claimant suffered fractures of his left clavicular bone and the distal end of his left radius in the fall. He was taken to the University of Illinois Medical Center Emergency Room, where he was X-rayed and a shoulder and arm cast was applied. Claimant spent $348 for medical expenses as a result of the accident and lost approximately one month from work.

Claimant testified that it had been his custom personally to pay the monthly rent on the apartment at the Illinois Medical Center at Ashland and Polk Avenues, Chicago, Illinois. He said that on several occasions while paying the rent, he complained about the condition of the

rug and stairs to a woman known to him only as "Dorothy." He said that when he last complained in March or April, 1969, "Dorothy" told him that "we're going to take care of it."

Respondent introduced into evidence, a lease purportedly signed by claimant's father in **1965.** The lease provided, in pertinent part:

> "Applicant has examined the premises aforesaid, knows the condition thereof, and is agreeable to accept the same in their present condition Applicant agrees to do all repairing, decorating and heating of said premises at his own expense; and applicant further agrees that Medical Center Commission, its successors **or** assigns shall not **be** liable **for** any damage **or** injury occasioned by failure ***to*** keep said premises in repair "

Claimant's father, who can neither speak nor read English, testified through an interpreter that he had never seen the purported lease, and that the signature thereon was not his own. He also said that nobody had ever explained to him his rights and responsibilities with respect to the premises.

Claimant contends that respondent owed him a duty to keep the stairway leading to his apartment in a reasonably safe condition; that respondent had actual notice of the dangerous condition of the stairway; and that respondent breached its duty to him by failing to repair the worn and frayed carpet. It is respondent's position that the stairway to claimant's apartment was not a common area of the building, but rather was demised to claimant's family along with the apartment proper, and that therefore, respondent did not owe claimant a duty to maintain the stairway. Additionally, respondent asserts that claimant's own negligence contributed to the injury, in that he was aware of the condition of the carpet. Finally, respondent argues that the lease purportedly signed by claimant's father ab-

solves respondent from responsibility for failure to maintain the stairway.

We first consider respondent's contention that the stairway in question was not a common area of the building, and that it, therefore, was not under a duty to maintain the stairway. Generally, a landlord has a duty to maintain in reasonable repair only those portions of his building over which he maintains control. ***Manns*** v. ***Stein,*** 91 Ill.App. 2d 398, 241 N.E.2d 691,693; ***Murphy*** v. ***Illinois State Trust Co.,*** 375 Ill. 310, 31 N.E.2d 305. In ***Gula*** v. ***Gawel,*** 71 Ill.App.2d 174, 218 N.E.2d 42, at **45,** the court listed the following factors to be considered in determining whether a stairway is under the control of the landlord or a tenant:

> **"Where a stairway leads, the use to which it is put and by whom, are factors to be considered by the trier of fact along with the intention of the parties, the terms of the lease, the responsibility for repairs, maintenance and illumination and all other factors which tend to show control in either the landlord or the tenant "**

Claimant argues that it was the intention of both parties to the lease that the stairway be under the management and control of the landlord. Claimant points to the fact that claimant had complained about the condition of the carpeting to an agent of respondent, who allegedly indicated that respondent would remedy the situation.

However, the stairway down which claimant fell, led only to his apartment, and was used exclusively by those entering and leaving the apartment. No other tenant in the building utilized the stairway. Further, the stairway was inside the only door to claimant's apartment and claimant and his family habitually cleaned the stairway. Under all the circumstances, we conclude that the stairway was a part **of** the demised premises, and not a common area of the building.

A landlord is not liable for injuries to a tenant caused by a defect in the demised premises where the defect is of such a nature that the lessee can or does discover it, unless the landlord fraudulently conceals the fact. *Roseman v. Wilde*, **106** Ill.App.2d 93, 245 N.E.2d **644.** Here, the defect was in a portion of the demised premises, and not only did the landlord not conceal the defect, but claimant had actual knowledge of the condition of the carpeting.

Additionally, even if we were to conclude that the stairway was not demised under the lease, claimant would still be barred from recovering for his injuries on grounds of contributory negligence. As we have often stated, the burden of proof rests upon a claimant to show freedom from contributory negligence, and, where he fails to meet that burden, his claim will be denied. *Howell* v. State, 23 C.C.R. **141,** at **145.** Claimant was well aware of the condition of the carpeting, having complained to respondent's representative on several occasions months before the incident. A party has no right knowingly to expose himself to danger, and then to recover damages for an injury which he might have avoided by the exercise of ordinary care. Vanda v. State, 25 **C.C.R** 213, at 218. We find that claimant was not in the exercise of ordinary care for his own safety at the time of the accident, and that his own negligence was a contributing factor in his injury.

This claim is accordingly denied.

(No. **6502—Claimant awarded $3,000** 00.)

LOUISE MAZUREK, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed January 14, 1975.

RICHARD G. FRENCH and WILLIAM H. WARVEL, Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL and GEORGE MUSTIS, Assistant Attorneys General, for Respondent.

NEGLIGENCE—*duty of* State to patients and inmates. The State owes its patients a duty to exercise reasonable and ordinary care in their treatment.

SAME — res ipsa loquitur. Where the State is at all times in exclusive control of the instrumentalities which caused the injury to patient in a state institution, and the injury is one which ordinarily would not occur in the absence of negligence, then the claimant can offer proof of negligence by circumstantial evidence when the direct evidence concerning the cause of an injury is primarily within the knowledge and control of the respondent, under the theory of res ipsa loquitur.

PERLIN, C. J.

Claimant, Louise Mazurek, seeks compensation for a broken leg suffered while a patient at Chicago Reed Medical Center in Chicago, Illinois, an institution operated by the respondent for treatment of the mentally distressed.

The facts are not in dispute. At about 2:00 a.m. on August 19, 1971, following a violent altercation in her home in which she threatened suicide, claimant was admitted to Chicago Reed Medical Center in Chicago, Illinois. Shortly after her admission, claimant was briefly placed in arm and leg restraints. The restraints were leather straps, locked with a key, and applied to both of claimant's arms and legs.

At about noon on August 19, after having been released from the restraints, claimant was given a sedative and she fell asleep in a ward bed. Sometime during the afternoon of August 19, while still sedated, claimant was again placed in arm and leg restraints.

Norman Castello, a ward attendant at Chicago Reed,

found claimant in the restraints at about 6:45 the following morning. Castello testified that when he removed the restraints, he noticed that claimant's right leg was black and blue and swollen in the area where the right leg restraint had been applied.

Claimant complained of pain in the leg, and was taken to Marquette Hospital where X-rays revealed comminuted fractures of claimant's right tibia and fibula. A full leg cast was applied, and claimant remained hospitalized for three weeks. She wore the cast for approximately four months, and for six to eight weeks thereafter, walked with the aid of crutches. Claimant was billed $465 by the State of Illinois Department of Mental Health for treatment of her broken leg.

The regulations of Reed Medical Center, which were introduced into evidence, provided that restraints may only be applied to a patient on the orders of a physician, and then only for two hours at a time. Castello said he did not know who had applied the restraints to claimant, and he said he was unable to locate a physician's order authorizing application of the restraints.

A state hospital is not an insurer of the well-being of its patients, but it does owe them a duty to exercise reasonable and ordinary care in their treatment. See, Karulskiv. Board of Trustees, 25 C.C.R. 295, at 299. To recover for her injury, therefore, claimant must prove that respondent breached this duty owed her; that she herself was free of contributory negligence; and that respondent's breach was the proximate cause of her injury.

While the record does not explain precisely how claimant's leg was broken, it appears that her leg was undamaged when she was sedated in the afternoon of August 19. When she awoke on the morning of August

20, the leg was broken. At all times the instrumentalities which caused the injury were under the exclusive control of respondent, and the injury is one which ordinarily would not occur in the absence of negligence. This is, therefore, a proper case for application of the doctrine of res ipsa loquitur, which allows proof of negligence by circumstantial evidence when the direct evidence concerning the cause of an injury is primarily within the knowledge and control of the respondent. ***Edgar County Bank and Trust Co.*** v. ***Paris Hospital, Inc., 57*** Ill.2d 298, 312 N.E.2d 259.

In ***Metz*** v. ***Central Illinois Electric and Gas Co.,*** 32 Ill.2d **446,** 207 N.E.2d 305, the court said:

> **"Whether the doctrine applies in a given case is a question of law which must be decided by the court, but once this is answered in the affirmative, it is for the trier of fact to weigh the evidence and determine whether the circumstantial evidence of negligence has been overcome by defendant's proof."**

Respondent has presented no evidence to rebut the presumption of negligence raised by claimant, and in fact, respondent's brief contests only the amount of damages which claimant should be awarded. We, therefore, find that claimant has established that respondent negligently breached the duty of reasonable care owed to her, and that the breach was the proximate cause of her injury. As claimant was apparently unconscious at the time of the injury, she was presumptively incapable of contributory negligence.

Claimant contends that she suffered permanent damage from the incident. She complains of numbness in her leg, and alleges that the confirmation of her right leg does not match that of her left leg. By agreement of the parties, claimant was examined by Dr. John F. Gleason to determine the extent of her injury; and his report was admitted into evidence by stipulation. The report states that while there was a slight limitation of motion in

claimant's right leg, the fractures had healed well. Dr. Gleason concluded that claimant could pursue her normal activities without further treatment.

Claimant is hereby awarded the sum **of** $3,000.00.

(No. 74-CC-24—Claimant awarded $1,562.40.)

ANNIE DELORES WILLIAMS, Claimant, *us.* STATE OF ILLINOIS, LEGISLATIVE COMMITTEE ON MINORITY GROUP EMPLOYMENT, Respondent.

Opinion filed ***January 14, 1975.***

KLEIMAN, CORNFIELD & FELDMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-29—Pitchford awarded $11,185.00, Cooper awarded $7,829.50, Keen awarded $11,185.00, and Johnson awarded $11,185.00.)

DOROTHY PITCHFORD, BESSIE GILBERT COOPER, MAYME KEEN, and CECIL JOHNSON, on behalf of and as the Widower and Sole Heir of DOROTHY JOHNSON, deceased, Claimants, us. STATE OF ILLINOIS, DEPARTMENT OF PUBLIC HEALTH, Respondent.

Opinion filed ***January 14, 1975.***

KLEIMAN, CORNFIELD & FELDMAN, Attorney for Claimants.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-672—Claimant awarded $312.00.)

STARR COMMONWEALTH FOR BOYS, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed January 14, 1975.

VAN DELLEN AND TECH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant

PER CURIAM.

(No. 74-CC-673—Claimant awarded $540.00.)

STARR COMMONWEALTH FOR BOYS, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CILDREN AND FAMILY SERVICES, Respondent.

Opinion filed January 14, 1975.

VAN DELLEN AND TECH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-726Claimant awarded $48.27.)

DARRELL E. JOHNSON, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.**

Opinion filed ***January 14, 1975.***

DARRELL E. JOHNSON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-893—Claimant awarded $1,381.19.)

LT. STANFORD SHARP, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.**

Opinion filed ***January 14, 1975.***

KLEIMAN, CORNFIELD, & FELDMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-168—Claimant awarded $855.37.)

DAN JENSEN, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed ***January 14, 1975.***

DAN JENSEN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CIVIL SERVICE ACT—*back* pay. Reimbursement arising from late report of wage increase.

PERLIN, C. J.

The purpose of the award is to make a salary correction to make adjustments for creditable service increases which were due Mr. Jensen, but not given, upon his return from leave of absence on April **1, 1972.**

We find that claimant is entitled to back salary in the gross amount of **$792.04,** plus employer contributions of **$63.33,** for a total employee benefit of **$855.37,** which should be disbursed by the Comptroller and credited as follows:

To the Teachers' Retirement System of the State of Illinois as follows:

$63.33	Employee's contribution to Teachers' Retirement System of the State of Illinois.
$	Employee's contribution to F.I.C.A.
$63.33	State's contribution to Teachers' Retirement System of the State of Illinois.
$	State's contribution to F.I.C.A.

The Court takes notice of the fact, that educators do not participate in the Social Security program, and are, therefore, not subject to the usual F.I.C.A. deductions.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 147.64	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 18.69 as claimant's Illinois Income Tax withholding for current taxable year.

To the claimant:

$ 562.38 as claimant's net salary, after all of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be, and is hereby awarded, the total employee benefit of $855.37, to be disbursed and credited in accordance with our above finding.

(No. 75-CC-191—Claimant awarded $291.35.)

CERTANUIM ALLOYS AND RESEARCH COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed January 14, 1975.

CERTAINUM ALLOYS AND RESEARCH COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-245—Claimant awarded $368.10.)

SUMTER MEMORIAL HOSPITAL, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed January *14, 1975.*

SUMTER MEMORIAL HOSPITAL, Claimant, pro se.

WILLIAM **J. SCOTT,** Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-266—Claimant awarded $1,647.24.)

FLORA SAKORNSIN, M.D., Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed January *14, 1975.*

FLORA SAKORNSIN, M.D., Claimant, pro se.

WILLIAM **J. SCOTT,** Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—replacement warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-304—Claimant awarded $278.40.)

VULCAN SIGNS AND STAMPINGS, INC., Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed January *14, 1975.*

VULCAN SIGNS AND STAMPING, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-305—Claimant awarded $291.60.)

VULCAN SIGNS AND STAMPINGS, INC., Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed January ***14, 1975.***

VULCAN SIGNS AND STAMPINGS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-306—Claimant awarded $324.00.)

VULCAN SIGNS AND STAMPINGS, INC., Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed January ***14, 1975.***

VULCAN SIGNS AND' STAMPINGS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from 'which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-307—Claimant awarded $382.32.)

VULCAN SIGNS AND STAMPINGS, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed January *14, 1975.*

VULCAN SIGNS AND STAMPINGS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-316—Çlaimant awarded $420.70.)

CYCLOPS WELDING Co., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed January *14, 1975.*

CYCLOPS WELDING Co., Claimant pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-342—Claimant awarded $21.00.)

PETER J. PROSSER, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed January ***14, 1975.***

PETER J. PROSSER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropn'ation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-344—Claimant awarded $505.40.)

SHALCO CHEMICAL CORP., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed January ***14, 1975.***

SHALCO CHEMICAL CORP., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-423—Claimant awarded $133.60.)

WESTERN MATERIALS Co., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed January ***14, 1975.***

WESTERN MATERIALS Co., pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-428—Claimant awarded $4,018.00.)

UNISTRUT SERVICE Company of ST. **LOUIS,** Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed January ***14, 1975.***

UNISTRUT SERVICE COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CoNTRACTslapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-429—Claimant awarded $1,094.40.)

PUTS RADIO SALES, Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF LAW ENFORCEMENT,** Respondent.

Opinion filed January ***14, 1975.***

PUTS RADIO SALES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-430—Claimant awarded $451.04.)

DA COM CORPORATION, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed January *14, 1975.*

DA COM CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-449—Claimant awarded $8.52.)

MACMILLIAN ARTS & CRAFTS, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed January *14, 1975.*

MACMILLIAN ARTS & CRAFTS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-453—Claimant awarded $2,800.34.)

CENTRAL OFFICE EQUIPMENT COMPANY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF AGRICULTURE, Respondent.

Opinion filed January *14, 1975.*

ROBERT H. GOLDMAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-460—Claimant awarded $389.90.)

ILLINOIS ELECTRIC WORKS, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION,** Respondent.

Opinion filed January 14, *1975.*

ILLINOIS ELECTRIC WORKS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-469—Claimant awarded $1,033.88.)

DIXIE MILLS COMPANY, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION,** Respondent.

Opinion filed January 14, *1975.*

DIXIE MILLS COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, **for** Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-491—Claimant awarded $25.20.)

WAYNE F. SCHWAGER, d/b/a HOLIDAY INN OF VANDALIA, ILL., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed January *14, 1975.*

GEORGE HUBER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-517—Claimant awarded $12.13.)

ACADEMIC PRESS INC., Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed January *14, 1975.*

ACADEMIC PRESS INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-521—Claimant awarded $310.33.)

CENTRAL OFFICE EQUIPMENT Co., Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed January *14, 1975.*

ROBERT H. GOLDMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-527—Claimant awarded $82.00.)

REICHLE LP GAS SERVICE, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.**

Opinion filed January ***14, 1975.***

ROBERT D. REICHLE, Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-549—Claimant awarded $25.00.)

UTLAUT MEMORIAL HOSPITAL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed January ***14, 1975.***

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

(No. 75-CC-558—Claimant awarded $4,980.00.)

MILLER & DILENBECK, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.**

Opinion filed January ***14, 1975.***

KENNETH DILENBECK, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-559—Claimant awarded $1,345.00.)

NATIONAL ADVERTISING COMPANY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed January *14, 1975.*

NATIONAL ADVERTISING COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-651—Claimant awarded $500.00.)

ALBERT L. PITTS, Claimant, *us.* STATE OF ILLINOIS, ILLINOIS COMMERCE COMMISSION, Respondent.

Opinion filed January *14, 1975.*

ALBERT L. PITTS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under

Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 6777—Declaration of rights awarded.)

ORR CONSTRUCTION COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC WORKS AND BUILDINGS, Respondent.

Opinion filed February 3, 1975.

HARRY **M.** BROSTOFF, Attorney for Claimant.

WILLIAM **J. SCOTT,** Attorney General; SAUL R. WEXLER and MARTIN A. SOLL, Assistant Attorneys General, for Respondent.

CONTRACTS—*ambiguity.* In construing construction contract, "may" does not mean "shall" and it is not so construed.

SAME—same. **If** contract is subject to more than one reasonable interpretation, the doubt must be resolved against the party who prepared the contract and chose the language.

SAME—same. Clear and unambiguous language of written contract must override custom and usage of one of the parties.

SAME—damages. Where state improperly required contractor to use material not required by contract, contractor was entitled to damages sustained.

HOLDERMAN, **J.**

This claim is founded upon a contract entered into by the respondent with the claimant, a general contractor, for the construction of a particular section of Illinois Route 57 Highway in Fayette County.[1]

The facts are not in dispute. The issues, under which claimant's five-count complaint seeks damages in the

---

[1]The contract is described by the Department of Public Works and Buildings as FAI Route No. 57, Project 1-57-3 (73) 134, Section 26 (1A, 1B-1, 2A, 2B-1 Fayette County. Job No. 97-133-68.

sum of **$572,408.12,** arise out of a dispute in the interpretation of "Special Provisions" in the contract entitled, "Removal and Replacement of Silty Topsoil Materials".

This court is called upon to resolve the legal issues by making a judicial interpretation of the contract provision in dispute. Hence, without any objections from the respondent, we granted claimant's motion to render a declaratory judgment in this cause pursuant to ***857.1 of the Civil Practice Act.*** The parties concede that a declaration of their respective rights under the disputed provision of the contract which they request this court to construe may obviate the necessity for further litigation on the question of damages.

Both parties have informed the court that, if the legal question is decided in favor of the claimant, there is a possibility that the parties hereto in conference may reach a settlement on the amount of claimant's damages making it unnecessary to go to trial on that factual issue. Conversely, if the ruling is favorable to the respondent, there would be no need for further proceedings in this cause.

As essential prologue to our interpretation of the disputed section of the contract, we restate the undisputed pertinent facts. On January **24,1969,** the claimant submitted its sealed proposal for contract with the respondent under which claimant would construct the **following:** certain mainline grading and drainage for future pavement and ramps, as well as frontage roads, drainage structures, fencing, seeding, clearing and other work; a triple-barrel box culvert; and two steel bridges. This contract, as bid upon, was prepared and drafted solely by respondent. It consists of: (a) ***Plans,*** (b) ***Standard Speci-***

fications for Road and Bridge Construction and (c) ***Special Provisions*** (which supplement the ***Standard Specifications.)***

The ***Special Provisions*** (on page *3* **of** the contract) provide, in relevant part:

> ***REMOVAL AND REPLACEMENT OF SILTY TOPSOIL MATERIAL:*** Within the following station limits, and, as shown on the cross sections, the silty topsoil horizon is to be removed and replaced with suitable material.
>
> This silty material shall be removed to a depth sufficient to provide a minimum thickness of **24** inches of suitable material between the bottom of the subbase and the remaining soil. The minimum depth of excavation shall be six (6) inches. The width of excavation shall extend beneath the pavement and the stabilized portions of the shoulders. The excavated material ***may*** be used in embankments greater than two feet in height and placed in alternate layers with suitable material. The height of embankment is to be measured from original ground to bottom of subbase. (Emphasis supplied to the keyword "may".)
>
> The silty material as well as material excavated from ditches or other excavations which has an A-4 classification (HRB classifications) and a silt content greater than 50% shall not be placed in embankments less than two (2) feet in height.
>
> It is hereby understood and agreed that the final determination as to the materials to be removed and replaced will be made by the Engineer in the field and the plan quantity for Earth Excavation adjusted accordingly.
>
> [Here the contract contains a table listing 21 areas in both the northbound and southbound pavement, from station number to station numbers, in which the silty topsoil material was to be removed and replaced.]

Standard ***Specifications*** Section **202.03** (p. **31)** in relevant part provides as follows:

> "Unless otherwise provided in the plans or specifications, unstable and unsuitable material shall be disposed of by the contractor at his expense, outside the limits of the right of way."

Claimant, in preparing its bid for the contract, understood the above quoted special provisions and standard specifications to mean: **(1)** that the silty topsoil material between the indicated stations was unsuitable material and was to be removed and replaced with suitable material; (2) that the unsuitable material was to be disposed of by the contractor at his expense; **(3)** that, at

the contractor's election, he could use the unsuitable material for fill in embankments greater than two feet in height, provided claimant placed it in alternate layers with suitable material; and (4) that, notwithstanding the quantity for such excavation shown on the plans, the determination of what was silty material to be removed and replaced would be made by the State's Engineer and the plan quantity for excavation would be adjusted accordingly.

Claimant, relying on this understanding of the language of **(3)** above, determined that it could furnish **a** substantially lower bid by not using said unsuitable material in embankments over two feet high, but rather by disposing of it and providing and using suitable material in the embankments. Accordingly, claimant determined and submitted its bid on that basis; namely, on claimant's election to ***dispose*** of the silty topsoil material and to use, instead, suitable borrow material in the embankments.

Thereafter, the claimant, having submitted the lowest bid, was awarded the job. Accordingly, on February **24,** 1969, claimant entered into the aforesaid contract with the respondent. Except for the insertions of claimant's bid prices, this contract is exactly the same as that drafted by respondent for submission to all contractors for bidding.

Claimant commenced work on the job. During the course of the work, respondent's field engineer ordered claimant to use said excavated silty material in embankments of two feet or higher, contending that the election to use said materials rested with respondent. Claimant protested this interpretation of the ***Special*** *Provisions;* informed the respondent that the election to use said excavation in the embankments rested with the

claimant; that his proposal had not been based on such re-use; and apprised respondent that its order would necessitate substantial additional expense not provided for in its bid. Respondent, nevertheless, ordered claimant to use this material. Claimant complied under protest.

The issue thus presented to the court is, whether the election to use the silty topsoil (unsuitable material) rests with the claimant contractor or with the State's Engineer. The correct answer depends upon whether the grant of discretion by the word "may" in the following sentence from the "Special Provisions" supra, is addressed to the contractor to respondent's field engineer:

> **"The excavated material *may* be used in embankments greater than two feet in height and placed in alternate layers with suitable material."**

The court takes notice that all of the other four sentences in the same paragraph from which the above sentence is lifted, are obviously all addressed to the contractor, and speak directly to ***him.*** They instruct ***him*** **as** to what ***he shall*** or ***may*** **do, viz.**

> **[1] The silty material *shall* be removed to a depth . . . . . .**
> **[2] The minimum depth of excavation *shall* be 6 inches.**
> **[3] The width of excavation *shall* extend beneath the pavement . . . . .**
> **[4] The excavated material *may* be used in embankments . . . . . .**
> **[5] The height of embankments *is* to be measured from . . . . . .**

Respondent admits that the sentences we have numbered **1,** 2, **3** and **5** from the paragraph in question speak to the contractor.

Respondent contends, however, that ***only one of the sentences*** in the paragraph [the sentence we numbered 41 speaks to the engineer, and grants him discretion whether to use the excavated material in embankments over two feet. The language of this paragraph plainly gives no support to respondent's contention.

Nor does the language elsewhere in the contract. We

find that, where the contract *does* give an election or judgment to respondent's engineer, there is an explicit reference to him. For example, at page 4 of the contract, under "Filling Existing Wells":

. . .

5. . . . The material of this portion of the fill, its manner of placement and compaction is *subject to the approval of the engineer.* . .

8. The balance of the hole is to be filled with sand, embankment material, or other soil *approved by the engineer;* it shall be placed in lifts and compacted *as directed by the engineer.* (Emphasis added.)

Again, following page 18 of the contract, at Special Provisions — "Steady Burning Barricade Lights":

. . . The contractor shall replace all batteries on a group basis at 45 days or such other intervals as *may be specified by the engineer.* (Emphasis added.)

Unlike any of the foregoing provisions, the sentence in dispute ["The excavated material may be used in embankments greater than two feet . . ."] contains no such explicit reference to the engineer. It logically follows that no such reference was intended.

The disputed language, it seems to use, is plain and unambiguous. It tells the contractor *he* has the choice; that he "may" use the excavated material. Plainly, it does not tell him he "may" use the excavated material *if the State* so *decides,* an interpretation which would still place the election with the contractor. Equally plain, the language contains no explicit directions or reference to the engineer. We must disagree with respondent's contention that none is needed. If the intention had been, as respondent contends, it would have said: the contractor *shall* use the excavated material if the engineer so decides.

"May" does not mean "shall" and it is not so construed in private contracts. ***Northwestern Traveling Men's Association*** v. ***Crawford, 126, Ill. App. 468, 480 (1906)*** *aff'd.* ***226 Ill. 57.***

In support of its position, respondent points to ¶4 in the quoted section of the Special Provisions, which reads:

> **"It is hereby understood and agreed that the final determination as to the materials to be removed and replaced will be made by the Engineer in the field and *the plan quantity for earth excavation adjusted accordingly.*" (Emphasis added.)**

This paragraph relates to the first paragraph and merely places the final determination of what is to be removed with respondent's engineer. It is apparent, that this authority was given to the engineer to prevent the contractor from performing excessive excavation, with a resulting excessive cost to the State, inasmuch as the compensation to the contractor for excavation was on a cubic yard basis. Our interpretation as to the intent and purpose of the above ¶4 is further supported by the closing clause of that paragraph: " . . . ***and the plan quantity for earth excavation adjusted accordingly.***" If there were any question as to the interpretation of this paragraph, the closing clause eliminates it. The closing clause makes it clear that the authority of the engineer in this paragraph is solely to determine and control, for the protection of the State, the quantity of unsuitable material to be excavated, and it informs the contractor that payment would be made on the basis of the actual quantity excavated, as determined by the engineer, and not based on the plan quantity of excavation (the quantity shown on the plans). To give this paragraph any other interpretation, we believe, would emasculate and give no meaning to the words, ***"and the plan quantity for earth excavation adjusted accordingly".***

We do not see any inconsistency, as respondent suggests, in the language of the two paragraphs in question. The first one says that the contractor ***may*** use excavated material. The other says that the field engineer shall make the final determination as the ***quantity*** of materials to be removed and replaced.

Even if we could in good conscience find that there is more than one reasonable interpretation of the language in question, the doubt must be resolved against the respondent, since the respondent prepared the contract and chose the language. This venerable rule of contract construction, firmly established in Illinois, is restated in *I.L.P.* ***Contracts*** 9221 as follows:

> "Words which are ambiguous or of doubtful construction are to be construed most strongly against the party who prepared the contract, for the reason that he chose the language and is responsible for the ambiguities in his own expression.
>
> "This rule obtains not only in grants, but extends in principle to all other engagements and undertakings; and in construing reservations or conditions inserted in a contract for the benefit of the party who makes them, where there are clauses which are doubtful or ambiguous, that construction will be adopted which is least favorable to the party making them."

Repondent's brief does not address itself to the "resolve-doubts-against-the draftsman" rule. Rather, it suggests that the intent of the disputed language in the contract is better understood by **(1)** reading the contract as a whole and (2) taking judicial notice of a "custom and usage" of which the claimant allegedly had or should have had prior knowledge, viz., "The State has for many years followed the custom of utilizing the silty material in embankments as much as possible for economic reasons." [Departmental Report **p.** 4.1

Commenting on the last contention first, we believe that it would have been a simple matter for the respondent to have stated the aforesaid custom in its contract, which is so explicit on countless other matters of much less importance. If such a provision had been stated in the written contract, the claimant would not have been misled in submitting his bid, and this claim would not have arisen.

We have carefully examined the authority respondent cites in support of its claim that custom should

override the clear and unambiguous language of a written contract. We believe it would be unconscionable for this court to announce such a rule in the case before us. Such a rule would permit other bidders in the future to be deceived by what purports to be a complete written contract in plain language on which both parties may rely. Here the specific language of the contract clearly distinguishes the case at bar from the rule on which respondent relies in ***Chicago Bridge & Iron Co.*** v. ***Reliance Insurance Co., 46 Ill. 2d 522, 264 N.E. 2d 134 (1970).***

We must reject respondent's argument that "custom and usage" should control our interpretation of this contract, a contention that is contrary to the rules stated in ***I.L.P.Contracts, §211*** "Custom and usage" and the authority **of *Mulliner* v. *Bronson, 14 Ill. App. 355*** in which the court said:

" . . . the accustomed mode of dealing between parties in many prior transactions, can not be sustained, for such a private and special custom could not control the express words of the contract."

Turning now to respondent's argument that a different meaning of the contract may be gleaned from reading the contract as a "whole" to the end that we would hold with ***U.S. Trust Co. of N.Y.*** v. ***Jones, 414 Ill. 265, Ill. N.E. 2d 144 (1953),*** that

"In construing a written instrument, its letter should be controlled by its spirit and purpose, bearing in mind that the terms employed are servants and not masters of an intent, and are to be interpreted *so* as to subserve, and not to subvert, such intent."

Respondent then states its conclusion that, "the intent of this contract is to give complete and final supervision to the State. Nowhere within the document does any contrary intent exist." In pursuing respondent's thesis, we started with the disputed provision in which we found that the word "may" clearly gives the election

to the contractor and not the State's engineer. We then examined the rest of the contract in a futile search for other language that might change our conclusion.

We have previously reported our analysis of the ***Special Provisions*** and concluded that **84** on page **3,** the only part of these provisions on which respondent relies, merely places the determination of the ***quantity*** of that material which is to be removed and replaced, with the engineer in the field; and directs that the ***plan quantity*** for each excavation be adjusted accordingly. Thus, the ***only*** authority delegated to the engineer by said **84** is limited to the ***quantity of silty topsoil to be removed*** (and replaced). Accordingly, ¶4's expressly circumscribed grant of authority to the ***engineer*** bears no relevant relationship to the use or non-use of the silty material. Our conclusion inescapably follows that the word "may" in ***82*** grants to the ***contractor*** the sole option to use the silty topsoil in embankments over two feet, or not to use it as claimant determines.

This close textual analysis necessitates our agreeing with claimant's interpretation of the contract and is only confirmed by reading the provisions as an entirety.

Finally, we come to that part of the "whole" contract on which respondent further attempts to support its case, the ***Standard Specifications.*** In this regard, respondent refers to selected sections therein, some of which are skillfully paraphrased to imply what respondent no doubt wishes it had actually said. Others are irrelevant to the issue here. We find it significant that respondent fails to mention perhaps the most relevant and important provision of all, i.e., the opening sentence of the ***Special Provisions*** which declares:

> **The following *Special Provisions* supplement the "*Standard Specifications* . . ." and in case of conflict with any part or parts of said specifications, the said *Special Provisions* shall take precedence and shall govern.**

This provision not only destroys any support for respondent's contentions, but respondent has failed to show any significant conflict between the ***Special Provisions*** and the ***Standard Specifications.*** Moreover, if it be assumed ***arguendo*** that there is a conflict, the contract itself defines the manner of resolution. The ***Special Provisions*** take precedence. These we have held, as a matter of law, clearly support claimant's interpretation of the contract, and we find no material or significant ambiguities that would require us to support our conclusion on the "resolve doubts against the draftsman" rule.

This court has held in a line of cases over many years that, when the State is responsible for such matters as delays, changes of plans, lack of coordination of prime contractors, or faulty plans, an **award** will **be** made **for** the increased costs incurred, as a result, by claimant contractors.

In ***Arcole Construction Company*** v. ***State*** *of Illinois, 11 C.C.R.* ***423,*** *(1941)*, the government-prepared plans and specifications, including a "typical cross-section'' **of** underground conditions, contained a material misrepresentation which caused the contractor to be misled to his damage. The court held the contractor entitled to recover for these damages. The thrust of *Arcole* applies here. For, whether the focus be on physical condition or right to election, the State has misled the bidder equally.

In the case at bar, the contract clearly prescribed that the contractor "may use excavated material". Nothing in the contract required the claimant to use excavated material. The engineer in the field had no right to compel the contractor to use excavated material in place of suitable material. Clearly, the field engineer only had final determination as the ***amount*** of unsuitable material

to be removed and replaced, and not as to the re-use of the unsuitable material to be removed and replaced.

For all of the foregoing reasons, this court declares that the election to use or not to use the silty topsoil in embankments greater than two feet in height rested with the claimant, and that claimant is entitled to the damages which resulted from being ordered by the respondent, notwithstanding claimant's protests, to use said material in embankments greater than two feet in height.

This declaration of rights is the only relief sought by the parties in this opinion. If the parties cannot agree and enter into a joint stipulation as to the actual amount of claimant's damages, pursuant to this opinion, further litigation will be necessary on the questions of fact.

(No. 75-CC-575—Claimant awarded $600.00.)

GUARANTY CREDIT CORPORATION, Agents for SEVEN DRASK BROTHERS, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed February 4, 1975.

GUARANTY CREDIT CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-178—Claimant awarded $41.15.)

BOARD OF REGENTS, acting on behalf of NIU, Claimant, *us.* STATE OF ILLINOIS, DIVISION OF VOCATIONAL REHABILITATION, Respondent.

Opinion filed February *4,* 1975.

JACK M. BLEICHER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-268—Claimant awarded $327.69.)

MARTIN BROTHERS IMPLEMENT COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion *filed* February *4,* 1975.

MARTIN BROTHERS IMPLEMENT COMPANY, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-315—Claimant awarded $54.90.)

B & H BLUEPRINT AND SUPPLY CO., B & H INDUSTRIES, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Repsondent.

Opinion filed February *4, 1975.*

B & H BLUEPRINT AND SUPPLY *CO.*, B & H INDUSTRIES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-338—Claimant awarded $23.01.)

J. P. RUDLICK SCREW Co., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed February *4, 1975*

J. P. RUDLICK SCREW, Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-347—Claimant awarded $3,621.30.)

ARTHUR'S SALES COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed February *4, 1975.*

ARTHUR'S SALES COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-364—Claimant awarded $860.67.)

TIM SWAIN II, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed February 4, *1975.*

TIM SWAIN II, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-369—Claimant awarded $72.00.)

ROCKFORD ANESTHESIOLOGISTS ASSOCIATION, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF CHILD AND FAMILY SERVICES, Respondent.

Opinion filed February 4, *1975.*

ROCKFORD ANESTHESIOLOGISTS ASSOCATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-373—Claimant awarded $129.99.)

JERRY'S FRAME & AXLE SERVICE, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed February *4, 1975.*

JERRY'S FRAME AND AXLE SERVICE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-417—Claimant awarded $414.26.)

CLARK OIL AND REFINING CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTION, Respondent.

Opinion filed February *4, 1975.*

CLARK OIL AND REFINING CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-434—Claimant awarded $24.00.)

THE FLAX COMPANY, Claimant, us. STATE OF ILLINOIS, OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION, Respondent.

Opinion filed February *4,* 1975.

THE FLAX COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-440—Claimant awarded $16.16.)

STORMS LAUNDRY SUPPLY COMPANY, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** respondent.

Opinion filed February *4, 1975.*

STORMS LAUNDRY SUPPLY COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-46PClaimant awarded **$248.43.)**

ELIM CHRISTIAN SCHOOL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed February *4, 1975.*

ELIM CHRISTIAN SCHOOL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

. (No. 75-CC-492—Claimant awarded $66.95.)

COLT INDUSTRIES FAIRBANDS WEIGHING DIVISION, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed February *4, 1975.*

COLT INDUSTRIES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-528—Claimant awarded $475.00.)

BRINK'S SECURITY SERVICE, Claimant, *us.* STATE OF ILLINOIS, OFFICE OF THE SECRETARY OF STATE, Respondent.

Opinion filed February *4, 1975.*

BRINK'S SECURITY SERVICE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-542—Claimant awarded $37.50.)

ASSOCIATION FOR EDUCATIONAL COMMUNICATIONS & TECHNOLOGY, Claimant, *us.* STATE OF ILLINOIS, OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION, Respondent.

Opinion filed February *4, 1975*

ASSOCIATION FOR EDUCATIONAL COMMUNICATIONS & TECHNOLOGY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-555—Claimant awarded $572.10.)

CENTRAL OFFICE EQUIPMENT CO., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH & DEVELOPMENTAL DISABILITIES, Respondent.

Opinion filed February 4, 1975.

CENTRAL OFFICE EQUIPMENT CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-572—Claimant awarded $8,380.00.)

ANGELICA UNIFORM GROUP, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed February 4, 1975.

ANGELICA UNIFORM GROUP, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-583—Claimant awarded $11,900.00.)

MINE SAFETY APPLIANCES CO., Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed February 4, 1975.

MINE SAFETY APPLIANCES CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-590—Claimant awarded $16,880.50.)

MONITOR LABS, INC., Claimant, *us.* STATE OF ILLINOIS, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed February *4, 1975.*

MONITOR LABS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-606—Claimant awarded $4,286.00.)

REIS EQUIPMENT COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed February *4, 1975.*

REIS EQUIPMENT COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-805—Claimant awarded $183.60.)

SAUNDERS & COMPANY, Claimant, *us.* **STATE OF ILLINOIS, OFFICE OF THE SECRETARY OF STATE,** Respondent.

Opinion filed February *4, 1975.*

SAUNDERS & COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 74-CC-681—Claimant awarded $1,635.96.)

GARY SEEBACH, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed February 5, *1975.*

BARBARA J. HILLMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-716—Claimant awarded $555.44.)

JOSEPH E. GLASS, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed February 5, *1975.*

JOSEPH E. GLASS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-717—Claimant awarded $555.44.)

JAMES R. HARRIS, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed February *5, 1975.*

JAMES R. HARRIS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-718—Claimant awarded $536.88.)

NELSON HESTING, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed February *5, 1975.*

NELSON HESTING, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-719—Claimant awarded $586.08.)

JAMES C. THOMAS, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed February 5, 1975.

JAMES C. THOMAS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 74-CC-722—Claimant awarded $586.08.)

THEODORE PATTON, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed February 5, 1975.

THEODORE PATTON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the ***Court*** will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-886—Claimant awarded $438.84.)

EARL SMITH, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed February 5, 1975.

EARL SMITH, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-887—Claimant awarded $438.84.)

WILLIE SMITH, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed February *5, 1975.*

WILLIE SMITH, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-888—Claimant awarded $465.59.)

KELLY TRUSS, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed February 5, *1975.*

KELLY TRUSS, Claimant, **pro se.**

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-5—Claimant awarded $52,138.49.)

CLAUDE J. FLYNN, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF REVENUE, Respondent.

Opinion filed February 5, 1975.

KLEINMAN, CORNFIELD, & FELDMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation*. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-265—Claimant awarded $359.10.)

HAROLD L. DAVENPORT, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed February 10, 1975.

HAROLD L. DAVENPORT, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. Reimbursement raising from late report of wage increase.

PER CURIAM.

This case arises as a result of an hourly increase for day labor, extra help employed by the Department of Transportation. The increase in hourly pay scale was approved by the Department of Labor, but not reported to the Department of Transportation in time for the changes to be made in the effective payroll period. The period for which back pay is sought, is from May 1,1974,

through June **30, 1974**, and according to the Departmental Report, the amount due Mr. Davenport is **$341.13.**

We find that claimant is entitled to back salary in the gross amount of **$341.13,** plus employer contributions of **$17.97,** for a total employee benefit of **$359.10** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ **23.96**	Employee's contribution to State Employees' Retirement System
$ 0	Employee's contribution to F.I.C.A.
$ **17.97**	State's contribution to State Employees' Retirement System
$ 0	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ **85.28**	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ **8.49**	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$223.40	as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded the total employee benefit of **$359.10** (THREE HUNDRED FIFTY-NINE DOLLARS AND **TEN CENTS)** to be disbursed and credited in accordance with our above finding.

(No. 75-CC-281—Claimant awarded $351.43.)

JERRY M. HARRIS, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION**, Respondent.

Opinion filed February 10, 1975.

JERRY HARRIS, Claimant, pro se.

WILLIAM **J. SCOTT,** Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. Reimbursement arising from late report of wage increase.

PER CURIAM.

This case arises as a result of an hourly increase for day labor, extra help employed by the Department of Transportation. The increase in hourly pay scale was approved by the Department of Labor, but not reported to the Department of Transportation in time for the changes to be made in the payroll effective period. The period for which back pay is sought, is from May **1,1974,** through June **30, 1974,** and according to the Departmental Report, the amount due Mr. Harris is **$307.35.**

We find that claimant is entitled to back salary in the gross amount of **$307.35,**plus employer contributions of **$44.08,** for a total employee benefit **of $351.43** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 12.20	Employee's contribution to State Employees' Retirement System
$ 17.98	Employee's contribution to F.I.C.A.
$ 26.10	State's contribution to State Employees' Retirement System
$ 17.98	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 0	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 0	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$ 277.17	as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of **$351.43** (THREE HUNDRED FIFTY-ONE DOLLARS AND FORTY-THREE CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-339—Claimant **awarded $703.26.)**

JEROME J. EVERSGERD FOR VILLAGE OF GERMANTOWN, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed February 10, 1975.

JEROME J. EVERSGERD FOR VILLAGE OF GERMANTOWN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-399—Claimant awarded $431.24.)

FORREST NEAL JONES, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed February 10, 1975.

FORREST NEAL JONES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back* pay. Reimbursement arising from late report of wage increase.

PER CURIAM.

This case arises as a result of an hourly increase for day labor, extra help employed by the Department of Transportation. The increase in hourly pay scale was approved by the Department of Labor but not reported to the Department of Transportation in time for the changes to be made in the payroll effective period. The period for which back pay is sought, is from May 1, 1974, through June 30, 1974, and according to the departmental report, the amount due Mr. Jones is $367.95.

We find that claimant is entitled to back salary in the gross amount of **$367.95,** plus employer contributions of **$63.29,** for a total employee benefit of **$431.24** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 13.90	Employee's contribution to State Employees' Retirement System
$ 21.53	Employee's contribution to F.I.C.A.
$ 41.76	State's contribution to State Employees' Retirement System
$ 21.53	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 39.24	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 9.23	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$284.05	as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of **$431.24,** (FOUR HUNDRED THIRTY-ONE DOLLARS AND TWENTY-FOUR CENTS) to be disbursed and credited in accordance with our **above** finding.

(No. 75-CC-424—Claimant awarded $5,427.50.)

TRAFFIC INSTITUTE, NORTHWESTERN UNIVERSITY, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed February 10, 1975.

TRAFFIC INSTITUTE, NORTHWESTERN UNIVERSITY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-526—Claimant awarded $145.80.)

GENERAL ELECTRIC SUPPLY COMPANY, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed February *10,* 1975.

GENERAL ELECTRIC SUPPLY COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-543—Claimant awarded $7,057.16.)

DON SULLIVAN, CITY TREASURER OF METROPOLIS, Claimant, us. STATE OF ILLINOIS, Respondent.

Opinion filed February *10,* 1976.

DON SULLIVAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-566—Claimant awarded $612.33.)

CHARLES H. THOBURN, Claimant, *vs.* STATE OF ILLINOIS, STATE FAIR AGENCY, Respondent.

Opinion filed February 10, *1975.*

WILLIAM K. CAVANAGH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back* pay. Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase for plumbers from $7.96 to $8.96. This increase was approved by the Department of Labor and reported to the State Fair Agency on September 25, 1974, thereby allowing insufficient time for changes to be made for the payroll effective period. Back salary is sought for April 1, 1974, through June 30, 1974. The Departmental Report indicates that Mr. Thoburn is due $548.50.

We find that claimant is entitled to back salary in the gross amount of $548.50, plus employer contributions of $63.83, for a total employee benefit of $612.33 which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 19.84 Employee's contribution to State Employees' Retirement System

$ 32.08 Employee's contribution to F.I.C.A.

$ 31.74 State's contribution to State Employees, Retirement System

$ 32.09 State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 31.22 as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 7.47 as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$ 457.89 as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of **$612.33,** (SIX HUNDRED TWELVE DOLLARS AND THIRTY-THREE CENTS) to be disbursed and credited in accordance with out above finding.

(No. 75-CC-567—Claimant awarded $538.80.)

FRANK C. MCCUE, Claimant, *vs.* STATE OF ILLINOIS, STATE FAIR AGENCY, Respondent.

Opinion filed February 10, 1975.

WILLIAM K. CAVANAGH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase for plumbers from $7.96 to $8.96. This increase was approved by the Department of Labor and reported to the State Fair Agency on September 25, 1974, thereby allowing insufficient time for changes to be made for the payroll effective period. Back salary is sought for April 1, 1974, through June 30, 1974. The Departmental Report indicates that Mr. McCue is due $480.00.

We find that claimant is entitled to back salary in the gross amount of $480.00, plus employer contributions of $58.80, for a total employee benefit of $538.80 which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 19.20	Employee's contribution to State Employees' Retirement System
$ 28.09	Employee's contribution to F.I.C.A.
$ 30.72	State's contribution to State Employees' Retirement System
$ 28.08	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 48.22 as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 12.00 as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$372.49 as claimant's net salary after ***all*** of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is **hereby awarded, the total employee benefit of $538.80,** (FIVE HUNDRED THIRTY-EIGHT DOLLARS AND EIGHTY CENTS) to be disbursed and credited in accordance with our above finding.

(NO. **75-CC-571—Claimant awarded $529.82.)**

DONALD E. BREWER, **Claimant,** *us.* **STATE OF ILLINOIS, STATE FAIR AGENCY, Respondent.**

Opinion filed February 10, ***1975.***

WILLIAM K. CAVANAGH, Attorney for Claimant.

WILLIAM **J. SCOTT,** Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase for plumbers from $7.96 to $8.96. This increase was approved by the Department of Labor and reported to the

State Fair Agency on September 25, 1974, thereby allowing insufficient time for changes to be made for the payroll effective period. Back salary is sought for April 1, 1974, through June 30, 1974. The Departmental Report indicates that Mr. Brewer is due $472.

We find that claimant is entitled to back salary in the gross amount of $472.00, plus employer contributions of $57.82, for a total employee benefit of $529.82 which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 18.88	Employee's contribution to State Employees' Retirement System
$ 27.62	Employee's contribution to F.I.C.A.
$ 30.21	State's contribution to State Employees' Retirement System
$ 27.61	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 0	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 0	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$425.50	as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of $529.82, **(FIVE HUNDRED TWENTY-NINE DOLLARS AND EIGHTY-TWO CENTS)** to be disbursed and credited in accordance with our above finding.

(No. 75-CC-761—Claimant awarded $411.60.)

WARREN SHUFLEDT, Claimant, *vs.* **STATE** OF ILLINOIS, Respondent.

Opinion filed February ***10, 1975.***

WARREN SHUFELDT, Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-776—Claimant awarded $54.00.)

GENE JOHNS, Claimant, *vs.* **STATE** OF **ILLINOIS,** Respondent.

Opinion filed February ***10, 1975.***

GENE JOHNS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* ***warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the **Court** of Claims for payment.

PER CURIAM.

(No. 75-CC-777—Claimant awarded $64.00.)

GENE JOHNS, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed February 10, *1975.*

GENE **JOHNS,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. **210.10,** Ill. Rev. Stat., **1973,** to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-111—Claimant awarded **$231.23.)**

CHARLES L. HESTER, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed February *13, 1975.*

CHARLES L. HESTER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back* pay. Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase for trades tenders from **$5.09** to **$5.33½.** This increase was approved by the Department of Labor and reported to the Department of Mental Health on October **31, 1972,** thereby allowing insufficient time for changes to be made for the effective payroll period. Back salary is sought for April **1,1972,** through June **30,1972.** The Departmental

Report indicates that Mr. Hester is due **$208.80** in back salary.

We find that claimant is entitled to back salary in the gross amount of **$208.80,** plus employer contributions of **$22.43,** for a total employee benefit of **$231.23** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ **8.35**	Employee's contribution to State Employees' Retirement System
$ **10.86**	Employee's contribution to F.I.C.A.
$ 11.57	**State's contribution to State Employees'** Retirement System
$ **10.86**	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ **18.44**	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ **2.06**	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$169.09	as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of **$231.23,**

(TWO HUNDRED THIRTY-ONE DOLLARS AND TWENTY-THREE CENTS) to be disbursed and credited in accordance with our above finding.

(No. 74-CC-618—Claimants awarded $2,057.00.)

CURTIS WOODS AND EDWINA WOODS, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBILC AID, Respondent.

Opinion filed February ***13, 1975.***

M. T. GRUENER, Attorney for Claimants.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award **for** the amount due claimant.

PER CURIAM.

(No. 75-CC-132—Claimant awarded $2,306.43.)

JOANN PIONTKOWSKI, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed February ***13, 1975.***

RENEE C. HANOVER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-252—Claimant awarded $83.89.)

DORIS J. STEWART, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed February 13, 1975.

DORIS J. STEWART, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. **Reimbursement arising from late report of wage increase.**

This claim arises as a result of an anniversary raise being overlooked by the payroll department of the Department of Mental Health. Ms. Stewart should have received a $25 increase in salary for the months of April, May and June, **1973.** The error was not discovered until the lapse of the funds had occurred. The Departmental Report indicates that Ms. Stewart is due **$75** in back pay.

We find that claimant is entitled to back salary in the gross amount of **$75.00,** plus employer contributions of **$8.89,** for a total employee benefit of **$83.89** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 3.00	Employee's contribution to State Employees, Retirement System
$ 4.39	Employee's contribution to F.I.C.A.
$ 4.50	State's contribution to State Employees' Retirement System
$ 4.39	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 2.94	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ .89 as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$ 63.78 as claimant's net salary after all of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of **$83.89,** (EIGHTY-THREE DOLLARS AND EIGHTY-NINE CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-256—Claimant awarded $57.03.)

BARRY M. **SCARLETT,** Claimant, *us.* **STATE** OF **ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed February ***13, 1975.***

BARRY SCARLETT, Claimant, pro se.

WILLIAM **J.** SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay.* **Reimbursement arising from late report of wage increase.**

PER CURIAM.

This claim arises as a result of an hourly increase for day labor, extra help of **$1.**This increase was approved by the Department of Labor and reported to the Department of Transportation on September **9, 1974,** thereby allowing insufficient time for changes to be made for the

effective payroll period. Back salary is sought for May 1, 1974, through June 30, 1974. The departmental report indicates that Mr. Scarlett is due $54.06.

We find that claimant is entitled to back salary in the gross amount of $54.06, plus employer contributions of $2.97, for a total employee benefit of $57.03 which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 3.96	Employee's contribution to State Employees' Retirement System
$ 0	Employee's contribution to F.I.C.A.
$ 2.97	State's contribution to State Employees' Retirement System
$ 0	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 0	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 0	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$50.10	as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total of employee benefit of $57.03, (FIFTY-SEVEN DOLLARS AND THREE CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-271—Claimant awarded $352.61.)

FREDERICK WILLIAM MAUZY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed February 13, 1975.

FREDERICK WM. MAUZY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*, Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase in the prevailing rate for extra day labor help of $1. This increase was approved by the Department of Labor and reported to the Department of Transportation on September 9, 1974, allowing insufficient time for changes to be made for the effective payroll period. Pursuant to Ch. 127, par. 145, Ill. Rev. Stat., 1973, back salary is sought for May 1, 1974, through June 30, 1974. The departmental report indicates that Mr. Mauzy is due $321.

We find that claimant is entitled to back salary in the gross amount of $321.00, plus employer contributions of $31.61, for a total employee benefit of $351.61 which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 12.84	Employee's contribution to State Employees' Retirement System
$ 18.77	Employee's contribution to F.I.C.A.
$ 12.84	State's contribution to State Employees' Retirement System
$ 18.77	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 5.54	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 0	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$283.85	as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of $352.61, (THREE HUNDRED FIFTY-TWO DOLLARS AND SIXTY-ONE CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-274—Claimant awarded $453.68.)

EDWIN R. WALTERS, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed **February** *13,* **1975.**

EDWIN R. WALTERS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay.* **Reimbursement arising** from **late report** of **wage increase.**

PER CURIAM.

This claim arises as a result of an hourly increase of **$1.00** for extra help hired in the Day Labor Unit of Transportation. This increase was approved by the Department of Labor and reported to the Department of Transportation on September **9, 1974,** thereby allowing insufficient time for changes to be made for the effective payroll period. Back salary is sought for May **1, 1974,** through June **30, 1974.** The Departmental Report indicates that Mr. Walters is due **$413.38.**

We find that claimant is entitled to back salary in the gross amount of **$413.38,** plus employer contributions of **$40.30,** for a total employee **benefit** of **$453.68** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 15.54	Employee's contribution to State Employees' Retirement System
$ 24.76	Employee's contribution to F.I.C.A.
$ 15.54	State's contribution to State Employees' Retirement System
$ 24.76	State's contribution to **F.I.C.A.**

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ **5.30** as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ **0** as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$ **367.78** as claimant's net salary after all of the above contributions and withholdings have been deducted from the above **total employee benefit.**

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of **$453.68,** (FOUR HUNDRED FIFTY-THREE DOLLARS AND SIXTY-EIGHT **CENTS)** to be disbursed and credited in accordance with our above finding.

(No. 75-CC-275—Claimant awarded $397.08.)

RAY BOGUE GREER, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed February 13, 1975.

RAY BOGUE GREER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase for extra day labor help of **$1.00** per hour. This increase was approved by the Department of Labor and reported to the Department of Transportation on September **9, 1974,** thereby allowing insufficient time for changes to be made for the effective payroll period. Back salary is sought for May **1,1974,** to June **30,1974.** The Departmental Report indicates that Mr. Greer is due **$368.28.**

We find that claimant is entitled to back salary in the gross amount of **$368.28,** plus employer contributions of **$28.80,** for a total employee benefit of **$397.08** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ *28.80*	Employee's contribution to State Employees' Retirement System
$ 0	Employee's contribution to F.I.C.A.
$ 28.80	State's contribution to State Employees' Retirement System
$ 0	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ **16.51**	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ .67	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$ 322.30 as claimant's net salary after all of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of $397.08, (THREE HUNDRED NINETY-SEVEN DOLLARS AND EIGHT CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-291—Claimant awarded $391.06.)

IVAN LAVERN FORD, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed February 13, 1975.

IVAN FORD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase for extra day labor help of $1. This increase was approved by the Department of Labor and reported to the Department of Transportation on September 9, 1974, thereby allowing insufficient time for changes to be made for the effective payroll period. Back salary is sought for May 1, 1974, through June 30, 1974. The departmental report indicates that Mr. Ford is due $362.74.

We find that claimant is entitled to back salary in

the *gross* amount of **$362.74,** plus employer contributions of $28.32, for a total employee benefit of **$391.06** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 28.32	Employee's contribution to State Employees' Retirement System
$ 0	Employee's contribution to F.I.C.A.
$ 28.32	State's contribution to State Employees' Retirement System
$ 0	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 32.30	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 4.82	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$297.30	as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of **$391.06** (THREE HUNDRED NINETY-ONE DOLLARS AND SIX CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-308—Claimant awarded $347.88.)

LAWRENCE EUGENE BAYLY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed February 13, 1975.

LAWRENCE BAYLY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL *SERVICE* ACT—*back pay*. Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase for extra day labor help amounting to **$1.00.** This increase was approved by the Department of Labor and reported to the Department of Transportation on September **9, 1974,** thereby allowing insufficient time for changes to be made for the effective payroll period. Back salary is sought for May **1, 1974,** through June **30, 1974.** The Departmental Report indicates that Mr. Bayly is due **$322.52.**

We find that claimant is entitled to back salary in the gross amount of **$322.52,** plus employer contributions of **$25.36,** for a total employee benefit of **$347.88** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 25.36	Employee's contribution to State Employees' Retirement System
$ 0	Employee's contribution to F.I.C.A.
$ 25.36	State's contribution to State Employees' Retirement System
$ 0	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 32.27 as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 6.05 as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$258.84 as claimant's net salary after all of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that the claimant be and is hereby awarded, the total employee benefit of $347.88, (THREE HUNDRED FORTY-SEVEN DOLLARS AND EIGHTY-EIGHT CENTS) to be disbursed and credited in accordance with our above finding.

(No. **75-CC-333—Claimant awarded $437.94.)**

JOHN H. HILLIARD, Claimant, *us.* **STATE** OF **ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion **filed** *February* **13, 1975.**

JOHN H. HILLIARD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase for brickmasons from $7.90 to $8.96. This increase was approved by the Department of Labor and reported to the Department of Mental Health on October 9, 1974, after the lapse of the funds appropriated for this expense. Therefore, the change could not be made for the effective period. Back salary is sought for April 1, 1974, through June 30, 1974. The Departmental Report indicates that Mr. Hilliard is due $391.50.

We find that claimant is entitled to back salary in the gross amount of $391.50, plus employer contributions of $46.44, for a total employee benefit of $437.94 which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 15.66	Employee's contribution to State Employees' Retirement System
$ 22.92	Employee's contribution to F.I.C.A.
$ 23.52	State's contribution to State Employees' Retirement System
$ 22.92	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 0	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 0	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$352.92 as claimant's net salary after all of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of **$437.94** (FOUR HUNDRED THIRTY-SEVEN DOLLARS AND NINETY-FOUR CENTS) to be disbursed and credited in accordance with our above finding.

(No. **75-CC-369—Claimant awarded $642.68.)**

ATLANTIC RICHFIELD COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed February *13,* 1975.

ATLANTIC RICHFIELD COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation.When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-465—Claimant awarded $241.34.)

MARY ELLA WILSON, Claimant, *us.* STATE OF ILLINOIS, SECRETARY OF STATE, Respondent.

Opinion filed February *13,* 1975.

SIDNEY Z. KARASIK, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-467—Claimant awarded $1,835.00.)

GEORGE A. DAVIS, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed February *13, 1975.*

GEORGE A. DAVIS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-539—Claimant awarded $8,940.00.)

KALVAR CORPORATION, Claimant, *us.* STATE OF ILLINOIS, SECRETARY OF STATE, Respondent.

Opinion filed February *13, 1975.*

KALVAR CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-545—Claimant awarded $583.86.)

RAYMOND H. BACON, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed February 13, 1975.

RAYMOND BACON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. **Reimbursement arising from late report of wage increase.**

PER CURIAM.

This claim arises as a result of an hourly increase for steamfitters from **$7.96** to **$8.96.** This increase was approved by the Department of Labor and reported to the Department of Mental Health on October, **9, 1974,** allowing insufficient time for changes to be made for the effective payroll period. Back salary is sought for April **1, 1974,** through June **30, 1974.** The departmental report indicates that Mr. Bacon is due **$522.**

We find that claimant is entitled to back salary in the gross amount of **$522.00,** plus employer contributions of **$61.86,** for a total employee benefit of **$583.86** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 20.88	Employee's contribution to State Employees' Retirement System
$ 30.54	Employee's contribution to F.I.C.A.
$ **31.32**	State's contribution to State Employees' Retirement System
$ **30.54**	State's contribution to F.I.C.A.

- To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ .84 as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 0 as claimant's Illinois Income Tax withholding for current taxable year.

Net to Claimant:

$469.74 as claimant's net salary after all of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of **$583.86,** (FIVE HUNDRED EIGHTY-THREE DOLLARS AND EIGHTY-SIX CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-547—Claimant awarded $583.86.)

RICHARD C. PERKINS, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed February *13, 1975.*

RICHARD C. PERKINS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase for steamfitters from **$7.96** to **$8.96.** This increase was approved by the Department of Labor and reported to the Department of Mental Health on October **9, 1974,** allowing insufficient time for changes to be made for the effective payroll period. Back salary is sought for April **1, 1974,** through June **30, 1974.** The departmental report indicates that Mr. Perkins is due **$522.**

We find that claimant is entitled to back salary in the gross amount of **$522.00,** plus employer contributions of **$61.86,** for a total employee benefit of **$583.86** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 20.88	Employee's contribution to State Employees' Retirement System
$ 30.54	Employee's contribution to F.I.C.A.
$ 31.32	State's contribution to State Employees' Retirement System
$ 30.54	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 27.72	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 0	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$442.86	as claimant's net salary after all of the

above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of **$583.86,** (FIVE HUNDRED EIGHTY-THREE **DOLLARS** AND EIGHTY-SIX CENTS) to be disbursed and credited in accordance with our above finding.

(NO. **75-CC-548—Claimant awarded $402.84.)**

CYRIL MURRAY, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed February 13, 1975.

CYRIL MURRAY, Claimant, pro *se*.

WILLIAM **J. SCOTT,** Attorney General; WILLIAM **E.** WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay.* **Reimbursement arising from late report of wage increase.**

PER CURIAM.

This claim arises as a result of an hourly increase for plasterers from **$7.96** to **$8.65.** This increase was approved by the Department of Labor and reported to the Department of Mental Health on October **9, 1974,** allowing insufficient time for changes to be made for the effective payroll period. Back salary is sought for April **1, 1974,** through June **30, 1974.** The departmental report indicates that Mr. Murray is due **$360.18.**

We find that claimant is entitled to back salary in the gross amount of **$360.18,** plus employer contributions of **$42.66,** for a total employee benefit of **$402.84** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ **14.40**	Employee's contribution to State Employees' Retirement System
$ 21.06	Employee's contribution to F.I.C.A.
$ **21.60**	State's contribution to State Employees' Retirement System
$ **21.06**	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 0	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 0	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$324.72	as claimant's net salary after ***all*** of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of **$402.84** (FOUR HUNDRED TWO DOLLARS AND EIGHTY-FOUR CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-577—Claimant awarded $28,600.63.)

TRI-CITY ELECTRIC COMPANY, Claimant, *vs.* STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD, Respondent.

Opinion filed February *13,* 1975.

TRI-CITY ELECTRIC COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* **appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.**

PER CURIAM.

(No. 75-CC-583—Claimant awarded $593.09.)

WALTER DANNENBERGER, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed February *13,* 1975.

WALTER DANNENBERGER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. **WEBBER,** Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back* **pay. Reimbursement arising from late report of wage increase.**

PER CURIAM.

This claim arises as a result of an hourly increase for plumbers from **$7.96** to **$8.96.** This increase was approved by the Department of Labor and reported to the Department of Mental Health on October **9, 1974,** thereby allowing insufficient time for changes to be made for the payroll effective period. Back salary is sought for April **1,1974,** through June **30,1974.** The Departmental Report indicates Mr. Dannenberger is due **$530.25.**

We find that claimant is entitled to back salary in the gross amount of **$530.25,** plus employer contributions of **$62.84,** for a total employee benefit of **$593.09** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 21.21	Employee's contribution to State Employees' Retirement System
$ **31.02**	Employee's contribution to F.I.C.A.
$ **31.82**	State's contribution to State Employees' Retirement System
$ 31.02	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 0	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 0	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$478.02	as claimant's net salary after ***all*** of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of **$593.09** (FIVE HUNDRED NINETY-THREE DOLLARS AND NINE CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-584—Claimant awarded $586.38.)

RAYMOND C. SHAFER, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed February 13, 1975.

RAYMOND C. **SHAFER,** Claimant, pro se.

WILLIAM **J. SCOTT,** Attorney General; WILLIAM E. **WEBBER,** Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. **Reimbursement arising from late report of wage increase.**

PER CURIAM.

This claim arises as a result of an hourly increase for plumbers from **$7.96** to **8.96.** This increase was approved by the Department of Labor and reported to the Department of Mental Health on October **9, 1974,** after the lapse of the funds appropriated for this expense. Changes could not be made for the effective payroll period. Back salary is sought for April **1,1974,** through June **30, 1974.** The Departmental Report indicates that Mr. Shafer is due **$524.25.**

We find that claimant is entitled to back salary in the gross amount of **$524.25,** plus employer contributions of **$62.13,** for a total employee benefit of **$586.38** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ **20.97**	Employee's contribution to State Employees' Retirement System
$ **30.67**	Employee's contribution to F.I.C.A.
$ **31.46**	State's contribution to State Employees' Retirement System
$ **30.67**	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 28.00 as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division

$ .60 as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$444.01 as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of $586.38 (FIVE HUNDRED EIGHTY-SIX DOLLARS AND THIRTY-EIGHT CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-600—Claimant awarded $240.90.)

HOWARD THOMAS D/B/A HOWARD THOMAS GRAVEL CO., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed February 13, 1975.

HOWARD THOMAS D/B/A HOWARD THOMAS GRAVEL CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-690—Claimant awarded $160.18.)

MILDRED A. BURY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF REVENUE, Respondent.

Opinion filed February *13, 1975.*

MILDRED A. BURY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-731—Claimant awarded $66.55.)

ACADEMIC PRESS, INC., Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed February *13, 1975.*

ACADEMIC PRESS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 74-CC-720—Claimant awarded $589.50.)

CARL RICHARDSON, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed February *21, 1975.*

CARL RICHARDSON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-721—Claimant awarded $383.72.)

E. C. HEATH, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed February *21, 1975.*

E. C. HEATH, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-579—Claimant awarded $7.67.)

CLARK OIL & REFINING CORP. Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF LOCAL GOVERNMENT AFFAIRS, Respondent.

Opinion filed February *23, 1975.*

CLARK OIL & REFINING CORP., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-651—Claimant awarded $300.00.)

FOREST HOSPITAL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.**

Opinion filed February *27, 1975.*

FOREST HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-770—Claimant awarded $9.68.)

PARK CHRYSLER PLYMOUTH, INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.**

Opinion filed February *27, 1974.*

PARK CHRYSLER PLYMOUTH, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. **SOLL,** Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-199—Claimant awarded $496.52.)

RICHARD STRATTON, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH & DEVELOPMENTAL DISABILITIES, Respondent.

Opinion filed February 27, 1975.

KLEINMAN, CORNFIELD & FELDMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-299—Claimant awarded $500.00.)

KATTIE PARHAM, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed February 27, 1975.

KATTIE PARHAM, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-458—Claimant awarded $434.85.)

BISMARCK HOTEL, Claimant, *vs.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed February 27, 1975.

BISMARK HOTEL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-484—Claimant awarded $110.00.)

PHARMEDENT CREDIT, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed February ***27, 1975.***

PHARMEDENT CREDIT, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-513—Claimant awarded $2,818.05.)

WILLIAM ADAMS ENGINEERS, INC., Claimant, *us.* STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD, Respondent.

Opinion filed February ***27, 1975.***

WILLIAM ADAMS ENGINEERS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-532—Claimant awarded $555.64.)

ROCKFORD MEMORIAL HOSPITAL, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed February *27, 1975.*

ROCKFORD MEMORIAL HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-587—Claimant awarded $640.00.)

EDWARD STAUBER WHOLESALE HARDWARE, INC., Claimant, *us.* STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD, Respondent.

Opinion filed February *27, 1975.*

EDWARD STAUBER WHOLESALE HARDWARE, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-891—Claimant awarded $5,500.00.)

FLORENCE V. VON BERGEN, RAYMOND A. VON BERGEN, AND FEDERAL LAND BANK OF ST. LOUIS, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed February *28, 1975.*

FLORENCE V. VON BERGEN, RAYMOND A. VON BER-

GEN AND FEDERAL LAND BANK OF ST. LOUIS, Claimants, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-299—Claimant awarded $60.00.)

CITIES SERVICE OIL CO., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed February 28, *1975.*

CITIES SERVICE OIL Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-396—Claimant awarded $150.33.)

KENNETH E. LAIRD, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed February 28, *1975.*

KENNETH E. LAIRD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. Reimbursement arising from late report of wage increase.

PER CURIAM.

This case arises as a result of an hourly increase for day labor, extra help employed by the Department of Transportation. The increase in hourly pay scale was approved by the Department of Labor but not reported to the Department of Transportation in time for the changes to be made in the payroll effective period. The period for which back salary is sought is from May **1, 1974,** through June **30, 1974,** and according to the Departmental Report, the amount due Mr. Laird is **$134.40.**

We find that claimant is entitled to back salary in the gross amount of **$134.40,** plus employer contributions of **$15.93,** for a total employee benefit of **$150.33** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ **5.38**	Employee's contribution to State Employees, Retirement System
$ **7.87**	Employee's contribution to F.I.C.A.
$ 8.06	State's contribution to State Employees' Retirement System
$ **7.87**	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 0	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 0 as claimant's Federal Income Tax withholding for current taxable year.

Net to claimant:

$121.15 as claimant's net salary after all of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of $150.33, (ONE HUNDRED FIFTY DOLLARS AND THIRTY-THREE CENTS) to be disbursed and credited in accordance with our above finding.

(No. **75-CC-435—Claimant awarded $835.75.)**

CANNONBALL, INC., Claimant, *us.* **STATE** OF **ILLINOIS, DEPARTMENT OF CORRECTIONS,** Respondent.

Opinion filed February 28, 1975.

CANNONBALL, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-439—Claimant awarded $144.84.)

CLAUDE LYNN WALKER, Claimant, *us.* **STATE** OF **ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed February 28, 1975.

CLAUDE WALKER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. **Reimbursement arising from late report of wage increase.**

PER CURIAM.

This claim arises as a result of an hourly increase for extra day labor help of $1. This increase was approved by the Department of Labor and reported to the Department of Transportation in September, 1974, allowing insufficient time for changes to be made for the effective payroll period. Back salary is sought for May 1, 1974, through June 30, 1974. The departmental report indicates that Mr. Walker is due $129.60.

We find that claimant is entitled to back salary in the gross amount of $129.60, plus employer contributions of $15.24, for a total employee benefit of $144.84 which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$	5.12	Employee's contribution to State Employees' Retirement System
$	7.58	Employee's contribution to F.I.C.A.
$	7.66	State's contribution to State Employees' Retirement System
$	7.58	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$	0	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 0 as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$116.90 as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of **$144.84** (ONE HUNDRED FORTY-FOUR DOLLARS AND EIGHTY-FOUR CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-455—Claimant awarded $30.00.)

DRS. BURKLE & SISON, Claimant, ***us.*** **STATE OF ILLINOIS, OFFICE OF THE SECRETARY OF STATE,** Respondent.

Opinion filed February 28, 1975.

DRS. Burkle & SISON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-473—Claimant awarded $354.67.)

NYLE LEE DYER, Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed February 28, 1975.

NYLE LEE DYER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay.* Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase for extra day labor help of $1. This increase was approved by the Department of Labor and reported to the Department of Transportation in September, 1974, allowing insufficient time for changes to be made for the effective payroll period. Back salary is sought for May 1, 1974, through June 30, 1974. The departmental report indicates that Mr. Dyer is due $317.32.

We find that claimant is entitled to back salary in the gross amount of $317.32, plus employer contributions of $37.35, for a total employee benefit of $354.67 which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 12.52	Employee's contribution to State Employees' Retirement System
$ 18.57	Employee's contribution to F.I.C.A.
$ 18.78	State's contribution to State Employees' Retirement System
$ 18.57	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 33.02 as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ **7.99** as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$245.22 as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of $354.67 (THREE HUNDRED FIFTY-FOUR DOLLARS AND SIXTY-SEVEN CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-474—Claimant awarded $363.11.)

JOSEPH N. **KILLEBREW,** Claimant, *us.* **STATE** OF **ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

***Opinion* filed February *28,* 1975.**

JOSEPH KILLEBREW, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase for extra day labor help of **$1.** This increase was approved by the Department of Labor and reported to the Department

of Transportation in September, **1974,** allowing insufficient time for changes to be made for the effective payroll period. Back salary is sought for May 1, 1974, through June **30, 1974.** The departmental report indicates that Mr. Killebrew is due **$327.84.**

We find that claimant is entitled to back salary in the ***gross*** amount of **$327.84,** plus employer contributions of **$35.27,** for a total employee benefit of **$363.11** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 12.96	Employee's contribution to State Employees' Retirement System
$ 19.19	Employee's contribution to F.I.C.A.
$ 16.08	State's contribution to State Employees' Retirement System
$ 19.19	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 15.54	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 4.07	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$276.08	as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded the total employee benefit of **$363.11** (THREE HUNDRED SIXTY-THREE DOLLARS AND ELEVEN CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-475—Claimant awarded $375.82.)

EDGAR F. ELDRIDGE, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed **February 28,** *1975.*

EDGAR F. ELDRIDGE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*backpay*. Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase for extra day labor help of **$1.** This increase was approved by the Department of Labor and reported to the Department of Transportation in September, **1974,** allowing insufficient time for changes to be made for the effective payroll period. Back salary is sought for May **1, 1974,** through June **30, 1974.** The departmental report indicates that Mr. Eldridge is due **$336.28.**

We find that claimant is entitled to back salary in the *gross* amount of **$336.28,** plus employer contributions of **$39.54,** for a total employee benefit of $375.82 which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 13.24	Employee's contribution to State Employees' Retirement System
$ 19.68	Employee's contribution to F.I.C.A.
$ 19.86	State's contribution to State Employees' Retirement System
$ 19.68	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 16.66	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 4.33	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$282.37	as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of $375.82 (THREE HUNDRED SEVENTY-FIVE DOLLARS AND EIGHTY-TWO CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-476—Claimant **awarded $372.56.)**

FRANK A. THOMAS, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion ***filed February 28, 1975.***

FRANK A. THOMAS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase for extra day labor help of $1. This increase was approved by the Department of Labor and reported to the Department of Transportation in September, 1974, allowing insufficient time for changes to be made for the payroll period in effect. Back salary is sought for May 1, 1974, through June 30, 1974. The departmental report indicates that Mr. Thomas is due $333.32.

We find that claimant is entitled to back salary in the gross amount of $333.32, plus employer contributions of $39.24, for a total employee benefit of $372.56 which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 13.16	Employee's contribution to State Employees, Retirement System
$ 19.50	Employee's contribution to F.I.C.A.
$ 19.74	State's contribution to State Employees' Retirement System
$ 19.50	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ .50	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ .94 as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$299.22 as claimant's net salary after all of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded, the total employee benefit of $372.56 (THREE HUNDRED SEVENTY-TWO DOLLARS AND FIFTY-SIX CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-477—Claimant awarded $223.80.)

MICHAEL R. CALVIN, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion **filed February 28, 1975.**

MICHAEL R. CALVIN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*back pay*. Reimbursement arising from late report of wage increase.

PER CURIAM.

This claim arises as a result of an hourly increase for extra day labor help of $1. This increase was approved by the Department of Labor and reported to the Department of Transportation in September, 1974, allowing insufficient time for changes to be made for the effective payroll period. Back salary is sought for May 1, 1974, through

June 30, 1974. The departmental report indicates that Mr. Calvin is due $200.

We find that claimant is entitled to back salary in the gross amount of $200.00, plus employer contributions of $23.80, for a total employee benefit of **$223.80** which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 8.00	Employee's contribution to State Employees' Retirement System
$ 11.70	Employee's contribution to F.I.C.A.
$ 12.10	State's contribution to State Employees' Retirement System
$ 11.70	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$ 6.16	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 1.93	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$172.21	as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, **THEREFORE, ORDERED** that claimant be and is

hereby awarded, the total employee benefit of $223.80 (TWO HUNDRED TWENTY-THREE DOLLARS AND EIGHTY CENTS) to be disbursed and credited in accordance with our above finding.

(No. 75-CC-478—Claimant awarded $621.00.)

GAR-WOOD CHICAGO TRUCK EQUIPMENT, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed February 28, *1975.*

GAR-WOOD CHICAGO TRUCK EQUIPMENT, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the **Court** will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-487—Claimant awarded $20.12.)

DOROTHY TOMASZEWSKI, Claimant, *us,* STATE OF ILLINOIS, DEPARTMENT OF CHILD AND FAMILY SERVICES, Respondent.

Opinion filed February 28, *1975.*

DOROTHY TOMASZEWSKI, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the **Court** will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-494—Claimant awarded $1,092.43.)

RIVEREDGE HOSPITAL, Claimant, *us.* STATE OF ILLINOIS; DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed February 28, *1975.*

RIVEREDGE HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-497—Claimant awarded $138.23.)

TEXACO, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed February 28, *1975.*

TEXACO, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS-lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-512—Claimant awarded $449.30.)

BOOTH MEMORIAL HOSPITAL, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed February 28, *1975.*

BOOTH MEMORIAL HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-523—Claimant awarded $4,560.92.)

CHANEN'S, INC., Claimant, *us.* **STATE** OF **ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed February 28, ***1975.***

CHANEN'S, INC., Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-551—Claimant awarded $388.55.)

LANIER BUSINESS PRODUCTS, Claimant, *us.* **STATE** OF **ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed February 28, ***1975.***

LANIER BUSINESS PRODUCTS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-573—Claimant awarded $2,656.90.)

CHICAGO LAKESHORE HOSPITAL, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILD AND FAMILY SERVICES, Respondent.

Opinion filed February 28, *1975.*

CHICAGO LAKESHORE HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-642—Claimant awarded $225.00.)

RAYMOND H. LANE, Supt. Dist. #2, Claimant, *vs.* STATE OF ILLINOIS, OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION, Respondent.

Opinion filed February 28, *1975.*

RAYMOND H. LANE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-644—Claimant awarded $148.75.)

GULF OIL CORPORATION, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed February 28, *1975.*

GULF OIL CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-657—Claimant awarded $101.60.)

DIFCO LABORATORIES, Claimant, *us.* **STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY,** Respondent.

Opinion filed February 28, *1975.*

DIFCO LABORATORIES, Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-673—Claimant awarded $225.00.)

STANDARD INDUSTRIAL PRODUCTS Co., Claimant, *us.* **STATE** OF **ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed February 28, *1975.*

STANDARD INDUSTRIAL PRODUCTS Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-678—Claimant awarded $6,925.00.)

DESAULNIERS & COMPANY, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed February 28, 1975.

DESAULNIERS AND COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 6481—Claimants awarded $299.52.)

INEZ BROWN AND AMAZON PAYTON, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID,** Respondent.

Opinion filed March 3, 1975.

INEZ BROWN AND AMAZON PAYTON, Claimants, pro *se.*

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-112—Claimant awarded $93.30.)

OFFICE EQUIPMENT CO. OF CHICAGO, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CHILD AND FAMILY SERVICES,** Respondent.

Opinion filed March 3, 1975.

OFFICE EQUIPMENT CO. OF CHICAGO, Claimant, pro-se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-184—Claimant awarded $1,110.00.)

S. STEIN AND COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed March 3, ***1975.***

S. STEIN & COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-230—Claimant awarded $655.53.)

KATTIE PARHAM, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed March 3, ***1975.***

KATTIE PARHAM, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-255—Claimant awarded $375.36.)

CATHOLIC CHARITIES OF THE ARCHDIOCESES OF CHICAGO, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed March 3, 1975.

CATHOLIC CHARITIES OF THE ARCHDIOCESES OF CHICAGO~Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-286CIaimant awarded $42.95.)

DAVID PFOLTNER, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed March 3, *1975.*

DAVID PFOLTNER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-293—Claimant awarded $32.82.)

BRUNING DIVISION ADDRESSOGRAPH MULTIGRAPH CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed March 3, *1975.*

BRUNING DIVISION ADDRESSOGRAPH MULTIGRAPH CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-295—Claimant awarded $300.11.)

BRUNING DIVISION ADDRESSOGRAPH MULTIGRAPH CORPORATION, Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed ***March*** 3, ***1976***

BRUNING DIVISION ADDRESSOGRAPH MULTIGRAPH CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-296—Claimant awarded **$354.42.)**

BRUNING DIVISION .ADDRESSOGRAPH MULTIGRAPH CORPORATION, Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed ***March*** 3, ***1975.***

BRUNING DIVISION ADDRESSOGRAPH MULTIGRAPH CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-297—Claimant awarded $305.40.)

WOODS, DIVISION OF HESSTON, CORP., Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed March 3, *1975.*

WOODS, DIVISION OF HESSTON, CORP., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-301—Claimant awarded $84.81.)

PATRICK OWEN CREVISTON, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed March 3, *1975.*

PATRICK OWEN CREVISTON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-302—Claimant awarded $438.81.)

WILLIAM J. BLAZIS, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed March 3, *1975.*

WILLIAM BLAZIS, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-335—Claimant awarded $112.72.)

VALK MANUFACTURING CO., Claimant, **us. STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed March 3, *1975.*

VALK MANUFACTURING CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-376—Claimant awarded $556.65.)

ERNEST WILKS, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF LABOR,** Respondent.

Opinion filed March 3, *1975.*

ERNEST WILKS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-337—Claimant awarded $556.65.)

GENE STALEY, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF LABOR,** Respondent.

Opinion filed March 3, *1975.*

GENE STALEY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-378—Claimant awarded $556.65.)

JOSEPH COLLINS, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF LABOR,** Respondent.

Opinion filed March 3, *1975.*

JOSEPH COLLINS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-379—Claimant awarded $556.65.)

GEORGE WISE, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF LABOR,** Respondent.

Opinion filed March 3, *1975.*

GEORGE WISE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-381—Claimant awarded $556.65.)

ROBERT ALBERTINE, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF LABOR,** Respondent.

Opinion filed March 3, *1975.*

ROBERT ALBERTINE, Claimant pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-383—Claimant awarded $556.65.)

JOHN MCDONALD, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF LABOR,** Respondent.

Opinion filed March 3, *1975.*

JOHN MCDONALD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-382—Claimant awarded $556.65.)

GILBERT RADLEY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF LABOR, Respondent.

Opinion ***filed March 3, 1975.***

GILBERT RADLEY, Claimant pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-398—Claimant awarded $437.94.)

HOWARD E. REESE, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF LABOR, Respondent.

Opinion ***filed March 3, 1975.***

HOWARD E. REESE, Claimant pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-422—Claimant awarded $1,753.73.)

AMOCO OIL COMPANY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed March 3, *1975.*

AMOCO OIL COMPANY, Claimant pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-426—Claimant awarded $31.60.)

THE FLAX COMPANY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed March 3, *1975.*

THE FLAX COMPANY, Claimant pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-437—Claimant awarded $336.56.)

METHODIST HOSPITAL, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed March 3, *1975.*

METHODIST HOSPITAL, Claimant pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-438—Claimant awarded $354.92.)

ANDERSON JACOBSON, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed March 3, *1975.*

ANDERSON JACOBSON, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-451—Claimant awarded $5,226.95.)

ALBERTO-CULVER COMPANY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed March 3, *1975.*

ROBERT L. APRATI, Assistant General Attorney, for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-463—Claimant awarded $9.57.)

GULF OIL CORPORATION, Claimant, *vs.* STATE OF ILLINOIS, OFFICE OF THE SECRETARY OF STATE, Respondent.

Opinion filed March 3, *1975.*

GULF CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-466—Claimant awarded $175.00.)

STAR NATIONAL, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed March 3, *1975.*

STAR NATIONAL INCORPORATED, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-501—Claimant awarded $766.25.)

LOYOLA UNIVERSITY MEDICAL CENTER, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed March 3, *1975.*

LOYOLA UNIVERSITY MEDICAL CENTER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-525—Claimant awarded $211.43.)

CONTINENTAL BANK, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed ***March* 3, *1975.***

CONTINENTAL BANK, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-546—Claimant awarded $552.54.)

CORNELIUS MACK, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed ***March* 3, *1975.***

CORNELIUS MACK, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a

claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-552—Claimant awarded $740.00.)

ROBERT ERNSTMEYER AND DORIS V. ERNSTMEYER, Claimants, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed March 3, 1975.

ROBERT ERNSTMEYER AND DORIS V. ERNSTMEYER, Claimants, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* ***warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-556—Claimant awarded $653.55.)

CENTRAL OFFICE EQUIPMENT, Claimant, *us.* STATE OF ILLINOIS, OFFICE OF THE SECRETARY OF STATE, Respondent.

Opinion filed March 3, 1975.

CENTRAL OFFICE EQUIPMENT COMPANY, Claimant pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-563—Claimant awarded $16,415.33.)

PUBLIC ELECTRIC CONSTRUCTION CO., Claimant, *vs.* **STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD,** Respondent.

Opinion filed March 3, *1975.*

PUBLIC ELECTRIC CONSTRUCTION CO., CLAIMANT, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-568—Claimant awarded $583.86.)

CLYDE F. STEIN, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed March 3, *1975.*

WILLIAM K. CAVANAGH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-569—Claimant awarded $609.03.)

LEONARD R. LEHNER, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF LABOR,** Respondent.

Opinion filed March 3, *1975.*

WILLIAM K. CAVANAGH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-575—Claimant awarded $270.25.)

BURNHAM CITY HOSPITAL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES,** Respondent.

Opinion filed March 3, *1975.*

BURNHAM CITY HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, **for** Respondent.

CoNTRACTslapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-585—Claimant awarded $867.21.)

KATHARINE D. AGAR, Executor U/W/O **WILLIAM F.** EDGERTON A/K/A **WILLIAM FRANKLIN** EDGERTON **dec'd., Claimant,** *us.* **STATE OF ILLINOIS, Respondent.**

Opinion filed March 3, *1975.*

KATHARINE D. AGAR, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; of if a warrant has not been

paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-589—Claimant awarded $541.50.)

GAILEY EYE CLINIC, LTD., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed ***March 3, 1975.***

GAILEY EYE CLINIC, LTD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-639—Claimant awarded $918.35.)

THE BROWN SCHOOLS, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed ***March 3, 1975.***

THE BROWN SCHOOLS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-675—Claimant awarded $364.00.)

PATRICK MCVARY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed March 3, ***1975.***

PATRICK MCVARY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-710—Claimant awarded $4,681.85.)

SCHNEPP & BARNES, Claimant, *vs.* STATE OF ILLINOIS, ILLINOIS OFFICE OF EDUCATION, Respondent.

Opinion filed March 3, ***1975.***

SCHNEPP & BARNES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-713—Claimant awarded $1,950.00.)

JER-LEE HOME FOR CHILDREN, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed March 3, ***1975.***

JER-LEE HOME FOR CHILDREN, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-714—Claimant awarded $73.10.)

BUNNY BREAD COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed March 3, *1975.*

BUNNY BREAD COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-720—Claimant awarded $2,743.50.)

BOARD OF GOVERNORS OF STATE COLLEGES AND UNIVERSITIES, et al., Claimant, *us.* STATE OF ILLINOIS, ILLINOIS OFFICE OF EDUCATION, Respondent.

Opinion filed March 3, *1975.*

KENNETH G. KOMBRINK, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-769—Claimant awarded **$434.00.)**

BEVERLY FARM FOUNDATION, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed March 3, *1975.*

BEVERLY FARM FOUNDATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—***lapsed* appropriation.** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 5624—Claim denied.)

PETER GIANOS, Administrator of Estate of JERRY GIANOS, deceased, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed **March *5, 1975.***

HARRY B. ARON and MILTON W. GOLDMAN, Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; BRUCE FINNE, ZEAMORE ADER and SAUL WEXLER, Assistant Attorneys General, for Respondent.

NEGLIGENCE—***due* care.** Respondent, State of Illinois, was not an insurer of mental health patient, but only had obligation to exercise reasonable care to protect patient against a foreseeable injury.

NEGLIGENCE—burden *of* proof. Burden of proof is on claimant to warrant imposition of liability in negligence against a hospital.

BURKS, J.

This claim, sounding in tort, seeks damages for the wrongful death of claimant's intestate, who committed suicide, and is based on the alleged negligence of re-

spondent's Illinois State Psychiatric Institute, hereafter referred to as "ISPI".

From the evidence, it appears that on June 13,1968, claimant's intestate, who was a patient at ISPI, a facility operated by the State Department of Mental Health located at Ashland Avenue near Taylor Street in Chicago, eloped from said institution and thereafter, on said date, took his own life. Claimant contends that the State was negligent in failing to guard claimant's intestate and prevent him from leaving the hospital, since ISPI allegedly had knowledge of his propensity for leaving the premises, and that he was reasonably likely to commit suicide.

The evidence includes testimony of six psychiatrists on the issue as to whether or not the ISPI's policy of placing certain psychiatric patients in open wards, and specifically the application of said practice in the present case, was in accordance with good medical practice.

The evidence showed that the claimant's intestate was a twenty-five year old college student who had lived a normal life until he began to use drugs, including LSD and marijuana. Thereafter, his girl friend also left him and he became quite depressed. Ultimately, he was in such a condition that his family felt he needed medical attention. After a brief visit to ISPI, where he was not admitted, he was taken by the claimant to the Chicago Wesley Hospital, where he was restricted in his freedom, as are virtually all patients who are newly admitted to the psychiatric ward at Wesley until their condition has been fully evaluated. After two days at Wesley, claimant's intestate was referred to ISPI facility attached to the Department of Mental Health of the State of Illinois and, on June 11, 1968, he was admitted to this institu-

tion. His history was taken which indicated sadness, depression, possible suicidal ruminations, and other psychiatric disorders.

The general policy of the state hospital, ISPI, was one of open wards wherever possible, and, two days after he was admitted, the claimant's intestate attempted to leave ISPI. His elopment was successful and, shortly thereafter, claimant's intestate shot himself with a .38 pistol, committing suicide.

The testimony of the psychiatric experts was in complete disagreement concerning the open ward policy of ISPI, and they also disagreed in answer to a somewhat uniform hypothetical question concerning whether or not a patient with the condition of claimant's intestate should have been placed in a locked ward.

The court feels that the testimony of Dr. Jose F. Bayardo, the only testifying psychiatrist who actually examined claimant's intestate, Dr. Lester Rudy, Director of ISPI, and Dr. Harold M. Visotsky, Chairman of the Department of Psychiatry of Northwestern University's Medical School and a former director of the Illinois Department of Mental Health, should be accorded great weight. The court was particularly impressed by the testimony of Dr. Visotsky who strongly supported the open ward policy of ISPI, even though he was at the time Chief of Psychiatric Service at Wesley Hospital which places virtually all newly admitted psychiatric patients in locked wards.

In answer to a hypothetical question concerning the care to be afforded to a patient in the approximate condition of claimant's intestate, Dr. Visotsky persuasively supported the action of ISPI in the instant case. Dr. Visotsky's testimony stands as a definitive and con-

vincing analysis of ISPI's general policy and also its application to the present matter, as we will refer to again in this opinion. On the other hand, the court was not equally impressed by the testimony of the expert witnesses called by the claimant, and is strongly of the view that, though respected opinions may differ, the weight of medical evidence supports both the general policy of ISPI and the conduct of ISPI in the case at bar.

Respondent was not an insurer of Jerry Gianos, but was only under obligation to exercise reasonable care to protect him against a foreseeable injury. ***Clifton, Adm.*** v. ***State, 24 C.C.R.404.*** The burden of proof is always' onthe claimant to warrant imposition of liability in negligence against a hospital. ***Graham*** v. ***St. Luke's Hospital, 46 Ill. App.2d 147.***

The evidence in this case does not support a finding that respondent's ISPI knew or, in the exercise of reasonable care, would have known that Jerry Gianos was likely to commit suicide; nor that he was "reasonably expected" to do so, to lift the words used in §1-11 of the ***Mental Health Code.***

Jerry Gianos was in Chicago Wesley Memorial Hospital for two days before he was brought by his mother and sister directly from the Wesley Memorial Hospital to the ISPI, which he entered as a voluntary patient.

Claimant bases his case largely on an assumption that Jerry Gianos attempted suicide in Wesley Hospital and, therefore, should have been kept in "detention" in a locked ward at ISPI. The evidence does not support the assumption nor the conclusion. The assumption was drawn from a statement which Dr. Bayardo of ISPI inserted in a lengthy report of psychiatric examination, dictated ***after*** he learned that the patient had committed

suicide. The doctor said he was trying to explain to himself "what had happened to Jerry for purposes of completing the chart", when he dictated the following statement on which the claimant bases his case:

"The patient had a history of 'dramatical, hysterical' attempts of suicide, as happened at Wesley when he was hitting the wall with his head."

Dr. Bayardo acknowledged that he had not examined the Wesley Hospital records when he wrote the above statement and characterizes it as a conclusion of his own, "and my interpretation of what I knew at the time. Since he had killed himself, I felt that ***maybe*** when he was hitting his head against the wall, it was a gesture of suicide." In the light of this explanation, and the facts in the record, we find that the statement in question was an erroneous conclusion of Dr. Bayardo inserted in his report as an afterthought.

The court, in examining the Wesley Hospital records, finds the only reference to an attempt at suicide was contained in the following statement in the "Nurses Daily Record" of June **9:**

"His head felt like it was going to explode. This has steadily become worse until this morning in the bathroom and again this evening in the washroom, the patient attempted to commit suicide by spinning his head around in circles. After all, if it was about ready to explode, just a little more shaking was all it might need."

The nurse's conclusion that "spinning his head around" was a "significant" attempt at suicide is directly contradicted by the testimony of Wesley's Chief of Psychiatry, Dr. Visotsky, who said:

"The most common way to determine whether or not a patient is a suicidal risk is a history of relatively ***significant*** attempts. And by "significant attempts" I do not mean gestures. I mean significant attempts such as someone may cut their wrist, require some suturing. They may shoot themself and not die. They may take some poison and be found in time."

Again, in answer to a question based on the evidence

that Jerry Gianos "hit his head against the wall but not hard enough to raise a bruise or laceration", Dr. Visotsky said, "I would call that a gesture". Dr. Visotsky added that, if bumping one's head against the wall is an attempt at suicide, a large portion of our children must be regarded as suicide risks. Dr. Visotsky indicated that the "gesture" of hitting one's head against the wall is apparently an attempt to get attention.

Dr. Visotsky did say that, "A patient's telling you that he is going to commit suicide in no uncertain terms is also a higher indicator of risk". However, the evidence here shows that Jerry Gianos never spoke of suicide to anyone. His father, who was at Wesley when Jerry locked himself in the washroom, confirmed this, and also the fact that he did not notice any bruises on Jerry's head after his so-called attempt at suicide. Upon his arrival at ISPI, Dr. Bayardo interviewed Jerry Gianos and said, "I did not see any evidence in his behavior that he might hurt himself or others".

Not withstanding the nurse's notation in the Wesley record, discussed above, it is apparent that Wesley Hospital did not regard Jerry Gianos as a person dangerous to himself or to others. Wesley Hospital knew he was transferring to ISPI, and released him merely in the company of his mother and sister without confined transportation. Wesley did not tell his family, nor advise ISPI, that they thought he attempted suicide at Wesley.

Under these circumstances, we cannot hold as a matter of law that ISPI was negligent in failing to phone Wesley Hospital for their records before he was admitted to an open ward as a voluntary patient. Seeing no emergency indicated in the conduct of Jerry Gianos, ISPI merely requested the Wesley Hospital records by their usual procedures in such cases. These records had not

arrived in the two days that Jerry Gianos remained at ISPI. However, if the record had been received in advance, and if ISPI had spoken to the head of Wesley's psychiatric department by phone, it is likely that Dr. Visotsky would not have interpreted their record as showing any "significant" attempt at suicide, as he testified in this case.

Indeed, if ISPI had asked Dr. Visotsky's advice as to whether a patient in Jerry Gianos' condition should be placed in an open or closed ward, it is likely that his response would be similar to his testimony in this case, which bears repeating. Dr. Visotsky said,

> "Whether you used open ward or closed ward is dependent on the kind of treatment setting that you're running and what your goals for treatment are.
>
> "If your goals are solely to maintain life, then you must really put many patients in preventative detention. If you wish to treat a patient and give him some insight as to why he is feeling sick and why he is disturbed, then you have to trust him, and put him in a comfortable setting.
>
> "I know, for example, that patients ***are stimulated to commit suicide when put in a closed ward.***
>
> "This is because of the confinement. The fact that people see them as dangerous. They have to act it out. There is no basic rationality. ***You have to assess each patient in terms of your best judgment."***

We regard Dr. Visotsky as an eminently qualified expert under the rules discussed by the Supreme Court in ***Darling*** v. ***Charleston Hospital (1966) 33*** *Ill.* ***2d 326 at pages 335 - 336.*** We believe he has correctly stated the rule applicable in this case and that ISPI did, in fact, exercise its best judgment for the treatment of Jerry Gianos.

At ISPI, the hospital personnel, psychiatrists, nurses, psychiatric aids, and others, were in about a one-to-one ratio to patients. By the undisputed testimony, this was better than most State psychiatric hospitals and as good as private hospitals. The record indicates that all of these people exercised a reasonable degree of care for Jerry Gianos, knowing his condition, watching over his activi-

ties and progress. He was given medication four times a day. He was in the hands of competent people. They used their best judgment.

Not being blessed with 20-20-hindsight vision, Dr. Bayardo said in his testimony, "Knowing what I know now, I would have started proceedings to have him committed, but at that time, I didn't feel he was a suicidal risk. I might have given him a discharge if he had requested he be discharged from ISPI on either of the days he was there. I would have tried to talk him out of it. That is, I would have tried to convince him to stay."

The weight of the evidence indicates that Jerry Gianos would voluntarily stay at ISPI until the doctors released him. When he returned to the lobby on the first day of his admission at ISPI, he said that he wanted to go home, but his mother told him that he had to stay until the physician said he could go. He was cooperative and went back upstairs to his hospital room. This was not evidence that he would elope nor justify reasonable foreseeability that he would leave. On the morning of his departure, he went to the lobby, and when he was told by hospital personnel to go back to his room, he turned about with every indication that he would do so, but then left from a rear door.

This was about 10:30 A.M., less than two full days after his voluntary admission at ISPI, that Jerry Gianos left the facility without the consent of the hospital, and went to his home. ISPI immediately notified his mother, who went with his sister to the home of Jerry Gianos and found him there. The mother and sister held his door open and spoke with him. At his request, and apparently having no reason to foresee the possibility of his committing suicide, they permitted him to close the door. "He wanted to close the door, so I took my foot out of the

door," his mother said. A short time later, and while his mother and sister were still outside his home, Jerry Gianos shot himself in the head. After they heard the shot, his mother and sister went to the back door of his apartment, by which they had access to enter the apartment, and found him on the floor, wounded. He died some hours later.

Jerry Gianos was a handsome and talented young man. None of his friends nor any member of his family, who had observed him for many months, had any reason to believe that he might take his own life. He never spoke of suicide to anyone.

It was the considered opinion of the doctors at ISPI that he be kept in an open ward as the better method of treatment. A closed ward, in the medical judgment of the psychiatrists, would be contrary to the therapeutic progress of the patient, and would hinder his recovery.

The law is clear that the respondent is not liable if reasonable care is exercised by the attending physicians, as we find here, even though the physicians' judgment may prove to be erroneous. The fact that the medical judgment was made at the time a patient is admitted would not change this rule. Even after a mental patient has been hospitalized and under observation for a long period of time, an error in professional judgment concerning his release will not impose liability if reasonable care is exercised. The rule and rationale is well stated in *Taig* v. *State of New York, 241 N.Y.S.2d 495 at page 496*:

> "The prediction of the future course of a mental illness is a professional judgment of high responsibility and in some instances it involves a measure of calculated risk. If a liability were imposed on the physician or the State each time the prediction of future course of mental disease was wrong, few releases would ever be made and the hope of recovery and rehabilitation of a vast number of patients would be impeded and frustrated. This is one of the medical and public risks which must be taken on balance, even though it may sometimes result in injury to the patient or others."

We have examined the numerous authorities cited by the claimant in his well-drawn briefs, but must distinguish them from the case at bar in that here we find no significant evidence that the patient was reasonably expected, at the time the determination was made or within a reasonable time thereafter, to physically injure himself or other persons.

For the above stated reasons, the claim must be and is hereby denied.

(No. 74-CC-349—Claimant awarded $1,123.18.)

BETHESDA GENERAL HOSPITAL, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed March *10, 1975*.

BETHESDA GENERAL HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney *General; HOWARD W. FELDMAN, Assistant Attorney General, **for** Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-47—Claimant awarded $1,328.70.)

SAINT JOSEPH HOSPITAL, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID AND DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed March 10, 1975.

SAINT JOSEPH HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-142—Claimant awarded $30.25.)

KROCH'S & BRENTANO'S, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed ***March 10, 1975.***

KROCH'S & BRENTANO'S, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.**

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-294—Claimant awarded $61.85.)

BRUNING DIVISION ADDRESSOGRAPH MULTIGRAPH CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed ***March*** 10, ***1975.***

BRUNING DIVISION ADDRESSOGRAPH MULTIGRAPH CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-324—Claimant awarded $40.00.)

POWERS 24-HOUR TOWING, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed March *10, 1975.*

POWERS 24-HOUR TOWING, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-351—Claimant awarded $483.00.)

L. B. **FOSTER COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed March *10, 1975.*

L. B. FOSTER COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-352—Claimant awarded $414.00.)

L. B. **FOSTER COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed March *10, 1975.*

L. B. FOSTER COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CG-433—Claimant awarded $125.00.)

DA-COM CORPORATION, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed March *10, 1975.*

DA-COM CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-479—Claimant awarded $371.51.)

STANDARD STATIONERY SUPPLY CO., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL Health, Respondent.

Opinion filed March *10, 1975.*

STANDARD STATIONERY SUPPLY CO., WILLIAM WILSON, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-486—Claimant awarded $6,073.10.)

CHICAGO OSTEOPATHIC HOSPITAL, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed March *10,* ***1975.***

CHICAGO OSTEOPATHIC HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-507—Claimant awarded $2,716.05.)

CHICAGO OSTEOPATHIC HOSPITAL, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed March *10,* ***1975.***

CHICAGO OSTEOPATHIC HOSPITAL, Claimant, pro *se*.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-509—Claimant awarded $2,222.70.)

THE HOWELL COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed March *10, 1975.*

THE HOWELL COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-683—Claimant awarded $65.57.)

DONELSON CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed March *10, 1975.*

DONELSON CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-684—Claimant awarded $24.33.)

TEXACO, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed March *10, 1975.*

TEXACO, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-735—Claimant awarded $37.00.)

RICHARD C. DRUGER, D.D.S., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed March *10, 1975.*

RICHARD C. **KRUGER,** D.D.S., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 5427—Claimant awarded $24,769.71.)

HARRISON F. BLADES, INC., Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF PUBLIC WORKS AND BUILDINGS, Respondent.

Opinion filed March *12, 1975.*

SAMUELS, MILLER, SCHROEDER, JACKSON & SLY, Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER** and **LEE MARTIN,** Assistant Attorneys General, for Respondent.

CONTRACTS—damages. Contractor is entitled to damages caused by mistaken in bid plans prepared by State.

BURKS, J.

The claimant, Harrison F. Blades, Inc., an electrical

contractor, seeks damages in the amount of $50,600.00 by reason of the refusal of respondent's Department of Public Works and Buildings to make final additional payments to claimant for sums allegedly due and owing under a contract claimant entered into with the respondent, and for extra work allegedly performed by claimant thereunder at respondent's direction.

Claimant was awarded the prime electrical contract for the construction of the Warren C. Murray Children's Center at Centralia. The agreement is identified as Contract No. 72100, dated January 3, 1962, by the Division of Architecture and Engineering of the Department of Public Works and Buildings.

The original contract sum to be paid by the respondent to the claimant was $948,986.00. During the performance of the contract, change orders were issued **by** the respondent adding and deleting certain items. The net result of the change orders increased the total contract sum to $1,125,882.27. Payments have been made to the claimant in the amount of $1,111,885.27, leaving a balance due and owing of $13,997.07. This amount represents a customary retainage of 1.24%. The amount of $13,997.07 is not in dispute and will be included in the award.

In addition to the change orders, claimant allegedly furnished additional labor and materials at the request and direction of the respondent, consisting of the 17 items listed in 775 of the complaint and itemized as parts (a) through (q) of ¶5. Claimant contends that these 17 items have a total value of $19,676.53. Of these 17 items, 5 were accepted by respondent's stipulation and one was subsequently approved by the respondent in the amounts claimed. The items which are not in dispute are contained in 775 (a) (b) (e) (g) (k) and (q) and have a tota'

value of $1,000.42. We list these approved items as follows:

(a)	Furnished and installed one 110 volt outlet in mechanical building for use by the telephone company; value of labor and material	$ 21.81
(b)	Installed seven 100 ampere circuit breakers furnished by other contractors in the seven ward building penthouses; value of labor	134.42
(e)	Additional labor and material furnished in the community building to add to outlets, move a three-gang switch, wire cash register and moving conduit due to late awarding of kitchen equipment contract; having a value of	290.19
(g)	Additional labor and material to revise stage curtain control in community building due to a change from a floor mounted to a wall mounted motor; of a value of	48.41
(k)	Additional labor and material to move switch-boxes at doors of rooms 118, 138 and 166 in ward buildings 1, 2, 3 and 4; of a value of	$171.83
(q)	Labor and material to connect one additional unit heater in each ward building at the loading dock area; value of labor and material	333.76

The above 6 items claimed in 75 of the complaint will be included in the award in the amounts stated totaling $1,000.42. This leaves 11 items which are in partial or total dispute. The further amount of $16,927.00 claimed in 76 of the complaint is entirely disputed by the respondent.

The evidence taken on all of the disputed claims was extensive; the record, abstracts and briefs are lengthy. We will deal with each item in dispute as briefly and summarily as possible in stating our findings and conclusions without commenting on the numerous authorities cited by the parties in their briefs or quoting the specific language of the contract unless it seems essential to do so.

5(c) Claims $4,747.68 for "Labor and material necessary to change the size and location of conduit and cable from manholes to low voltage entrance panels on each of seven ward buildings".

This item 5(c) is totally disputed by the respondent. Conceding that there was an error in the plans [Sheet SE-5] as to the size of the conduits required, respondent contends that the correct sizes are shown in certain contract drawings; that the contractor was required to coordinate his work with that of others involved in the project; and that he cannot take advantage of any error or omission in the drawings, etc., as stated in Art. **1077** of the Specifications.

The court finds that the facts in the record support claimant's position. The drawings and plans for the project [Claimant's Exhibit **31** show on sheet SE-1 **an** electrical low voltage duct run entitled "EL-8" running from the manhole outside of each of the seven ward buildings to the foundation line of each of the buildings. Sheet **SE-4** shows that the duct run entitled "EL-8" is composed of **6** two-inch conduits and 2 four-inch conduits.

Sheet **SE-5** shows the entrance panel inside each of the ward buildings, but shows ***only*** **6** two-inch conduits coming into the entrance box. Nowhere in the plans are the 2 four-inch conduits referred to after extension to the foundation lines of the building as shown on sheet SE-1.

Claimant brought this matter to the attention of respondent, and respondent directed claimant to extend the 2 four-inch conduits from the foundation line of each of the buildings, some twenty to thirty feet, through an unexcavated area to the entrance box in the basement of each of the buildings. Claimant, in complying with this direction of respondent, had to install additional ductwork, cable, and concrete encasement.

Admittedly, sheet **SE-5** was prepared in error by respondent, and it omitted the 2 four-inch conduits. Mr.

Roy Beers, respondent's inspector on the project, when asked why the **2** four-inch conduits were not shown on sheet **SE-5,** stated, "You'll have to ask them [the architects], I don't know."

Respondent disclaims responsibility for this error by pointing to Article **1077** of the specifications which states that "a contractor will not be allowed to take advantage of any error or omission in the drawings, etc.". The record shows that the claimant did not take advantage of the error, but brought it to the attention of respondent as soon as the error was discovered.

Every contractor must rely on the plans given to him by an owner in order to calculate his bid for the price at which he will perform a contract. Claimant undoubtedly relied on the plans in arriving at his bid in this case, and subsequently was directed by respondent to provide extra materials and labor not indicated on the plans.

Article 1077 of the specifications, if strictly applied, could lead to unconscionable results. Mistakes by the state could cost a helpless contractor many thousands of dollars. The court has held that the state will not **be** unjustly enriched to the detriment of another. ***Standard Consessions, Inc.*** v. ***State, 22 C.C.R. 562.*** If Article **1077** were strictly applied, an unjust enrichment will result. The respondent made the error in the present case, and claimant is entitled to be compensated for the additional cost resulting from this error.

The cost of the labor and material involved in claim under 5(c), unrefuted in respondent's testimony, was: material **$1,627.92;** labor **$2,125.20;** overhead charge **$562.96;** and ten percent profit charge **$431.60.** Total amount to be included in the award under 5(c) is **$4,747.68.**

5(d) **Claims $1,230.63 for "Extra labor and material required to relocate low voltage duct run to hospital building due to lack of space inside of hospital building for both high voltage and low voltage entrances in the areas shown on the plan."**

This item is totally disputed by the respondent, and the court agrees with the respondent's position.

Claimant bases this claim on the allegation that, because coordination drawings were not prepared for claimant's use prior to the work actually being done, claimant partially installed some low voltage duct runs and then, because of congestion with other contractors, had to move them 20 feet in an easterly direction.

We find that claimant's own testimony shows that he failed to furnish his Shop Drawings to the supervising architect or his representative for their use in preparing coordinating drawings. Claimant was thus in violation of Articles **4, 38** and 1078. The absence of coordinated drawings, of which he complains, was due to claimant's own failure to cooperate in their preparation.

The contract makes it incumbent upon each contractor, especially in congested areas, to obtain these coordinated drawings ***before*** proceeding to install work that may conflict with other contractors and lead to the possibility of having the work removed and redone.

Claimant also contends that this alleged extra work was done because of a lack of space inside the hospital building for both high voltage and low voltage entrances. We need not belabor this point since claimant did not receive a "change order" to change the location of the low voltage duct. Such an order is mandatory under Article 22: "No change shall be made, unless in pursuance of a written order from the supervising architect, stating that the owner has authorized the change and no claim for an

addition to the contract sum shall be valid unless so ordered." The claim made in ¶5(d) will be denied.

5(f) **Claims $918.90 for "Labor and additional material required to remove and re-route electrical conduits under the stage area** in **the community building."**

This item is contested by the respondent only as to the amount of additional compensation justified.

Respondent admits it directed claimant to re-route certain conduits. The only question is the value of the labor and material involved in making the change. Respondent admits that it offered claimant $286.00 for this extra work and claims that it had an oral agreement with claimant's superintendent to do the work for this amount. Claimant properly objected to respondent's testimony to this effect **as** being hearsay, and we must reject it for this reason.

Respondent erred in ***requiring*** claimant to proceed with this work before a change order was properly executed, as required in the specifications, and having no prior agreement as to cost. Had this been done, this problem would not have arisen. What changes were, in fact, made, is purely a question of fact.

There is a paucity of evidence in the record on this point. When asked how many conduits had to be moved, respondent's Mr. Beers stated, "I'd say two and the telephone." Mr. Blades testified that, "There were nine power conduits plus the power feed to the panel box and the telephone conduit" in place at the time the change was ordered.

We believe that the testimony of Harrison Blades was the most creditable evidence submitted, and find the cost of the materials to be **$58.00;** labor $668.40; fifteen percent overhead $108.96; ten percent profit **$83.54** for a

total of **$918.90.** Claimant will be awarded **$918.90** in satisfaction of the claim in 5(f).

5(h) **Claims $1,453.76 for "Additional labor and material required in the kitchen area of each of seven ward buildings to add an additional receptacle at the drinking fountain, install larger size circuit breakers and re-route conduit to conform to kitchen equipment installed by other contractors."**

Respondent totally rejects this item, and the court agrees that claimant did not support this claim by satisfactory evidence.

Three elements compose the claim in 5(h). First, the additional receptacles at the drinking fountains were not sufficiently proven, and claimant was unable to show the court an extra receptacle in an on-the-site inspection. There was conflicting testimony of two witnesses as to whether the respondent told the claimant to put them where they were marked on the plans. Giving equal credibility to these two witnesses, the claimant has failed to sustain his burden **of** proof as we said in *Ackley* v. ***State,*** 22 *C.C.R.* ***41.*** It follows that we cannot accept claimant's suggestion that the amount claimed in 5(h) be reduced only by one-seventh for the receptical that could not be found in one of the seven buildings.

As to the second element in item (h), larger size circuit breakers, claimant did not adequately demonstrate to the court that the plans called for smaller circuit breakers, but that larger circuit breakers had to be installed.

The last element in item (h), re-routing conduit to conform to kitchen equipment installed by other contractors, was not pursued by argument in claimant's brief. We find no evidence in the record to substantiate this allegation. The claim made in ¶5(h) will be denied.

5(i) **Claim $1,933.06 for "Additional labor and material in the hospital building to add electrical outlets and to change locations of outlets**

and switches roughed in prior to determination of requirements for hospital equipment furnished by other contractors."

Originally, this item was only partially contested, but respondent's brief denies any liability on this claim.

Respondent estimated the value of the acceptable extras proposed to be done at **$597.61.** However, claimant failed to resubmit a proposal on the items tentatively approved. Therefore, he was operating, if he did in fact make any changes, without proper change orders and in violation of the contract. [Article 221 ***Supra.*** [Quoted under claim 5(d)]

The court does take notice of the fact, that the hospital equipment was not purchased by the respondent until many months after the contract was signed. Although claimant was ordered by the respondent to rough-in outlets and switches for hospital equipment, the specific electrical requirements for such equipment were not known at the time. Mr. Blades testified that, when the equipment arrived, changes were necessary for various items of hospital equipment including "physicial therapy baths, the morgue, and other areas". This testimony conflicts with that of respondent's Mr. Beers. We believe this dispute should be resolved by the following statement from the departmental report which was made a part of the record and reads in pertinent part as follows:

"The contractor submitted a second proposal for extra work in the Hospital Building, dated December 6, 1965, in the amount of $1,723.55. The Division of Architecture and Engineering, in a letter to this contractor dated March 8, 1966, stated they have reviewed the nineteen items of extra work listed and believed the contractor is entitled to additional compensation for four (4) items and not for the other fifteen (15) items The contractor has never furnished a revised proposal for these four items. The Division of Architecture and Engineering has estimated the value of these four items as $597.69."

The court accepts the recommendation stated on page **4** and **9** of the departmental report and will award the sum of **$597.69** on the claim stated in 5(i)

5(j) Claim of $436.42 for "Extra length stems furnished for light fixtures F-10 and F-27 throughout the project."

Respondent points out that these items were replaced only in the commissary building and not "throughout the project," as stated in the complaint.

The testimony of the claimant does not clearly establish whether the $436.42 was the cost of 30-inch stems or the difference between the cost of 30-inch stems and the 1%-inchstems called for in the specifications. Claimant's brief states that the specifications required 12-inch stems and that respondent ordered claimant to install 30-inch stems in order to lower the light fixtures.

The paucity of evidence submitted on this issue includes a conflict in claimant's own testimony, "We checked for the pendant length required before ordering them." . . . "The plan called for 10-inch pendants and that was what we ordered. We ended up putting in 24-inch pendants.'' . . . "In any event, as stated in the departmental report, the electrical contract specifications in paragraph #2392 require that the electrical contractor shall check the lengths **of** the lighting fixture pendant stems with the Supervising Architect before ordering. There is no record **of** this contractor having done this checking."

We find that claimant has failed to prove by a prepondence of the evidence that he is entitled to the amount claimed in 5(j) and this part of the claim will be denied.

5(l) Claim of $192.02 for "Labor to move ceiling light fixture in ward buildings 2, 3 and 4 due to interference by locker doors."

The facts on this issue, confirmed by this court's Commissioner Robert F. Godfrey, in an on-the-site inspection, are as follows:

Claimant installed the ceiling light fixtures as directed in the plans. Thereafter, lockers were installed, the doors of which struck the light fixtures. The doors on the lockers were not indicated on the drawings or plans. Respondent ordered claimant to move the light fixtures, which necessitated changes in the wiring and conduit.

The evidence shows that extra rewiring had to be done, that claimant did the rewiring, and that this claim is justified. It does not appear to the court that this extra expense was due to claimant's failure to coordinate with other contractors, as respondent contends. On this item, claimant will be awarded the sum of **$192.02.**

5(m) Claim of $1,081.44 for "Labor and materials furnished in the laundry building for installation of extra outlets at each of the shirt folder and pressing machines, extra light fixture in toilet room, additional circuit breaker and circuit on mono-rail and brackets and disconnect switches on all laundry equipment furnished by other contractors."

There are four parts to the claim stated in ¶5(m). First, we find that the "extra outlets at each of the shirt folder and pressing machines" were required under the contract, viz., Article **2241** of the specifications provides that equipment furnished and installed by others shall be completely wired by the electrical contractor. Hence, no extra charge can be approved.

The second part of 5(m) is for an "extra light fixture in a toilet room." Respondent's inspector, Mr. Beers, admitted that the plans called for three lights in the ladies toilet room, and that a fourth light had been installed. Claimant testified that Mr. Beers ordered him to install the extra light, and Mr. Beers denied that he consulted with anyone from claimant's company regarding this extra toilet room light. Mr. Blades admitted that he had no change order for this additional light.

On this individual item, we again have contradictory

testimony, from two equally credible witnesses, coupled with claimant's admission that he failed to obtain a change order as required by the contract. Hence, claimant failed to carry his burden of proof and must be denied recovery of this item.

The third part of 5(m) is for an "additional circuit breaker and circuit on monorail." Claimant contends that sheet **LE-1** of the plans shows one circuit serving an air-handling unit and also the monorail, an overhead cranelike affair. In other words, that the plans show a circuit for the two pieces of equipment. Claimant states that this circuit was too small to serve both pieces of equipment, and that respondent ordered claimant to install a separate circuit to serve the monorail.

We find that plan **LE-1** calls for circuit **#14** for the monorail. Respondent's Mr. Beers denied that the plans called for a washer to be hooked **up** to the monorail circuit #14. He pointed out to the court, from the plans, that the plan **LE-1** shows two circuits, four wires—[circuits **13** and 141—in the same conduit with a circuit breaker for each circuit and the monorail operating off the circuit **14.** Claimant failed to show that he had, in fact, installed an ***additional*** circuit or circuit breaker on the monorail. The testimony indicates that just two circuits [#13 and #14] were installed, those being the two called for in the plans. This item, part **3** of 5(m) will be denied.

The fourth and final claim in 5(m) is for "brackets and disconnect switches on all laundry equipment furnished by other contractors."

We find that it was claimant's duty under Article 2241 **of** the contract, to see that this equipment "furnished by other contractors" was completely hooked up,

ready to operate. These laundry machines, and the main control panel, having been placed in such a location as to have the motors out of sight of the main control panel, require a disconnect switch located at the motor (at the back of the machine) before it can be considered to be a complete hook up ready to operate as required by Article 2241. This disconnect switch is a safety factor [required by the National Electrical Code] to protect a workman, who might be in behind the machine working on the motor, from being shocked by someone being unaware of his presence turning on the machine at the front of the machine or by tripping the switch at the main control panel.

Claimant contends that these switches were not necessary for an approved installation under the National Electric Code, since the motor is not out of sight of the main panel board. Claimant testified that the motor is well within sight of the panel board. Respondent does not effectively contradict this evidence. However, claimant does not establish the cost of this element of item 5(m) beyond the cost of eight floor brackets at $36.00. Consequently, a total award of $36.00 will be made under all parts of item 5(m).

5(n) **Claim of $2,213 93 for "Labor and additional material required to relocate circuits and boxes in dietary building due to purchase of kitchen equipment by respondent having different rough-in requirements from those shown in the plans"**

Respondent concedes that it directed claimant to relocate certain circuits and boxes in the dietary building, and that this change was necessary because kitchen equipment was not purchased by respondent until sixteen months after the building construction contracts, including the contract in question, were signed. Respondent admitted the sixteen months delay in purchasing the kitchen equipment. Respondent concedes that

claimant is entitled to an award on this item, but questions the amount.

Claimant submitted its written change order in the amount of **$2,213.93** to the respondent and the latter took no action with regard to the change order. Approximately three weeks after the change order was sent to the respondent, the latter directed claimant to begin the work. Thereafter, respondent asked claimant to reduce the labor charge from **284** hours to **160** hours at **$5.10** an hour. However, claimant testified his workers spent **284** hours on this extra. This was not refuted by the respondent. We find that an award of **$2,213.93** [for material, $301.75; **284** hours of labor at $5.10—total **$1,448.40;** fifteen percent overhead at **$262.52;** and ten percent profit at **$201.261** should be granted for this extra. An award of **$2,213.93** will be made for the claim in 5(n).

5(o) **Claim of $2,914 05 for "Labor and material required to pour additional concrete on bottom of manholes to improve drainage resulting from change of type and location of drains."**

This work involved pouring additional concrete on the floors of these manholes so that water in the manholes would drain out. The floor was poured by the claimant through the services of a sub-contractor. The drains were installed when the walls were poured. The result was that the drain was about ¾ of an inch up off the floor. Additional concrete had to be poured on the floor of the manholes to slope the floor to the drain. Claimant admits that the drain, ¾ of an inch off the floor, was apparently an error in judgment. If the drains had been set in place in the floor at the proper level initially, the extra concrete would not have been needed. Claimant bore the responsibility to see that the drain was properly installed, and cannot recover his claim for this extra.

5(p) **Claim of $1,554.22 for "Labor and material to install additional cable racks in all low voltage manholes."**

This item was only partially contested by the respondent. The present demand is **$1,554.22.** However, by letter dated December **6, 1965,** the contractor agreed to reduce this demand to **$1,066.00** according to the departmental report. The dispute is as to the number of feet of additional cable racks actually installed. The racks in the manholes were counted by respondent's Mr. Beers, and he found 'the number of feet to be **634%** altogether.

Claimant alleges **317%** feet, and we find this claim supported by the weight of the evidence. Respondent recommends that claimant accept payment on this item of **$888.72** which is about **$178.00** less than we believe is **due the claimant based on 317% feet at the unit price of $3.36** per foot which comes to **$1,066.00.** An award of this amount is made under the claim in item 5(p).

6(a), (b), (c) & (d) **Claims $16,927.00 for "The furnishing and installing of 12,750 straps and hangers on concealed conduit."**

This $16,972.00 claim is the largest single item claimed in the complaint and the one **on** which we find the least convincing evidence in support of claimant's position.

The heart **of** the problem in connection with this claim deals with Section **2193** of the specifications. This section, which is the first section under the "Conduit Supports and Hangers" heading, describes the method for support **of** conduit "for exposed work on walls and ceilings" as follows:

CONDUITS SUPPORTS AND HANGERS:

2193: For exposed work on walls and ceilings conduits shall be supported every five feet with galvanized case one hold straps, clamp backs and anchors as herein specified.

Claimant argues that because Article **2193** refers to

"exposed work" all the other articles [Arts. 2193 through 21991 refer *only* to exposed work; and that he was free to use another method, i.e., bare wire, to support concealed conduits above the ceiling.

Claimant commenced installing concealed conduit above the suspended ceilings by using bare wire wrapped around the conduits and the ceiling supports in order to support the conduits, but was not permitted to use such method by the respondent. At the direction of the respondent, the claimant agreed to install concealed conduit in the manner provided in the specifications for exposed conduit. Thereafter, the claimant states that he installed 12,750 straps and hangers to support concealed conduits.

Whether claimant did install 12,750 straps and hangers is a question of fact which claimant did not prove by the evidence submitted in the record, nor to the satisfaction of the court in our on-the-site visual inspection.

We deem it unnecessary, therefore, to comment on the numerous pages in the briefs of both parties dealing with the questions: **(1)** Whether the conduits above the "mechanical" ceilings were "concealed" or were in an "exposed" area because they are accessible; (2) Whether custom and usage in the electrical trade sanctions the use of bare wire to support conduits; and (3) Whether the contract was so ambiguous as to justify the contractor's use of bare wire supports in "concealed" areas, if any.

Having found that the weight of the evidence does not support claimant's allegations as to the extra straps and hangers installed as requested by the respondent, it becomes immaterial as to whether they were required by the contract or by custom and practice in the trade.

The claim for **$16,927.00** as stated in the complaint ¶6 (a), (b), (c), and (d) is denied.

A summary **of** our findings in this multi-count complaint is as follows: [* denotes items not contested by the respondent.]

Item No.	Amount Claimed	Amount Awarded
4	$13,997.07"	$13,997.07"
5(a)	21.81"	21.81"
5(b)	134.42"	134.42"
5(c)	4,747.68	4,747.68
5(d)	1,230.63	–0–
5(e)	290.19"	290.19"
5(f)	918.90	918.90
5(g)	48.41"	48.41"
5(h)	1,453.76	–0–
5(i)	1,933.06	597.69
5(j)	436.42	–0–
5(k)	171.83"	171.83"
5(l)	192.02	192.02
5(m)	1,081.44	36.00
5(n)	2,213.93	2,213.93
5(o)	2,914.05	–0–
5(p)	1,554.22	1,066.00
5(q)	333.76"	333.76"
6(a) (b) (c) & (d)	16,927.00	–0–
Totals	$50,600.60	$24,769.71

The claimant, Harrison F. Blades, Inc., is hereby awarded as the amount due under its contract for electrical services performed, the sum of **$24,769.71.**

(No. 73-CC-335—Claimant awarded $21,381.60.)

DORIS D. LEFFLER, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF REVENUE, Respondent.

Opinion filed March *13, 1975*

KLEIMAN, CORNFIELD & FELDMAN, Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 73-CC-336—Claimant awarded $22,533.04.)

GLENN OLIVER DECKER, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF REVENUE, Respondent.

Opinion filed March *13, 1975.*

KLEIMAN, CORNFIELD, & FELDMAN, Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-90—Claimant awarded $618.30.)

ACME VISIBLE RECORDS, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed March *13, 1975.*

ACME VISIBLE RECORDS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-346—Claimant awarded $357.00.)

MERLE D. KOEHLER, Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed March 13, ***1975.***

MERLE D. KOEHLER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-380—Claimant awarded $556.65.)

PETE LEHNEN, Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF LABOR,** Respondent.

Opinion filed March 13, ***1975.***

PETE LEHNEN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-468—Claimant awarded $202.00.)

SEARS, ROEBUCK & CO., Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES,** Respondent.

Opinion filed March *13, 1975.*

SEARS, ROEBUCK & CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-570—Claimant awarded $511.82.)

EDWARD J. LAWLESS, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF LABOR,** Respondent.

Opinion filed March *13, 1975.*

WILLIAM K. CAVANAGH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-604—Claimant awarded $177.05.)

OFFICE EQUIPMENT CO., OF CHICAGO, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed March 13, *1975.*

OFFICE EQUIPMENT CO. OF CHICAGO, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-632—Claimant awarded $1,326.80.)

WOLFE, ROSENBERG & ASSOC., INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF REGISTRATION & EDUCATION, Respondent.

Opinion filed March *13, 1975.*

WOLFE, ROSENBERG & Assoc., INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-637—Claimant awarded $1,100.00.)

NORMAN T. THOMPSON, Claimant, *us.* STATE OF ILLINOIS, OFFICE OF THE SECRETARY OF STATE, Respondent.

Opinion filed March *13, 1975.*

RICHARD R. CROSS, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a

claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-672—Claimant awarded $146.40.)

TELEMED CORPORATION, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed March ***13, 1975***

TELEMED CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-704—Claimant awarded $809.38.)

E. **BEST PLUMBING & HEATING SUPPLY Co., Claimant,** *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed March ***13, 1975.***

E. BEST PLUMBING & HEATING, Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-792—Claimant awarded $1,396.14.)

ARCHWAY, INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed March *13, 1975.*

ARCHWAY, **INC.,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which **a** claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 5480—Claimant awarded $17,000.00.)

HARRY A. **OHMS, JR.,** Administrator **of** Estate **of HARRY A. OHMS, SR.,** deceased, Claimant, *us.* **STATE OF ILLINOIS, DIVISION OF HIGHWAYS,** Respondent.

Opinion filed March *14, 1975.*

HARRIS AND LAMBERT, and **ROBERT** L. **BUTLER,** Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

NEGLIGENCE—wrongful death. To recover for wrongful death, claimant must bear the burden of establishing by a preponderance of the evidence. Respondent's breach of duty, lack of contributory negligence and negligence were proximate cause of death.

NEGLIGENCE—due care. The State is not an insurer of the condition of highways under its control; but does have duty to public to use reasonable care in maintaining roadways.

PERLIN, C. J.

Claimant Harry A. Ohms, Jr., as Administrator of the Estate of Harry Ohms, Sr., seeks to recover the sum **of** $25,000 for the death of his intestate in an automobile

accident which occurred on December 20, 1967, along a portion of Illinois Route 13, known as Brandon Hill.[1]

On December 20, 1967, the State of Illinois was in the process of resurfacing portions of the eastbound lane of Illinois Route 13, a two lane, east-west highway connecting Marion and Harrisburg, Illinois. In repairing the road, the State cut out patches of the pavement at various intervals along several miles of the highway preparatory to resurfacing, and placed barricades around the patches. Three such barricaded patches were located on the west slope of Brandon Hill.

Photographs and diagrams introduced into evidence by claimant show that the first barricaded patch was located approximately 350 feet west of the crest of the hill. Two hundred fifty feet east of this patch were the second and third barricaded patches, spaced about 10 feet apart and ending approximately 76 feet west of the crest of the hill.

The barricades around each of the patches completely blocked the eastbound lane of the highway. The highway was bounded by a steep embankment and gutter, which prevented vehicles from using the shoulder of the road to drive around the barricades. Motorists traveling eastbound along the highway were therefore required to drive into the westbound lane of traffic to negotiate the barricades.

To the west of Brandon Hill there were several sets of signs warning eastbound motorists of the roadwork, and about one quarter mile west of the hill was a sign

---

[1]On July 22, 1970, this cause was continued generally on the motion of the Respondent pending disposition of claimant's lawsuit arising out of the same incident which was pending in the Circuit Court of Saline County, Illinois. That order was vacated on February 17, 1972, following disposition of that case.

stating, "One Lane Road Ahead." There was neither a warning device nor a flagman at the crest of the hill to warn eastbound motorists of westbound traffic coming over the crest of the hill.

The accident occurred at approximately 1:45 p.m. as Harry Ohms, Sr., proceeded eastbound on Route **13.** The pavement was damp and slippery from a morning rain, but the day was clear. The deceased was familiar with the condition of the road, having driven over it daily to and from his job.

John Stump, who was driving directly behind the deceased at the time of the accident, testified that the deceased came to a complete stop in front of the western most barricade on the slope of Brandon Hill. He drove into the westbound lane of traffic, went around the barricade, and pulled back into the eastbound lane. He then proceeded in the eastbound lane until coming to a halt before the next barricade at a point about 100 feet from the crest of the hill. **As** the deceased pulled into the westbound lane to negotiate this barricade, his car was struck head on by a westbound car which had just cleared the crest **of** the hill.

Harry Ohms, Sr., suffered a crushed chest and head injuries in the accident, and died within minutes of the crash.

John Stump and several other drivers at the scene who had traveled the road regularly, all testified that Brandon Hill had a reputation as being a dangerous portion of the highway and that in their opinion the construction thereon had made the road particularly hazardous. They further testified that the hill was "blind," in that a driver could not see over the crest of the hill as he approached from either the east or the west.

Richard A. Ash, an Illinois State Trooper who traveled over Brandon Hill regularly, also testified that motorists approaching the crest of the hill from either direction are unable to see over the crest. Ash also said that the crest of the hill is a "no passing'' zone for both eastbound and westbound traffic.

Carl DeWitt, a civil engineer with the Illinois Highway Department, testified, that he was in charge of the construction project on Route 13. DeWitt said that following the accident he took a "line of sight" measurement to determine the distance which Harry Ohms, Sr., could see as he went around the barricade at the crest of the hill. DeWitt stated that according to his calculations, when the deceased pulled behind the barricade nearest to the crest of the hill, he could have seen westbound traffic approaching from a distance of 445 feet. DeWitt further said that once Mr. Ohms pulled into the westbound lane of traffic to drive around the barricade, and reached the point of impact, he could see over a mile to the east.

It is claimant's position that respondent was negligent in failing to post a flagman or some mechanical warning device at the crest of Brandon Hill to warn motorists forced into the oncoming lane of traffic of the presence of westbound automobiles. Respondent contends that it was under no such duty, and that it fully discharged its obligations to Mr. Ohms by posting warning signs along the highway indicating that the road was under construction, and that traffic was reduced to one lane at the point of the accident. Respondent also contends that the deceased was contributorily negligent in driving into the lane of oncoming traffic without keeping a proper lookout.

To recover damages for the death of Harry Ohms, Sr., claimant bears the burden of establishing by a

preponderance of the evidence that respondent breached a duty owed Mr. Ohms; that Mr. Ohms was free of contributory negligence; and that the negligence of the respondent proximately caused his death. ***Howell*** v. ***State, 23*** **C.C.R.141.**

We have often reiterated that the State is not an insurer of the condition of highways under its maintenance and control. ***Schuck*** v. ***State, 25*** **C.C.R.209.** We have also held that the State is nevertheless under a duty to the motoring public to use reasonable care in maintaining roadways under its control. Thus, respondent owed a duty to users of Route **13** to use reasonable diligence in insuring that the construction work on the road did not create an unreasonably dangerous condition.

We think it manifestly clear that respondent breached this duty to Harry Ohms, Sr., by permitting an extremely dangerous condition to develop on Brandon Hill during the course of construction work. The testimony of numerous witnesses, including a State Highway Patrolman familiar with the area, established that Brandon Hill was a particularly dangerous portion of highway even absent the construction. The crest of the hill was a "no passing'' zone for both eastbound and westbound traffic, and testimony by numerous competent witnesses established that the approach to the crest of the hill was "blind" to motorists approaching from either direction.

Yet, respondent caused barricades to be placed across the eastbound lane of the roadway, within the no passing zone at the crest of the hill, which necessitated eastbound traffic to cross into the oncoming lane of traffic at a point where oncoming traffic was not visible. The State permitted an extraordinarily dangerous condition to develop at the crest of Brandon Hill, and in view of

this condition, we think that an obligation rested upon the State to provide a flagman, or a mechanical traffic control device, at the crest of the hill to control traffic thereon.

Respondent argues that it fulfilled its obligation to Claimant's intestate by placing a series of signs on the approaches to Brandon Hill, which indicated that barricades and construction reduced traffic to one lane. Respondent cites ***Emm*** v. ***State*** *of* ***Illinois,*** 25 C.C.R. **213,** where we said,.

> **"*** the placing** of **adequate signs warning of the conditions to be met fulfills the obligation** of **the State to users of the highway." Id. at 218.**

We are not persuaded by this argument. This is not a situation where a claimant has ignored posted signs prohibiting entry to a closed road, as was the case in ***Emm*** v. ***State,*** supra. Rather the signs posted **by** respondent only informed Harry Ohms, Sr., that there was construction on the roadway, and that the two lane highway would be reduced to a single lane at some point. However, once Harry Ohms reached the barricade at the crest of the hill, he was left without any indication of whether it was safe to proceed around the barricade in the lane of oncoming traffic. It was at this point that a warning device was needed.

The more difficult issue is whether Harry Ohms, Sr., acted with reasonable care for his own safety and well-being and was thus free of contributory negligence. Considering all the circumstances here, we believe that Mr. Ohms acted with reasonable prudence under the circumstances. Once he found himself stopped before the barricade near the crest **of** the hill, Mr. Ohms had little alternative but to edge his car into the oncoming lane **of** traffic. The high bank to the side of the road prevented him from using the shoulder to negotiate the barricade,

and traffic lined up behind him prevented him from backing down the hill. The testimony of John Stump, who was directly behind Mr. Ohms at the time of the accident, establishes that he came to a complete stop before the barricade near the crest of the hill, and then slowly edged out onto the lane of oncoming traffic. While an extraordinarily careful driver might have acted with even greater caution, we conclude that Mr. Ohms did act as would a reasonably prudent person under the circumstances. We therefore find that he was free of contributory negligence.

We further find that the negligence of respondent was the proximate cause of his death.

Mr. Ohms left surviving a wife and two adult children who were not dependent upon him for support. He was a former teacher and coach and was employed full time by the Bowens Children's Center in Harrisburg, Illinois, as a Child's Aid earning $353 per month. In addition to his salary, he had received social security benefits of $463 per month from January 1, 1967, to December 20, 1967. He was 68 years old at the time of the accident, with an actuarial life expectancy of 13 years, although it is unlikely that he would have continued working for that entire period.

The automobile in which he was riding was totally wrecked, and testimony placed the net property damage loss at approximately $2,000.

Claimant is hereby awarded the sum of $17,000.

(No. 5936—Claims denied.)

NATHAN TURKIN, as Special Administrator of Estate of SANDRA TURKIN, deceased, Claimant, *us;* STATE OF ILLINOIS, DIVISION OF HIGHWAYS, Respondent.

Opinion filed *March 14,* 1975.

ROBERT SIMON, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; EDWARD L. S. ARKEMA, JR., Assistant Attorney General, for Respondent.

NEGLIGENCE — due *care.* State is not an insurer of either the condition of roadways under its control or the safety and well-being of persons traveling thereon.

SAME—same. State has duty of maintaining roads in a reasonable safe condition for the purpose for which they are intended.

PERLIN, C. J.

Nathan Turkin, as Special Administrator of the estate of his deceased wife, Sandra Turkin, has brought this action to recover for personal injuries suffered by his wife on November 29, 1969, when she tripped on a depression in a street which was under the jurisdiction and control of respondent. Claimant seeks to recover the sum of $1,000 on a theory that respondent negligently permitted a dangerous condition to develop on Dempster Street at its intersection with Austin Avenue in Morton Grove, Illinois, which constituted a danger to pedestrians crossing the street, and which proximately caused the injury to Mrs. Turkin.

The facts are not in dispute. On November 29, 1969, at approximately 3:45 p.m., Claimant and his 52-year old wife were crossing Dempster Street at its intersection with Austin Avenue in Morton Grove, Illinois. Dempster Street at this point is State Highway 58, and the parties have stipulated that the State of Illinois was under a duty to maintain the roadway.

The deceased and her husband were crossing from the northeast to the southeast corner of the intersection, intending to enter a drug store located on the southeast

corner. The weather was clear and dry, and the deceased and her husband were crossing with a stop light. They were generally unfamiliar with the area, and had never previously crossed Dempster Street at the point of the incident.

There was a marked crosswalk across Dempster Street leading from the northeast to the southeast corner. Claimant and his wife crossed within the crosswalk until they approached a point about 15 feet north of the south curb of Dempster Street, when they veered slightly outside the marked crosswalk in the direction of the door to the drug store on the southeast corner. At this point, claimant's wife's foot caught in a depression in the pavement, and she fell to the ground.

Photographs of the accident site introduced into evidence show that the depression was located just outside the marked crosswalk. The depression was about one to two inches deep, six feet long and one foot wide, and ran in an easterly direction.

After the fall, Mr. Turkin helped his wife to the sidewalk and called the Morton Grove Police who arrived shortly thereafter and took Mrs. Turkin to Skokie Valley Hospital. X-rays were taken at the hospital and she was examined by a physician. She suffered an injury to her right ankle and right foot, and was thereafter examined both by her family physician and an orthopedic surgeon. The orthopedic surgeon diagnosed her condition as periosteitis, an inflammation of the membrance which surrounds the bone of the foot and leg. Mrs. Turkin walked on crutches for about 30 days after the incident and used a cane for about three months thereafter. Her mobility was limited for about seven months after the incident, and she incurred $155 in medical expenses as a result thereof.

Mr. Howard Plebin, employee of the drug store located on the southeast corner of Dempster Street and Austin Avenue, testified that he was familiar with the depression into which Mrs. Turkin fell, and that the depression had existed at least since the early part of 1969.

Joseph J. Kostur, Jr., the regional safety claims administrator for the State of Illinois, testified that he was familiar with all complaints received by the State pertaining to defects in Dempster Street at Austin Avenue, and that there were no records of the State having received actual notice of the condition of the roadway prior to November 29, 1969.

On May 3, 1971, Mrs. Turkin died of causes unrelated to this incident and Nathan Turkin was appointed as Special Administrator to prosecute her claim.

Respondent is not an insurer of either the condition of all roadways within its jurisdiction and control, or the safety and well-being of all persons traveling thereon. Rather, the respondent is chargeable only with maintaining its roads in a reasonably safe condition for the purpose for which they are intended. *Schuck* v. *State of Illinois, 25* C.C.R. 209; *Weygandt* v. *State, 22* C.C.R. 498. In order for claimant to prevail on his claim, he must prove by a preponderance of the evidence that the respondent breached his duty; that the breach proximately caused the injuries to his intestate; and that his intestate was free of contributory negligence.

Photographs of the accident site introduced by both parties show a wide, shallow depression in the pavement. At most, the depression was two inches deep, and was located wholly outside the marked pedestrian crosswalk. After a careful examination of these photographs, and a

consideration of the testimony describing the accident scene, we conclude that the defect in the roadway was not so marked as to constitute a danger to pedestrian traffic. Respondent thus did not breach its duty of maintaining the roadway in a reasonably safe condition.

We also conclude that at the time of the accident, Mrs. Turkin was not in the exercise **of** due care and caution for her own safety. The accident occurred on a clear, dry day, and the depression in the street, while shallow, was clearly visible. Mrs. Turkin apparently walked outside the pedestrian crosswalk directly into the depression, whereas it would appear that a person acting with due care should have seen the depression. The Court must conclude from the evidence before it, that decedent was not free from contributory negligence.

This claim is accordingly denied.

(No 5877—Claimant awarded $700 00)

ETHEL **H.** EMERSON, Claimant, *us.* STATE OF ILLINOIS, DIVISION OF HIGHWAYS, **Respondent.**

Opznzon* filed *March 19, 1975

COHN, KOREIN, KUNIN & BRENNAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

NEGLIGENCE—*due* **cure** One **who negligently alters the natural flow of water on the property of an adjacent landowner, and thereby causes damages, is liable to the adjacent landowner**

PERLIN, C. J.

This is an action to recover for water damage to the interior of claimant's home, incurred on July **9, 1969.**

Claimant charges that in grading a hill to the rear of her home while constructing a right of way for an interstate highway, Respondent negligently altered the natural flow of rainwater on claimant's property, causing water to accumulate in her back yard and flood her house.

In early 1969, respondent began construction of Interstate 64 to the rear of claimant's property at 8904 Meyer Drive in St. Clair County, Illinois. Claimant had lived at that address since 1962, and her house had never previously flooded. During the course of constructing the highway, respondent graded a hill on claimant's property behind her home. The hill, which had been approximately 30 feet high, was covered with vegetation and rainwater draining off the hill had always flowed away from claimant's home in a westerly direction.

Claimant testified that in regrading the hill, respondent left large quantities of excess dirt in her back yard to the south and west of her house. This dirt compacted and caused rainwater, which would otherwise have flowed away from her house to the west, to accumulate in her back yard and ultimately flood her house through a rear window.

Claimant stated that her basement flooded after heavy rains on both June 22, 1969, and on July 9, 1969. Claimant specifically complains of the damage caused by the July 9 flooding when she said approximately two inches of water and a yellow, clay-like substance accumulated in her basement. Claimant testified that as a result of the flooding on July 9, the vinyl tile in two rooms of her home was ruined, and various furnishings were damaged. It is estimated that installing a new vinyl floor would cost approximately $650 and claimant alleges additional incidental damages. There is no testimony as to the depreciated value of the items involved.

Claimant introduced into evidence several photographs showing damage to the interior of her home as a result of the flooding, as well as photographs showing the effects of respondent's grading on the terrain surrounding her home. Claimant said that after the flooding on July 9, she herself dug a trench through the dirt which respondent had permitted to accumulate in her yard. This permitted the water to run off from her yard and she said that she thereafter had no more problems with flooding.

Richard Straub and Carl Schlosser, engineers working on construction of Interstate **64,** inspected claimant's home in response to her complaints of flooding. Straub testified for respondent that after claimant experienced flooding on June 22, he had ordered the grade **of** the hill to the rear of her property reduced an additional two feet to the approximate level of the grade of her back yard.

Both Straub and Schlosser testified that when they visited claimant's home on the evening of July 9, 1969, they found the basement flooded, but they attributed the flooding to a drainpipe which was discharging into the window well of claimant's home. Straub and Schlosser also said that they felt that the grading of the hill had improved the drainage on claimant's land.

Testifying in rebuttal, claimant said that the flooding could not have been caused by the drain discharging into the window well, because a drain in the window well carried the water underneath her home through a system of tiles.

It has long been established that one who negligently alters the natural flow **of** water on the property of an adjacent landowner, and thereby causes damages, is liable to the adjacent landowner. See, *Eimes* v. *Cleve-*

land, Cincinnati, Chicago, and St. Louis Railroad, 158 Ill.App. 557; ***Baltimore and Ohio Southwestern Railroad Company*** v. ***Stewart,*** 128 Ill.App. 270. Respondent does not contest this proposition, but argues that claimant has failed to establish either that respondent did alter the natural flow of water on her property, or that respondent's negligence caused injury to claimant. In substance, respondent asserts that the testimony of Straub and Schlosser to the effect that the flooding was not caused by the grading, but by the downspout discharging into claimant's window well, establishes respondent's freedom from fault.

We find, however, that claimant has proved by a preponderance of the evidence that in grading the hill to the rear of claimant home, respondent negligently altered the natural flow **of** rainwater off claimant's land, and that this was the proximate cause of the damage to her house. Claimant had lived in her home for seven years without incident prior to the construction of Route **64,** and it was only after respondent began grading the hill to the rear of her property that she experienced flooding. The photographs introduced into evidence by Claimant demonstrate that soil was permitted to accumulate in Claimant's yard, blocking the natural flow of water away from her property. Further, claimant testified that after she dug a channel through the accumulated soil for the rainwater, she was not thereafter troubled with floodings. Claimant also stated that a drain at the bottom on the window well, into which rainwater flowed, carried water away from the home. The conclusion is compelling that respondent's grading of the hill behind claimant's home caused the flooding.

Claimant is hereby awarded the sum of $700.00.

(No. 5886—Claimant awarded $3,800.00.)

HELEN CLARE FAIN, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed March 19, 1975.

MURPHY AND PEARSON, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **EDWARD** L. S. **ARKEMA, JR.,** Assistant Attorney General, for Respondent.

CONTRACTS—*stipulation.* **Claim for breach of contract for State's failure to properly maintain building rented to it by claimant. Stipulation as to facts and amount of damages sustained. Award entered for $3,800.00based on stipulation.**

BURKS, J.

Claimant in this action seeks damage for breach **of** a contract which the respondent had entered into with her under which the state leased a 3-story and basement brick building to be used by the Illinois National Guard for military purposes. Claimant, the lessor, brings this action in her capacity as trustee of a certain land trust covering title to the premises involved.

The facts are not in dispute. They are contained in a joint stipulation filed in this cause on August **29, 1974,** in which the Adjutant General joined with the Attorney General in accepting the facts as stated in the complaint. By the same stipulation, the claimant conceded that the total damages she had actually sustained amounted to $3,800.00, an amount stipulated to by the respondent. The agreed facts are summarized as follows:

On October **1,** 1921, the respondent, acting through the Adjutant General, leased premises located at **2667** W. Madison Street in Chicago, and from that time up to the first day of July, **1969,** the respondent occupied said premises under a lease that was periodically renewed.

Under the terms of said lease, the respondent was to maintain the premises in accordance with requirements of any applicable ordinance or law, and to pay all expenses for the upkeep of the premises.

On September 23, 1968, the claimant was notified by the Department of Buildings of the City of Chicago, that the building was in a dangerous condition and a menace to public safety; and that said building was being maintained in violation of Sections 39-12, 41-9, 78-3 and 99-4 of the Municipal Code of Chicago, and Chapter 24, Section 11-30, 1-1 of the Illinois Revised Statutes. Whereupon, the claimant demanded that the respondent make the necessary repairs as required by the lease.

Respondent refused to make any repairs and terminated the lease as of June 30, 1969.

On February 16, 1970, the City of Chicago filed a complaint in the Circuit Court of Cook County for a fine and other relief against the claimant because of said building violations.

On March 5, 1970, Harold R. Patton, respondent's Acting Adjutant General, was notified of the aforementioned litigation and a demand was made of him to remedy the building in conformity to the terms of the lease. General Patton referred the matter to Mr. James T. Ryan, attorney for the Department of General Services. On March 27, 1970, Mr. Ryan informed the claimant that he had advised the respondent that it had no apparent liability.

On June 2, 1970, the Circuit Court of Cook County ordered that the building be demolished and a lien be placed against the building for the cost of demolition.

Following the hearing held in this matter, the parties stipulated that damage did occur to this building as a

result of its use by the State; that responsibility for the condition of the building rested upon the respondent under the terms of its lease; and that the amount of claimant's damage is $3,800.00. The court finds the said stipulation to be fair, reasonable and consistent with the facts.

Claimant is hereby awarded damages for breach of contract in the sum of $3,800.00.

(No. 73-CC-177—Claimant awarded $600.86.)

AVERY GRAVEL CO., INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed March 24, *1975*.

AVERY GRAVEL CO., INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 73-CC-271—Claimant awarded $3,345.64.)

DELMONT E. SURRATT, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion *filed March 24, 1975*.

KLEIMAN, CORNFIELD & FELDMAN, Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL **R.** WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-757—Claimant awarded $162.00.)

HALSTED & 69TH CURRENCY EXCHANGE, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed March *24, 1975.*

HALSTED & 69TH CURRENCY EXCHANGE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-200—Claimant awarded $217.29.)

ALBERTA M. CLAYTON, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed March *24, 1975.*

ALBERTA M. CLAYTON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court'of Claims for payment.

PER CURIAM.

(No. 75-CC-233—Claimant awarded $1,021.25.)

VIRGINIA MACLEISH JONES Exec. of Estate of JOHN E. MACLEISH, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed March 24, 1975.

PRICE, CUSHMAN, KECK, MAHIN & CATE, Attorneys **for** Claimant.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, **for** Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-254—Claimant awarded $28.50.)

JAMES E. BARNES, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed March 24, 1975.

JAMES E. BARNES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, **for** Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-336—Claimant awarded $77.30.)

MACMURRAY COLLEGE, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed March 24, 1975.

MACMURRAY COLLEGE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-345—Claimant awarded $21.34.)

DAILY COURIER NEWS, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed March 24, 1975.

DAILY COURIER NEWS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-382—Claimant awarded $556.65.)

CHARLES BAKER, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LABOR, Respondent.

Opinion filed March 24, 1975.

CHARLES BAKER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-414—Claimant awarded $100.00.)

RAY MAASS, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed March *24, 1975.*

RAY MAASS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-416—Claimant awarded $2,384.00.)

EDWARD DON & COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed March *24, 1975.*

EDWARD DON & COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-442—Claimant awarded $78.30.)

REEVES WALGREEN AGENCY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed March *24, 1975.*

REEVES WALGREEN AGENCY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-444—Claimant awarded $3.17.)

REEVES WALGREEN AGENCY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed March *24, 1975.*

REEVES WALGREEN AGENCY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-445—Claimant awarded $24.66.)

REEVES WALGREEN AGENCY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed March *24, 1975.*

REEVES WALGREEN AGENCY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-520—Claimant awarded $1,027.37.)

HELEN J. SCRUTCHIONS, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LABOR, Respondent.

Opinion filed March *24, 1975.*

HELEN J. SCRUTCHIONS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-534—Claimant awarded $3,216.20.)

JOHN DOLIO & ASSOCIATES, INC., Claimant, *us.* STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD, Respondent.

Opinion filed March 24, *1975.*

JOHN DOLIO & ASSOCIATES, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-593—Claimant awarded $64.19.)

AMOCO OIL COMPANY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed March *24, 1975.*

AMOCO OIL COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-608—Claimant awarded $121.10.)

WILKENS-ANDERSON Co., Claimant, *vs.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed March *24, 1975.*

WILKINS-ANDERSON COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropn'ation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-613—Claimant awarded $169.55.)

MULTIGRAPHICS DIVISION, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed March *24, 1975.*

MULTIGRAPHICS DIVISION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CoNTRACTslapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-614—Claimant awarded $48.40.)

HOBART NORTH WELDING SUPPLY Co., Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed March ***24, 1975.***

HOBART NORTH WELDING SUPPLY Co., Claimant, pro *se*.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-624—Claimant awarded $462.50.)

MURPHY, TIMM, LENNON & SPESIA, Claimant, *us.* **STATE OF ILLINOIS, FAIR EMPLOYMENT PRACTICES COMMISSION,** Respondent.

Opinion filed March ***24, 1975.***

MURPHY, TIMM, LENNON & **SPESIA,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-625—Claimant awarded $611.10.)

LORA J. SVANIGA, Claimant, *us.* STATE OF ILLINOIS, FAIR EMPLOYMENT PRACTICES COMMISSION, Respondent.

Opinion filed March *24, 1975*

LORA J. SVANIGA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS**, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-635—Claimant awarded $818.40.)

HENRY S. KELLER, Deceased, by NEVA KELLER, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed March *24, 1975.*

HENRY S. KELLER, deceased, by **NEVA KELLER,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-638—Claimant awarded $25.50.)

CENCO MEDICAL HEALTH SUPPLY CORP., Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed March 24, 1975.

CENCO MEDICAL HEALTH SUPPLY CORP., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* ***warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-641—Claimant awarded $5,888.18.)

FISHBACH BROTHERS, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed March 24, 1975.

FISHBACH **BROTHERS, INC.,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CoNTRACTslapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-658—Claimant awarded $7,912.75.)

WILLIAM T. REGAS, Claimant, *us.* STATE OF ILLINOIS, FAIR EMPLOYMENT PRACTICES COMMISSION, Respondent.

Opinion filed March 24, 1975.

WILLIAM T. REGAS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-665—Claimant awarded $2,000.00.)

REACO, INC., Claimant, *us.* **STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY,** Respondent.

Opinion filed ***March 24, 1975.***

ALAN KANTER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-666—Claimant awarded $1,998.12.)

REACO, INC., Claimant, *us.* **STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY,** Respondent.

Opinion filed ***March 24, 1975.***

ALAN KANTER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-729—Claimant awarded $19,460.00.)

CALDWELL ELECTRIC COMPANY, Claimant, *us.* STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD, Respondent.

Opinion filed March 24, *1975.*

CALDWELL ELECTRIC, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-732—Claimant awarded $13.50.)

BANKERS UNITED LIFE ASSURANCE COMPANY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed March *24, 1975.*

BANKERS UNITED LIFE ASSURANCE COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-736—Claimant awarded $2,562.00.)

HOFFMAN-LA ROCHE, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed March *24, 1975.*

HOFFMAN-LA ROCHE, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-741—Claimant awarded $2,273.46.)

XEROX CORPORATION, Claimant, *us.* STATE OF ILLINOIS, OFFICE OF EDUCATION, Respondent.

Opinion filed March *24, 1975.*

XEROX CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-747—Claimant awarded $394.48.)

UNITED PARCEL SERVICE, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LAW ENFORCEMENT, Respondent.

Opinion filed March *24, 1975.*

UNITED PARCEL SERVICE, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-761—Claimant awarded $404.00.)

TELEMED CORPORATION, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed March ***24, 1975.***

TELEMED CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-793—Claimant awarded $671.96.)

THE BAKER & TAYLOR COMPANY, Claimant, *us.* STATE OF ILLINOIS, ILLINOIS OFFICE OF EDUCATION, Respondent.

Opinion filed March ***24, 1975.***

THE BAKER & TAYLOR COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. **WEBBER, Assistant Attorney General,** for **Respondent.**

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-831—Claimant awarded $287.70.)

BRUCE ELECTRONICS, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed March *24, 1975.*

BRUCE ELECTRONICS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-835—Claimant awarded $12.47.)

HARVARD EDUCATIONAL REVIEW, Claimant, *vs.* **STATE OF ILLINOIS, ILLINOIS OFFICE OF EDUCATION, Respondent.**

Opinion filed March *24, 1975.*

HARVARD EDUCATIONAL REVIEW, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-851—Claimant awarded $982.50.)

JAMES W. SANDERS, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.**

Opinion filed March *24, 1975.*

JAMES W. SANDERS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-856—Claimant awarded $294.81.)

HEINEMANN'S, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF PUBLIC HEALTH, Respondent.

Opinion filed March *24, 1975.*

HEINEMANN'S, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the **Court** will enter an award for the amount due claimant.

PER CURIAM.

(No. 6281—Claimant awarded $13,363.78.)

JENKINS, MERCHANT & NANKIVIL, a partnership composed of CARTER JENKINS, and CHARLES MERCHANT, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC WORKS AND BUILDINGS and DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed March 26, *1975.*

SORLING, CATRON & HARDIN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; DOUGLAS G. OLSON, Assistant Attorney General, for Respondent.

CONTRACTS. Claim for professional engineering services rendered to State at 2 locations. Dispute as to facts concerning bid estimates and percentage payment. Claimant's contention as to "extras" held not valid and claim denied for additional claim.

HOLDERMAN, J.

This action arises out of two contracts entered into between Jenkins, Merchant, and Nankivil, consulting engineers sometimes referred to as Associate Engineers, and respondent State of Illinois.

One contract was for professional engineering services for road improvements at Manteno State Hospital. The amount earned and owing is $12,081.27. The State admitted this amount was due and owing in its Departmental Report and at the time of the hearing. There is no dispute as to the amount of $12,081.27.

The second contract was for structural and professional engineering services for air conditioning various buildings at Anna State Hospital, Anna, Illinois. Jenkins claims that there is $2,696.06 earned and owing on this contract. The State acknowledges and argues that there is only $1,282.51 due and owing on this contract.

Thus the amount in dispute in this case is $1,413.55.

This difference of $1,413.55 arises because the claimant and the State disagree on the manner in which claimant's fee was to be computed under claimant's contract with the State.

The contract between the State and claimant provides how claimant was to be paid for the engineering services rendered. Both the State and claimant agree that compensation was to be based on 8% of the amount of the construction contract if the amount was under $200,000.00 and 7% if the amount was over $200,000.00.

In accordance with the contract, claimant submitted an estimate on the "Anna State Hospital Job" of $167,000.00 on January 16, 1967. On March 18, 1967, after bids on the job were received, claimant submitted another estimate on the same job due to the great disparity between the estimates and the bids received. The

March 18, 1967, estimate was in the amount of **$212,000.00.** Claimant asserts that he should be paid on the basis **of** a percentage **of** the March 18, 1967, estimate; the State argues that claimant should be paid on the January 16, 1967 estimate. Claimant also asserts that the contract does not cover the factual situation here present, and that claimant should be paid for an "extra".

It is clear that the contract between claimant and the State dated July 20, 1966, calls for the computation of claimant's fee to be made upon the basis of a "revised final estimate upon completion of drawings and specifications and ***prior to advertising for bids".*** Due to the foregoing provision in the contract between claimant and the State, claimant is compelled to argue that the claim of claimant for additional compensation is due to extra work not contemplated by the parties or an implied modification of the contractual terms between the parties since the March 18, 1967, estimate was prepared and submitted after the bids were received.

With respect to claimant's first contention, claimant argues that it is entitled to compensation for extra work done when the extra work is authorized and requested by the owner. However, only proof with respect to any requests for a revised estimate came through the testimony of claimant's witness, Mr. Carter Jenkins, who testified that the State requested the second estimate by telephone. On cross-examination, Mr. Jenkins testified, with respect to the great disparity between the original estimate and the bids received, that claimant was asked to give its opinion as to what the cause may have been for the disparity, and in so doing claimant submitted a revised estimate. It is clear that the contract between claimant and the State contemplated that the State could require claimant, after bids had been received, to exam-

ine the bids and receive requests for approval of materials and equipment and forward recommendations to the Supervising Architect.

Mr. Volk of the Supervising Architect's office testified that when the bids came in, it was "quite evident that the bids were very much in excess of the Associates final estimate". Volk went on to testify that the Supervising Architect's office requested the analysis of the Associate and reasons why the bids were so high so that it could be determined whether the biding contractors were "way out of range" or whether the "estimate was too low." At first, claimant submitted a letter of March 4, dealing with the disparity between the estimate and the bids received. This was deemed to be insufficient by the Supervising Architect's office and the Supervising Architect requested a further explanation as to why the prices were so high compared to the estimate. It was at this point in time that the March 18, 1967, estimate was submitted by claimant.

There was no proof that the State at any time prior to the receipt of the March 18,1967, estimate had agreed to pay claimant additional compensation for the March 18, 1967, estimate. Therefore, claimant's first assertion that the "extra" consisting of the March 18, 1967, estimate should be paid for must be denied for the reason that there was no agreement shown on the part of the State to pay for the extra services, if indeed the revised estimate of March 18, 1967, was, in fact, an extra service.

Claimant's second contention, that there was a modification of the contract, must also be denied for the reason that the contract specifically requires that payment of the Associate be based upon the final estimate *prior to the receipt of bids.* There was no testimony that it was the intention of either the State or claimant, either

by expressed acknowledgement or by necessary implication, that claimant's payment would be based on an estimate prepared after bids were received. There is nothing in the record to show that it was the manifest intention of the representatives of the State or of claimant to adjust claimant's payment on the basis of the March 18, **1967,** estimate. Claimant failed to prove original agreement for compensation in excess of that agreed upon in the contract.

The State's argument, that if the Associate Engineer was to be paid on the basis of estimates revised ***after*** the receipt of bids it would encourage associate engineers to make high estimates and defeat the purpose of obtaining estimates prior to the receipt of bids, must be accepted as valid in light **of** the contract and in light of the specific requirement of the contract that the Associate's fee be calculated on the basis of the esimates ***submitted prior*** to the opening of bids.

At best, the evidence showed a misunderstanding between the office of the Supervising Architect and claimant that would not have occurred if claimant's original estimate submitted on January **16, 1967,** had not been grossly in error.

It is, therefore, the opinion of this court that claimant should be awarded the sum of **$12,081.27** which is unpaid on the Manteno contract because of the lapsing of the appropriation; and, in addition, the sum of $1,282.51 which is the amount claimant should be paid on the Anna State Hospital contract under the express terms of the contract. Claimant's additional claim of $1,413.55 must be denied.

Claimant is hereby awarded the total sum of **$13,363.78** in full settlement of this claim based upon a contract.

(No. 73-CC-307—Claimant awarded $2,700.00.)

EDGEWATER HOSPITAL, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALT, Respondent.

Opinion filed March *31, 1975.*

EDGEWATER HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-35—Claimant awarded $944.57.)

GLENN OLIVER DECKER, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF REVENUE, Respondent.

Opinion filed March *31, 1975.*

KLEIMAN, CORNFIELD & FELDMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-413—Claimant awarded $19,459.09.)

DELBERT P. SHROYER, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF AERONAUTICS, Respondent.

Opinion filed March *31, 1975.*

BRUNSMAN, CRAIN & KENNEY, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 73-CC-659—Claimant awarded $585.00.)

ANDREWS UNIVERSITY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed March *31, 1975.*

JAMES D. THOMPSON, Claimant, pro **se.**

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-560—Claimant awarded $18.96.)

BISMARK HOTEL, Claimant, *us.* STATE OF ILLINOIS, GOVERNOR'S OFFICE, Respondent.

Opinion filed March 31, *1975.*

BISMARK HOTEL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-629—Claimant awarded $2,237.42.)

BARCO VIDEO, Claimant, *us.* STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD, Respondent.

Opinion filed March 31, *1975.*

BARCO VIDEO, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-670—Claimant awarded $45.90.)

RADIO SHACK, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LAW ENFORCEMENT, Respondent.

Opinion filed March 31, *1975.*

RADIO SHACK, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-716—Claimant awarded $75.00.)

JOHN E. JACOBSEN, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed March *31, 1975.*

JOHN E. JACOBSEN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-754—Claimant awarded $4,096.00.)

MILTON ROY COMPANY, HAYS REPUBLIC DIVISION, Claimant, *us.* STATE OF ILLINOIS, OFFICE OF THE SECRETARY OF STATE, Respondent.

Opinion filed March *31, 1975.*

MILTON ROY COMPANY, HAYS REPUBLIC DIVISION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed,,the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-803—Claimant awarded $4,718.14.)

FISHBACH BROS., INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed March *31, 1975.*

FISHBACH BROS., INC., Claimant, pro *se*.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-836—Claimant awarded $2,385.00.)

AMERICAN CYSTOSCOPE MAKERS, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed March ***31, 1975.***

AMERICAN CYSTOSCOPE MAKERS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-841—Claimant awarded $5,899.40.)

ST. LOUIS PAPER AND BOX CO., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed March ***31, 1975.***

ST. LOUIS PAPER AND BOX CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-866—Claimant awarded $452.95.)

FRYE WILLIAMSON PRESS, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed March ***31, 1975.***

FRYE WILLIAMSON PRESS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent..

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-868—Claimant awarded $175.00.)

NORTH GREENE UNIT DISTRICT #3, Claimant, *us.* **STATE OF ILLINOIS, ILLINOIS OFFICE OF EDUCATION,** Respondent.

Opinion filed March ***31, 1975.***

NORTH GREENE UNIT DISTRICT #3, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have'been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-905—Claimant awarded $1,019.45.)

QUALITY LIME COMPANY, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION,** Respondent.

Opinion filed March ***31, 1975.***

QUALITY LIME COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 5668—Claimant awarded $24,844.29.)

HOEFFKEN BROS., INC., Claimant, *vs.* STATE OF ILLINOIS, DIVISION OF HIGHWAYS, Respondent.

Opinion filed *April 1,* 1975.

HOEFFKEN BROS., INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CONTRACTS—*damages.* **Where there is a change in plans or delays resulting in a change of plans because of action by the State, the contractor is entitled to extra compensation.**

HOLDERMAN, J.

This cause coming on to be heard upon the petition of claimant for rehearing, and the Court having examined said petition and the file in said cause of action, and having heard the oral argument of both the respondent and the claimant, and having carefully looked into matters that were supposed to have been overlooked or misapprehended by the Court, the Court **FINDS:**

That both the north and south roads were built by the claimant and were constructed at or about the same time, that the same method of construction was used in both sections, and that the material used in both sections was taken from the same borrow pit designated by the State.

It appears further from the record, that there was a period of heavy rainfall at the time of the construction of the section complained of and that, despite this condition, the claimant was ordered to proceed by the respondent.

It is abundantly clear from the record, that the State desired to complete this entire section of road as soon as possible. This is evidenced by the Order directing the

claimant to work six days per week instead of five, and also by the Order of the engineer, even while recognizing the condition of the fill, which ordered the claimant to proceed.

The record is also clear that there was a Change Order as to the material to be used in the construction of the road so that better drainage could be obtained.

The respondent alleges that the damage, in part, was caused by the method of construction used by the claimant, despite the fact that both sections were constructed in the same manner.

This Court has held on many previous occasions that where evidence disclosed that there was a change in plans, or delays resulting in a change of plans because of action by the State, then the contractor is entitled to extra compensation. 25 C.C.R., Page 139, 24 C.C.R., Page 419, 24 C.C.R., Page 451.

It is the belief of this Court that the only place it erred in its original opinion was in the amount of damages awarded to the claimant. A very careful re-reading of the entire record and an examination of the exhibits indicates that the total claim of the claimant, as finally submitted, was in the amount of $49,688.59.

The Court is still of the opinion that there was some fault on the part of the claimant in proceeding under the conditions they did, even though being pressed by the State.

Therefore, instead of allowing the entire amount of $49,688.59, the Court believes an award of $24,844.29 is an equitable amount.

An award is hereby entered in that amount.

(No. 74-CC-879—Claimant awarded $158.20.)

MONTGOMERY COUNTY SHERIFF'S OFFICE, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed April 2, 1975.

KELLY D. LONG, State's Attorney of Montgomery County, for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS — ***reimbursement*** to ***County.*** In allowing a claim to reimburse the County for Sheriffs fees, the 2-year statute of limitations will not apply where the County filed a claim within 7 days after being notified that the funds appropriated for such payment had lapsed.

HOLDERMAN, J.

This claim, filed on June **24, 1974,** seeks payment of the sum of **$158.20** for Sheriff's fees allowed **by** law for conveying the following **4** persons to the penitentiary on the dates stated below:

August 6, 1968 Danny Robinson 35210 to I.S.P., Menard Branch 113 miles at 35 cents per mile	$39.55
July 1, 1968 John E. Gordon 35121 to I.S.P., Menard Branch 113 miles at 35 cents per mile	$39.55
August 29, 1969 Norman Garwood 36194 and Roger Gruen 36193 to I.S.P., Menard Branch 113 miles at 35 cents per mile x 2	$79.10
Total	$158.20

Respondent's motion to dismiss on the grounds that the aforesaid services were performed more than two years before the claim was filed will be denied.

The court is of the opinion that the 2-year statute of

limitations on which respondent relies, as stated in 822 of the Court of Claims Act, should not apply to this claim under either of the following theories: (a) The services were rendered by the sheriff under an implied contract imposed by law, or (b) the cause of action did not accrue until the claimant received a letter from the Department of Corrections dated June 17, 1974, which reads in pertinent part as follows:

> **"We regret that these vouchers did not reach us in time to be scheduled for payment from our appropriations for fiscal years 1969 and 1970. We are prohibited, by law, from paying these charges from our current appropriations. The proper way for you to request payment is by presenting a claim to the Illinois Court of Claims"**

We accept claimant's statement that, "Any delay in filing the claim herein has been the direct result of a delay of the said Department of Corrections in either allowing or disallowing said claim, and that this claim was filed within seven days after the denial of the claim by the Department of Corrections."

It is apparent that this claim was not approved by the Department only because funds appropriated for such payment had lapsed.

The claim will be allowed. The claimant, Montgomery County sheriff, is hereby awarded the sum of $158.20 as the fees allowed by law for conveying prisoners.

(No. 75-CC-686—Claimant awarded $4,022.30.)

JAMES R. SALZMAN, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed April 2, 1975.

JAMES R. SALZMAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 5691—Claim denied.)

JAMES O. KING, Individually and as Administrator of Estate of RHODA KING, deceased, Claimant, *us.* STATE OF ILLINOIS, DIVISION OF HIGHWAYS, Respondent.

Opinion filed April 7, 1975.

JAMES WALKER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

HIGHWAYS—*negligence.* A driver approaching an intersection, who fails to look as he approaches, to ascertain whether there are other cars in proximity, especially those which might have the right-of-way over him is guilty of want of ordinary care and contributory negligence.

BURKS, J.

Claimant's wife was killed as a result of a collision at an intersection where a village street crosses U.S. Highway 150 in the Village of LeRoy in McLean County.

The claimant, James O. King, brings this action individually and as administrator of the estate of his wife, Rhoda King, deceased. The complaint seeks damages for the wrongful death of the deceased, and for reimbursement of her medical and funeral expenses.

Claimant alleges that the proximate cause of his wife's death was the State's negligence in failing to

replace a downed stop sign within a reasonable time after having actual or constructive notice of the defect.

Respondent denies that the state had any prior notice of the downed stop sign, but bases it's denial of liability primarily on the alleged contributory negligence of claimant's decedent.

The accident occurred on October 20, 1967, at about 5:30 p.m. The deceased, Rhoda King, was driving her car south on Hemlock Street in the Village of LeRoy and, seeing no stop sign, drove her automobile onto U.S. Highway 150, without stopping, into the path of and in front of a semi-trailor truck which struck her car broadside causing Mrs. King's serious injuries from which she died three days after the accident.

Although the village streets within the Village of LeRoy are not under the jurisdiction of the State's Division of Highways, respondent did erect the numerous stop signs within the village to command all traffic on village streets to stop before entering or crossing U.S. Highway 150, the only thoroughfare running through the village. Respondent was also responsible for maintaining such stop signs, including the one on Hemlock Street, which was down at the time of Mrs. King's accident. The "Report of the Division of Highways", cited by the claimant, acknowledges the respondent's duty to maintain the stop sign, but states that it had no notice from any source that the sign was down.

It is apparent that the stop sign was down at the time of Mrs. King's accident, but it is equally apparent from the record that the respondent had no actual notice of this fact. This was confirmed by a witness for the claimant, Mr. Eugene Lyons, who was at the time of the accident the state employee who had the responsibility

for the erection and maintenance of this stop sign. This witness for the claimant stated positively that there had been no report to the Division of Highways of this sign being down prior to the accident. None of the other witnesses who had noticed the sign being down prior to the accident had reported this fact to anyone.

In the absence of any actual notice to the respondent that this stop sign was down, respondent cannot be charged with negligence in failing to replace the sign, unless the evidence shows that the respondent should be charged with constructive notice of this defect and failed to take appropriate remedial action within a reasonable length of time.

Under certain circumstances, "a lapse of time of sufficient duration to permit discovery of a defective or dangerous condition may constitute constructive notice thereof to the state. ***"I.L.P.Roads and Bridges §154.*** In ***Dockery*** v. ***State (1949)18 C.C.R. 177,*** we held that there was constructive notice of a large hole that had existed for three weeks in the pavement of a state highway. In that case, it was obvious that the state should have had actual notice of such a defect in the middle of its highway.

The absence of a stop sign on a village street is not likely to be as readily noticed as a large hole in a highway. Nevertheless, we have considered the evidence as to the length of time this particular stop sign was down.

The evidence on this point is contained in the testimony **of** three witnesses for the claimant which is summarized as follows: William Litherland, a LeRoy resident, testified that he noticed the sign was down two or three days prior to the accident. O. J. Lere, a LeRoy

resident, testified that he and his wife noticed the sign was down the Sunday before the accident occurred on Friday, indicating that the sign was down at least six days. Junior Sigler, who was employed at the Victory Inn, located on the southeast corner of the intersection, testified that the sign had been down for three weeks prior to Mrs. King's accident. He said his attention was called to the fact that the sign was down when a truck had knocked it down.

Another witness called by claimant was one Ralph Duvick, a school teacher and editor of the village newspaper, the LeRoy Journal. He took a photograph, claimant's Exhibit 1, showing the stop sign still lying in the ditch nine days after the fatal accident. This contradicts the report of the Division of Highways which states that the stop sign was replaced on the day after the accident. Since the point has little relevancy, we need not attempt to resolve the apparent conflict by considering, as respondent suggests, that the sign may have been knocked down again by vandals after it was replaced, after the accident. Both of the LeRoy policemen testified that there had been a lot of vandalism in and around LeRoy about that time.

Mr. Duvick explained that he took the picture [claimant's Exhibit 11 which he published, "to remind people that, if they see a sign down, they should notify proper authorities." He said there had been two or three other signs knocked down in the area of this rural community.

Mr. Lyons, the state employee responsible for maintaining this stop sign and claimant's witness, described the respondent's procedures for making periodic inspections to discover such defects as a downed stop sign. He said that his maintenance crews report such defects as do

the State Police, County Police, and sometimes farmers report, "if they happen to bust one."

Both of LeRoy's policemen, Russell Builta and Robert Rice, state that they would have notified the state if they had been aware that the stop sign was down. They both said that the streets of LeRoy were patrolled every night, and that Hemlock Street, being on the outside edge of town, was patrolled at least twice every night. Yet, they had not noticed the sign being down. Neither could say positively that they remembered seeing the sign erect in the three weeks prior to the accident. Mr. Rice said he thought he would have noticed it if it had been down. He saw it down at the time of the accident.

Considering all of the above testimony in a light most favorable to the claimant, we conclude that the stop sign in question had been down for a period of three weeks prior to Mrs. King's accident. The evidence is clear that respondent had no actual notice of this fact, and we do not believe that a finding of constructive notice is justified under these facts and circumstances. If the two village policemen, who patrol the streets every day, were so oblivious to the existence or non-existence of this particular sign, it would seem unfair to impute constructive notice of the defect to the respondent for the failure of its agents and employees to discover the down sign within three weeks.

Claimant relies on the rule in ***Buckley*** v. ***City*** *of* ***Chicago*** *(1954)* ***3*** *Ill. App. 2d* ***39,*** contending that its facts are nearly identical to those in the case at bar. Some of the facts are similar, but the significant and distinguishing difference is the length of time the stop sign had been missing from the city intersection. In ***Buckley*** the stop sign, required by city ordinance, had been missing for "many months." This contrasts sharply with the three

weeks the sign had been down on a less busy intersection in the village. Even so, ***Buckley*** did not hold the city negligent as a matter of law. It merely upheld the jury's finding of negligence under the facts and circumstances in that case. Indeed, in its discussion of questions of negligence, due care, and proximate cause, the court said in ***Buckley*** at page ***42:***

> "Questions which are composed of such qualities sufficient to cause reasonable men to arrive at different results should never be determined as matters of law The debatable quality **of** issues such as negligence and proximate cause, the fact that fair-minded men might reach different conclusions, emphasize the appropriateness and necessity of leaving such questions to a fact-finding body "

Claimant also relies heavily on the ruling in ***Johnson*** v. ***City of Moline (1949) 338 Ill.App. 220,*** holding the city liable for negligence where a traffic light was knocked down, promptly removed by the city, but not replaced for a period of six days. During that 6-day period, several accidents had occurred at this busy city intersection. In ***Johnson,*** the city had actual notice **of** the traffic light the city had removed and of the dangerous condition it created. In the case at bar, unlike the facts in ***Johnson,*** the state had no actual notice of the downed stop sign, and the evidence as to constructive notice is weak. The instant cause further differs from ***Johnson*** in that here, there had been no previous accidents at this intersection.

It is not necessary for us to conclude that the respondent was in no degree negligent in this matter, since the evidence indicates that Mrs. King must be charged with some degree of negligence which contributed to her fatal accident.

This court has always followed the rule that contributory negligence on the part of a claimant [or, as here, the claimant's intestate1 is a bar to recovery of

damages. The contributory negligence rule was carefully reconsidered and reaffirmed by the Illinois Supreme Court in ***Maki*** v. ***Frelk*** *(1968)* ***40 Ill. 2d 193.***

Several facts in this case preclude our finding that Mrs. King was free from any negligence that contributed to her accident.

The various photo exhibits of both parties show the view of the intersection as Mrs. King must have seen it from her approach. It can readily be observed that U.S. Highway 150, which she was approaching, is a 2-lane concrete pavement and obviously a main highway. The village street, on which she was driving, was a narrow oiled street and obviously a road of secondary importance to the highway she was approaching. We believe that, if Mrs. King were exercising due care and caution for her personal safety, she would have seen and known that she was approaching an intersection with a preferential highway even though she saw no stop sign.

An even more important fact suggesting a lack of ordinary care for her personal safety on this occasion was her appatent failure to observe the large semi-trailer truck on the highway approaching the intersection coming from the left.

The Departmental Report, filed in this cause under Rule **14,** makes the following assertion:

> **"The driver of a southbound vehicle on Hemlock, [as the decedent was] upon approaching U.S. Route 150, has a clear and unrestricted sight distance to the east at the intersection."**

This conclusion is born out by the photographs introduced by both claimant and respondent. Respondent's Exhibit C gives a particularly clear picture of Mrs. King's sight distance to her left as she approached the intersection.

It is further stated in the Departmental Report:

"The deceased, Rhoda L. King, would have had a clear view of the approaching westbound truck and had a duty to take appropriate action for her own safety."

Yet, the State Highway Police "Traffic Accident Report" offered in evidence by the claimant and also attached to the Departmental Report, states that Mrs. King "pulled into the path of Unit #2 and was struck broadside in the left side".

The decedent did not live long enough to explain why she proceeded into the path of the truck and into such obvious danger. The most plausable theory is that she failed to see the truck, even though she had an unobstructed view of the highway in the direction from which the truck was coming. Such failure to see would be contributory negligence.

We have also considered the theory that, even if she saw the truck, she might have assumed that it would yield the right-of-way to her since it was approaching on her left. We have taken judicial notice, as claimant requested at the hearing, of the provision in *Ill.Rev.Stat. (1967) Ch. 95½ §165* relating to right-of-way. We find that the statute is not applicable to the case at bar under the ruling in the similar case involving a downed stop sign, ***Vierke*** v. ***Sunset Valley Creamery Co. (1965) 58 Ill.App.2d 323.***

Even if Mrs. King had the right of way, as she may have erroneously assumed, this does not relieve a driver from the duty to exercise ordinary care in approaching, entering and driving through the intersection. (***Waldren*** v. ***Hardwick, (1968) 99 Ill.App.2d 36.)*** Rather, as the court stated in ***Conner*** v. *McGrew, (1961) 32 Ill.App.2d 214:*

"...a driver [even] on a preferential highway does not have an absolute or unqualified right-of-way that can be asserted regardless of circumstances, distances or speed. ***Such a driver may not plunge blindly ahead in reliance upon an assumption that the other motorist will obey the law and yield the right-of-way, nor may be heedlessly proceed into obvious danger.*** Rather, there is a duty upon such driver to observe due care in approaching and crossing the intersection and to drive as a prudent person would to avoid a collision when the danger is discovered, or **by** the exercise or reasonable care, should have been discovered." (Emphasis added)

The above rule is restated in the well known booklet, ***"Illinois Rules of the Road",*** as follows: [This booklet was offered in evidence by the claimant as good authority for claimant's assertion that traffic signs and signals are of utmost importance.1

"It must be understood that, in ***every*** situation, the right-of-way is something which is to be given, not taken. If the other driver is not following the rules, let him have the right-of-way even if it really belongs to you. Otherwise, you will be gambling with the lives of yourself and your passengers." [Such gambling is negligence.]

It is well settled that a driver approaching an intersection, who fails to look as he approaches, to ascertain whether there are other cars in proximity, especially those which might have the right of way over him, is guilty of want of ordinary care and contributory negligence. ***(Touhey*** v. ***Yellow Cab Company,*** *(1962)* ***33 Ill.App.2d 180.)***

There is considerable testimony in the record which attempts to cast some light on the probable reasons why Mrs. King drove into the path of the truck as she did, other than the fact that the stop sign was down. It is unnecessary to comment on this evidence since the inferences that could be drawn would not be conclusive and would not alter the decision in this case.

Mrs. King was an experienced driver with a good driving record, according to claimant's testimony. Yet, on this particular occasion, the weight of the evidence shows that she was negligent and that her negligence contrib-

uted to her fatal accident. Hence, this claim must be and is hereby denied.

(No. 73-CC-85—Claimant awarded $166.36.)

ALLSTATE INSURANCE COMPANY, as Subrogee **of WILLIAM E. MASTERS, JR.,** Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed April 7, 1975.

ROBERT E. PEDERSON, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

DAMAGES — ***stipulation.*** **Action by claimant subrogee for damage sustained** to **insured auto when ladder owned by State of Illinois fell on it. Stipulation as to amount of damage. Court awarded claimant stipulated damages.**

PER CURIAM.

This cause coming on to be heard on the Joint Stipulation of the parties hereto, and the Court being fully advised in the premises;

THIS COURT FINDS that, based upon the report of the Department of Transportation filed with the Court on June 20, 1973, as well as Claimant's paid bill in the amount of $166.36, Claimant's subrogee, WILLIAM E. MASTERS, JR., sustained damage to his vehicle when it was struck by a falling ladder owned by Respondent;

IT IS HEREBY ORDERED that Claimant be awarded the sum of $166.36 (ONE HUNDRED AND SIXTY-SIX DOLLARS AND THIRTY-SIX CENTS) in full satisfaction of any and all claims presented to the State of Illinois under the above-captioned cause.

(No. 74-CC-812—Claim dismissed.)

HOLDER MOVING AND STORAGE, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed April 7, 1975.

HOLDER MOVING AND STORAGE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CONTRACTS. **Claim for moving services rendered to public aid recipient. No priority of contract between claimant and State. State paid money to said public aid recipient. Claim denied by court.**

BURKS, J.

This matter is now before the court for a ruling on respondent's motion to dismiss [filed August 21, 19741. Respondent states in its motion that this claim has been satisfied, and should, therefore, be dismissed pursuant to §48(f) of the Civil Practice Act.

Although claimant has filed no objections to respondent's motion, we find nothing in the record to support respondent's contention that this claim has been satisfied. It is apparent to the court, however, that there are other good and sufficient reasons for dismissing this claim.

It appears from the report from the Department of Public Aid dated August 12, 1974, that this particular claimant has not been paid for moving and storage services rendered to the public aid recipient, Margaret Lampkin. The Department states that it did authorize $86.24 for moving expenses in the case and did pay this amount to the aid recipient for this purpose. The Department further states that apparently the recipient did not pay the claimant. Under these circumstances, the court must assume that there was no privity of contract

between the Department and this claimant, as sometimes does exist between this Department and a vendor of moving services to a public aid recipient. Hence, the claimant must look to the public aid recipient for payment of its claim.

Unless a claim is properly presented to this court, it is not our function to mediate contractual matters between the Department of Public Aid and vendors of goods or services to public aid recipients.

In the instant cause, no copy of a contract was attached to the complaint as required by Rule 5C in all claims based on an alleged contract. Moreover, claimant admits in its invoice attached to the complaint, that Margaret Lampkin was personally responsible for the payment of $93.35 on its total bill for moving and storage, and that only $86.24 was chargeable to the state in any event.

Payment of the $86.24 was not refused on the grounds that funds appropriated for such payment had lapsed, as claimant stated in its complaint. Payment in this amount was paid to the public aid recipient, Margaret Lampkin. The claimant could have collected the said amount from the aid recipient before it released the goods which it moved and stored.

IT IS HEREBY ORDERED that this claim be and the same is hereby dismissed.

(No. 75-CC-167—Claimant awarded $277.16.)

WILLIAM R. WALLIN, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed April 9, 1975.

WILLIAM R. WALLIN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* ***warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-334—Claimant awarded $3,267.00.)

THE COUNTY OF RANDOLPH, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed April 9, *1975.*

HERBERT J. LANTZ, JR., State's Attorney *of* Randolph County, for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

COUNTIES—*habeas* corpus. Claim by Randolph County for reimbursement of fees in habeas corpus cases. Court found fees due for prior fiscal years and awarded claimant such amount.

PER CURIAM.

This cause coming on to be heard on the Joint Stipulation of the claimant, County of Randolph, and the respondent, State of Illinois, and the Court being fully advised in the premises find that this case arises pursuant to Ill. Rev. Stat., **1973,** Ch. **65,** Pars. **37, 38, 39** being:

"An Act to provide for the imbursement (reimbursement) of counties within the State of Illinois for expenses, costs and fees incurred in Habeas Corpus proceedings and the courts of such counties, involving non-residents of such counties who may be confined in State penal or charitable institutions."

and that claimant is entitled to reimbursement of expenses, costs and fees as follows:

A.	31 Habeas Corpus filing fees for FY '73 for a total of	$ 930.00
	and	
	50 Habeas Corpus filing fees for FY '74 for a reimbursement of	1,500.00
	Total filing fee	$2,430.00
B.	State's Attorney fees for defending 5 Habeas Corpus suits in FY '74 at $20 ea.	$ 100.00
	and	
	State's Attorney fees for defending 15 habeas corpus suits in FY '74 at $20 ea.	300.00
	Total reimbursement of expenses for the two years	$ 400.00
C.	Sheriffs fees for FY '73 as set forth in the Complaint and Joint Stipulation of the parties of	$ 89.00
	and	
	Sheriffs fees for FY '74 of	267.00
	for a total of	$ 356.00
D.	A total of 81 library fees for the fiscal periods at $1 ea.	$ 81.00

As set forth in the departmental report and the Joint Stipulation of the parties, the portion of the claim for reimbursement of the last five cases listed on the Bill of Particulars falls within the current fiscal year and are not a proper subject for a claim in this Court. Accordingly, the claim is reduced by $268.40.

IT IS HEREBY ORDERED that an award be entered for claimant in the amount of **$3,267.00, THREE THOUSAND TWO HUNDRED SIXTY-SEVEN AND** 00/100 **DOLLARS.**

(No. 75-CC-413—Claimant awarded 100.81.)

CARL F. HARDIMAN, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed April 9, 1975.

CARL F. HARDIMAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* ***warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under

Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment

PER CURIAM.

(No. 75-CC-447—Claimant awarded $82.90.)

BISMARK HOTEL, Claimant, *vs.* STATE OF ILLINOIS, SUPERINTENDENT OF PUBLIC INSTRUCTION, Respondent.

Opinion filed April *9, 1975.*

BISMARK HOTEL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; MARTIN A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-493—Claimant awarded $39,919.40.)

HALLETT & SONS EXPERT MOVERS, INC., Claimant, *vs.* STATE OF ILLINOIS, CHICAGO STATE UNIVERSITY, Respondent.

Opinion filed April *9, 1975.*

FRANCIS X. RILEY. Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS-lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-504—Claimant awarded $518.64.)

CECILIA COSTANZO, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed April *9, 1975.*

DANIEL R. Fusco, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

(No. 75-CC-511—Claimant awarded $234.90.)

BOOTH MEMORIAL HOSPITAL, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed April *9, 1975.*

BOOTH MEMORIAL HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-582—Claimant awarded $493.31.)

BEN COURTWRIGHT, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April 9, *1975.*

BEN COURTWRIGHT, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-612—Claimant awarded $760.65.)

NARIMAN SOLHKHAN, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed April 9, 1975.

JEROME GOLDBERG, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—***lapsed appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award **for** the amount due claimant.

PER CURIAM.

(No. 75-CC-640—Claimant awarded $157.00.)

VICTOR L. BIGFORD, D.D.S., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed April 9, 1975.

VICTOR BIGFORD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-676—Claimant awarded $285.50.)

CITY NATIONAL BANK OF KANKAKEE, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed April 9, 1975.

CITY NATIONAL BANK OF KANKAKEE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-677—Claimant awarded $3.59.)

SPOON RIVER COLLEGE, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed April 9, 1975.

SPOON RIVER COLLEGE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-680—Claimant awarded $412.35.)

FORESTRY SUPPLIERS, INC., Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed April 9, 1975.

FORESTRY SUPPLIERS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under

Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-681 — Claimant awarded $482.37.)

FONTAINBLEAU HOTEL, Claimant, *us.* **STATE OF ILLINOIS, SECRETARY OF STATE,** Respondent.

Opinion filed April *9, 1975.*

FONTAINBLEAU HOTEL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-718 — Claimant awarded $3,934.00.)

P. H. **BROUGHTON & SONS,** INC., Claimant, *us.* **STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD,** Respondent.

Opinion filed April *9, 1975.*

P. **H. BROUGHTON & SONS, INC.,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-739 — Claimant awarded $725.52.)

PROVISO ASSOCIATION OF RETARDED CITIZENS, INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed April 9, 1975.

PROVISO ASSOCIATION OF RETARDED CITIZENS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-753—Claimant awarded $302.12.)

CHICAGO AVENUE MOTORS INC., Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES,** Respondent.

Opinion filed April 9, *1975.*

CHICAGO AVENUE MOTORS INC., Claimant, pro *se*.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-755—Claimant awarded $3,530.35.)

GREAT LAKES FIRE AND SAFETY EQUIPMENT CO., Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed April *9, 1975.*

LEWIS, OVERBECK & FURMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-768—Claimant awarded $400.00.)

GRAND VALLEY STATE COLLEGE, Claimant, *vs.* STATE OF ILLINOIS, BOARD OF VOCATIONAL EDUCATION AND REHABILITATION, Respondent.

Opinion filed April 9, 1975.

GRAND VALLEY STATE COLLEGE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-839—Claimant awarded $1,709.48.)

CLEARBROOK CENTER, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April 9, *1975.*

CLEARBROOK CENTER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-840—Claimant awarded $1,917.40.)

XONICS, INC., Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed April *9, 1975.*

XONICS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-848—Claimant awarded $245.02.)

INTERNATIONAL HARVESTER Co., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed April *9, 1975.*

INTERNATIONAL HARVESTER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-862—Claimant awarded $228.97.)

CURTIN MATHESON SCIENTIFIC INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC HEALTH, Respondent.

Opinion filed April *9, 1975.*

CURTIN MATHESON, Claimant, pro *se:*

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-863—Claimant awarded $476.00.)

CURTIN MATHESON SCIENTIFIC INC., Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent. BOARD OF VOCATIONAL EDUCATION AND REHABILITATION, Respondent.

Opinion filed April 9, ***1975.***

CURTIN MATHESON SCIENTIFIC, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-864—Claimant awarded $274.67.)

CURTIN MATHESON SCIENTIFIC INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF AGRICULTURE, Respondent.

Opinion filed April 9, 1975.

CURTIN MATHESON SCIENTIFIC INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-872—Claimant awarded $135.00.)

MENTAL HEALTH CENTER, Claimant, us. STATE OF ILLINOIS, BOARD OF VOCATIONAL EDUCATION AND REHABILITATION, Respondent.

Opinion filed April *9, 1975.*

MENTAL HEALTH CENTER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-873—Claimant awarded $465.00.)

RELIANCE ELECTRIC Co., Claimant, us. STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD, Respondent.

Opinion filed April *9, 1975.*

RELIANCE ELECTRIC Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-880—Claimant awarded $74.71.)

PFALTZ & BAUER INC., Claimant, us. STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed April *9, 1975.*

PFALTZ & BAUER, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-881—Claimant awarded $40.00.)

CAPITOL PUBLICATIONS, INC., Claimant, *us.* STATE OF ILLINOIS, OFFICE OF EDUCATION, Respondent.

Opinion filed April 9, *1975.*

CAPITOL PUBLICATIONS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-886—Claimant awarded $716.32.)

TELEDYNE PHILBRICK, Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed April 9, 1975

TELEDYNE PHILBRICK, Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-902—Claimant awarded $7,674.00.)

REDACTROM CORP., Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed April 9, *1975.*

REDACTROM CORP., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-907—Claimant awarded $265.00.)

VICTOR H. BEINKE, M.D., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed April 9,' 1975.

VICTOR H. BEINKE, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-106—Claimant awarded $455.25.)

FAIRBANKS MORSE WEIGHING SYSTEMS DIVISION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed April *11, 1975.*

FAIRBANKS MORSE WEIGHING SYSTEMS DIVISION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-&Claimant awarded $480.00.)

ST. MARY OF PROVIDENCE SCHOOL, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed April 11, 1975.

ST. MARY OF PROVIDENCE SCHOOL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-300—Claimant awarded $1,771.20.)

ST. MARY OF PROVIDENCE SCHOOL, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed April 11, 1975.

CLARKE C. ROBINSON, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM . KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-317—Claimant awarded **$390.00.)**

PROFESSIONAL AUDIT BUREAU, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed April *11, 1975.*

PROFESSIONAL AUDIT BUREAU, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-340—Claimant awarded **$12.29.)**

BUSKE LINES, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed April *11, 1975.*

BUSKE LINES, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-343—Claimant awarded $187.45.)

WHEELER'S FARM HOME SCHOOL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES,** Respondent.

Opinion filed April *11, 1975.*

WHEELER'S FARM HOME SCHOOL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-365—Claimant awarded $147.20.)

LAWSON PRODUCTS, INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed April *11, 1975.*

LAWSON PRODUCTS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

.(No. 75-CC-418—Claimant awarded $154.92.)

GAST INTERNATIONAL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed April *11, 1975.*

GAST INTERNATIONAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-454—Claimant awarded $641.97.)

CENTRAL OFFICE EQUIPMENT COMPANY, Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed April 11, 1975.

CENTRAL OFFICE EQUIPMENT COMPANY, Claimant, **pro** ***se.***

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-462—Claimant awarded $38.39.)

LESTER P. WATLAND, Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed April 11, 1975.

LESTER P. WATLAND, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-514—Claimant awarded $334.80.)

MOSE FARRIS, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed April 11, 1975.

MOSE FARRIS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-515—Claimant awarded $554.69.)

WILLIAM S. KERR, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April 11, 1975.

WILLIAM S. KERR, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-530—Claimant awarded $562.66.)

LEONARD C. BUCHANAN, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April 11, 1975.

LEONARD C. BUCHANAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-533—Claimant awarded $557.90.)

LAMBERT BEASTALL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed April 11, 1975.

LAMBERT BEASTALL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-602—Claimant awarded $34.80.)

INSTANT PRINTING CORP., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF LOCAL GOVERNMENT AFFAIRS,** Respondent.

Opinion filed April 11, 1975.

INSTANT PRINTING CORP., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-609—Claimant awarded $2,076.00.)

FEDERAL SIGN & SIGNAL Corporation, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LAW ENFORCEMENT, Respondent.

Opinion filed April 11, 1975.

FEDERAL SIGN & SIGNAL CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-611—Claimant awarded $282.25)

TURNER CONSTRUCTION Co., Claimant, *us.* STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD, Respondent.

Opinion filed April 11, *1975.*

TURNER CONSTRUCTION Co., Claimaint, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-615—Claimant awarded $18,797.70.)

HONEYWELL INFORMATION SYSTEMS, INC., Claimant, *us.* STATE OF ILLINOIS, OFFICE OF THE SECRETARY OF STATE, Respondent.

Opinion filed April *11, 1975.*

HONEYWELL INFORMATION SYSTEMS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-656—Claimant awarded $825.50.)

CHARLES H. BARTLETT, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed April *11, 1975.*

BARBARA J. HILLMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-688—Claimant awarded $1,279.32.)

THE MCHENRY COUNTY ASSOCIATION FOR THE RETARDED, ETC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April *11, 1975.*

THE MCHENRY COUNTY ASSOCIATION FOR THE RETARDED, ETC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-692—Claimant awarded $176.64.)

MOTOROLA, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed April *11, 1975.*

MOTOROLA, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-695—Claimant awarded $407.00.)

MOTOROLA, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed April *11, 1975.*

MOTOROLA, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-696—Claimant awarded $2,716.77.)

MOTOROLA, INC., Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES,** Respondent.

Opinion filed April ***11, 1975.***

MOTOROLA, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed *appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-703—Claimant awarded $269.77.)

MILDRED C. JAMISON, Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed April ***11, 1975.***

MILDRED C. JAMISON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-705—Claimant awarded $1,002.13.)

RUTH BARRASH, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed ***April 11, 1975.***

RUTH BARRASH, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-706—Claimant awarded $958.30.)

ZYGMUNT STASZEWSKI, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed ***April 11, 1975.***

ZYGMUNT STASZEWSKI, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-707—Claimant awarded $236.05.)

ELEANOR HARRIS, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed ***April 11, 1975.***

ELEANOR HARRIS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-708—Claimant awarded $159.26.)

TANALAYO LEONARDZ, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed April *11, 1975.*

TANDALAYO LEONARDZ, Claimant, **pro *se*.**

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-712—Claimant awarded $306.00.)

MOTOROLA, INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed April *11, 1975.*

MOTOROLA, INC., Claimant, pro ***se*.**

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-724—Claimant awarded $56.00.)

MARSHALL FIELD & COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed April *11, 1975.*

MARSHALL Field & COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-738—Claimant awarded $253.76.)

PROVISO ASSOCIATION OF RETARDED CITIZENS, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April *11, 1975.*

PROVISO ASSOCIATION OF RETARDED CITIZENS INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-742—Claimant awarded $23.65.)

HENKE MANUFACTURING CO., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed April 11, *1975.*

HENKE MANUFACTURING COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM:

(No. 75-CC-778—Claimant awarded $5,209.00.)

GRAND SPAULDING DODGE, INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed April 11, *1975.*

GRAND SPAULDING DODGE, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-790—Claimant awarded $88.00.)

GOLDEN DRAGON RESTAURANT, Claimant, *us.* **STATE OF ILLINOIS, SECRETARY OF STATE,** Respondent.

Opinion filed April 11, *1975.*

GOLDEN DRAGON RESTAURANT, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-796—Claimant awarded $92.20.)

WISHNICK PHARMACY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April *11, 1975.*

WISHNICK PHARMACY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-798—Claimant awarded $141.60.)

OFFICE SUPPLY COMPANY, Claimant, *us.* STATE OF ILLINOIS, ILLINOIS OFFICE OF EDUCATION, Respondent.

Opinion filed April *11, 1975.*

OFFICE SUPPLY COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-799—Claimant awarded $122.96.)

FRANK J. CIMOSKI, JAMES R. CIMOSKI, JEROME J. CIMOSKI, d/b/a VAL-A-COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed April 11, 1975.

FRANK J. CIMOSKI, JAMES R. CIMOSKI, JEROME J. CIMOSKI, d/b/a **VAL-A-COMPANY,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM..

(No. 75-CC-805—Claimant awarded $246.00.)

NORTHERN DISTRICT REPORTERS, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF Revenue, Respondent.

Opinion filed April 11, 1975.

NORTHERN DISTRICT REPORTERS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, **for** Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-806—Claimant awarded $13.75.)

J. P. RUKLIC SCREW COMPANY, Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed April *11, 1975.*

J. P. RUKLIC SCREW COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-807—Claimant awarded **$6.51.)**

J. P. RUKLIC SCREW COMPANY, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed April *11, 1975.*

J. P. RUKLIC SCREW COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-808—Claimant awarded $15.32.)

J. P. RUKLIC SCREW COMPANY, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.**

Opinion filed April *11, 1975.*

J. P. RUKLIC SCREW COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-809—Claimant awarded $15.69.)

J. P. RUKLIC SCREW COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed April 11, 1975.

J. P. RUKLIC SCREW COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-829—Claimant awarded $564.00.)

GRAND SPAULDING DODGE INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed April 11, 1975.

GRAND SPAULDING DODGE, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-837—Claimant awarded $510.00.)

ADDRESSOGRAPH MULTIGRAPH CORP., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed April *11, 1975.*

ADDRESSOGRAPH MULTIGRAPH, CORP.; Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-852—Claimant awarded $200.00.)

MONROE THE CALCULATOR COMPANY, Claimant, *us.* **STATE OF ILLINOIS, BUREAU OF THE BUDGET,** Respondent.

Opinion filed April *11, 1975.*

MONROE THE CALCULATOR COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-854—Claimant awarded $39.36.)

NEWS SUN, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed April *11, 1975.*

NEWS SUN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-870—Claimant awarded $260.00.)

ORLANDO CABRERA, M.D., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April *11, 1975.*

ORLANDO CABRERA, Claimant, pro *se.*

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-887—Claimant awarded $148.80.)

MIDLOTHIAN PHARMACY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April *11, 1975.*

MIDLOTHIAN PHARMACY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-889—Claimant awarded $178.00.)

BRINKMANN INSTRUMENTS INC., Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed ***April 11, 1975.***

BRINKMANN **INSTRUMENTS INC.,** Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-890—Claimant awarded $646.00.)

BRINKMANN INSTRUMENTS INC., Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed ***April 11, 1975.***

BRINKMANN **INSTRUMENTS INC.,** Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-900—Claimant awarded $23.85.)

IRWIN S. THORNTON, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF REGISTRATION AND EDUCATION, Respondent.

Opinion filed ***April 11, 1975.***

IRWIN S. THORNTON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-908—Claimant awarded $11,691.14.)

CAMPBELL GMC, INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed April *11, 1975.*

CAMPBELL GMC, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-910—Claimant awarded $3,250.00.)

SERVICE-ALL INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF PUBLIC HEALTH,** Respondent.

Opinion filed April *11, 1975.*

SERVICE-ALL INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-917—Claimant awarded $339.90.)

RANDOLPH PAPER CO., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed April *11, 1975.*

RANDOLPH PAPER CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-930—Claimant awarded $1,580.00.)

SARGENT-WELCH SCIENTIFIC CO., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed April *11, 1975.*

SARGENT-WELCH SCIENTIFIC CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 3205—Claimant awarded $5,905.99.)

ELVA JENNINGS PENWELL, Claimant, us. STATE OF ILLINOIS, Respondent.

Opinion filed April 14, 1975.

GOSNELL, BENECKI & BORDEN, LTD., Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

AWARDS — The Court can make awards on a continuing basis when the claimant continues to have expenses as a result of compensable injury.

PER CURIAM.

(No. 6325—Claim denied.)

ILLINOIS POWER COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed April 14, 1975.

HATCH, CORAZZA, BAKER & JENSEN, by William L. Hatch, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

LIABILITY — ***penalty.*** Claim for 2% "late charge" in gas and utility service rendered by claimant. Court held such charge was a penalty and State could not be held liable for same.

PERLIN, C.J.

This is an action to recover the sum of $783.92 which claimant asserts it is owed by respondent under the terms of a contract for electrical and gas utilities service.

The facts have been stipulated to by the parties. On December 22, 1967, the Department of Children and

Family Services of the State of Illinois entered into two contracts with claimant for gas and electrical service at the Regional Office Building of the Department of Children and Family Services in Champaign, Illinois. Both contracts contained the following clause:

1. Terms of Payment:

(a) Customers' bills will be rendered at net rates and will be distributed at monthly intervals bearing date on which net payments are due, namely not less than 10 days after date distributed. Accounts not paid in full within 10 days are subject to an additional charge of 2%.

(b) Upon request by customer, Utility will waive the additional charge of 2% on bills not paid within the net payment period, provided such requests are not made more often than once in each half-calendar year.

(c) Because of statutory or other requirements incidental to their fiscal operations, Federal, State, County and Municipal governments including public school districts or any other political subdivision created under Federal or State Laws and supported by public taxation, will be allowed a period of 30 days from date of bill during which time payment may be made on a net basis. Such accounts not paid in full within 30 days will be subject to an additional charge of 2%.

(d) The additional charge of 2% provided for in subparagraphs (a), (b) and (c) above shall not be in lieu of or affect the Utility's right to collect interest as provided by law or by contract on account of failure of the customer to pay charges when they become due and payable.

It has been further stipulated that the additional charges of $783.92 have been correctly calculated by claimant.

The sole issue before the Court is whether respondent must pay the additional charge due under the contract, or whether, as asserted by respondent, the charge constitutes a penalty which is not recoverable by claimant.

In *In* re *Gelino,* 43 F.2d 832, at 833, (1930), the Court said:

"Whether a sum named in a contract to be paid by a party in default on its breach is to be considered liquidated damages or merely a penalty, is one of the most perplexing and difficult inquiries encountered in the construction of written agreements. (Citations omitted.) The question is one to be determined by the contract fairly construed."

See also, ***Giesecke*** v. ***Callerton,*** 203 Ill.App. 287.

Section 1(d) of the rate structure states clearly that the 2% charge is not in lieu of interest due on the overdue payment. Further, while individual accounts are subject to the 2% charge after 10 days from distribution of the bills, governmental users are given **30** days in which to pay before the additional charge is applicable.

We therefore think it clear that the additional charges provided for in the contract are not intended to compensate claimant either for the cost **of** the power supplied, or for the "time value" of a late payment. Rather, the purpose of the 2% additional charge is to induce prompt payment of the utilities' bills.

In ***Giesecke v. Callerton,*** 230 Ill. 570, at 574, (1917), the Supreme Court said:

> "The Court has said more than once that the courts will look to ***see*** the nature and purpose of fixing the amount **of** damages to be paid, and if it appears *to* have been inserted to secure prompt performance of the agreement, it will **be** treated as a penalty and no more than actual damages proved can be recovered."

The Court concludes that the sums sought to be recovered by claimant constitute a penalty.

Claimant argues, however, that in ***Stewart*** v. ***State,*** 21 C.C.R. 490 (1953), this Court held that the State could be held liable under a penalty clause in a contract. In ***Stewart, supra.,*** the State entered into a purchase contract which provided for a **7%** discount if payment was made within 20 days of delivery of the goods. Although the State did not pay within 20 days, it claimed the discount on the purchase. The Court held that the State was not entitled to the discount, and ordered it to pay the full purchase price.

That situation was substantially different from the

case at bar, where claimant's pricing schedule requires payment of a charge in addition to the base price if payment is delayed. In the former instance, the claimant offered a reward for early payment, to which the State was held not entitled. Here claimant did not offer a reduction in price for prompt payment, but rather punished late payment by providing for a charge over and above the cost of the service provided. The contract in *Stewart* did not contain a true penalty clause, and that case is not supportive of claimant's position.

The claim herein is accordingly denied.

(No. **75-CC-682—Claimant awarded $202.00.)**

LEWIS & CLARK COMMUNITY COLLEGE, Claimant, *us.* STATE OF ILLINOIS, BOARD OF VOCATIONAL EDUCATION AND REHABILITATION, Respondent.

Opinion filed April *14, 1975.*

LEWIS & CLARK COMMUNITY COLLEGE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PERLIN, C.J.

(No. 74-CC-843—Claimant awarded $90.00.)

SPRINGFIELD ANESTHESIA, LTD., Claimant, *us.* STATE OF ILLINOIS, BOARD OF VOCATIONAL EDUCATION AND REHABILITATION, Respondent.

Opinion filed April *15, 1975.*

SPRINGFIELD ANESTHESIA, LTD., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 6916—Claimant awarded $20,000.00.)

MARTHA BURGETT, Admr. of Estate of EDWARD A. BURGETT, deceased, Claimant, *us.* STATE OF ILLINOIS, STATE FAIR AGENCY, Respondent.

Opinion filed April *16, 1975.*

FRANK S. CALANDRINO, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATUTES—*retroactivity.* The general rule is that statutory retroactivity is not to be given effect unless the Legislature intended it to be so.

WRONGFUL DEATH—*presumption.* There is a presumption of a precuniary loss in favor of the lineal heirs of the deceased in a wrongful death accident arising from the relationship alone. The decedent's parents are, of course, lineal next of kin.

LIABILITY TO CHILDREN OF ONE IN POSSESSION OR CONTROL OF PREMISES—elements. That a condition dangerous to children existed on the premises; that the defendant knew or should have known of the dangerous condition; that defendant failed to correct the dangerous condition or to protect children from the danger; that the dangerous condition caused the injury; and, that damages were sustained as a result thereof.

HOLDERMAN, J.

Claimant, Martha Burgett, Administrator of the estate of Edward A. Burgett, deceased, filed a complaint against the respondent for the sum of $100,000.00.

The suit comes as a result of the death of Edward A. Burgett, the son of the claimant, who met his death on

September 8, 1971 at the Illinois State Fairgrounds, Springfield, Illinois.

On that date, Eddie Burgett, age 9, and Ralph Singer, age 10, went to the grandstand at the fairgrounds after school, which they had done many times before. The boys went into the elevator located on the west side of the grandstand and began operating it. While operating that elevator hoist, Eddie Burgett was looking down the gap between the elevator cage and the shaft wall. As the elevator rose, it passed a concrete protrusion, which extended out of the shaft wall about 6 inches. As the elevator passed that protrusion, Eddie's head was caught and smashed between the floor of the elevator and the protrusion. He was killed instantly as a direct result of the movement of the elevator and his position in the car. Ralph Singer then brought the elevator hoist down and summoned help.

The fairgrounds are open late in the summer months and there is a playground on the premises where many children play, as well as other activities open to the public. Children were known to play around the livestock barns and grandstand on the fairgrounds during the day and go into the grandstand itself. Children could get into the grandstand easily by several routes. Once inside the grandstand, children had ready access to the elevator hoist therein. On September 8, 1971, the grandstand and elevator were both open to anyone from the sidewalk in front of the grandstand because workmen were moving storage material into the grandstand.

At the time of the incident, the elevator hoist could be operated by merely pushing a button. There was no lock or power cut-off switch on the button panel nor was the outside door leading to the elevator even locked. Presently, the elevator hoist is on a key lock, so that it

cannot be operated without the key. At the time of the accident, no warning signs were posted in or around the elevator and no security personnel were stationed in the grandstand. Prior to **1971,** there had been a security force on the fairgrounds, but after that, the security duties were shifted to the firemen, eliminating many security personnel.

The evidence is clear and uncontradicted that the fairgrounds, and particularly the vicinity where the deceased met his death, were used by children at play.

In the case at bar, the evidence shows that the State knew or should have known that children frequented the area of the unguarded elevator. The condition was obviously a dangerous one due to the lack of an enclosure to one side of the cage, constituting the elevator, which exposed protruding concrete extensions which could strike passengers or pin them between the elevator and the shaft.

It was abundantly clear that agents of the State of Illinois knew or should have known of the dangerous condition of the elevator hoist and **of** the presence of children in and around the grandstand area.

Jeff Esselinger, a young man of the age of **12** years, testified that the elevator was never locked, and on one day, **a** lady, who said she worked at the fairgrounds, cautioned children not to be in the area of the grandstand. The evidence showed that police officers had been summoned to the fairgrounds several times prior to September 19, 1971, to investigate vandalism **of** children in the grandstand area. The security manager of the Illinois State Fair testified that he personally had chased children from the grandstand.

The elevator was accessable. There were never locks

on the doors leading to the elevator. Power was always available for the hoist and there was no ready means of cutting that power off. There were no warning signs or instructions posted anywhere on or around the elevator doors. No periodic check was made of the area and no security personnel or elevator operators were stationed in the grandstand.

Claimant argued that the $100,000.00 limitation should apply and not the $25,000.00 limitation in effect at the time of the death of claimant's intestate. It is the theory of the claimant that the change in the amount of limitation should be retro-active.

Claimant, in stating the law in support of the claim for damages, cites the following:

"The elements essential to base liability upon one in possession or control are:

1. That a condition dangerous to children existed on the premises;

2. That the Defendant knew or should have known of the dangerous condition;

3. That Defendant failed to correct the dangerous condition or to protect children from the danger;

4. That the dangerous condition caused the injury; and,

5. That damages were sustained as a result thereof

(James Andrews v. General Contracting Company, 37 Ill.App.2nd, 131, 185 NE 2nd 354, 1962.)"

It is our opinion that the essential elements as set forth in the case cited by the plaintiff have been met for the following reasons.

Certainly an elevator that is unprotected, unlocked so that anyone can use it, and is not completely covered could be construed as a dangerous instrument, particularly where children the ages of the deceased and his companion were playing.

Testimony was given by the companion of the deceased to the effect that they had been in this vicinity at

least thirty times, had played in the elevator numerous times, and that they had been warned by an employee of the State to stay out of the grandstand area. In this connection, it is well to note that the companion of the deceased stated there was a hole in the fence where they could get into the grounds and, in addition to that, the main gate was usually open. There can be little question that this dangerous condition caused the death complained of and that damages were sustained as a result thereof.

The State argued on the basis of ***Kahn*** vs. ***James Burton Co.***, 5 Ill. 2nd 614, NE 2nd 836 (1955), that the claimant, in order to recover under the doctrine of attractive nuisance must show that the attraction must "habitually" attract minor trespassers, and that the condition or attraction could forseeably cause injury, and that the expense or inconvenience of remedying the condition is not overly burdensome.

The uncontradicted evidence shows that this was an "attractive nuisance" and that the whole area was used by children and had been for a considerable period of time. The fact that after the accident this elevator was kept locked is an indication that the State finally recognized the situation and certainly the expense of locking the elevator so it could not be used was not considered any great burden.

The Illinois law, as cited in the case of ***Jung*** vs. *Buelens*, 77 Ill. App. 2nd 391, (1966), stated as follows:

> **"There is a presumption of a pecuniary loss in favor of the lineal heirs of the deceased in a wrongful death accident arising from the relationship alone. The decedent's parents are, of course, lineal next of kin."**

The evidence shows that the deceased was a boy 9 years of age and an exceptionally bright boy. It is our

opinion that the presumption of loss has been made by the claimant.

The question as to whether the $100,000.00 limitation should apply, and not the $25,000.00 in effect at the time of the death of the deceased has been argued by claimant. The general rule is that the statutory retroactivity is not to be given effect unless the Legislature intended to do so. There is nothing in the record here to indicate that it was the intention of the Legislature when they changed the $25,000.00 limitation to $100,000.00 to make it retro-active. It would have been a very simple matter for the Legislature, if they had so intended, to insert this in the law when it was changed.

In deciding the amount of damages to be awarded to the claimant in this case, the Court can take into account only actual monetary damages and may not consider the personal losses of the claimant, based on love and affection.

The evidence shows that the deceased was 9 years old on September 8, 1971, the date of the accident. There was testimony that he was good-natured, a hard worker, and was quick and eager to learn. The evidence also shows that he was conscientious about helping his mother around the home, that he was a Boy Scout, and that he excelled in the projects in which he became involved. All of the evidence adduced indicated that the deceased was an above average youth in intelligence and endeavors.

It is our opinion, based upon the facts in this case, that an award should be entered in the amount of $20,000.00, and an award is hereby entered in that amount in favor of claimant.

(No. 6937—Claimant awarded $13,933.06.)

M.S.P., INC., GENESIS GROUP, INC., Illinois Corporations, FRANK KAPPLE, and DAN VERNICH, Claimants, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April 16, 1975.

LAWRENCE WALNER, Attorney for Claimants.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

PRACTICE AND PROCEDURE—*stipulation.* **Action in tort and contract against Department of Mental Health. Other litigation pending in Circuit Court concerning same subject. Stipulation as to amount of damages and dismissal of other suits accepted by Court.**

PER CURIAM.

This cause coming on to be heard on the Stipulation of the parties hereto, which reads as follows:

"1. The instant cause, filed on October 16, 1972, is based upon an alleged breach af contract by, and tortious acts of, agents and employees of the Illinois Department of Mental Health;

2. Prior to the filing of the instant cause, M.S.P., Inc., filed suit in the Circuit Court of Cook County, number 72 CH 336, against the respondent and various employees of respondent; respondent filed an action in the same forum, number 71 M1-155933, against the claimants;

3. The parties to the aforesaid action and suit agreed to mutually dismiss same with a credit due respondent from claimants in the amount of $4,066.94;

4. The parties hereby agree that respondent owes to claimants, and each of them, the cumulative gross amount of $18,000. (EIGHTEEN THOUSAND DOLLARS) less the credit aforesaid, or a net amount of $13,933.06

(THIRTEEN THOUSAND, NINE HUNDRED AND THIRTY-THREE DOLLARS AND SIX CENTS);

5. The parties further agree that this Court may enter an award in the amount of **$13,933.06** (THIRTEEN THOUSAND, NINE HUNDRED AND THIRTY-THREE DOLLARS AND SIX CENTS) without further notice, no hearings or further pleadings being necessary for a determination herein;

6. The parties, and each of them, agree that the entry of an award in the aforementioned sum shall waive, release, relinquish and forever bar all claims or causes of action by and between the parties hereto, including any and all claims or causes of action that claimants, and each of them, has or may have against any officers, agents and/or employees of the Department of Mental Health from the beginning of time to the date of these presents;

7. The claimants and the Illinois Department of Mental Health expressly agree to perform all acts that may be necessary to effect dismissal of any claims pending against each other in any other court or proceeding."

and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the sum of **$13,933.06** (THIRTEEN THOUSAND, NINE HUNDRED AND THIRTY-THREE DOLLARS AND SIX CENTS) be awarded to claimants in full satisfaction of any and all claims or causes of actions that claimants, and each of them, has or may have against any officers, agents and/or employees of the Department of Mental Health, from the beginning of time to the date of these presents.

(No. 7101—Claimant awarded $2,182.00.)

ELEANOR LIEDBERG, Admr. of Estate of CONDLEY V. LIEDBERG, deceased, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion Fled April 16, 1975

MCKENNA, STORER, ROWE, WHILE & HASKELL, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

SURVIVAL OF CAUSE OF ACTION — **An action for breach of an employment contract charging discrimination which does not survive the death of the claimant.**

HOLDERMAN, J.

This case is before the Court on a Stipulation of Facts, which Stipulation is as follows:

"Now comes the parties hereto, by their respective counsel, and stipulate to the following facts;

1. That claimant, ELEANOR LIEDBERG, is the Administratrix of the Estate of CONDLEY V. LIEDBERG, Deceased;

2. That the action is brought pursuant to a ruling by the Fair Employment Practices Commission that decedent was discriminated against in applying for a position with the Illinois Department of Corrections as an adult parole officer;

3. That said decision, a copy of which is attached hereto and by this reference incorporated herewith, indicated that the decedent's race was one of the factors which resulted in his not being hired and that another factor was the decedent's age and/or health;

4. That the party hired in place of the decedent, one Andrew C. Cullin, received gross earnings for the period in question, 8-16-68 to 6-24-70, or $14,416.00.

5. That the decedent, during this period of time, had gross earnings in excess of this amount, but that his principal employers paid him gross earnings of at least $12,917.32 for the years 1969 and 1970;

6. That the decedent's tax returns and W2 forms for the period in question, some of which are incomplete, are submitted as Claimant's exhibit.

7. That CONDLEY V. LIEDBERG died on June 24, 1970;

8. That the claimant contends that she is due the amount of $2,182.00 which the Respondent denies;

9. That the respondent denies that the claimant is due any sum and further states that said claim does not survive the death of the aggrieved applicant, CONDLEY V. LIEDBERG.

10. That the parties agree that the Court may make a determination in this matter without any evidence being presented herein."

The action was brought pursuant to a ruling by the Fair Employment Practices Commission which held that the decedent, Condley Liedberg, was discriminated against when he applied for a position with the Illinois Department of Corrections as an adult parole officer.

It appears from the records that Condley Liedberg and Andrew C. Cullins both had applied for the position of Adult Parole Agent. The job required working in the area of 63rd Street and Cottage Grove in Chicago, a predominantly black area and considered one of the tough areas in Chicago. Liedberg was white and Cullins was black.

Both applicants were tested and Liedberg received a score of 77.60 while Cullins received a score of 70.80.

Cullins lived closer to the area and was 23 years younger than Liedberg. Both men were impressive from a physical standpoint and both appeared to be comparable in experience. Cullins was selected for the position because of his youth, size, and close proximity to the district. Liedberg contends that he failed to receive the job because of his race. He stated that the Superintendent remarked, '? guess you understand I am hiring nothing but shines for the black belt." This statement was denied by the Superintendent. However, on cross examination, the Assistant Superintendent did state that "A negro would be more receptive with respect to the community." His theory was that in a colored district a colored officer would be more acceptable.

The Commission concluded that race could not be considered a factor in any degree in an employment decision. Otherwise, the act could very well be circumvented. The Commission contends that it matters not whether an employer gives race, color, religion, little or no weight. The question is — were any of these factors given any consideration at all. The command of the Act states that race, color, religion, national origin, and ancestry cannot be considered at all nor could the degree of risk involved be considered a factor, as this is a factor for the employee to evaluate and assume if he so desires. Closeness to work cannot influence an employment decision, as this, too, could be used as a subtle discrimination in interpreting the Act. Those matters could be used as a smoke screen to accomplish what the Act prohibits.

The Commission reversed the order of the hearing examiner because the Fair Employment Practices Act was violated in refusing to hire Liedberg based to a certain extent on his being thought that a black would be more acceptable because of the neighborhood.

Liedberg brought a complaint for $2,182.00 being the sum he complained he lost by reason for not being hired. Andrew Cullins, who had been hired, was paid $14,416.00 for the period of time from August 16, 1968 to June 24, 1970, this being the period Liedberg was off the job. Apparently during that time, Liedberg earned less money. It is not clear how the claimant arrived at $2,182.00 as being the damages, but the respondent does not indicate why that sum is incorrect.

The complaint was actually filed by Eleanor Liedberg, as Administrator of the Estate of Condley Liedberg, deceased. The State contends that the action here does not survive. However, it is the opinion of this Court that the action is in the nature of a suit for breach of contract and such action does survive.

It is hereby ordered that the sum of $2,182.00 be awarded to the claimant in full satisfaction of any and all claims presented to the State of Illinois for the salary during the period for which recovery is sought.

(No. 75-CC-355—Claimant awarded $81.05.)

ROBERT S. MADDOX, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed April *16,* **1975.**

ROBERT S. MADDOX, Claimant, pro se.

WILLIAM **J. SCOTT,** Attorney General; **MARTIN** A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* **appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.**

PER CURIAM.

(No. 75-CC-394—Claimant awarded $709.24.)

DICTAPHONE CORP., Claimant, *vs.* STATE OF ILLINOIS, GOVERNOR'S OFFICE OF HUMAN RESOURCES, Respondent.

Opinion filed April *16, 1975.*

DICTAPHONE CORP., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-441—Claimant awarded $239.00.)

CITIES SERVICE OIL CO., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed April *16, 1975.*

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-557—Claimant awarded $404.32.)

CENTRAL OFFICE EQUIPMENT CO., Claimant, *vs.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed April *16, 1975.*

CENTRAL OFFICE EQUIPMENT CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-628—Claimant awarded $112.00.)

STANDARD REWASHED WIPERS COMPANY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed April *16, 1975.*

STANDARD REWASHED WIPERS COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-697—Claimant awarded $25.00.)

MOTOROLA, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed April *16, 1975.*

MOTOROLA, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-709—Claimant awarded $1,073.11.)

MICHAEL GREANEY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April *16, 1975.*

MICHAEL GREANEY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for **Respondent.**

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-715—Claimant awarded $22,373.27.)

U.S. GEOLOGICAL SURVEY, Claimant, *vs.* STATE OF ILLINOIS, ILLINOIS STATE WATER SUPPLY, Respondent.

Opinion filed April 16, *1975.*

U.S. GEOLOGICAL SURVEY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for **Respondent.**

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-751—Claimant awarded $1,954.36.)

CENTRAL YMCA SCHOOL, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed April *16, 1975.*

CENTRAL YMCA SCHOOL, Claimant, pro **se.**

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-795—Claimant awarded $1,252.00.)

UNITED VISUAL AIDS, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed *April 16, 1975.*

UNITED VISUAL AIDS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-797—Claimant awarded $78.35.)

OFFICE SUPPLY COMPANY, Claimant, *us.* STATE OF ILLINOIS, ILLINOIS OFFICE OF EDUCATION, Respondent.

Opinion filed April *16, 1975.*

OFFICE SUPPLY COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-817—Claimant awarded $33,843.09.)

MOORE BUSINESS FORMS, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed April ***16, 1975.***

MOORE BUSINESS FORMS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-820—Claimant awarded $416.24.)

W. B. JACKETS COMPANY, Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed April ***16, 1975.***

W. B. JACKETS COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-849—Claimant awarded $95.10.)

K. P. N. RAO, M.D., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April ***16, 1975.***

K. P. N. RAO, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-857—Claimant awarded $23,022.37.)

COUNTY OF SANGAMON, Claimant, **us. STATE OF ILLINOIS,** Respondent.

Opinion filed April 16, *1975.*

COUNTY OF SANGAMON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

PRISONERS AND INMATES—*attorneys* fees. Where original confinement of prisoners was in Randolph County and the Prisoners were tried in Sangamon County, the Court will award the claim for attorneys fees directly to Sangamon County to promote the expeditious handling of the matter and to implement the intention of the legislature.

PER CURIAM.

This cause comes before this Court on the Joint Stipulation of the claimant, County of Sangamon, and the respondent, State of Illinois. The claim stems from the expenses incurred by the County of Sangamon in the prosecution of defendants in the case of the State of Illinois v. William Earl Bassett, Robert Lee Brown, a/k/a Prentiss Ray Griffin, Alonzo Howard Jones, and John William Stamps. The specific expense from which claim is made is the expense incurred in providing court appointed legal counsel for the defendants which costs came to $23,022.37.

This claim for reimbursement of expenses is made

pursuant to Chapter **38,** par **1003-6-5** of the Illinois Revised Statutes, **1973,** which replaces a similar provision which was previously found in Chapter **108,** par. 118 of the **1971** Illinois Revised Statutes. The statutes both provided, in essence, that when any person is charged with committing an offense while confined by the Department of Corrections, cognizance thereof shall be taken by the Circuit Court of the county wherein such crime was committed, and the court shall adjudicate and sentence the person charged with said crime in the same manner and subject to the same rules and limitations as are established by law for other persons charged with crimes. The statutes further provided that the expense of this prosecution would be paid by the Department. **Also involved** is chapter **146,** par. **33** of the Illinois Revised Statutes, which provides that where a change of venue is requested and granted, the originating county will reimburse the county where the case is actually tried.

In this case, the prisoners were confined in Randolph County when the riot occurred ***at*** Menard Prison and the case was tried in Sangamon County pursuant to a change of venue.

Normally, the procedure set forth in the statues would be that the County of Sangamon would seek reimbursement of their expenses from the County of Randolph who in turn would seek reimbursement of their expenses from the Department of Corrections, or the County of Randolph would determine the cost expended by the County of Sangamon, and the County of Randolph would then seek this amount from the Department of Corrections. The Department of Corrections would pay that amount to the County of Randolph who would then pay it to the County of Sangamon. However, this case is being filed directly against the State of Illinois by the

County of Sangamon, and this Court finds that inasmuch as the statutes provide that the ultimate cost shall be borne by the State, that the intent of the legislature was obvious and to require that this claim be honored only when presented by the County of Randolph, would be to require circuitous or multiplicity of claims.

This court finds that the expeditious handling of this matter requires that the State implement the intention of the legislature by awarding this claim directly to the County of Sangamon.

IT IS, THEREFORE, ORDERED that the County of Sangamon be granted an award in the amount of **$23,022.37** (TWENTY THREE THOUSAND TWENTY TWO DOLLARS AND THIRTY SEVEN CENTS) in payment of their expenses incurred in the prosecution costs of the defendants above set forth pursuant to statutes previously cited.

(No 75-CC-858—Claimant awarded $313.16)

ROBERT **A.** LEE, **Claimant, us.** STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, **Respondent.**

Opinion filed April *16,* 1975.

ROBERT **A.** LEE, Claimant, pro se.

WILLIAM **J.** SCOTT, Attorney General; WILLIAM **J.** KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* **appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.**

PER CURIAM.

(No. 75-CC-875—Claimant awarded $22.50.)

OBERHEIDE COAL & OIL CO., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed April *16, 1975.*

OBERHEIDE COAL & OIL CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-919—Claimant awarded $400.00.)

ORKIN EXTERMINATING CO., INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed April *16, 1975.*

ORKIN EXTERMINATING CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-922—Claimant awarded $4,998.00.)

MINE SAFETY APPLIANCE CO., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed April *16, 1975.*

MINE SAFETY APPLIANCE CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, **for** Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-928—Claimant awarded $397.12.)

PAUL D. MCCURRY, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF REGISTRATION AND EDUCATION, Respondent.**

Opinion filed April *16, 1975.*

PAUL D. MCCURRY, Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, **for** Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-507—Claimant awarded $325.24.)

CHARLES EDWARD STADE, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF REGISTRATION AND EDUCATION, Respondent.**

Opinion filed April 28, *1975.*

CHARLES EDWARD STADE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-678—Claimant awarded $407.66.)

GRACELL MANOR, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April 28, 1975.

GRACELL MANOR, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. SOLL, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-55—Claimant awarded $37.20.)

KROCH'S & BRENTANO'S, Claimant, *us.* STATE O ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed April 28, 1975.

KROCH'S & BRENTANO'S, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-106—Claimant awarded $557.58.)

UNION ELECTRIC COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed April 28, 1975.

UNION ELECTRIC COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-189—Claimant awarded $6,627.90.)

RUSH PRESBYTERIAN ST. LUKES MEDICAL CENTER, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed April 28, 1975.

GARDNER, CARTON, DOUGLAS, CHILDRON & WAUD, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-564—Claimant awarded $38.40.)

THE HUB CLOTHIERS, Claimant, *vs.* **STATE OF ILLINOIS, ILLINOIS STATE FAIR AGENCY, Respondent.**

Opinion filed April 28, *1975.*

THE HUB CLOTHIERS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-565—Claimant awarded $25.75.)

THE HUB CLOTHIERS, Claimant, *us.* STATE OF ILLINOIS, Illinois STATE FAIR AGENCY, Respondent.

Opinion filed April 28, ***1975.***

THE HUB CLOTHIERS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-599—Claimant awarded **$46.49.)**

IRENE BUCHANAN, Administrator of the Estate of JOHNNYE MAE COLLINS, Deceased, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April 28, ***1975.***

IRENE BUCHANAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-664—Claimant awarded $2,850.78.)

CENTRAL ILLINOIS PUBLIC SERVICE COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed April 28, ***1975.***

CENTRAL ILLINOIS PUBLIC SERVICE Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-698—Claimant awarded $40.25.)

MOTOROLA, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed April 28, ***1975.***

MOTOROLA, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-699—Claimant awarded $1,789.11.)

MOTOROLA, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed April 28, ***1975.***

MOTOROLA, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-719—Claimant awarded $557.04.)

EVA M. BURNS, ETC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed April 28, *1975.*

J. DAVID BONE, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-721—Claimant awarded $740.00.)

DRAPA SIGNS, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MOTOR VEHICLES, Respondent.

Opinion filed April 28, *1975.*

DRAPA SIGNS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-723—Claimant awarded $508.50.)

ZIEBART AUTO-TRUCK RUSTPROOFING, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed April 28, 1975.

ZIEBART AUTO-TRUCKING RUSTPROOFING, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-780—Claimant awarded $191.63.)

THE ROCKFORD STORE, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed April 28, 1975.

THE ROCKFORD STORE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-888—Claimant awarded $11.10.)

HIRES TRUCKING COMPANY, Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed April 28, ***1975.***

HIRES TRUCKING COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-895—Claimant awarded $14.50.)

SEMINAR PRESS, Claimant, ***us.*** **STATE** OF **ILLINOIS,** Respondent.

Opinion filed April 28, ***1975.***

SEMINAR PRESS, Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—replacement warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-918—Claimant awarded $353.33.)

LOIS MOE, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed April 28, ***1975.***

LOIS MOE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-926—Claimant awarded $1,277.79.)

ROY F. WESTON, INC., Claimant, *us.* **STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.**

Opinion filed April 28, 1975.

ROY F. WESTON, **INC.,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-942—Claimant awarded $132.00.)

JOHN E. MEYER, M.D., Claimant, *us.* **STATE OF ILLINOIS, DIVISION OF VOCATIONAL REHABILITATION, Respondent.**

Opinion filed April 28, 1975.

JOHN E. **MEYER,** M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN** A. **SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-943—Claimant awarded $69.00.)

JOHN E. MEYER, M.D., Claimant, *vs.* **STATE OF ILLINOIS, DIVISION OF VOCATIONAL REHABILITATION, Respondent.**

Opinion filed April 28, 1975.

JOHN E. MEYER, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, **for** Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-950—Claimant awarded $145.96.)

SEARS ROEBUCK AND CO., A Corporation, Claimant, *vs.* **STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.**

Opinion filed April 28, 1975.

SEARS ROEBUCK AND CO., A Corporation, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-971—Claimant awarded $1,256.79.)

COMMONWEALTH EDISON COMPANY, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MOTOR VEHICLES, Respondent.**

Opinion filed April 28, 1975.

GEORGE O. SHAFFNER AND JOSEPH C. SIBLEY, JR., Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-992—Claimant awarded **$68.25.)**

UTOPIA ENTERPRISES, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed April 28, ***1975.***

UTOPIA ENTERPRISES, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-994—Claimant awarded $215.28.)

BRUNING DIVISION ADDRESSOGRAPH MULTIGRAPH CORP., Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed April 28, ***1975.***

BRUNING DIVISION ADDRESSOGRAPH MULTIGRAPH CORP., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1013—Claimant awarded $12.50.)

S G A SCIENTIFIC, INC., Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed April 28, 1975.

S G A SCIENTIFIC, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General,' for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1054—Claimant awarded $82.50.)

DOMINIC COSTELLI, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed April 28, ***1975.***

DOMINIC COSTELLI, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-1056—Claimant awarded $59.36.)

GEORGE E. INSLEE, Claimant, *vs.* **STATE OF ILLINOIS**, Respondent.

Opinion filed April 28, *1975.*

GEORGE E. INSLEE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-1057—Claimant awarded $24.65.)

KEVIN B. HARVEY, Claimant, *vs.* **STATE OF ILLINOIS**, Respondent.

Opinion filed April 28, *1975.*

KEVIN B. HARVEY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-636—Claimant awarded $509.94.)

GRAPHIC SCIENCES, INC., Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES**, Respondent.

Opinion filed *May 1, 1975.*

GRAPHIC SCIENCES, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-944—Claimant awarded $1,488.00.)

ROOT BROS. MFG. & SUPPLY COMPANY, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.**

Opinion filed May 1, *1975.*

ROOT BROS. MFG. & SUPPLY COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* dppropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-966—Claimant awarded $691.00.)

COMMONWEALTH EDISON COMPANY, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.**

Opinion filed May 1, *1975*

GEORGE O. SHAFFNER & JOSEPH C. SIBLEY, Jr., Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-982—Claimant awarded $90.00.)

MICHAEL R. LA COPO, Claimant, *vs.* STATE OF ILLINOIS, ILLINOIS OFFICE OF EDUCATION, Respondent.

Opinion filed May *1, 1975.*

MICHAEL R. LA COPO, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-985—Claimant awarded $16.50.)

MID-CITY TYPEWRITER EXCHANGE, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, Respondent.

Opinion filed May *1, 1975.*

MID-CITY TYPEWRITER EXCHANGE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1006—Claimant awarded $96.00.)

ROGER L. THOMAS, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed *May 1, 1975.*

ROGER L. THOMAS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 5643—Claim denied.)

VALENTINE HARPSTREITH, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed *May 8, 1975.*

SPRAGUE, SPRAGUE & YSURSA, Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

PRISONERS AND INMATES—wrongful incarceration. Prerequisite to recovery for wrongful incarceration is grant of pardon on grounds of innocence. Section 8(c) of the Court of Claims Act is not to be applied retroactively.

PERLIN, C. J

Claimant, Valentine Harpstreith, seeks $35,000 in damages as compensation for 20 years of imprisonment which he asserts were unjustly administered as a result of an erroneous conviction. The claim is invoked pursuant to Section 8(c) of the Court of Claims Act, Ch. 37, Ill. Rev. Stat., Sec. 439.8(c) which grants exclusive jurisdic-

tion to this Court over claims against the State for time unjustly served in prison.

Valentine Harpstreith was convicted of the murder of one Julius Nungesser in the Circuit Court of St. Clair County in 1929, and was imprisoned from April, 1929, to July 2, 1949. On December 30, 1968, he received a pardon from the Honorable Samuel H. Shapiro, the then Governor of the State of Illinois. Inquiry by the Court, has determined that the Board of Pardons advised Harpstreith that the ground for the pardon was his "twenty-years' service on the life sentence before parole eligibility occurred, plus the good record maintained during the nineteen years since [his] release on parole."

The record before this Court establishes that on September 9, 1929, one Julius Nungesser was shot to death on his farm outside of New Baden, Illinois. A man named Albert Kehrer, who was picking elderberries in the vicinity, heard the shots, drove to the farm and saw the victim lying on his back. He called to Nungesser but received no response so he proceeded to the farm of Frank Grimmer, a neighbor, and returned to the scene with Grimmer. Grimmer states that when he arrived at Nungesser's farm, he asked the victim what had occurred, ". . . and he told me that a detective came out of the cornfield and shot him." Grimmer then procured a glass of water for Nungesser, at the latter's request, held his head, and gave him a drink. The victim then lapsed into unconsciousness and died. Grimmer has stated that at Harpstreith's trial he was not allowed to testify concerning the aforesaid remark by Nungesser.

At the time of the murder, claimant operated an establishment in the area, colloquially known as a speak-easy. Several days after Nungesser's murder, he was arrested on suspicion of possession of bootleg whis-

key and was taken to the Clinton County Jail. Harpstreith was interrogated concerning the shooting, but denied having any knowledge of the incident. Subsequently, he was convicted on the bootlegging charge and fined $850. However, according to Harpstreith, the fine was reduced to $300 after a hushed conference between the judge and the Clinton County sheriff. On the way back to the jail the sheriff allegedly asked claimant for information on the Nungesser matter in return for the reduced fine. Again, claimant maintained his ignorance of the crime.

Harpstreith testified that during his stay in the Clinton County Jail he was repeatedly interrogated about the murder and subjected to physical and mental abuse in order to coerce a confession. No confession was forthcoming and after four days he was transferred to the St. Clair Jail, where he was confined in a "three foot square box with three holes for ventilation," for over 90 hours. A written confession was repeatedly placed in front of him for his signature, but he continued to resist these and other pressures.

Finally, claimant was tried for the Nungesser murder with two co-defendants, Raymond Rensing and Elmer Lindner. Both Rensing and Lindner had signed confessions implicating Harpstreith, but at trial both Rensing and Lindner attempted to rescind these confessions as being the result of physical coercion. Both now state that these confessions were coerced and untrue.

The only other testimony at trial adverse to the claimant was that of George Shelton and Charles Pillows, two of claimant's fellow inmates, who stated that they heard Harpstreith admit to the murder while in jail. Shortly after the trial, both of these men escaped from jail. When recaptured, both signed sworn affidavits

stating their testimony about Harpstreith had been false and was induced by promises of freedom from the authorities.

Claimant has also brought to the attention of this Court the fact that the prosecuting attorney has expressed his doubts about Harpstreith's guilt, and has stated that those doubts have existed since the time of the trial.

During the present proceedings, William Nettles, the former sheriff of Clinton County, testified for respondent that when claimant approached him seeking help in obtaining a pardon, Nettles went to speak to Raymond Rensing. Nettles said that Rensing told him not to bother to help because he [Rensingl had been at the farm with Harpstreith on the day of the murder, and Harpstreith had come from behind the farmhouse with a gun in his hand after shots had been fired.

Rensing denied making this statement to Nettles, saying that he told Nettles not to get involved because he [Rensingl was tired of having the matter repeatedly brought up.

As originally enacted, Section 8(c) of the Court of Claims Act, required a claimant seeking damages for unjust imprisonment to prove his innocence of the crime for which he was imprisoned. The section provided:

"(c) All claims against the State for time unjustly served in prisons of this State where the persons imprisoned proved their innocence of the crime for which they were imprisoned . . ."

This provision gave rise to many problems. Often the Court was called upon to re-try criminal cases long dormant, after the memories of witnesses had faded, and evidence was no longer available or had changed with the passing of time.

Since the Court could not rationalize any intent by the Legislature to reward perpetrators of crimes who might allege and prove technical errors in their convictions, the Court adopted a rule requiring a claimant to establish by a preponderance of the evidence that he did not commit the act which constituted the crime for which he was convicted. *Dirkins* v. *State of Illinois, 25* C.C.R. **343 (1965).**

Subsequently, in order to obviate the problems inherent in the administration of the statute, the Legislature amended Section 8(c) to require that one who seeks to recover for time unjustly served in prison must first have received a pardon on grounds of innocence. See, Ch. **37,** Ill. Rev. Stat., Sec. 439.8(c). However, at the time claimant instituted this action, this amendment was not in effect, and claimant therefore bears the burden **of** establishing, by a preponderance of the evidence, his innocence of the "fact" of the crime for which he was imprisoned.

All four witnesses who tied Harpstreith to the crime at the original trial appear to have reversed their testimony. His two fellow inmates who said they heard claimant admit to the murder subsequently swore that they did so upon a promise of freedom, and Harpstreith's alleged co-conspirators have also now stated that they lied under coercion when they implicated him in the matter. They manifest no apparent ulterior motive for these recantations.

It thus may well be that claimant could sustain his burden of proof as generally required in cases of this kind. However, before reaching this issue we must consider as a question **of** first impression the retroactive application of Section 8(c) of the Court of Claims Act, Ch. **37,** Sec. 439.8(c), which was enacted July **9, 1959,** thirty

years subsequent to claimant's conviction and ten years after his release from the penitentiary.

A "retroactive law" has been defined as one which "takes away or impairs vested rights acquired under existing laws, or creates a new obligation, imposes a new duty, or attaches a new disability in respect of transactions or considerations already past." 82 C.J.S. ***Statutes,*** Sec. 412. There is no doubt that Ch. 37, Ill. Rev. Stat., Sec. 439.8(c) created a new obligation on the part of the State to compensate individuals wrongfully convicted and incarcerated, as no such duty existed at common law. See, ***Campbell* v. *State,*** 62 N.Y.S.2d **(1946).**

Section 439.8(c) is silent as to whether it is to be applied retroactively. By contrast, Art. 2, Sec. 9(3-a) of the Court of Claims Act of New York grants that court jurisdiction,

> "To hear and determine the claim for damages against the State of any person ***heretofore*** or ***hereafter*** convicted of any felony or misdemeanor against the State and sentenced to imprisonment, who, after having served all or any part of his sentence, shall receive a pardon which is issued on the ground of innocence of the crime for which he was sentenced." (emphasis supplied)

The Illinois statute contains no comparable language, and under general rules of statutory construction, such words are necessary if a statute is to be given retroactive application. In *U.S.* ***Steel Credit Union*** v. ***Knight,*** 32 Ill.2d 138, 204 N.E.2d 4 (1965), the court said:

> "Retroactive legislation is not favored and as a general rule statutes are considered to operate prospectively unless the legislative intent that they be given retroactive operation clearly appears from the express language of the act or by necessary or unavoidable implication."

See also, ***Quincy Trading Post*** v. ***Department of Revenue,*** 12 Ill.App.3d 725, 298 N.E.2d 789 (1973); ***People ex rel Eitel*** v. ***Lindheimer,*** 371 Ill. 367, 21 N.E.2d 318 (1939); and 34 I.L.P. ***Statutes,*** **0193.**

We can find no clear direction from the Legislature in

Section 8(c) of the Court of Claims Act that the statute is to be applied retroactively, and in the absence of such express direction we are compelled to give the statute only prospective application.

One additional aspect of this issue merits attention, although it has not been raised by either party. Section 22 of the Court of Claims Act, 37 Ill. Rev. Stat., Sec. 439.22, provides in pertinent part:

> **"Every claim *cognizable by the* court arising under subsection C of Section 8 of this Act shall be forever barred from prosecution therein unless it is filed with the Clerk of the Court within 2 years after the person asserting such claim is discharged from prison, or is granted a pardon by the Governor,***." (emphasis supplied)**

Since claimant did file this action within two years of receipt of a gubernatorial pardon, it may be contended that Section 22 authorized his cause of action.

The answer to any such contention is found, we believe, in the language of Section 22 referring to claims ***"cognizable by the court*** arising under subsection C of Section 8 of this Act." We have concluded that Section 8(c) of the Act cannot be applied retroactively. Therefore, claimant does not have a "claim cognizable by the court."

The Court must therefore deny claimant's request for damages.

(No. **74-CC-543—Respondent granted summary judgment.)**

GALE WILLIAMS, Claimant, *vs.* BOARD OF TRUSTEES, SOUTHERN ILLINOIS UNIVERSITY, **Respondent.**

Opinion filed May 12, 1975.

ROBERT P. SCHULHOF, Attorney for Claimant.

JAMES B. BLEYER, Attorney for Respondent.

LIBEL AND SLANDER. Libel action by claimant, a former State legislator, for alleged libelous statements made concerning him in Southern Illinois University student newspaper. Court stated since claimant, a public official at time of publication, malice must be proved or words must be libelous per se neither of which was the case based upon prior decisions. Summary judgment granted to respondent, Southern Illinois University.

BURKS, J.

This matter comes again before the court for a ruling on respondent's motion for summary judgment in the light of the briefs and replies filed by both parties pursuant to our prior order entered August 9, 1974.

This is an action for libel, based on alleged libelous statements contained in 2 paid advertisements published in Southern Illinois University's "Daily Egyptian" on the first and third day of November, 1972. The second ad, substantially identical to the first, in space about 4 columns wide and 10″ high, reads as follows:

"Q. WHAT'S WORSE THAN A BAD CARBONDALE LANDLORD?

A. A BAD CARBONDALE LANDLORD WHO VOTES IN THE ILLINOIS LEGISLATURE.

As a state representative, Gale Williams voted against the following bills:

HB 2600 (1969) authorizing tenants to bring action against landlords to enforce compliance with building codes.

HB 53 (1971) requiring payment of interest on security deposits.

HB 2700 (1972) allowing tenants to make necessary repairs and deduct the cost from one month's rent when the landlord repeatedly refuses to do so.

H.B. 202 (1971) requiring installation of fire alarm systems in apartment buildings (Williams was one of only five representatives to vote against this bill which passed overwhelmingly).

Now Gale Williams wants to be a State Senator. The Student vote can make the difference.

GALE WILLIAMS HAS CONSISTENTLY VOTED AGAINST THE STUDENTS. THERE'S AN ALTERNATIVE TO GALE WILLIAMS. HIS NAME IS KEN BUZBEE.

Paid for by Better Housing thru Better Government, Doug Diggle, chairman (small type)"

Daily Egyptian, November 3, 1972, Page 17.

[The court takes notice that the same ad published two days earlier is identical in content except for the omission of the last three words, "Doug Diggle, chairman".]

Respondent's motion for a summary judgment is a procedure established by 957 of the Civil Practice Act. *Ill.Rev.Stat. 1973, Ch. 110057.* The statute provides for the entry of summary judgment if there is no genuine issue of any material fact, and that the moving party is entitled to a judgment as a matter of law. The worthy purpose of this statute is to facilitate and expedite litigation, a procedure encouraged by our courts.

From our search of the record in the case at bar, we find no genuine triable issue of fact. The only issues presented are questions of law. We have not overlooked claimant's affidavit, the only affidavit in the record; but find that it contains merely conclusions of law based on facts already in the record which speak for themselves. ***Carruthers*** v. ***B. C. Christopher Co., (1974) 57 Ill.2d*** **376.**

The pertinent issues of law presented in this case, as we view them, are:

[1] Whether the advertisements, even if libelous, come within the privilege rules concerning criticisms made of public officials.

[2] Whether the advertisements were published with actual malice.

[3] Whether the words "bad landlord," as used in the advertisements, are libelous per se.

[1] Claimant, at the time of the publications in question was a Representative in the General Assembly and a candidate for State Senator. For many years our courts have been creating exceptions to the common law rules of libel where the publications concern the conduct of a candidate for public office or a public official.

When a person becomes a candidate for public office, his qualifications and fitness for office are put before the

public and are therefore made a proper subject for fair comment by the press and the public in general. ***Gogerty*** v. ***Covins, 5 Ill. App. 2d 74.*** This principle of law has been clearly defined in ***Ogren*** v. ***Rockford Star Printing Co., 288 Ill. 405 (1919)*** when at page 417, the Supreme Court of Illinois held:

> "When anyone becomes a candidate for public office, conferred by the election of the people, he is considered as putting his character in issue, so far as it may respect his fitness and qualifications for office, and everyone may freely comment on his conduct and actions. His acts may be canvassed and his conduct boldly censored."

In the landmark case of ***New York Times*** v. ***Sullivan (1964) 376 U.S. 254; 11 L ed 686,*** at page ***706,*** the U.S. Supreme Court said:

> "The Constitutional guarantees require, we think, a federal rule that prohibits a public official from recovering damages for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with 'actual malice'—that is, with knowledge that it was false or with reckless disregard of whether it was false or not."

Thus, under the rules of law enumerated in the ***New York Times*** case, the claimant in the case at bar would not be entitled to recover from the respondent, even if matters contained in the published advertisements were false, unless they were made with "actual malice" **or** they were libelous ***per se.*** We turn first to the question of malice.

[2] Claimant bases his charge of "malice" solely on the grounds that the advertisements in question violate the statute dealing with publication of political literature as stated in ***Ill. Rev. Stat. Ch. 46 §29-14.*** Without pointing out the alleged violation, claimant concludes that such disregard for the law shows respondent's reckless disregard for the truth or falsity of the entire content of the advertisements and proves malice. This conclusion is without merit.

Claimant apparently is referring to the fact that the advertisements in question do not contain the address of the organization or person who caused the ads to be published as required by the statute cited. The first advertisement merely states that it was paid for by "Students for Better Housing Through Better Government". The second adds the words, "Doug Diggle, Chairman". This apparently is not sufficient identification to satisfy the statute. Claimant does not allege that the said group or its chairman were unknown or could not be located. However, according to the statute, ***Chapter 46, Section 29-14,*** the omission of adequate names and addresses is a "Class A misdemeanor". We do not equate this statutory penalty for such omission with grounds required to sustain an action **for** libel.

It should be noted that in the ***Sullivan*** case (Supra), the New **York** Times published an advertisement which contained 10 or 15 separate misstatements of fact. The evidence disclosed that the Times had in its own files information which would show the falsity of the allegations in the ad, and that they failed to search their own files. Yet the U.S. Supreme Court held the newspaper not guilty of libel. It follows, ***a fortiori,*** that the failure of the "Daily Egyptian" to notice the omission of adequate names and addresses on the political advertisements is not evidence that would remotely support claimant's contention that the advertisements published were conceived or inspired by a malicious design to injure the claimant in his business. (See ***Lulay*** v. ***Peoria Journal-Star Inc., (1966) 34 Ill.2d 112, 116*** and authorities therein cited.)

[3] The final issue is whether the term "bad landlord," which claimant was called in the advertisements, are actionable ***per se*** as being that type of statement

which prejudices the claimant in his trade or profession if falsely communicated.

Claimant contends that the words "bad landlord" damaged his professional and business reputation which is unrelated to his conduct as a public official, or at least, not covered under the privilege rule in *Times* v. ***Sullivan*** (Supra).

We have carefully examined and will comment on the authorities cited in claimant's brief as follows:

Stanley v. ***Taylor (1972) 4*** *Ill.App.3d* ***97*** correctly states that Illinois courts have removed all distinctions between slander and libel, and that the same rules apply whether the offensive language is oral **or** written. However, the ***Stanley*** case gives no support to claimant's position. There a school teacher in the presence **of** witnesses said to her principal in a loud voice that could be heard in nearby classrooms, "I think you are plain stupid. You are a disgrace to your profession. You are just like that old Lee Harvey Oswald that shot and killed President Kennedy, and that old Jack Ruby who shot and killed him in Dallas". Yet the court held that this "slanderous,, attack was not libelous per se.

In ***Tunnel1*** v. ***Edwardsville Intelligencer, Inc., (1966) 99 Ill.*** *App.2d* ***28*** the newspaper published a rumor that the city attorney was "attempting to break the law". The evidence showed that the rumor was false. The court held that the published language was not capable of an innocent construction, and that it was equally an attack upon his honesty and integrity as an attorney and as a city official. The facts have little resemblance to the case at bar.

We also fail to see any similarity in ***Cook*** v. ***East Shore Newspapers Inc. (1945) 327*** *Ill.App.* ***559.*** There

liability was found against the newspaper which accepted as true statements of a discharged employee and published an article, covering half of the front page, charging a city judge with selling jobs and dishonesty in discharging duties of his office. The publisher had made no investigation of the facts, showing a reckless disregard for the truth. Even so, the decision might have been different if it were made 20 years later, after the ***New York Times*** v. ***Sullivan*** decision of 1964.

It is the respondent's contention that use of the term "bad" is merely name calling and there is no specific act of which the claimant is accused. Respondent points out that use of the term in itself implies an opinion rather than a set of facts, and to say that someone is a bad person, a bad lawyer, **or** a bad landlord would not specifically accuse that person of any nefarious conduct or guilt.

We have noted in ***Delis*** v. ***Sepsis*** *(1972)* ***9 Ill.App.3d 217*** that the plaintiff [who was a candidate for office in a fraternal association] was described in a published letter as "dishonorable" and as "being a deliberate liar." The court held that these words, somewhat stronger than the word "bad," were not libelous per se, and amounted to no more than "name calling" where such remarks were made in connection with particular facts set forth in the letter.

We find much more objectionable words held to be unactionable name calling in ***McGuire*** v. ***Jankiewicz*** ***(1972) 8 Ill.App.3d 319,*** where the court said at page 320:

> **"Turning then to the words used in the instant case, it is readily apparent that the statement 'your lawyer is an ass hole' is merely an example of objectionable but unactionable 'name-calling.'"**

However, the court went on in ***McGuire*** to find that the following words were actionable slander, "You could not

have chosen a worse attorney." The court said that these words "had the effect of placing plaintiff as the least competent of all licensed and practicing attorneys.'' This latter statement obviously is so much stronger than the words "bad landlord" that the ruling is not applicable to the case at bar.

In searching for authorities in which an action for libel or slander is based on words somewhat closer to the term "bad landlord,'' we find in ***Valentine* v. *North American Life & Health Ins. Co., (1973) 16 Ill.App.3d 277*** the expression "lousy agent" was held to be nothing more than harsh judgment as to why agency was being terminated, and that these words are not actionable under the "innocent construction rule" adopted in Illinois. ***John* v. *Tribune Co. (1962)24 Ill.2d 437, 442.***

In the ***John* v. *Tribune*** opinion at page **442,** the Illinois Supreme Court cited many cases in which the "innocent construction" rule has been followed and restates that rules as follows:

> **"That rule holds that the article is to be read as a whole and the words given their natural and obvious meaning, and requires that words allegedly libelous that are capable of being read innocently must be *so* read and declared nonactionable as a matter of law."**

Having previously stated that we find no showing of actual malice against the claimant by the "Daily Egyptian," under the innocent construction rule in ***Lulay* v. *Peoria Journal*** (Supra) and ***John*** v. ***Tribune Co.*** (Supra), we now hold that the words "bad landlord," as used in the case at bar, are not actionable as a matter of law. We find strong support in ***Watson*** v. ***Southwest Messenger Press Inc., (1973) 12 Ill.App.3d 968*** in which published articles accused the mayor of Hickory Hills of criminal acts of official misconduct. In granting **a** summary judgment for the publisher, the court said at page 972:

"In the case at bar, even were we to assume that the newspaper articles are libelous per se and, therefore, actionable, we must conclude that these articles are conditionally privileged as a matter of law. There is a strong and necessary rule of law resting upon an ample foundation of state and federal constitutional guarantees of free speech and free press, that reports by a newspaper upon the activities of a municipal government or its officers are privileged, even though false and defamatory, and this privilege can be defeated only by proof that the particular publication was 'motivated solely by actual malice.' "

A summary judgment for the respondent is hereby granted and this claim is dismissed.

(No. 75-CC-746—Case dismissed.)

JEAN ROSENBAUM, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed May 12, 1975.

JEAN ROSENBAUM, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

IMMUNITY—public official's discretionary acts. It is a well-established principle of the common law that an immunity exists in favor of public officials when they are exercising their official discretion on matters which are discretionary in nature and not ministerial.

HOLDERMAN, J.

Claimant filed her complaint alleging that she suffered damages as the result of occurrences in the Domestic Relations Court, Juvenile Court, and Chancery, and Divorce Court, all in Chicago, Illinois, and all a part of the Court system of that State of Illinois and for which the State is responsible.

The complaint alleges that in **1969,** as a result of domestic difficulties, claimant went to Domestic Relations Court in an attempt to pursue her legislative right of support in accordance with her husband's station-of-

life, as a wife, and mother of minor children, as she did not want a divorce or separate maintenance.

Claimant alleges that various Assistant State's Attorneys, on different occasions, refused to give her a complaint to sign, stating that this was a Court for the absolutely destitute wives only and verbally ordered her to go to work even though she had minor children.

Claimant further alleges that her husband had been in a condition of near-nervous breakdown for several years due to Urban Renewal and relocation in his business neighborhood, that he had left his wife and family, and had been behaving erratically for a long period of time.

She further states that she was shown Illinois Revised Statutes, Chapter **68-24,** 1969, entitled "Neglect to Provide for Destitute Wife or Children," as justification for the policy of the State's Attorneys office.

Claimant further alleges that when she suggested that perhaps a private attorney could aid her, she was told if she could afford an attorney, she was not destitute enough to qualify for entry into Domestic Relations Court.

She further states that after she spent a great deal of time, to the neglect of her home and family, she finally did secure a complaint to sign, at which time she attempted to strike the word "destitute" from the complaint, but was not allowed to do so by her Court advisor who stated "it was only a formality and would not make any difference."

She further alleges, that the Court finally ordered her husband to pay her $25.00 weekly for approximately one year, and refused to renew the award at the end of

that time, and also that the Court ordered her to "get a divorce or file for separate maintenance."

Claimant further states that in January, **1973,** the Legislative Reference Bureau in Springfield, Illinois, discovered the word "destitute" in the complaint at Domestic Relations Court was totally illegal. She alleges that for 22 years, the Domestic Relations Court had forced middle-class women into divorce or legal separation illegally.

She further complains that the Juvenile Court of Chicago, Illinois, and particularly Judge David Schaffer, had acted erroneously in some decisions and she further alleges that Judge Schaffer was found hung by the neck, an apparent suicide, and that she was eventually informed that the Judge had been under psychiatric treatment for a long time and that, due to his emotional condition, he was not capable of carrying on his responsibilities as a judge.

Claimant, at great length, further alleges other acts of the Court, to her detriment. She bases her claim upon Section 12 **of** the new **1970** Constitution of the State **of** Illinois, which is as follows:

"RIGHT TO REMEDY AND JUSTICE. Every person shall find a certain remedy in the laws for all injuries and wrongs which he receives to his person, privacy, property or reputation. He shall obtain justice by law, freely, completely and promptly."

This Complaint is perhaps but a logical extension of the decision in the ***Molitor*** case and one which was foreseen by Judge Davis at the time the decision was rendered in that case. In his dissenting opinion, he made the following statements:

"This decision cannot but be the occasion for releasing a flood of litigation and legislation in order to establish new boundaries in this area of novel liability. During this period, school districts will be harassed by doubts and

difficulties which will impair their ability to conduct an efficient system of free schools.

(Tort) **liability should not be imposed upon the State or its governmental agencies without exploring and considering the complicated aspects of its impact, and without authorizing a tax levy and providing a tax rate for such purpose."**

Respondent filed a motion to dismiss, citing the fact that "all of said alleged acts were judicial in nature and hence privileged from liability."

There are two cases that seem to deal with the situation at hand.

The case of ***James Lusietto, Administrator of the Estate of Shirley Lusietto, Deceased*** vs. ***James Kingan***, 107 Ill. **App.** 2d 239, 246 N.E. 2d 24 (1969), in which suit was brought by the administrator **of** the estate of the deceased against a State Highway Supervisor, alleged that the deceased met her death by reason of the failure of the supervisor of highways to have the road in proper condition, causing the fatal accident. The Court, in passing upon this case, laid down the rule that before recovery can be made when suit is brought against a State employee in his official capacity, it must be shown there was a violation of some duty owned to an individual and unless such violation was shown, it cannot give rise to legal liability of an individual employee. The Court, in citing the case **of** ***Nagle*** **vs.** ***Wakey*****, 161** Ill. ***387*****, 393, 43** N.E. 1079, recognized the distinction between the duty which a Commissioner of Highways owes to an individual and that which he owes to the public in general, holding that for a violation of the former, he may be sued by an individual but not so for a violation of a duty he owes to the public in general.

The distinction seems to arise as to whether the matter was ministerial or whether it was one that required the exercise **of** discretion and judgment. It is a

well-established principle of the common law that an immunity exists in favor of public officials when they are exercising their official discretion on matters which are discretionary in nature and not ministerial. ***People for Use of Munson*** vs. ***Bartels,*** 138 Ill. 322, 27 N.E. 1091; ***McCormick*** vs. ***Burt,*** 95 Ill. 263; ***Gilbert*** vs. ***Bone,*** 64 Ill. 518; ***Kelly*** vs. ***Ogilvie, 64*** Ill. App. 2d **144,** 212 N.E. 2d 279. Quite apart from the doctrine of governmental immunity, the case law in this State has developed the doctrine of public officials immunity. This doctrine is distinguished from and founded on a different rationale from the principle of governmental immunity. See note 1966 Illinois Law Forum 981 at 995.

In the present case, the actions of the various **judges** were discretionary **and not** strictly ministerial.

It is the law of this State that the principle of public officials immunity still exists. This was decided in the case of ***Kellyvs. Ogilvie, 64*** Ill. **App. 2d 144,212 N.E. 2d** 279. This case was decided almost six years after the ***Molitor*** case and the Court recognized that the principle of public officials immunity still existed and stated:

> **"This doctrine rests on the principle that the public decision maker, like the judge, ought to be shielded from personal liability or other factors extraneous to a judgment based on his best perception of public needs."**

It appears, therefore, that the doctrine of public immunity still exists as to acts of individuals where they have discretionary and ministerial duties to perform.

Respondent's motion to dismiss is hereby granted and said cause is dismissed.

(No. 6155—Claim denied.)

MILDRED O'HEARN, Claimant, ***us.*** **STATE OF ILLINOIS,** Respondent.

Opinion filed May 13, 1975.

CARL J. CIPOLLA, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; EDWARD L. ARKEMA, JR., Assistant Attorney General, for Respondent.

NEGLIGENCE—*burden of proof.* **Before a claimant may recover against the State, he must prove the State was negligent, that such negligence was the proximate cause of the injury and that claimant was in the exercise of due care and caution for his own safety.**

HOLDERMAN, J.

Claimant, Mildred O'Hearn, seeks payment for injuries she sustained on November 18, 1970, while she was at the Illinois Division of Unemployment Compensation Office at 4082 North Milwaukee Avenue, Chicago, Illinois. She was at this office for the purpose of obtaining her unemployment compensation check.

Evidence discloses that she was in the office from early in the morning on the date of the accident until around 4:15 p.m.

The office contained many chairs, either aluminum or steel, and they were movable. The chairs were there for the benefit and convenience of the public, such as claimant. The evidence also discloses that she had been in this office on at least three previous occasions and, consequently, she was familiar with the contents therein, such as the seating arrangements, type of chairs, etc.

Claimant's testimony is that she arrived at the office about 9:00 a.m. and, as the accident did not occur until after 4:00 p.m., she had been in this office for a full day and had a chance to observe the placing of the chairs, the moving of them, and the general picture of the area.

Claimant contends that the legs of the chair which caused her to fall were sticking out at an angle of approximately 45°. She claims that this chair had been pushed into the aisle by someone unknown and that she did not see the leg of the chair when she fell over the same.

Claimant sustained rather serious injuries and as a result of these injuries she underwent a surgical procedure and was on crutches until she returned to work on January 2, 1971, after which she used a cane until April 1971, when she was discharged by her doctor. ,

It is claimant's contention that the rear legs of the chair in question, which was the ordinary type of office chair, were dangerous and defective in that the legs protruded into the aisle making it unsafe for her to pass. She further contended that the State was negligent in having such type of furniture in this office and, consequently, she is entitled to the money expended for medical care and attention, as well as compensation for the injury she sustained.

The respondent filed a motion to dismiss and, as grounds for said motion, stated that the claimant was in violation of Rules 16 and 18 of the rules of this Court because the claimant did not file an abstract of the evidence from the record, which was approximately 150 pages in length.

Claimant answered the motion to dismiss by stating that she did not file the abstract because of an agreement with the Assistant Attorney General. We accept claimant's answer.

It is fundamental that the burden of proof is upon claimant to establish negligence on the part of respondent, as well as her freedom from contributory negligence,

before recovery can be had. ***26 C.C.R. Page 77, at Page 80.***

The law in the State of Illinois is clear that, in order for claimant in a tort action to recover against the State, he must prove that the State was negligent, that such negligence was the proximate cause of the injury, and that claimant was in the exercise of due care and caution for his own safety. *McNary* vs. ***State of Illinois,*** 22 C.C.R. 328, ***Bloom, et al*** vs. ***State of Illinois,*** 22 C.C.R. 582, 585. It is a well-known proposition of law that the State is not an insurer against accidents occuring on its streets and highways. ***Manus*** vs. ***State of Illinois, 22 C.C.R. 335;*** *McNary* vs. ***State of Illinois,*** 22 C.C.R. 328.

The record is completely devoid of any negligence on the part of respondent unless the fact that chairs were provided for the use of the public could be considered negligence. The evidence shows that the type of chairs used were ordinary type of office chairs used in business waiting rooms and that the claimant, having been there at least three times previously and having spent the day there on the day the accident occurred, consequently was thoroughly familiar with the area on the day in question.

It is the opinion of this Court that the claimant has failed to meet the requirements as to the burden of proof and this claim is hereby denied.

(No. 6830—Claimant awarded $15,000.00)

MOHAMMED MOSTAFA, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed May 13, 1975.

MOHAMMED MOSTAFA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

PRISONERS AND INMATES—*wrongful* incarceration. Where the claimant has received a pardon pursuant to the requirements of the statute the sole obligation of the Court is to find the amount that is due the claimant and also fix the attorney's fees that should be paid by claimant.

HOLDERMAN, J.

This was an action for compensation against the State of Illinois for time unjustly served in prison. The claim is made under provisions of Chapter 37, Article 439.8(C), Illinois Revised Statutes, which is as follows:

"All claims against the State for time unjustly served in prisons of this State where the persons imprisoned shall receive a pardon from the governor stating that such pardon is issued on the ground of innocence of the crime for which they were imprisoned; provided, the Court shall make no award in excess of the following amount: for imprisonment of 5 years or less, not more than $15,000; for imprisonment of 14 years or less but over 5 years, not more than $30,000; for imprisonment of over 14 years, not more than $35,000; and provided further, the Court shall fix attorney's fees not to exceed 25% of the award granted."

The effective date of this statute was October 1, 1973.

The claimant was imprisoned on May 5, 1969, by the Circuit Court of Cook County, on the charge of murder in the first degree. Thereafter, on May 23, 1974, the Governor of the State of Illinois granted the claimant a pardon on the ground of innocence of the crime of murder. The imprisonment lasted from May 6, 1969, until February 2, 1972.

Under the Statute, imprisonment for five years or less, unjustly served is a basis for an award for not more than $15,000.

On September 23, 1974, a stipulation between the attorney for the claimant and the State of Illinois, respondent, by the Attorney General, was entered into and filed by this Court. This stipulation recites:

"That on May 5, 1969, the Plaintiff herein was imprisoned by the Circuit Court of Cook County, Illinois, in Cause No. 68-2829 upon which he was found guilty of first degree murder. The opinion of the Appellate Court of Illinois, First District Cause No. 55463 reversed the conviction of murder without remanding for another trial. A certified copy of the said opinion is attached to the complaint herein."

The amendment above referred to, changes the procedure before the Court of Claims and the previous contention that the claimant must prove his innocence of the crime he has committed, has been eliminated and claimant is allowed to file a claim, if he receives a pardon from the Governor stating that such pardon is issued on the grounds of innocence of the crime for which he was imprisoned.

On May **23, 1974,** Honorable Daniel Walker, Governor of the State of Illinois, granted a pardon to the claimant on the grounds that he was innocent of the crime of murder in Cause No. 68-2829, Cook County, Illinois.

Since the claimant in this instance has received such a pardon, the sole obligation of the Court is to find the amount that is due the claimant and also fix the attorney's fees that should be paid by claimant.

Evidence was also introduced to show what the claimant earned in the years **1967** and **1968.** Included in the evidence were the income tax returns for these years.

Based upon the evidence before the Court, the Court enters an award to the claimant for the sum of $15,000.00 and, in addition, sets the attorney's fees at the sum of 25% of the award and payable from the award.

(No. 74-CC-373—Claimant awarded $11,000.00.)

A & T MOVERS, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed May *13, 1975.*

A & T MOVERS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-492—Claimant awarded $390.58.)

FOSTER G. MCGAW HOSPITAL, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed May *13, 1975.*

FOSTER G. MCGAW HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-655—Claimant awarded $86.15.)

ANDERSON WITTE ENGRAVING CO., Claimant, *us.* STATE OF ILLINOIS, POLLUTION CONTROL BOARD, Respondent.

Opinion filed May *13, 1975.*

ANDERSON WITTE ENGRAVING CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-663—Claimant awarded $676.71.)

BISMARK HOTEL, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed *May* ***13, 1975.***

BISMARK HOTEL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-831—Claimant awarded $579.34.)

ATLANTIC RICHFIELD CO., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed *May* ***13, 1975.***

D. K. MCINTOSH, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-27—Claimant awarded $5.50.)

UNION OIL COMPANY OF CALIFORNIA, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed May 13, *1975.*

UNION OIL COMPANY OF CALIFORNIA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-34—Claimant awarded $50.45.)

SHERATON-JOLIET MOTOR INN, Claimant, *vs.* STATE OF ILLINOIS LIEUTENANT GOVERNOR'S OFFICE, Respondent.

Opinion filed May *13, 1975.*

SHERATON-JOLIET MOTOR INN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-60—Claimant awarded $7.95.)

KROCH'S AND BRENTANO'S, Claimant, *us.* STATE OF ILLINOIS, GOVERNOR'S ACTION OFFICE, Respondent.

Opinion filed May *13, 1975.*

KROCH'S AND BRENTANO'S, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-79—Claimant awarded $278.00.)

RELIANCE ELEVATOR MFG. CO., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed May *13, 1975.*

RELIANCE ELEVATOR MFG., Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-134—Claimant awarded $144.00.)

PITNEY BOWES, Claimant, *us.* STATE OF ILLINOIS, GOVERNOR'S ACTION OFFICE, Respondent.

Opinion filed May 13, *1975.*

J. R. WOODSMALL, BRANCH MANAGER, PITNEY BOWES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-186—Claimant awarded $801.00.)

SHERMAN HOSPITAL ASSOCIATION, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed May 13, 1975.

SHERMAN HOSPITAL ASSOCIATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-204—Claimant awarded $31.30.)

POLLUTION CONTROL BOARD, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed May 13, ***1975.***

POLLUTION CONTROL BOARD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent:'

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-205—Claimant awarded $12.10.)

POLLUTION CONTROL BOARD, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed May ***13, 1975.***

POLLUTION CONTROL BOARD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-206—Claimant awarded $27.70.)

POLLUTION CONTROL BOARD, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed May ***13, 1975.***

POLLUTION CONTROL BOARD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-207—Claimant awarded $0.70.)

POLLUTION CONTROL BOARD, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed May *13, 1975.*

POLLUTION CONTROL BOARD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-282—Claimant awarded $279.75.)

CLARK EQUIPMENT Co., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed May *13, 1975.*

CLARK EQUIPMENT Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-290—Claimant awarded $376.00.)

EVAN GREGORY MOORE, M.D., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed May *13, 1975.*

EVAN GREGORY MOORE, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-349—Claimant awarded $1,723.57.)

GALLAGHER ASPHALT CORP., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed May 13, *1975.*

GALLAGHER ASPHALT CORP., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-40A Claimant awarded $128.92.)

TENTH STREET HARDWARE, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed May 13, *1975.*

TENTH STREET HARDWARE, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-450—Claimant awarded $2,939.65.)

EDGEWATER HOSPITAL, A NON-PROFIT ILL. CORP., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed May *13,* 1975.

WILLIAM L. SILVERMAN, Attorney for Claimant."

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-506—Claimant awarded $500.00.)

MADGE NOBLE, BUREAU COUNTY TREASURER, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LOCAL GOVERNMENT AFFAIRS, Respondent.

Opinion filed May *13, 1975.*

MADGE NOBLE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-619—Claimant awarded $16.65.)

ROYAL TYPEWRITER COMPANY, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed May 13, 1975.

ROYAL TYPEWRITER COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* ***warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-655—Claimant awarded $300.79.)

NANCY J. CEJA, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed May 13, 1975.

NANCY J. CEJA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-669—Claimant awarded $4,157.40.)

FEDERAL SIGN & SIGNAL CORP., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed May 13, 1975.

FEDERAL SIGN & SIGNAL CORP., Claimant, pro se.

WILLIAM J. SCOTT, Attorney 'General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-679—Claimant awarded $5,982.60.)

FEDERAL SIGN & SIGNAL CORP., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed May 13, *1975.*

FEDERAL SIGN & SIGNAL CORP., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-685—Claimant awarded **$15.98.)**

DONNA McCARVER, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed May *13, 1975.*

DONNA McCARVER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-687—Claimant awarded $507.00.)

FEDERAL SIGN & SIGNAL CORP., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC HEALTH, Respondent.

Opinion filed May 13, 1975.

FEDERAL SIGN & SIGNAL CORP., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-691—Claimant awarded $2,045.35.)

MOTOROLA, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed May 13, 1975.

MOTOROLA, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-693—Claimant awarded $723.20.)

MOTOROLA, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed May 13, 1975.

MOTOROLA, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-700—Claimant awarded $350.00.)

FAMILY SERVICE WINNETKA-NORTHFIELD, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed May 13, 1975.

FAMILY SERVICE WINNETKA-NORTHFIELD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-701—Claimant awarded $2,126.25.)

P-M CLINICAL LABORATORIES, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed May 13, 1975.

P-M CLINICAL LABORATORIES, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—***lapsed appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-800—Claimant awarded $391.31.)

SUSAN L. MCCONNELL, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed May 13, 1975.

SUSAN L. MCCONNELL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-804—Claimant awarded $1,015.00.)

MEANS SERVICE, Claimant, *vs.* STATE OF ILLINOIS, OFFICE OF THE SECRETARY OF STATE, Respondent.

Opinion filed May 13, 1975.

MEANS SERVICE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-823—Claimant awarded $122.92.)

CARGILL, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed May 13, *1975.*

CARGILL, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-824—Claimant awarded $2,910.67.)

CARGILL, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed May 13, *1975.*

CARGILL, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-825—Claimant awarded $225.70.)

CARGILL, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed May *13, 1975.*

CARGILL, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-828—Claimant awarded $837.00.)

GRAND SPAULDING DODGE, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed May *13, 1975.*

GRAND SPAULDING DODGE, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-877—Claimant awarded $92.93.)

UARCO INCORPORATED, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed May *13, 1975.*

UARCO INCORPORATED, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-885—Claimant awarded $551.84.)

MARIE O'NEILL, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed May *13, 1975.*

MARIE O'NEILL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-894—Claimant awarded $513.43.)

JOE D. ANGELO, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed May *13, 1975.*

JOE ANGELO, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-925—Claimant awarded $25.42.)

WILLIAM H. SWANSON, Claimant, *vs.* **STATE OF ILLINOIS**, Respondent.

Opinion filed May *13, 1975.*

WILLIAM H. SWANSON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-939—Claimant awarded $120.00.)

BILL D. PAGE, Claimant, *vs.* **STATE OF ILLINOIS, OFFICE OF EDUCATION**, Respondent.

Opinion filed May *13, 1975.*

BILL D. PAGE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-941—Claimant awarded $44.00.)

LINDA S. LEVY, claimant, *vs.* **STATE OF ILLINOIS, ILLINOIS OFFICE OF EDUCATION**, Respondent.

Opinion filed May 13, *1975.*

LINDA S. LEVY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-948—Claimant awarded $108.90.)

THE FLAX COMPANY, Claimant, ***us.*** **STATE OF ILLINOIS, OFFICE OF EDUCATION, Respondent.**

Opinion filed ***May 13, 1975.***

THE FLAX COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-957—Claimant awarded $197.81.)

PAUL E. STEHMAN, Claimant, ***us.*** **STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.**

Opinion filed ***May 13, 1975.***

PAUL E. STEHMAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **MARTIN A. SOLL,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-959—Claimant awarded $333.10.)

WILLIS RUSSELL COSBY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed May *13, 1975.*

WILLIS COSBY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-960—Claimant awarded $4,995.00.)

WESTINGHOUSE SECURITY SYSTEMS INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed May 13, *1975.*

WESTINGHOUSE SECURITY SYSTEMS INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-969—Claimant awarded $432.05.)

COMMONWEALTH EDISON COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed May 13, *1975.*

GEORGE O. SHAFFNER, AND JOSEPH C. SIBLEY, JR., Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-970—Claimant awarded $46.81.)

COMMONWEALTH EDISON COMPANY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed May 13, *1975.*

GEORGE O. SHAFFNER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—replacement warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-972—Claimant awarded $32.89.)

COMMONWEALTH EDISON COMPANY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed May 13, *1975.*

GEORGE O. SHAFFNER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **SAUL R. WEXLER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-973—Claimant awarded $73.04.)

COMMONWEALTH EDISON COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed May *13, 1975.*

GEORGE O. SHAFFNER, AND JOSEPH C. SIBLEY, JR., Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-976—Claimant awarded $44.00.)

DONNA M. BRANDIS, Claimant, *us.* STATE OF ILLINOIS, ILLINOIS OFFICE OF EDUCATION, Respondent.

Opinion filed May *13, 1975.*

DONNA M. BRANDIS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-980—Claimant awarded $546.25.)

RIVERSIDE HOSPITAL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed May 13, 1975.

RIVERSIDE HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-989—Claimant awarded $1,647.69.)

MARJORIE KLOCK, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed May 13, 1975.

MARJORIE KLOCK, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the *Court* will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-990—Claimant awarded $1,962.24.)

LYNN WHITE POMP, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed May 13, 1975.

LYNN WHITE POMP, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-996—Claimant awarded $118.64.)

JOHN E. GANNON, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed May 13, *1975.*

KLEIMAN, CORNFIELD & FELDMAN, Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1003—Claimant awarded $115.88.)

LINDA L. NEUMAN, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed May 13, *1975.*

LINDA L. NEUMAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1007—Claimant awarded $2,089.56.)

MULTIGRAPHICS DIVISION, ADDRESSOGRAPH-MULTIGRAPH CORP., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed May *13, 1975.*

MULTIGRAPHICS DIVISION, ADDRESSOGRAPH-MULTIGRAPH CORP., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1011—Claimant awarded $324.00.)

ELAINE REVELL, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed May *13, 1975.*

ELAINE REVELL, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1016—Claimant awarded $1,500.00.)

MARVIN J. SCHWARZ, M.D., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed May *13, 1975.*

MARVIN J. SCHWARZ, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1019—Claimant awarded $1,750.00.)

MARVIN J. SCHWARZ, M.D., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed May 13, *1975.*

MARVIN J. SCHWARZ, M.D. Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, **for** Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1021—Claimant awarded $1,100.00.)

MARVIN J. SCHWARZ, M.D., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed May *13, 1975.*

MARVIN J. SCHWARZ, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1023—Claimant awarded $453.98.)

INTERNATIONAL BUSINESS MACHINES CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed May *13, 1975.*

INTERNATIONAL BUSINESS MACHINES CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1024—Claimant awarded $280.00.)

VILLAGE OF OLD SHAWNEETOWN, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed May *13, 1975.*

VILLAGE OF OLD SHAWNEETOWN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1041—Claimant awarded $162.00.)

ACCO SEED, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed May 13, ***1975.***

ACCO SEED, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(**No.** 75-CC-1063—Claimant awarded $248.83.)

SEARS, ROEBUCK & Co., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed May 13, ***1975.***

SEARS, ROEBUCK & *Co.*, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1143—Claimant awarded $67.21.)

ZELLA BAUER, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF REGISTRATION AND EDUCATION, Respondent.

Opinion filed May *13, 1975.*

ZELLA BAUER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KABAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-849—Claimant awarded $4,424.05.)

HARLEY DUNCAN, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion *filed* May *19, 1975.*

FRANK, H. WALKER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-499—Claimant awarded $556.02.)

WILLIAM J. SABATINI, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed May *26, 1975.*

WILLIAM SABATINI, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-505—Claimant awarded $1,000.00.)

MADGE NOBLE, BUREAU COUNTY TREASURER, Claimant, **us. STATE OF ILLINOIS, LOCAL GOVERNMENT AFFAIRS,** Claimant.

Opinion filed May 26, *1975.*

MADGE NOBLE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the **Court** will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-597—Claimant awarded $16,896.00.)

MENTAL HEALTH SERVICE OF FRANKLIN & WILLIAMSON COUNTIES INCORPORATED, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed May 26, *1975.*

MENTAL HEALTH SERVICE OF FRANKLIN & WILLIAMSON COUNTIES INCORPORATED, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-598—Claimant awarded $7,822.05.)

FRANCIS E. WALSH, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF LAW ENFORCEMENT, Respondent.

Opinion filed May 26, 1975.

BURDITT AND CALKINS, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*stipulation.* Claim for back salary by State Trooper who resigned, was reinstated several months later and subsequently became disabled. Award of $7,822.05 by stipulation of parties.

PER CURIAM.

This claim is for six months of back salary. Trooper Walsh and the Department of Law Enforcement became embroiled in a dispute resulting in Trooper Walsh submitting his resignation. However, before the resignation became effective, Trooper Walsh withdrew the resignation. The Department of Law Enforcement then stated that the resignation had already been accepted and that Trooper Walsh could not withdraw same. They removed Trooper Walsh from their payroll effective October 15, 1973. Trooper Walsh received no compensation from the State Police from that time until April 15, 1975. On April 15, 1974, the State Police reinstated Mr. Walsh and immediately filed charges against him for the purpose of determining whether they should continue to employ Trooper Walsh notwithstanding the validity of his purported withdrawal of his resignation. Trooper Walsh was paid one day's salary for April 15, 1974. On April 24, 1974, Trooper Walsh sustained a heart attack and was hospitalized for six weeks. He has since been declared by his doctor to be unable to perform the duties of a State Police officer. Subsequently, the Department of Law Enforcement entered into an agreement with Trooper Walsh wherein they agreed to withdraw charges against

him, have agreed to payment of six months of back salary and to place Trooper Walsh on a medical leave of absence and assist him in his attempts to obtain disability status in the Illinois State Employees' Retirement System in return for Trooper Walsh's resignation. The agreement is duly signed by Dwight E. Pitman, Director of the Illinois State Police, Francis Walsh and his attorneys. As indicated in the departmental report and Agreement of the parties (attached to the joint stipulation) Francis E. Walsh is due back salary in the amount of $7,351.57.

We find that claimant is entitled to back salary in the gross amount of $7,351.57 plus employer contributions of $470.48 for a total employee benefit of $7,822.05 which should be disbursed by the Comptroller and credited as follows:

To the State Employees' Retirement System as follows:

$ 661.69	Employee's contribution to State Employees' Retirement System
$ —	Employee's contribution to F.I.C.A.
$ 470.48	State's contribution to State Employees' Retirement System
$ —	State's contribution to F.I.C.A.

To the Illinois State Treasurer to be remitted to the Internal Revenue Service:

$1,043.92	as claimant's Federal Income Tax withholding for current taxable year.

To the Illinois Department of Revenue, Income Tax Division:

$ 122.29	as claimant's Illinois Income Tax withholding for current taxable year.

Net to claimant:

$5,523.67	as claimant's net salary after *all* of the above contributions and withholdings have been deducted from the above total employee benefit.

IT IS, THEREFORE, ORDERED that claimant be and is hereby awarded the total employee benefit of **$7,822.05 (SEVEN THOUSAND EIGHT HUNDRED TWENTY TWO AND 05/100 DOLLARS).** to be disbursed and credited in accordance with our above finding.

(No. 75-CC-626—Claimant awarded $123.00.)

C. C. HOESZLE, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed May 26, 1975.

C. C. **HOESZLE,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-876—Claimant awarded $522.00.)

ROBERT HALL, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed May *26, 1975.*

ROBERT HALL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-968—Claimant awarded $501.83.)

COMMONWEALTH EDISON COMPANY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed May *26, 1975.*

GEORGE O. SHAFFNER, and **JOSEPH C. SIBLEY, JR.,** Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-995—Claimant awarded $432.00.)

VARIETY TRAVEL, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed May *26, 1975.*

VARIETY TRAVEL, INC., Claimant, **pro** se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1109—Claimant awarded $1,848.00.)

STANDARD OIL COMPANY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.

Opinion filed May *26, 1975.*

STANDARD OIL CO., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1145—Claimant awarded $85.27.)

LAUREL HAVEN SCHOOL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinion filed May 26, 1975.

LAUREL HAVEN SCHOOL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1147—Claimant awarded $143.03.)

SMOOT OIL COMPANY, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.**

Opinion filed May 26, *1975.*

SMOOT OIL COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-186—Claimant awarded $126.20.)

CHARLES S. ROBINSON, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed June 2, *1975.*

CHARLES S. ROBINSON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-425—Claimant awarded $1,477.50.)

GENERAL BINDING CORPORATION, A DELAWARE CORPORATION and GBC SALES & SERVICE, INC., An Illinois Corporation, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed June 2, *1975.*

STEVE RUBIN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-620—Claimant awarded $1,526.25.)

HARZA ENGINEERING CO., Claimant, *vs.* STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD, Respondent.

Opinion filed June 2, *1975.*

HARZA ENGINEERING Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-749—Claimant awarded $138.80.)

JAMES W. PHELAN, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed June 2, 1975.

JAMES W. PHELAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the ***Court*** will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-892—Claimant awarded $2,128.53.)

MERCY CENTER FOR HEALTH CARE SERVICES, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID,** Respondent.

Opinion filed June 2, 1975.

MERCY CENTER FOR HEALTH CARE SERVICES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-898—Claimant awarded $40.50.)

EDWARD DON & COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed June 2, ***1975.***

EDWARD DON & COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-912—Claimant awarded $165.24.)

DONALD R. OWEN, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed June 2, ***1975.***

DONALD R. OWEN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-921—Claimant awarded $600.00.)

FARNS ASSOCIATES INCORPORATED, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed June 2, 1975.

FARNS ASSOCIATES INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* ***warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-938—Claimant awarded $5,551.10.)

DENSON'S PHARMACEUTICAL CENTER, Claimant, us. STATE OF ILLINOIS, Respondent.

Opinion filed June 2, 1975.

DENSON'S PHARMACEUTICAL CENTER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* ***warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-951—Claimant awarded $216.55.)

SEARS ROEBUCK & Co., Claimant, us. STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed June 2, 1975.

SEARS ROEBUCK & Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1037—Claimant awarded $3,036.00.)

DE PAUL UNIVERSITY, Claimant, *vs.* STATE OF ILLINOIS, ILLINOIS OFFICE OF EDUCATION, Respondent.

Opinion filed June 2, 1975.

DE PAUL UNIVERSITY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the **Court** will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1039—Claimant awarded $143.55.)

RIGHT GIRL TEMPORARY SERVICE, INC., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed June 2, 1975.

RIGHT GIRL TEMPORARY SERVICE, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1052—Claimant awarded $450.00.)

MOTOROLA, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed June 2, *1975.*

MOTOROLA, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1084—Claimant awarded $348.00.)

MCMASTER-CARR SUPPLY COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed June 2, *1975.*

MCMASTER-CARR SUPPLY COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1094—Claimant awarded $96.00.)

LELAND H. RAYSON, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed June 2, *1975.*

LELAND H. RAYSON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-1097—Claimant awarded $1,956.65.)

STEWART WARNER ALEMITE SALES *Co.*, INC., Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed June 2, *1975.*

STEWART WARNER ALEMITE SALES Co., INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1117—Claimant awarded $206.86.)

CATHOLIC CHARITIES OF THE ARCHDIOCESE OF CHICAGO, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed June 2, 1975.

CATHOLIC CHARITIES OF THE ARCHDIOCESE OF CHICAGO, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 6898—Claim denied.)

SAVIN BUSINESS MACHINES CORPORATION, Claimant, *us.* STATE OF ILLINOIS, SECRETARY OF STATE, Respondent.

Opinion filed June 5, 1975.

ARTHUR SPIRO, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

FRANCHISE TAX—*refund.* A tax paid under duress may be refunded by Court order only if the tax were also paid under protest.

BURKS, J.

This matter comes before the court for a ruling on respondent's motion for a summary judgment, pursuant to §57 of the Civil Practice Act, contending that there is no genuine issue as to any material fact in this matter, and that the respondent is entitled to judgment as a matter of law.

In its objections to said motion, claimant contends that there are material issues of fact; that respondent has misinterpreted the facts in the record; and that respondent has misapplied the relevant case law and statutes.

Claimant in this action seeks a refund for an alleged involuntary overpayment of its 1970 franchise tax in the amount of $9,060.53, being the difference between the $9,269.71 which claimant paid and the amount of tax actually owed, amounting to $209.18, as subsequently determined by the Secretary of State.

Claimant's statement of the facts, which respondent has not denied, strongly supports claimant's contention that it did not pay the tax voluntarily, but paid it under duress or compulsion. Yet, claimant apparently caused or contributed to the duress of which it complains.

Claimant concedes that its 1970 Annual Report was inadvertently filed late. Said report, due before March 1, was filed on November 4, 1970, some eight months late, accompanied by a letter explaining the failure to file timely. This letter stated that the corporation was in the process of moving its headquarters from New York City to Valhalla, New York, and that the aforementioned return was inadvertently overlooked.

Seven days later, on November 11, 1970, claimant paid the amount of $9,269.71 to the Sheriff of Cook County as demanded in a warrant issued by the Secretary of State for failure to pay franchise tax due the State of Illinois.

Nineteen days later, on December 1, 1970, the Secretary of State issued an adjusted statement for the franchise tax reducing the correct tax to only $209.18, apparently based on the Annual Report belatedly filed by the claimant.

In the meantime, on December 15, 1970, a copy of the receipt from the Sheriff of Cook County was mailed to the Secretary of State pursuant to advice received from his office that a copy of the receipt was necessary to effect a refund.

On January 20, 1971, claimant was advised by the Secretary of State that the statute contained no provision for the issuance of a refund inasmuch as the warrant held by the Sheriff of Cook County was in the correct amount at the time payment was made. The Secretary of State subsequently suggested that a petition for refund be filed with the Court of Claims.

The claim was filed in this court on September 8, 1972, some 18 months after the excessive tax was paid. We note that three hearings were scheduled but not held, for reasons not appearing in the record; that respondent's motion for summary judgment was filed September 3, 1974, and claimant's reply on September 11, 1974.

It would appear from the motion and reply that one issue of fact exists, namely, whether claimant paid the tax voluntarily or involuntarily. This, however, may be a question of law after accepting the facts as stated by the claimant. If the tax were paid voluntarily, as respondent contends, respondent correctly relies in its motion on our holding in *New Hampshire Fire Ins.* Co. v. *State of Illinois* (1954) *22 C.C.R. 60,* in which Judge Fearer stated the general rule at page 64 as follows:

> ". . . in the absence of a statute, a tax which is paid voluntarily, and not under duress or compulsion cannot be recovered."

This is a rather liberal restatement of the rule established in *People* v. *Lindheimer* (1939) *371 Ill. 367,* cited by the respondent. In *Lindheimer* our Supreme Court said at page 371:

> "The obligation of the citizen to pay taxes is purely a statutory creation, and taxes can be levied, assessed and collected only in the method pointed out by express statute. [Citing cases] So, also, any right to a refund or a credit of taxes is purely of statutory origin, and in the absence of an authoritative statute, taxes voluntarily, though erroneously paid, cannot be recovered, nor even voluntarily refunded by a county, although there may be justice in the claim."

Claimant argues that neither of the above cited cases apply since in both cases the excess tax was paid "voluntarily". Although it is not alleged that the tax was paid under protest, claimant contends that its payment of the tax was made involuntarily and under duress or compulsion.

The duress or compulsion to which claimant refers may be summarized from claimant's affidavit as follows:

A warrant for the collection of franchise taxes and penalties was mailed to the Sheriff of Cook County on August 27, 1970, by the Secretary of State. The Sheriff then sent claimant a form letter demanding payment of $9,269.71 by November 16, 1970. The letter stated that failure to pay the full sum of $9,269.71 by November 16, 1970, would oblige the Sheriff "to make a return of the writ 'No part satisified'; whereupon, it will be obligatory under the statute for the Attorney General to take action to dissolve your corporation." Mr. J. Mills, of the Office of the Secretary of State, in a telephone conversation, allegedly warned claimant that failure to pay the full amount demanded by the Sheriff would obligate the Sheriff to serve the warrant and close claimant's Illinois office forthwith, thereby precluding claimant from doing business in the State of Illinois. In addition, Mr. Mills is reported to have said that the Attorney General's office would revoke claimant's authority to carry on corporate activities in Illinois.

In light of these express threatened actions, claimant states that it paid the sum of $9,269.71 on November 11, 1970, by certified check, "to avoid material and substantial economic and legal sanctions to claimant's business enterprise in this state." Claimant does not allege that the collection procedures employed were illegal nor contrary to established practice. Claimant contends that its payment was made under duress.

As authority for its contention that such duress is recognized as sufficient grounds for permitting a refund, claimant cites *Snyderman* v. *Isaacs (1964) 31 Ill. 2d 192*; and *Alton L. & T.* Co. v. *Rose (1904) 117 Ill. App. 83.* These cases do not significantly support claimant's position. In both cases the tax refund was denied. It was denied, not withstanding the alleged duress, primarily because the payment was *not made underprotest.* In the first case cited by claimant, *Snyderman* at page 194, the Court does say. "The Complaint does not allege payment under protest, and it contains no factual allegations to support a theory of legal duress." The Court does not elaborate on the term "legal duress," but does announce that a tax payment is not rendered involuntary by the existence of a penalty for failure to pay.

In *Benzoline Motor Fuel* Co. v. *Bollinger (1933) 353 Ill. 600,* we find the Court referring to "virtual or moral duress" as being sufficient to prevent a payment made under its influence from being voluntary. The court also indicates that anticipated "disastrous effects to business," somewhat stronger but similar to claimant's contention in the case at bar, would amount to such duress. However, the key distinction from the case at bar is that, in *Benzoline,* the taxpayer made the payments *under protest* and the tax was held to be unconstitutional.

In the case at bar, claimant does not allege that its payment of tax was made under protest. We find no precedent in this state for awarding a tax refund unless the tax was paid *underprotest* or, as stated in *Alton Light & Traction Co.* v. *Rose (1904) 117 Ill. App.* 83 at page *86,* "with notification of some sort equivalent to a reservation of rights. The mere fact that a tax was paid unwillingly or with complaint is of no legal importance," the Court said at page 85. This *Alton* case was decided

before our protest statute first became law in **1911,** ***Ill. Rev. Stat. (1973) Ch. 127 §172.*** This protest statute is referred to in our **1954** decision, ***N.H. Fire Ins. Co.*** v. ***State*** (Supra) at p. 62, and our decision in that case would apparently have been different if the claimants had pursued their remedy as provided in the protest statute. Even when a protest accompanies the remittance, taxes cannot be recovered in equity unless certain requirements are met. See ***Standard Oil Co.*** v. ***Bollinger (1929) 337 Ill. 335*** in which the court held:

> **"The tax paid by a distributor of motor fuel under the invalid act of 1927 cannot be recovered in equity notwithstanding the distributor protested against the tax at each time a remittance thereof was made, as the payment was nevertheless voluntary."**

In both of the cases cited by the claimant, and in all other cases referred to in this opinion, a tax refund was denied because claimants failed to act promptly to protect their rights and failed to avail themselves of the remedy which the statute affords in ***Chapter 127, Section 172 Ill. Rev. Stat.*** For the same reasons, we find that the instant claim must be denied.

A recent case very similar in facts to the case at bar, is ***Western Union Telegraph*** Co. (a New York Corporation) v. ***Lewis*** **(1972)** ***7 Ill. App. 3d 285; 287 NE 2d 169.*** Here, the claimant had filed an erroneous annual report overstating its capitalization. It then filed a supplemental annual report which inadvertently repeated the same clerical error. After receiving the Secretary of State's invoice for franchise tax based on the incorrect figures, claimant paid the excessive tax under protest, filed a second annual report with correct figures, and filed its suit for the over payment. The Secretary of State argued that the statute did not permit the claimant to correct errors in its report after June 25. In granting the requested franchise tax refund, the court said,

"The plaintiff here availed itself of a remedy which the statute affords. It applied for adjustment of the franchise tax, and it paid under protest."

"Taxes paid under protest may be recovered if improperly imposed, *Sinclair Pipe Line Co.* v. *Carpentier, 10 Ill.2d 300, 140 N.E. 2d 115; Ill. 422, 172 N.E.* 705, and Section 172 of the Statute expressly provides the procedure followed here."

In the case at bar, the claimant admittedly, though unintentionally, created the situation which resulted in its payment of an excessive franchise tax in 1970. Unfortunately, claimant failed to make its payment under protest pursuant to the statute cited above, and failed to avail itself of the remedy which the statute affords. Under these facts, and all the facts before us, considering in a light most favorable to the claimant, we conclude that the claim must be denied as a matter of law. Since claimant did not pay the tax under protest, although it had justifiable grounds and a statutory right to do so, the payment is deemed to have been made voluntarily. According to the weight of authority in this state, a tax paid under duress may be refunded by court order only if the tax were also paid under protest.

Summary judgment is a procedure to be encouraged in cases of this type as a method of facilitating the administration of justice. It is, however, a remedy granted by this court with some caution so as not to pre-empt the right of any claimant to present further facts or authorities that might have a significant bearing on our conclusion. In such cases a petition for rehearing will inavariably be granted for good cause shown and authorities cited according to our rules.

Respondents's motion for a summary judgment is hereby granted, and this claim is denied.

(No. 74-CC-419—Claimant awarded $4,198.06.)

THE GREAT ATLANTIC & PACIFIC TEA CO., INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed June *5, 1975.*

DAVID L. PASSMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-420—Claimant awarded $48.90.)

THE GREAT ATLANTIC & PACIFIC TEA COMPANY, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID, Respondent.

Opinion filed June *5, 1975.*

DAVID L. PASSMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-508—Claimant awarded $570.26.)

CENTRAL ILLINOIS LIGHT *Co.*, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed June *5, 1975.*

O'HERN & WOMBACHER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-524—Claimant awarded $319.00.)

SIDNEY HARRISON COMPANY, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, AND DEVELOPMENTAL DISABILITIES,** Respondent.

Opinion filed June *5, 1975.*

JACK A. CONEY, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-537—Claimant awarded $584.55.)

GULF OIL CORPORATION, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed June *5, 1975.*

GULF OIL CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-592—Claimant awarded $354.04.)

JAMES R. DISHMAN, SR., Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed June *5, 1975.*

JAMES R. DISHMAN, SR., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-813—Claimant awarded $1,055.26.)

SMITH OIL CORPORATION, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES,** Respondent.

Opinion filed June *5, 1975*

SMITH OIL CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-929—Claimant awarded $360.00.)

EDGEWATER HOSPITAL, A Non-Profit Illinois Corporation, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF PUBLIC AID,** Respondent.

Opinion filed June *5, 1975.*

WILLIAM L. SILVERMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General;, **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-927—Claimant awarded $222.00.)

SUPERIOR AMBULANCE CO., Claimant, *us.* **STATE OF ILLINOIS, OFFICE OF THE GOVERNOR, Respondent.**

Opinion filed June ***5, 1975.***

SUPERIOR AMBULANCE Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-993—Claimant awarded $40.09.)

HILL CAMERA REPAIR SERV., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.**

Opinion filed ***June 5, 1975.***

HILL CAMERA REPAIR SERVICE, Claimant, pro ***se.***

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1044—Claimant awarded $22.25.)

R. R. BOWKER COMPANY, Claimant, *vs.* STATE OF ILLINOIS, OFFICE OF EDUCATION, Respondent.

Opinion filed June 5, 1975.

R. R. **BOWKER** COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1049—Claimant awarded $75.00.)

MELVINA KLEPPE, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF REGISTRATION AND EDUCATION, Respondent.

Opinion filed June 5, 1975.

MELVINA KLEEPE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1085—Claimant awarded $81.00.)

EMMETT H. JURGENS, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed June 5, 1975.

EMMETT H. JURGENS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1087—Claimant awarded $13.68.)

HOE SUPPLY COMPANY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed June *5, 1975.*

HOE SUPPLY COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1103—Claimant awarded $3,408.25.)

BARNES HOSPITAL, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed June *5, 1975.*

BARNES HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1127—Claimant awarded $80.00.)

PETER STUBING, M.D., Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed June *5, 1975.*

PETER STUBING, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-1146—Claimant awarded $195.88.)

SMOOT OIL COMPANY, Claimant, *vs.* STATE OF ILLINOIS, **DEPARTMENT OF CORRECTIONS, Respondent.**

Opinion filed June *5, 1975.*

SMOOT OIL COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-1155—Claimant awarded $1,914.00.)

GOOD SAMARITAN SHELTER CARE HOME, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed June *5, 1975.*

GOOD SAMARITAN SHELTER CARE HOME, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1187—Claimant awarded $367.12.)

ACE GLASS, INC., Claimant, *us.* STATE OF ILLINOIS, ENVIRONMENTAL PROTECTION AGENCY, Respondent.

Opinion filed June 5, 1975.

ACE GLASS, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1212—Claimant awarded $196.76.)

SCIENTIFIC PRODUCTS, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF AGRICULTURE, Respondent.

Opinion filed June 5, 1975.

SCIENTIFIC PRODUCTS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(75-CC-1238—Claimant awarded $10.50.)

D. K. **AGENCIES,** Claimant, *us.* **STATE** OF **ILLINOIS,** Respondent.

Opinion filed June 5, 1975.'

D. K. AGENCIES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-1239—Claimant awarded $45.54.)

Charles **SCRIBNER'S SONS,** Claimant, *us.* **STATE** OF **ILLINOIS,** Respondent.

Opinion filed June 5, 1975.

CHARLES SCRIBNER'S **SONS,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—***replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-1242—Claimant awarded $334.14.)

JAMES PACKER SWANK, Claimant, *us.* **STATE** OF **ILLINOIS,** Respondent.

Opinion filed June 5, 1975.

JAMES SWANK, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* ***warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-1255—Claimant awarded $121.83.)

GREENWOOD PRESS, INC., Claimant, ***us.*** **STATE OF ILLINOIS,** Respondent.

Opinion filed June 5, 1975.

GREENWOOD PRESS, INC., Claimant, pro *se*.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-1274—Claimant awarded $68.59.)

MOGUL-ED, Claimant, ***us.*** **STATE OF ILLINOIS,** Respondent.

Opinion filed June 5, 1975.

MOGUL-ED, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM E. WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* ***warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under

Ch. **15,** Sec. **210.10,** Ill.Rev.Stat., **1973,** to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(Nos. **6203, 6210, 6233, 6261** (Consolidated)—McDougall awarded **$263.53,** Austin awarded **$626.29,** Basler award **$601.95,** Wentworth awarded **$377.19.)**

CECIL L. MCDOUGALL, R. L. **AUSTIN, DONALD** R. **BASLER,** and **JAMES** B. **WENTWORTH, JR.,** Claimants, vs. **STATE** OF **ILLINOIS, DEPARTMENT OF LAW ENFORCEMENT,** Repsondent.

Opinion filed June 9, 1975.

MCDOUGALL, AUSTIN, BASLER, and WENTWORTH, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CIVIL SERVICE ACT—*overtime.* Claim by four employees of Department of Law Enforcement for overtime worked in **1968-69.** No appropriation or provision for overtime in department budget or rules. Compensatory time off was not granted due to workload. Court awarded claimants overtime stating Department of Personnel rules permitted such payment and such rules had force of law.

BURKS, J.

These four claims were consolidated by our prior order as an aid to convenience and economy, pursuant to **051** of the Civil Practice Act, since the claims all present exactly the same issue and they differ only as to the amount claimed by each claimant.

Each claimant was employed by the respondent as a "Crime Scene Technician'' in the Department of Law Enforcement, and each seeks compensation for overtime work required by the respondent during fiscal years 1968 and 1969 in the amounts shown in the above caption.

The claimants were not represented by counsel.

They have entered into a joint stipulation with the respondent as to the facts and the issues, and state: "The parties waive briefs and desire the court to rule on the claims on the basis of the record and the stipulation."

The respondent recognizes the merits of these claims in the following letter dated August 18, 1971, signed by Gary D. McAlvey, Superintendent of the aforesaid department's Bureau of Investigation:

"The overtime covered in the above claims accumulated during Fiscal Year 1968 and Fiscal Year 1969. At that time there were no provisions to make cash payment for overtime, and because of the heavy work load, compensatory time off for overtime earned could not be allowed to these employees.

"The overtime was authorized as a part of these employees' regular duties as Crime Scene Technicians. Because of the lack of authorization to make cash payment for overtime, no monies were appropriated to reimburse these employees during the fiscal years in question.

"It would appear to me that these employees have a valid claim and it will be up to the Court of Claims to determine whether or not they should be paid by the State of Illinois regardless of whether cash payment for overtime was authorized."

The claimants' scheduled work week was 37.5 hours for which they were paid a monthly salary. However, the nature of their work necessitated their being on call 24 hours per day to go out on crime investigations and devote as much time as the case required. They all understood then that they were not to be paid for overtime but were entitled to compensatory time off. Because of the heavy workload, these claimants could not be given their earned time off nor were they otherwise compensated for their hours of overtime work which are not in dispute.

To determine whether claimants can now be compensated for the overtime worked, we turn first to a prohibition found in *Ill.Rev.Stat. (1967) Ch. 127, §145, ¶3* which reads in part as follows:

"Amounts paid from appropriations for personal service of any officer or employee of the State, either temporary or regular, shall be considered as full payment for all services rendered between the dates specified in the payroll or other voucher and no additional sum shall be paid to such officer or employee from any lump sum appropriation, appropriation for extra help or other purpose or any accumulated balances in specific appropriations, ***which payments would constitute in fact an additional payment for work already performed and for which remuneration had already been made.*** [emphasis added.]

Under the facts in this case at bar, it cannot in fairness be said that claimants here are seeking ***"additional*** payment for work already performed" since they have received nothing for their overtime. Hence, we do not find that their claims are barred by the above quoted statutes.

We next examine a restriction found in Article IV of the Constitution of 1870, in effect at the time of the performance of the services in question, which reads as follows:

"Sec. 19. The General Assembly shall never grant or authorize extra compensation, fee or allowance to any public officer, agent, servant or contractor, after service has been rendered or a contract made, nor authorize the payment of any claim, or part thereof, hereafter created against the State under any agreement or contract made ***without express authority of law. . .***" [Art. 4, Sec. 19.1 (emphasis added)

The above constitutional barrier would preclude the payment of these claims unless payment can be made with ***"express authority of law."***

Respondent stipulates that the rules promulgated by the Department of Personnel ***"shall have the force*** *and* ***effect of law***". [The Personnel Code, ***Ill.Rev.Stat. (1967) Ch. 127, §63b 1081*** Looking then for such rule that would be applicable to the case at bar, and binding **on** the Department of Law Enforcement, we find that Sec. **3-340** of the Rules propounded by the Department of Personnel, effective November **1,** 1967, provided, among other things, that—

"Each operating agency shall grant its full time employees the equivalent time off for overtime worked. Such compensatory time off shall be scheduled * * * within 12 months of its accrual. *If such compensatory time off is not liquidated within 12 months of its accrual, the agency shall pay the employee for* such overtime work * * *. * * * where the granting of compensatory time off is not practical * * * the Director of Personnel may authorize * * * wages for overtime work, * * *. Authorization must be obtained prior to the time work is performed.

Since Sup't. McAlvey states that overtime for these claimants ***had prior authorization,*** being inherent in their duties as Crime Scene Technicians, it seems clear that these claims should or could have been paid under the above stated "authority of law". But it also appears from the record that personnel and payroll supervisors in the Department of Law Enforcement at that time had no knowledge of the rules then in effect which provided that payments could be made to these claimants for overtime worked.

Claimants admit that they too had no knowledge of the said rules at that time, but relied on their employer's payroll supervisors to protect and advise them of their rights. All of the claimants conceded that they were not anticipating overtime pay, but thought they were only entitled to compensatory time off. It was generally agreed among the claimants that they put in such a great deal of overtime that they only applied for a small amount of it, knowing that they weren't going to get it; and that the only compensation that they could foresee was compensatory time off, and they could see no way that they could take that amount of time off because of their work load. Sup't. McAlvey's letter confirms this.

"As it turned out, the man that turned in the most overtime [Verne Dallugel was paid in full, and the employees that did not claim all they worked were ignored," claimants testified. Apparently, Mr. Dalluge fortunately had knowledge of his rights and timely applied for over-

time pay. Claimants logically contend that if they are expected to know the law, the department's payroll supervisors are also presumed to know the law; and that the law should protect the employee as well as the state from loss due to ignorance of the pay plan rules on the part of the employee and his payroll supervisor.

The record shows that claimants were finally told by their payroll supervisors that they would be paid for their overtime work by filing a lapsed appropriation claim in this Court, as they have done. This Court granted an award under similar circumstances in ***Riefler*** v. ***State, 11 C.C.R. 381.***

We do not regard these claims as being based on the theory of ***quantum meruit*** which we held in ***Schutte et al*** v. ***State, 22 C.C.R. 591 at page 626,*** that this theory does not generally lie against the State. Rather, we find that these claims should be paid under the "express authority of law" as stated in the **1967** Department of Personnel Rules Sec. **3-340** (Supra). This rule, determined at the hearing to be applicable to these claimants, declares that such state employees ***shall*** be granted equivalent time off for overtime worked, within **12** months of its accrual, otherwise they ***shall*** be paid for such overtime work Since claimants were never given the opportunity to take the time off, it always being denied because of the workload and the promise that claimants would be paid for this overtime later, claimants are entitled to an award for the overtime pay in the amounts claimed.

Awards are hereby granted in these four claims as follows:

In claim No. **6203** the claimant, **CECIL** L. MCDOUGALL, is hereby awarded compensation for overtime pay in the total sum of **$263.53.**

In claim No. **6210** the claimant, R. L. AUSTIN, is hereby awarded compensation for overtime pay in the total sum of **$626.29.**

In claim No. **6233** the claimant, DONALD R. BASLER, is hereby awarded compensation for overtime pay in the total sum of **$601.95.**

In claim No. **6261** the claimant, JAMES B. WENTWORTH, JR., is hereby awarded compensation for overtime pay in the total sum of **$377.19.**

(No. **75-CC-310—Claimant awarded $13.90.)**

CAPITOL GLASS COMPANY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed June 9, 1975.

CAPITOL GLASS COMPANY, Claimant, pro se.

WILLIAM J. **SCOTT,** Attorney General, for Respondent.

CONTRACTS. Claim for material delivered to State but time and place of delivery, except for one item, could not be proved. Claimant awarded $13.90 for one item so proved."

HOLDERMAN, J.

Claimant filed a claim against the State of Illinois for material allegedly furnished on behalf of the Secretary of State.

On April 18, **1975,** respondent filed a Motion for Summary Judgment for all of the alleged material furnished except one item in the amount of **$13.90.** Respondent based its motion on the fact that claimant was unable to verify either the order showing where the goods were ordered or delivery receipts showing where

the items were received by the State with the exception of the item in the amount of **$13.90.**

Motion for Summary Judgment is hereby entered against the claimant, except in the amount of **$13.90** for which judgment is entered against the respondent.

Claimant is awarded the sum of **$13.90.**

(No. **5442—Claim denied.)**

CHRISTINA FLAIM, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed June 11, 1975.

HUGH M. MATCHETT, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; ETTA COLE AND EDWARD L. S. ARKEMA, JR., Assistant Attorneys General, for Respondent.

IMMUNITY—*doctrine of* respondent superior. Since public officials are immune from liability under Illinois law for negligence in the performance of discretionary duties, their principals, the State, is similarly immune under the doctrine of respondent superior

BURKS, J.

This action, seeking damages for personal injuries sustained by the claimant, is based upon the alleged negligence of respondent's Department of Corrections in approving the parole and release of one Ronald Sledge, a juvenile, who, after his release, attacked, battered, and robbed the claimant; and that respondent knew the said parolee to be a dangerous person.

Claimant also contends that the State of Illinois is, pursuant to the ***equal protection*** clauses of the state and federal constitutions, under a duty to compensate innocent victims of crime "without regard to whether the state was negligent or not."

The second contention is a theory which has been specifically rejected recently by the Illinois Supreme Court. In ***Inez Williams*** v. ***Medical Center Commission*** [Docket No. **46562** Supreme Court Opinion filed March 24, **19751** Justice Schaefer analyzed similar constitutional arguments as to the State's liability and said, among other things:

> **"A constitutional grant of immunity to a sovereign government has never, so far as we are aware, been held to be an arbitrary classification which violates equal protection."**
>
> **"The recent decision of the Supreme Court of the United States in *Edelman* v. *Jordan (1974), 415 U.S. 651, 39 L. Ed. 2d 662,* 94 *S.* Ct. 1347, indicates clearly, we believe, that the assertion of sovereign immunity by a State is not offensive to any provision of the Constitution of the United States."**

Although it was under no legal duty to do so, the State **of** Illinois has now voluntarily agreed **to** assume some of the financial loss suffered by innocent victims of crimes by enacting the "Crime Victims Compensation Act" effective October **1, 1973,** ***Ill. Rev. Stat. (1973) Ch. 70 §71 et seq.*** However, this gives no relief to .the claimant nor any other victim of a crime committed prior to the effective date of this Act, October **1, 1973.** ***See 884 of the Act.*** "This act applies, only to injuries inflicted after the effective date of this Act."

We return now to claimant's first and basic contention, i.e., that the Youth Commission of the Department of Corrections was negligent in granting parole to Ronald Sledge who was a dangerous person. Although the alleged negligence was not proved by a preponderance of the evidence in this case, it is plausable to conclude, with the benefit of hindsight, that the officials responsibile for paroling Ronald Sledge made an error in judgment.

It is well-established law in Illinois that public officials are immune from liability for performing discretionary functions. The rationale for such immunity was

best expressed by Judge Learned Hand in ***Gregoire*** v. ***Biddle, 177*** F. *2d 579, 581, 2nd Cir. 1949:*

"It is thought to be better to leave unredressed those wrongs done by dishonest [or negligent] officials than to subject those who try honestly to perform their duty to the constant fear of retaliation."

In ***Lusietto*** v. *Kingan,* ***107*** *Ill.App.* ***239*** *(1969)*, the court noted (at page **245)** that an immunity exists in favor of public officials when they are exercising their official discretion on matters which are discretionary in nature. In ***Kelly*** v. ***Ogilvie, 64*** *Ill.App. 2d* ***144*** *(1965),* ***Aff. 35 Ill.*** *2d 297 (1966)*, this doctrine of quasi judicial immunity was more fully expounded. See also ***Burr*** v. ***Muteo, 360 U.S. 564 (1959).*** This doctrine, well established and of long standing in Illinois, states that, where official action is the result of judgment or discretion, it is judicial and immune from liability. ***People*** v. ***Burtel, 138 Ill. 332;*** *McCormick* v. ***Burt, 95*** *Ill.* ***263.*** As the Court said in ***Kelly*** v. ***Ogilvie*** (Supra) at page 147:

"This doctrine rests on the principle that the public decision maker, like the judge, ought to be shielded from personal liability or other factors extraneous to a judgment based on his best perception of public needs."

Since public officials are immune from liability under Illinois law for negligence in the performance of discretionary duties, their principal, the State, is similarly immune under the doctrine of respondeat superior.

Moreover, at the time of claimant's injuries, there was in effect a statute specifically exempting a public employee or a local public entity from liability from "any injury resulting from determining to parole or release a prisoner." *Ill.Rev.Stat.* ***(1965) Ch. 85*** *§4-106* effective August 13, 1965:

"§4—106. Parole — Escaped prisoners

Neither a local public entity nor a public employee is liable for:

"(a) Any injury resulting from determining to parole or release a prisoner, to revoke his parole or rlease, or the terms and conditions of his parole.

(b) Any injury inflicted by an escaped or escaping prisoner."

Although the above statute specifically applies to local governmental units, it is a declaration by the General Assembly as to the public policy of this State controlling the precise issues presented in the case at bar. In determining to parole a prisoner, government officials are performing a discretionary duty or function. Such officials and their governmental unit are excused by law from any liability for any injuries that might result from the exercise of such discretionary power.

It was not necessary for the State to be included in the "Local Governmental and Governmental Employees Tort Immunity Act." The sovereign immunity of the State, except as such immunity is specifically waived by the General Assembly, rests firmly on sound constitutional grounds according to recent decisions of the Illinois Supreme Court in ***Inez Williams*** v. ***Medical Center Commission*** (Supra) and according to the U.S. Supreme Court in Edelman v. Jordan (Supra) and ***Krause v. Ohio,*** *U.S.* ***Supreme Court Reports 34 L.Ed. 2d*** 506. Same case below, ***31 Ohio St 2d 132,*** 60 ***Ohio Ops 2d*** 100, ***285 N.E. 2d 736*** contains an exhaustive treatise on the subject of a state's sovereign immunity confirmed by the U.S. Supreme Court in **1972.**

By contrast, the immunity once claimed by units of local government was judicially abolished in ***Molitor*** **v.** ***Kaneland Community Unit District No. 302*** *(1959),* 18 *Ill. 2d* 11, ***Harvey*** v. ***Clyde Park District*** *(1964),* ***32 Ill. 2d 60,*** and other subsequent opinions.

"Those opinions, however, [quoting our high court in ***Inez Williams*** (Supra)] did not involve the sovereign immunity of the State **or** the validity of the ***Court of Claims Act,*** questions which were thoroughly threshed out in the recent constitutional convention. The present language of §4 of Article XIII—'Exceptas the General

Assembly may provide by law, sovereign immunity in this State is abolished'—was adopted only after the defeat of an amendment which would have limited the power of the General Assembly to the provision of a special forum, and would have eliminated its authority to restrict the right of trial by jury and to impose time limitations and limitations upon the amount of recovery. *(5 Record of Proceedings, Sixth Illinois Constitutional Convention 3948-3952.)*"

The State's liability is no greater, and its immunity is certainly no less, under existing law, than that of local governmental units which are creatures of the State. To hold the State liable for any errors in judgment by its officials, in the exercise of their discretionary decision making powers and duties, would be contrary to the public policy established by the General Assembly. This is particularly true of a decision to parole or release a prisoner, "one of the most difficult, sensitive and complicated decisions that must be made in the criminal justice system." ***"Parole Decisions" Ill. Bar Journal, Sept. 1973, p. 20.***

For the reasons stated herein, this claim must be and is hereby denied.

(Nos. 5671 and 6055 (Consolidated)—Claimantawarded $25,000.00.)

MARGARET MANOS, Administrator of Estate of HARRY MANOS, deceased, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed June 16, 1975.

ROBERT LISCO, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; SAUL R. WEXLER, Assistant Attorney General, for Respondent.

NEGLIGENCE—*evidence.* Tort **claim by decedent's estate for negligent maintenance of state highway in DuPage County. Claimant had struck a large chuck hole throwing his auto into a utility pole resulting in his death. Evidence indicated road improperly maintained, that this was proximate cause of accident and claimant not contributorily negligent.**

HOLDERMAN J.

This is a cause of action brought by claimant against respondent, State of Illinois, for the death of claimant's husband.

The claimant alleges that the respondent negligently failed to maintain a section of Roosevelt Road, approximately **1000** feet west of Ardmore Avenue, in the Village of Villa Park, County of DuPage and State of Illinois.

On January **31, 1969,** at about **1:00** p.m., the decedent, Harry Manos, was the owner of a certain station wagon which he was driving in an easterly direction on Roosevelt Road, the place above mentioned. The claimant charges that the deceased struck a large chuck hole in the road, causing his car to go out of control and collide with a utility pole alongside Roosevelt Road and, as a result of the injuries he received in this accident, Harry Manos died on February 27, **1969.**

Claimant called Ralph Franklin North, a police officer for the Village of Villa Park, who testified that he arrived at the scene immediately after the accident and conducted an investigation. He took some pictures of the accident, including a picture of the chuck hole which allegedly caused the car to swerve, resulting in the death of the claimant's husband. The picture indicates there was a large chuck hole about three feet two inches wide and three and three-fourths inches deep.

James J. Gorman was also called as a witness for the

claimant. Mr. Gorman testified that he was following the car of the deceased and that the road was very rough, causing difficulty in driving, and he described the driving as "turbulent." This witness also testified the decedent was travelling between 45 and 50 miles an hour and that when decedent struck one of the chuck holes, his car went out of control and struck the utility pole, wrecking the car and causing the death of decedent.

Claimant also called Robert Bartel, who operates a service station approximately 1,000 feet west of the utility pole that was struck by decedent's car. He testified that he was on the scene immediately after the accident as he was attracted to the accident because of the noise caused by the force of the impact. He further testified there were deep chuck holes in the road where the accident occurred and that on previous occasions many other cars had lost their hub cabs after striking the chuck holes and that on many occasions drivers would stop at his gas station inquiring about their lost hub caps. This witness further testified that these chuck holes had existed at least 30 to 60 days before the accident in question. He further testified, that cold patching was very often done on the road but cold patching did not hold because of the weather and heavy traffic. He also stated he had seen crews put in cold patching one day and in two days it would be gone. He also testified the hole in question was "big enough to swallow a wheel" and that it was about a foot deep and a couple of feet in width.

The widow, Margaret Manos, testified to the effect that the decedent was a chef at the Trotter's Restaurant, that he was 53 years of age, and earning about $100.00 per week at the time of his death. She also identified medical and hospital bills which were admitted into evidence and they are as follows:

Dr. Eugene Fitzgerald	**$ 750.00**
Elmhurst Clinic.	**750.00**
Dr. John E. Finch	**810.00**
Gibbons Funeral Home	**1,770.00**
Memorial Hospital of DuPage	**6,431.26**

Also admitted into evidence were Letters of Office in the decedent's estate and decedent's Income Tax Returns.

It was stipulated by and between the parties that the highway in question was a State highway and that Harry Manos died as a result of the accident in question, and that such is evidenced by the death certificate and coroner's certificate which were admitted into evidence.

Joseph Koster, head of the Regional Safety Division for the State of Illinois Department of Transportation, was called as a witness for respondent and he testified that crews had been working in the area of the accident a few days before the date of the accident in question. He further testified that cold patching could come out within a matter of hours. He stated that this highway was reconstructed in 1972.

The law in the State of Illinois is clear. In order for a claimant in a tort action to recover against the State, he must prove that the State was negligent; that such negligence was the proximate cause of the injury; and that claimant was in the exercise of due care and caution for his own safety. *McNary* vs. *State of Illinois,* 22 C.C.R. 328; *Link* vs. *State of Illinois,* 24 C.C.R. 69. This Court has held many times that the State is not an insurer of all persons traveling upon its highways. *McNary* vs. *State of Illinois,* 22 C.C.R. 328; *Link* vs. *State of Illinois,* 24 C.C.R. 69.

It is also apparent from the evidence, that the deceased was not a constant user of the area in which the accident occurred, although at times he did use this

thoroughfare but not frequently enough to be aware of the situation that caused the accident.

It is clear in the case at bar, that the deceased was not guilty of contributory negligence which contributed to his death. It is also clear that the negligence of the State in allowing the chuck holes to exist was the proximate cause of the accident.

There being no contributory negligence on the part of the deceased, it is the opinion of this Court that an award should be made in the amount of $25,000.00.

Claimant is hereby awarded the sum of $25,000.00.

(No. **6650—Claim denied.)**

EDITH HANSEN; RICHARD G. HANSEN, individually; **MERRILL HANSEN, ARTHUR HANSEN, CORRINE HANSEN, ELAINE HANSEN AND MAREN HANSEN**, minors, by **RICHARD G. HANSEN**, their father and best friend, Claimant, *vs.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed June 16, 1975.

BOZEMAN, NEIGHBOUR, PATTON & NOE, Attorney for Claimants.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

NEGLIGENCE—standard of cure. **The State owes a duty to utilize reasonable care in the construction and maintenance of roadways under its control.**

PERLIN, C. J.

Edith Hansen, her husband, Richard Hansen, and their five minor children have brought this action to recover for injuries which each sustained in an automobile accident on April 11, 1971. The accident occurred on

Illinois Interstate 80 at its intersection with Interstate 280 and Interstate 74 in Henry County, Illinois. Claimants contend that their injuries were proximately caused by the negligence of respondent in designing the portion of Interstate 80 whereon the accident occurred, and respondent's further negligent failure to provide proper signs in the area.

The accident occurred at about 6:50 a.m. on April 11, 1971, a clear, dry day. The Hansen family was returning to their home in Cleveland, Ohio, from a skiing trip in Utah. They had left Utah about 10:00 a.m. on Saturday, April 10, 1971, and had driven continuously with Mr. and Mrs. Hansen alternating behind the wheel. At the time of the accident, Mrs. Hansen was driving the family's 1970 Ford station wagon, having taken over the driving from her husband about 45 minutes earlier. The station wagon was equipped with a mattress in the rear, which permitted the person not driving to sleep.

Mrs. Hansen had not previously driven over the portion of highway in question. The family had taken the same route on returning from their skiing vacation the year before, but Mr. Hansen had then been driving when they reached the junction of Interstate 80, Interstate 280 and Interstate 74.

The junction had been designed in 1958 and approved by the Illinois Department of Public Works in 1959. Construction of the junction itself was completed by the Illinois Department of Public Works in October, 1968.

Eastbound traffic on Interstate 80 changes direction at the junction in that an eastbound motorist on Interstate 80 at the junction has actually been proceeding in a southerly direction from the Iowa-Illinois border and

resumes an easterly path at the interchange by traversing a cloverleaf ramp to his right.

The Hansens were negotiating this cloverleaf ramp on the morning of April 11, 1971, when their vehicle overturned. Mrs. Hansen received permanently crippling injuries in the accident, while the other members of the family fortunately received much less serious injuries.

It was admitted by respondent that a total of 16 accidents on the curve of Interstate 80 at the junction of Interstate 80 and Interstate 280 were reported to the State of Illinois from October, 1968, through April, 1971.

Photographs and diagrams introduced into evidence by claimants and respondent clearly illustrate both the configuration of Interstate 80 at the point of the accident, and the signs that were placed along the highway advising motorists of the existence of the cloverleaf ramp for eastbound traffic. The speed limit on Interstate 80 west of the intersection was 70 miles per hour. Claimants' Exhibit One is a photograph of eastbound Interstate 80 at a point 4,750 feet west of the cloverleaf ramp and shows overhead signs indicating that eastbound traffic for Interstate 80 should utilize the right lane of the two lane highway, and that eastbound traffic for Interstate 74 should utilize the left hand lane. Mrs. Hansen testified that she was in the right hand lane when she approached this set of signs, and that she noted that the right hand lane was the proper lane for Interstate 80 traffic.

Claimants' Exhibit Three is a photograph of eastbound Interstate 80 at a point 2,100 feet from the cloverleaf. Overhead signs at this point direct eastbound traffic on Interstate 80 to use the right lane and indicate a junction one third of a mile ahead for Interstate 80 traffic. A diagramatic sign posted on the right shoulder of

the highway just beyond the overhead signs, bears a diagram of the cloverleaf ahead for eastbound traffic on Interstate 80 and the words, "Next Right." Mrs. Hansen testified that as she passed this point she had moved into the left lane, because there was a large tractor-trailer in the right lane. She said that she saw the signs depicted in claimants' Exhibit Three and dropped her speed to 60 miles per hour.

Claimants' Exhibit Four was a photograph of eastbound Interstate 80 taken from a point 1,600 feet from the cloverleaf showing another diagramatic sign on the right shoulder of the road containing a diagram of the cloverleaf ahead for eastbound Interstate 80 traffic and bearing the words, "Next Right." Mrs. Hansen testified that she did not see this sign because she was passing the tractor-trailer truck in the right lane, and the truck obliterated her view of the sign.

Claimants' Exhibit Five was a photograph of eastbound Interstate 80 at a point 1,050 feet from the cloverleaf and shows a sign on the right shoulder of the roadway stating, "Interstate 80 East, Joliet, Chicago, Next Right." Mrs. Hansen testified that she was unsure whether she had seen this sign, as she may still have been passing the truck. Contrary to her testimony that she saw the signs depicted in claimants' Exhibits One and Three, Mrs. Hansen said that at this point she had received no indication that she had to be in the right lane if she was to continue eastbound on Interstate 80.

Claimants' Exhibit Six is a photograph of eastbound Interstate 80 taken from a point 750 feet from the cloverleaf. An overhead sign in the distance, which appears to be placed just slightly ahead of the cloverleaf ramp, indicates with an arrow that eastbound traffic must follow the off ramp to the right of the highway. On the

right shoulder of the highway at the point of the overhead sign, there is a sign stating, "Ramp Speed 25." Mrs. Hansen stated that as she neared the ramp for eastbound traffic, she was watching the overhead signs and did not see the sign at the side of the ramp indicating a 25 miles per hour speed on the ramp. She said that she dropped her speed to 55 miles per hour at a point about 400 feet from the ramp, and she said she was moving from the left to the right hand lane because she had noticed the arrow on the overhead sign in claimants' Exhibit Six. She said she was anticipating a junction permitting a 55 miles per hour speed based upon her past experiences on interstate highways.

Claimants' Exhibit Seven is a photograph of eastbound Interstate 80 taken at the cloverleaf ramp. Mrs. Hansen said that at this point she was "really shook up" because she was in the wrong lane, but said that she still never saw the 25 miles per hour sign at the side of the road. She said that at this point, she knew that she was going too fast for the curved ramp and took her foot off the accelerator and put on the brakes, but the car went out of control on the shoulder of the ramp and overturned.

In support of their contention that Interstate 80 was negligently designed and that there was inadequate signing to warn motorists of the sharp cloverleaf for eastbound traffic, claimants presented the testimony of Dr. John W. Hutchinson, a well-qualified expert in the field of highway design and operation.

Dr. Hutchinson testified preliminarily that at a speed of 70 miles per hour, a driver is going 90 feet per second and cannot see a sign for more than six or eight seconds, and thus needs a series of signs to lay out information. He testified that good practice calls for a

sign at least two miles ahead of a junction to tell a driver that another highway is ahead and to give him the name of a major city where it would take him. Next, three quarters of a mile to a mile ahead, the same information should appear on an overhead sign also indicating the lane he needs to get into. Next, from a third of a mile to a half a mile from the junction, a sign should be placed telling the driver that the next right is to a given destination with route or cities indicated. Finally, a sign should be placed in the gore area which says absolutely nothing but "Exit," because it is then too late to give the driver any additional information,

"... because if the driver has not learned by the time he gets to the point where the exit actually is that that is where he does or does not want to go—if he hasn't already made up his mind, it is too late to tell him suddently, 'Look, here it is.' You just tell him suddenly, 'That is all.' If you tell him something else. he will make a last minute decision which can be fatal."

Dr. Hutchinson enumerated what he considered to be defects in the designing and signing of the interchange in question. He said that the sign shown in Claimants' Exhibit Four is misleading because it indicates the driver will proceed straight ahead on the route he is on and need not slow more than 10 or 15 miles per hour below the posted speed he is traveling in order to negotiate the diagramatic turn or curve, when the curve requires a reduction of 45 miles per hour from 70 miles per hour to 25 miles per hour. He said that the sign is forbidden by the Illinois Sign Manual on highways such as the one in question, and that because of the very sharp turn ahead, a yellow, diamond-shape warning sign with black lettering, warning of a curve, and an advisory-speed plate posted with the warning sign, were called for by the Illinois Traffic Control Devices Manual.

He further testified, that signing on the highway was not adequate because during the period 1968

through 1971, seventeen accidents (including the one in question) had occurred on the curve going into the ramp:

"From police accident reports I have learned that of 15 or 16 accidents on the ramp, 13 exhibited the same syndrome—turning into the ramp at too high a speed and running off the outside of the curve. These accidents involved various types of vehicles, ages and sexes of drivers, times of day, and weather conditions. This dictates the conclusion that drivers are being tricked into making the turn at too high a speed."

He said that customs and standards in the field of traffic engineering, as well as the Illinois Manual, call for advance speed warnings of 700 feet for a 25 miles per hour advisory speed, while here the first warning is given right at the gore, far too late. He added that there were too many signs at the gore which would confuse drivers. Dr. Hutchinson said that the State failed to mark the deacceleration lane with a standard skip line as provided for in the Illinois Sign Manual and that the design of the junction did not provide route continuity:

"In my opinion the route continuity provided at the site in question does not comply with customary and standard practices in the traffic engineering field. This is because the driver will not expect to go around a curve at 25 MPH through a 270 degree angle in order to proceed straight ahead on an interstate highway which has posted speeds of 70 MPH elsewhere."

He testified that the sight distance of the ramp was inadequate because of the overpass structures hiding the ramp; that it would have been better to use a direct connection design rather than a cloverleaf to avoid the sharp degree of curvature on the ramp; and that a flashing yellow light could have been placed at the gore.

He concluded his direct examination with the statement that nowhere in the United States had he seen an interchange as bad as the one in question, and that in his opinion to a reasonable degree of engineering certainty the design and signing of Interstate 80 did not comply with the customs and standards applicable in the traffic engineering field in 1971.

Mr. David Lutyen, Geometric Designer for the State of Illinois Division of Highways, testified for respondent that in 1971, the traffic count on the ramp was one million six hundred thousand and that there were two reported accidents in **1971** and two reported accidents in 1972. He also testified that the radius **of** the turn off was standard throughout the State. On cross examination, he acknowledged that a sign distance of 250 feet for a 70 miles per hour traveller when he is required to reduce speed to 25 miles per hour along a curve, is not adequate.

Mr. Donald R. Giese, District Traffice Engineer, acknowledged that the numerals on the **25** miles per hour sign at the gore would only be visible from about 18 feet back. He also testified that in his opinion, a 25 miles per hour speed sign farther back on Interstate 80 would be confusing.

The State is not an insurer of the safety of all persons who travel upon its highways, but it does owe them a duty to utilize reasonable care in the construction and maintenance of roadways under its control. See, ***Ervin*** v. ***State of*** *Illinois*, 25 C.C.R. 256. Claimants bear the burden of proving by a preponderance of the evidence that respondent breached this duty, that claimants were in the exercise of reasonable care for their own safety, and that respondent's negligence was the proximate cause of their injuries.

Claimants contend that respondent was negligent both in designing the interchange of Interstates 80, 280, and 74 and in failing to provide signing adequate to warn motorists of the sharp cloverleaf for eastbound traffic on Interstate 80.

Although it may be that the cloverleaf could have been better planned, and that more warning signs might

have been desirable, we must conclude after a careful consideration of the totality of the record that the proximate causes of the injuries suffered by claimants was Mrs. Hansen's failure to exercise reasonable care at the interchange.

Mrs. Hansen testified that she saw the sign depicted in claimants' Exhibit One advising motorists eastbound on Interstate 80 to use the right hand lane of the highway at a point 4,750 feet west of the cloverleaf ramp. She said she also saw the two signs depicted in claimants' Exhibit Three, places 2,100 feet west of the cloverleaf. One sign again advised eastbound traffic to use the right lane and advised that the junction was one third of a mile ahead. The other sign contained a diagram of the cloverleaf ahead.

These signs clearly indicated a cloverleaf junction one third of a mile ahead and advised that the right hand lane was to be used for Interstate 80 traffic. Yet, Mrs. Hansen ignored these signs and pulled into the left hand lane of traffic to pass a tractor-trailer truck. Consequently, she did not see the additional advisory signs depicted in claimants' Exhibits Four and Five and proceeded in the left hand lane until she reached the gore of the junction when she pulled sharply across the highway and entered the cloverleaf at too a high a speed.

Claimants argue strongly that the sign depicted in claimants' Exhibit Three was inadequate to warn Mrs. Hansen of the extraordinary condition she was about to encounter, but the sign certainly was adequate to advise Mrs. Hansen of a junction one third of a mile ahead and to stay in the right hand lane. We are persuaded that had Mrs. Hansen obeyed that sign, this accident would not have occurred.

Mrs. Hansen's failure to heed the advisory signs posted along Interstate 80, and in particular the signs depicted in claimants' Exhibit Three, is most regrettable. The contributory negligence rule has often been criticized as producing harsh results, but in *Maki* v. *Frelk,* **40** Ill.2d **193,** the Illinois Supreme Court reaffirmed the doctrine, and we are bound to apply it here. We must conclude that Mrs. Hansen has not proven either her freedom from contributory negligence or that the negligence of respondent proximately caused the accident, and her claim must therefore be denied.

While the remaining claimants were free of contributory negligence, their claims must also be denied because their injuries were not proximately caused by any act or **omission of** respondent. In the **opinion of** this Court, the ultimate reason that the accident occurred was Mrs. Hansen's failure to heed the posted signs advising of the cloverleaf. In *Briske* **v.** *Village of Burnham,* **379** Ill. **193,** at **199,** the Court said,

> "If **a negligent act or omission does nothing more than furnish a condition making an injury possible, and such condition, by the subsequent independent act of a third person, causes an injury, the two acts are not concurrent and the existence of the condition is not the proximate cause of the injury"**

This accident was extremely unfortunate and resulted in crippling injuries to Mrs. Hansen. We have accordingly carefully scrutinized the record and applicable precedents and must reluctantly conclude that these claims must be, and hereby are, denied.

(No. 74-CC-48—Claimant awarded $8,910.92.)

HURST-ROSCHE ENGINEERS, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CONSERVATION, Respondent.

Opinion filed June 16, 1975.

A. PAUL ROSCHE, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

BURKS, J.

(No. 74-CC-268—Claimant awarded $468.00.)

KANKAKEE INDUSTRIAL SUPPLY COMPANY, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed June *16, 1975.*

ROBERT FLEISCHER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CONTRACTS. Claim for drums of bleach delivered to State but never returned' to claimant in accordance with contract agreement. Claimant awarded $468.00 for items never returned.

PERLIN, C. J.

This is an action to recover the sum of $468.00, which claimant asserts it is due for 52 bleach drums delivered to respondent and not returned.

Claimant is engaged in the industrial supply business and on three occasions in 1973,delivered a total of 52 full drums of bleach to the Kankakee State Hospital in Kankakee, Illinois.

The Standard Specifications for Laundry Supplies of the Illinois Department of Finance provides that such drums are to remain the property of the vendor, but that if the institution fails to return them within 120 days of

delivery the vendor may bill this institution $9.00 for each drum not returned.

Claimant has proven by a preponderance of the evidence that the drums were delivered, and not returned.

Claimant is therefore awarded the sum of $468.00.

(No. 75-CC-92—Claimant awarded $7.00.)

HARVARD UNIVERSITY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed June *16, 1975.*

HARVARD UNIVERSITY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-419—Claimant awarded $247.44.)

LARRY LOVE, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed June *16, 1975.*

LARRY LOVE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-459—Claimant awarded $913.00.)

KLAUS RADIO, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed June 16, 1975.

KLAUS RADIO, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ***ACT—replacement warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill. Rev. Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-942—Claimant awarded $132.00.)

JOHN E. MEYER, M.D., Claimant, *us.* STATE OF ILLINOIS, DIVISION OF VOCATIONAL REHABILITATION, Respondent.

Opinion filed June 16, 1975.

JOHN E. MEYER, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-943—Claimant awarded $69.00.)

JOHN E. MEYER, M.D., Claimant, *us.* STATE OF ILLINOIS, DIVISION OF VOCATIONAL REHABILITATION, Respondent.

Opinion filed June 16, 1975.

JOHN E. MEYER, M.D., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-974—Claimant awarded $339.29.)

HARRY J. SIEBOLD, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed June *16, 1975.*

HARRY J. SIEBOLD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* ***warrants.*** If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-975—Claimant awarded $95,351.00.)

EDGEWATER UPTOWN COMMUNITY MENTAL HEALTH COUNCIL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH,** Respondent.

Opinion filed June *16, 1975.*

EDGEWATER UPTOWN COMMUNITY MENTAL HEALTH COUNCIL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1004—Claimant awarded $630.00.)

IBM CORPORATION, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed June *16, 1975.*

IBM **CORPORATION,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1026—Claimant awarded $1,400.00.)

WEST PUBLISHING COMPANY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF LAW ENFORCEMENT, Respondent.

Opinion filed June *16, 1975.*

WEST PUBLISHING COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1036—Claimant awarded $36.00.)

MENNONITE HOSPITAL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS,** Respondent.

Opinion filed June 16, 1975.

MENNONITE HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS-lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1078—Claimant awarded $142.36.)

GEORGE W. **ROSE,** Claimant, *us.* **STATE** OF **ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed June 16, 1975.

GEORGE W. ROSE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS-lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1120—Claimant awarded $180.00.)

C. **LEE BAKER,** Claimant, *us.* **STATE** OF **ILLINOIS,** Respondent.

Opinion filed June 16, 1975.

C. **LEE BAKER,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-1122—Claimant awarded $30.00.)

PARKLAND COLLEGE, Claimant, *vs.* STATE OF ILLINOIS, BOARD OF VOCATIONAL EDUCATION AND REHABILITATION, Respondent.

Opinion filed June *16, 1975.*

PARKLAND COLLEGE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CONTRACTS–lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PERLIN, C. J.

(No. 75-CC-1157—Claimant awarded $47.60.)

FISHER SCIENTIFIC COMPANY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF AGRICULTURE, Respondent.

Opinion filed June *16, 1975.*

FISHER SCIENTIFIC COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1160—Claimant awarded $163.40.)

FISHER SCIENTIFIC COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF AGRICULTURE, Respondent.

Opinion filed June *16, 1975.*

FISHER SCIENTIFIC Co., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1189—Claimant awarded $27.10.)

MORGAN OIL COMPANY, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF REVENUE, Respondent.

Opinion filed June *16, 1975.*

MORGAN OIL COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation, When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1192—Claimant awarded $475.00.)

CENTRAL OFFICE EQUIPMENT COMPANY, Claimant, *us.* STATE OF ILLINOIS, SECRETARY OF STATE, Respondent.

Opinion filed June *16, 1975.*

CENTRAL OFFICE EQUIPMENT COMPANY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1247—Claimant awarded $750.00.)

DAVID WILLIAMS, Claimant, *us.* **STATE OF ILLINOIS, SECRETARY OF STATE,** Respondent.

Opinion filed June 16, 1975.

GROSSMAN & **MITZENMACHER,** Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS. Claim against Secretary of State for security deposit made by claimant under Safety Responsibility Act which was transferred to General Revenue Fund. Court held claimant entitled to refund and award of $750.00 made.

PERLIN, C. **J.**

This cause coming on to be heard on the joint stipulation of the parties hereto and the Court being fully advised in the premises;

THIS COURT FINDS that this claim is **for** the refund **of** a security deposit held by the Illinois Secretary of State, Safety Responsibility Unit, pursuant to Illinois Vehicle Code, Ill. Rev. Stat., 1967, Ch. 95½, Par. 7-503. An investigation of this claim by the Secretary of State determined that the amount due would have been paid in the regular course **of** business had the claim been presented to the proper office before the money was trans-

ferred to the General Revenue Fund. The sole reason said claim was not previously paid, is due to the fact that the money was transferred to the General Revenue Fund in the State Treasury in accordance with Section 7-503 of the Illinois Vehicle Code, the same having been confirmed by the Secretary of State, a copy of its report being attached to the joint stipulation of the parties.

IT IS **HEREBY ORDERED** that the sum of $750.00 **(SEVEN HUNDRED AND FIFTY DOLLARS)** be awarded to claimant in full satisfaction of any and all claims presented to the State of Illinois under the above-captioned cause.

(No. 75-CC-1320—Claimant awarded $184.24.)

ADA S. EVART. Claimant, *us.* STATE OF **ILLINOIS.** Respondent.

Opinion filed June 16, 1975.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement warrants.* If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-1325—Claimant awarded $161.00.)

RENE SAINT LEGER, M.D., Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed June 16, 1975.

RENE SAINT LEGER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—*replacement* warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 75-CC-1326—Claimant awarded $16.00)

ARTHUR A. FENTON, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed ***June 16, 1975.***

ARTHUR A. FENTON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM E. WEBBER, Assistant Attorney General, for Respondent.

STATE COMPTROLLER ACT—replacement warrants. If the Comptroller refuses to draw and issue a replacement warrant; or if a warrant has not been paid after one year from date of issuance; persons who would be entitled under Ch. 15, Sec. 210.10, Ill.Rev.Stat., 1973, to request a replacement warrant may file an action in the Court of Claims for payment.

PER CURIAM.

(No. 73-CC-210—Claimant awarded $731.40.)

WESTERN TRAFFIC CONTROL, INC., Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION,** Respondent.

Opinion filed June 20, ***1975.***

WESTERN TRAFFIC CONTROL, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-320—Claimant awarded $211.31.)

MARIE I. DICKERSON, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed June 20, *1975.*

KLEIMAN, CORNFIELD & FELDMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-119—Claimant awarded $4,800.00.)

PUBLIC ELECTRIC CONSTRUCTION COMPANY, INC., Claimant, *vs.* STATE OF ILLINOIS, CAPITAL DEVELOPMENT BOARD, Respondent.

Opinion filed June 20, *1975.*

PUBLIC ELECTRIC CONSTRUCTION COMPANY, INC., Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-400—Claimant awarded $4,235.90.)

ELEANOR ROBISON, Executor of the Estate of LEOPOLD O. POTOKAR, Deceased, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed June 20, 1975.

DIXON, DEVINE, RAY & MORIN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-496—Claimant awarded $553.77.)

CASE POWER & EQUIPMENT, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION, Respondent.

Opinion filed June 20, 1975.

CASE POWER & EQUIPMENT, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed appropriation.* When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-689—Claimant awarded $166.08.)

AZALEA BEVERLY, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed June 20, 1975.

AZALEA BEVERLY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-737—Claimant awarded $1,394.06.)

MOBIL OIL CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CORRECTIONS, Respondent.

Opinion filed June 20, ***1975.***

MOBIL OIL CORPORATION, Claimant, pro *se*.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-884—Claimant awarded $3,375.00.)

WEST SIDE ORGANIZATION HEALTH SERVICES CORPORATION, Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed ***June*** 20, ***1975.***

WEST SIDE ORGANIZATION HEALTH SERVICES CORPORATION, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-991—Claimant awarded $8,000.00.)

THE AMERICAN APPRAISAL *Co.*, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF LOCAL GOVERMENT AFFAIRS, Respondent.

Opinion filed June 20, 1975.

LEE B. MC TURNAM, J. DOUGLAS DONENFELD, Attorneys for Claimant.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1047—Claimant awarded $304.38.)

ELAINE REVELL, INC., Claimant, *us.* STATE OF ILLINOIS, DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent.

Opinion filed June 20, 1975.

ELAINE REVELL, INC., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM J. KARAGANIS,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1088—Claimant awarded $2,044.54.)

MICHAEL REESE HOSPITAL, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH EMERGENCY PSYCHIATRIC INPATIENT AGREEMENT, Respondent.

Opinion filed June 20, 1975.

MICHAEL REESE HOSPITAL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1148—Claimant awarded $2,759.75.)

UNIVERSITY OF CHICAGO, Claimant, *vs.* STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.

Opinion filed June 20, 1975.

UNIVERSITY OF CHICAGO, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; WILLIAM J. KARAGANIS, Assistant Attorney General, for Respondent.

CONTRACTS—lapsed appropriation. When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 75-CC-1170—Claimant awarded $350.66.)

VILLAGE OF CANTRALL, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed June 20, 1975.

VILLAGE OF CANTRALL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS—*lapsed* ***appropriation.*** When the appropriation from which a claim should have been paid has lapsed, the Court will enter an award for the amount due claimant,

PER CURIAM.

(No. 75-CC-1184—Claimant awarded $776.00.)

ALLEGHENY VALLEY SCHOOL, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF MENTAL HEALTH, Respondent.**

Opinoin filed June 20, 1975.

ALLEGHENY VALLEY SCHOOL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **WILLIAM** E. **WEBBER,** Assistant Attorney General, for Respondent.

CONTRACTS-lapsed appropn'ation. When the appropriation from which **a** claim should have been paid has lapsed, the Court will enter an award for the amount due claimant.

PER CURIAM.

(No. 74-CC-17—Claimant awarded $50,000.00.)

C & H ELECTRIC COMPANY, Claimant, *us.* **STATE OF ILLINOIS, DEPARTMENT OF GENERAL SERVICES, Respondent.**

Opinion filed June 23, 1975.

JOHN P. LOFTUS, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **SAUL** R. **WEXLER,** Assistant Attorney General, for Respondent.

CONTRACTS—*stipulation.* Claim by electrical contractor for work performed at a state mental hospital. Dispute as to facts concerning installation of unshielded cable. Stipulation as to amount due claimant. Court ordered compromise award of $50,000.00.

PER CURIAM.

This cause coming on to be heard on the joint stipulation of the parties hereto and on the testimony presented on June 19 and August 15, 1974, and the finding of facts entered by Commissioner JOSEPH P. GRIFFIN, and the Court being fully advised in the premises;

THIS COURT FINDS that this cause is for recovery pursuant to Ill. Rev. Stat. Chapter 37 Section 439.8(b) and is a claim for the balance due on the electrical contract for the Manteno State Hospital, Manteno, Illinois, known as project number 70-2119-4B. The claimant hereunder commenced work on said project on or about May 29, 1970. The amount of the contract and the payments thereon were heretofore stipulated to and the balance claimed by C & H ELECTRIC COMPANY and denied by the STATE OF ILLINOIS was the sum of $66,654.87.

THIS COURT FURTHER FINDS that the work performed by claimant was done in accordance with the specifications drawn on the project, which called for the installation of unshielded electrical cable.

On July 17, 1970, the electrical cable furnished by claimant was approved by respondent's authorized consulting engineers, Gritschke and Cloke, Inc., as conforming to those specifications.

Subsequent to the approval of the cable by Gritschke and Cloke, but prior to its installation, Kaiser Aluminum Company, the manufacturer of the cable in question, advised claimant that the unshielded cable was not suitable for its proposed use and that unless a shielded cable were substituted the electrical system would possibly experience failure.

Claimant conveyed this information to respondent and to Gritschke and Cloke on several occasions, but

Gritschke and Cloke refused to alter the specifications calling for unshielded cable.

The Court is advised that claimant had no alternative but to proceed with installation of the unshielded cable as required by the specifications. Claimant's failure so to do would have been considered a breach of contract.

Respondent concedes that the work performed by claimant was done satisfactorily and that although the system did subsequently experience some failures, said failures were not attributable to the claimant.

THE COURT FURTHER FINDS that the sum of $50,000.00 is a just, reasonable and fair compensation for the balance due and owing claimant for the electrical work performed under the contract.

IT IS THEREFORE ORDERED that claimant be, and hereby is, awarded the sum of Fifty Thousand and no/100 ($50,000.00) Dollars in full satisfaction of any and all claims herein.

CRIME VICTIMS COMPENSATION ACT

(No. 74-CV-1—Claimant awarded $784.40.)

EUGENE PEEBLES, JR., Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed July 15, 1974.

EUGENE PEEBLES, JR., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after

the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of criminal aggravated battery on October 15, 1973, at 3939 South Lake Park Avenue, Chicago, Illinois. Eugene Peebles, Jr. seeks compensation pursuant to provisions of the "Crime Victims Compensation Act" (hereafter referred to as "the Act"), Ill. Rev. Stat., 1973, Ch. 70, §71 *et. seq.*

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matters set forth in the application. Bases upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime covered under Ill. Rev. Stat., 1973, Ch. 70, Sec. 72 to wit:

"Aggravated Battery §12-4, Ch. 38, Ill. Rev. Stat., 1973".

2. That said crime occurred at 1:45 a.m. on October 15, 1973, at 3939 South Lake Park Avenue, Chicago, Illinois, at which time claimant suffered gunshot wounds to the left groin and the anterior chest wall.

3. That said crime was reported to the Chicago Police Department promptly and claimant has cooperated with law enforcement officials.

4. There was no evidence that claimant was a relative or member of the same household of the assailant.

5. The injury to claimant was not attributable either to his wrongful act or provocation on his part.

6. Claimant has suffered damages in excess of $500.00 compensible by Section 74 of the Act, to wit:

A. Hospital and Surgical expenses.	$2,322.00
B. Lost time from work.	500.00
TOTAL EXPENSES	$2,822.00

7. Claimant has received from private insurance an amount of $2,037.60.

8. That proof submitted in support of this claim satisfies all of the requirements of this Act, and the claim is therefore compensible thereunder.

IT IS HEREBY ORDERED that the sum of $784.40 **(SEVEN HUNDRED AND EIGHTY FOUR DOLLARS AND FORTY CENTS)** be awarded Eugene Peebles, Jr. as an innocent victim of a violent crime.

(No. 74-CV-40—Claimant awarded $910.40.)

MARK B. JENNINGS, Claimant, *us.* **STATE OF ILLINOIS,** .

Opinion filed August 14, 1974.

MARK B. JENNINGS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a robbery and assault in the parking lot of the "Granery" a dance hall in Edwardsville, Illinois. The claimant, Mark B. Jennings, seeks compensation pursuant to provisions of the Crime Victims Compensation Act hereafter referred to as "The Act." Ill. Rev. Stats., 1973 Ch. 70 §71 *et seq.*

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was injured in his attempt to come to the assistance of an individual who was being robbed and assaulted. Injuries resulting from such conduct is compensable under Section 72d (2) of the Act, when the assistance is to help an individual against whom a crime of violence is being perpetrated. Assault is defined by Section 72(c) of the Act as a Crime of Violence.

2. That the assistance of the claimant was conduct of a reasonable man under the circumstances.

3. That said crime was promptly reported to the Sheriff of Madison County and claimant has at all times fully cooperated with law enforcement officials.

4. That the assailants have not been apprehended, which fact has no bearing on the eligibility of the claimant for recovery under the Act. (Ill. Rev. Stat. 1973, Ch. 70, par. 77(a).)

5. Claimant has no knowledge of the indentity of the assailant and the assailant was not a relative or member of claimant's household.

6. The injury sustained by the claimant was not attributable either to his wrongful act or provocation on his part.

7. Claimant has suffered damages in excess of $500 compensible by Section 74 of the Act, ro wit:

Hospital, surgical and doctor bills for repair of fracture of the right mandible.

Hospital & Surgical	**$505.40**
Physician	**405.00**
Total Compensable Medical Expenses.	**$910.40**

8. **Claimant has received no benefits or other compensation** as a result of this injury.

9. Claimant was employed for 22 days prior to the incident but never returned to his employment after the incident and has lost no pay as a consequence.

10. That the proof submitted in support of this claim satisfies all of the requirements of this Act, and the claim, therefore, compensable thereunder.

IT IS HEREBY ORDERED that the sum of **$910.40** (NINE HUNDRED TEN DOLLARS AND FORTY CENTS) be awarded Mark B. Jennings as a "good samaritan" under the applicable provisions of the Act.

(No. 74-CV-63—Claimant awarded $861.75.)

ARNOLD L. SAPP, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed September 26, 1974.

ARNOLD L. SAPP, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION Am—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises from a murder which occurred on or about April 7, 1974, in Bureau County, Illinois. The claimant, Arnold Sapp, father of the deceased victim, Tracie Sapp, seeks remuneration for funeral expenses incurred as a result of the above-mentioned criminal act pursuant to the provisions of the "Crime Victims Compensation Act" (hereafter referred to as "the Act"). Ill. Rev. Stat., 1973, Ch. 70, Par. 71, et seq., as amended.

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. The claimant herein is the father of a deceased victim of a compensible violent crime, to wit: murder specifically enumerated in paragraph 72 of the Act. (Murder; Ill. Rev. Stat., 1973, Ch. 38, Par. 9-1 (a)(1).

2. That the crime was promptly reported to the applicable law enforcement officials of Bureau County, Illinois.

3. That at all times claimant has fully cooperated with law enforcement officials in the investigation and prosecution of this incident,

4. That an alleged assailant has been apprehended by law enforcement officials and is awaiting trial in Bureau County, Illinois.

5. Claimant, and claimant's deceased daughter were not related to or members of the same household of the assailant.

6. There is no evidence that the injury to claimant's deceased daughter was attributable to her wrongful act or her provocation.

7. Claimant seeks reasonable funeral expenses for their daughter of $1,061.75.

8. Claimant has received no other compensation as a result of these injuries.

9. Pursuant to par. 77(d) of the Act, the Court must deduct the first $200 of expenses.

10. That the proof submitted in support of this claim satisfies all of the requirements of this Act, and the claim is therefore compensible thereunder.

IT IS HEREBY ORDERED THAT THE SUM OF $861.75 (EIGHT HUNDRED SIXTY ONE DOLLARS AND SEVENTY FIVE CENTS) be awarded Arnold Sapp for reasonable funeral expenses incurred in the criminal death of Tracie Sapp.

(No. 74-CV-58—Claimant awarded $590.95.)

JAMES FOSTER, 111, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed October 11, 1974.

JAMES FOSTER 111, Claimant pro se.

WILLIAM J. SCOTT, Attorney General; GEORGE A. MUSTIS, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of criminal aggravated battery on December 28,1973, at 7922 South Marshfield Avenue, Chicago, Illinois. James Foster, III, seeks compensation pursuant to provisions of the "Crime Victims Compensation Act" (hereafter referred to as "the Act"), Illinois Rev. Stat., 1973, Ch. 70, Sec. 71 *et. seq.*

This court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matter set forth in the application. Based upon the documents and other evidence submitted before the Court, the Court finds as follows:

1. That the Claimant was a victim of a violent crime covered under Ill. Rev. Stat., 1973, Chap. 70, Sec. 72, to wit:

"Aggravated Battery Sec. 12-4, Ch. 8, Ill. Rev. Stat., 1973".

2. That said crime occurred at 5:30 p.m. on December 28, 1973, at 7922 South Marshfield Avenue, Chicago, Illinois, at which time claimant suffered a gunshot wound to the lower left side of the back.

3. That said crime was reported to Area 2, Robbery Division of the Chicago Police Department promptly and claimant has cooperated with law enforcement officials.

4. There was no evidence that claimant was a relative or member of the same household of the assailant.

5. The injury to claimant was not attributable either to his wrongful act or provocation on his part.

6. Claimant has suffered damages in excess of $200.00 compensable by Section **4** of the Act, to wit:

A. Hospital expense	**$690.95**
B. Surgical and Doctor expense	**100.00**
TOTAL EXPENSES	**$790.95**
Less $200 deductible	**200.00**
TOTAL..	**$590.95**

7. Claimant has received no benefits or reimbursements from any source, nor is he or his family entitled to any benefits.

8. That the proof submitted in support of this claim satisfies all of the requirements of this Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the sum of $590.95 (FIVE HUNDRED AND NINETY DOLLARS AND NINETY FIVE CENTS) be awarded James Foster, III as an innocent victim of a violent crime.

(No. 74-CV-67—Claimant awarded $11.56.)

SIGNE O. DAHLQUIST, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed October 17, 1974.

SIGNE O. DAHLQUIST, Claimant pro se.

WILLIAM J. SCOTT, Attorney General; GEORGE MUSTIS, Assistant Attorney General.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal battery on April 9, 1974, at 6201 North Hermitage, Chicago, Illinois. Signe O. Dahlquist of 6404 North Hermitage, Chicago, Illinois, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act (hereafter referred to as the "Act"), Ill. Rev. Stat., 1973, Ch. 70, Sec. 71 *et seq.*

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matter set forth in the application. Based upon the documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime pursuant to Ill. Rev. Stat., 1973, Ch. 70, Sec. 72, to wit:

"Battery, Sec. 12-3, Ch. 38, Ill. Rev. Stat., 1973."

2. That said crime occurred at 11:25 a.m. on April 9, 1974, at 6201 North Hermitage, Chicago, Illinois at which time claimant suffered a beating about the face.

3. That said crime was reported to Area 6, Robbery Division of the Chicago Police Department promptly and Claimant has cooperated fully with law enforcement officials.

4. There was no evidence that Claimant was a relative or member of the same household of the assailant.

5. The injury to Claimant was not attributable either to her wrongful act or provocation on her part.

6. Claimant has suffered damages in excess of **$200.00** compensable by Section **74** of the Act, to wit:

A. Hospital Expenses.	$1,098.85
B. Surgical and Doctor's Expenses	**857.00**
TOTAL MEDICAL EXPENSES.	**$1,955.85**

7. Direct benefits have been paid to the hospital and doctors by Medicare No. **340-32-**0799A and Blue Shield No. **65005-4367** in the amount of:

Less INSURANCE BENEFITS.	**$1,743.89**

8. There is a **$.40** telephone charge that is not compensable under the Crime Victims' Compensation Act:

Less UNCOMPENSABLE	**$ .40**
Less $200.00 Deductible	**211.56**
Pursuant to Sec. 7(d)	**$ 200.00**
TOTAL..	**$ 11.56**

9. That the **proof** submitted in support of this claim satisfies all of the requirements of this Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the sum of **$11.56** (ELEVEN DOLLARS AND FIFTY SIX CENTS) be awarded Signe **O.** Dahlquist, as an innocent victim of a violent crime.

(No. 74-CV-64—Claimant awarded $382.55.)

GUNTRAM **ZULTNER,** Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed October *24, 1974.*

GUNTRAM ZULTNER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; GEORGE A. MUSTIS, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal aggravated battery on April 5, 1974, at 4343 North Hamlin, Chicago, Illinois, Guntram Zultner of 4511 North Greenview, Chicago, Illinois, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act" (hereafter referred to as the "Act"), Ill. Rev. Stat., 1973, Ch. 70, Sec. 71 *et seq.*

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matter set forth in the application. Based upon the documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime covered under Ill. Rev. Stat., 1973, Ch. 70, Sec. 72, to wit:

"Aggravated Battery, Sec. 12-4, Ch. 38, Ill. Rev. Stats., 1973"

2. That said crime occurred at 11:00 p.m. on April 5, 1974, at 4343 North Hamlin, Chicago, Illinois, at which time claimant suffered a gunshot wound to the

face. The bullet entered the right cheek and exited through the left cervical area.

3. That said crime was reported to Area 5, Robbery Division of the Chicago Police Department promptly and claimant has cooperated fully with law enforcement officials.

4. That there was no evidence that claimant was a relative or member of the same household of the assailant.

5. That the injury to claimant was not attributable either to his wrongful act or substantial provocation on his part.

6. That claimant has suffered damages in excess of **$200.00** compensable by Section **74** of the Act, to wit:

A. Hospital Expenses	**$1,714.15**
B. Doctor and Dental Expenses	**998.00**
TOTAL MEDICAL EXPENSES	**$2,712.15**

7. That direct benefits have been paid to the hospital, doctors and dentist by Bankers Life Claim No. **4171752** in the amount of:

LESS INSURANCE BENEFITS	**$2,127.00**

8. That there is a **$2.60** telephone charge that is not compensable under the Crime Victims' Compensation Act.

LESS UNCOMPENSABLE	**$ 2.60**
TOTAL UNREIMBURSED EXPENSES	**$ 582.55**
LESS $200 DEDUCTIBLE Pursuant to Sec. 7(d)	**$ 200.00**
TOTAL	**$ 382.55**

9. That the proof submitted in support of this claim satisfies all of the requirements of this Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the sum of **$382.55** (THREE HUNDRED EIGHTY TWO DOLLARS AND FIFTY FIVE CENTS) be awarded Guntram Zultner, as an innocent victim of a violent crime.

No. 75-CV-38—Claimant awarded $330.46.)

EUGENE MEWES, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed November *6, 1974.*

EUGENE MEWES, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal incident which occurred on March **17, 1974,** at approximately 8:30 p.m. in Rock Island, Illinois. Claimant seeks payment for lost wages and medical expenses incurred from a stabbing which occurred when the claimant and his family were out for a drive. The claimant's family car was harrassed by another vehicle. When the claimant pulled to the side of the road in an attempt to avoid this other vehicle, it also stopped. Thereafter, the two drivers got out of the

respective vehicles and held a discussion. The other driver then pulled a knife and stabbed the claimant.

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois which substantiates matters set forth in the application based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime under Illinois Revised Statutes **(1973)** Ch. **70,** par. 71, to wit:

"Aggravated Battery".

2. That said crime occurred on March **17, 1974,** at Rock Island, Illinois, at which time the claimant suffered a stab wound in his abdomen.

3. That said crime was reported to the Rock Island Police Department promptly and the claimant at all times has cooperated with law enforcement officials.

4. That no evidence exists that the claimant provoked or was the substantial cause of his attack.

5. That the assailant, Terry J. Billington, was apprehended, indicted and subsequently pled guilty to the charge of "aggravated battery" in the Circuit Court of Rock Island County, No. **74-CF-100.**

6. Claimant is not a relative of or a member of the same household of the assailant.

7. Claimant has suffered damages in excess of $200 compensable by Section **74** of the Act; to wit:

A. Hospital..	**$ 198.53**
B. Doctor..	**66.00**
C. Lossof Wages	**409.56**
	$ 674.09

8. Claimant has received, as a result of the injury sums of money that are set-offs to any claim under the Act; to wit:

A. Insurance $143.63

9. Pursuant to Par. 77(d) of the Act, the Court must deduct the first $200 of expenses.

10. That the proof submitted in support satisfies all of the requirements of this Act, and the claim is, therefore, compensible thereunder.

IT IS HEREBY ORDERED that the sum of $330.46 (THREE HUNDRED THIRTY DOLLARS AND FORTY SIX CENTS) be awarded Eugene Mewes as an innocent victim of a violent crime.

(No. 75-CV-109—Claimant awarded $74.10.)

ROBERT D. WILSON, Claimant, *us.* STATE OF ILLINOIS, RESPONDENT.

Opinion filed November 25, 1974.

ROBERT D. WILSON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim, arising out of a criminal incident on May 14, 1974, at Sieberling and Prospect Roads, Peoria

Heights, Illinois, seeks payment of compensation to claimant pursuant to provisions of the "Crime Victims Compensation Act" (hereafter referred to as "the Act"). Illinois Revised Statutes, 1973, Ch. 70, Sec. 71, et seq.

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime under Illinois Revised Statutes, 1973, Ch. 70, Sec. 71: to wit, assault, Illinois Revised Statutes, 1973, ch. 38, par. 12-1.

2. That said crime occurred at approximately 2:15 a.m. at which time, claimant suffered a fractured wrist and other numerous injuries.

3. That said crime was reported to the Peoria Heights Police Department promptly and claimant at all times has cooperated with law enforcement officials.

4. That the alleged assailant has not been apprehended.

5. Claimant, as indicated by the report of the Attorney General, did not provoke the incident.

6. Claimant is not a relative of or a member of the same household of the assailant.

7. Claimant has suffered damages in excess of $200 compensable by Section 74 of the Act: to wit:

A.	Hospital (emergency room)	$113.00
B.	Doctors	28.00
C.	X-Rays	24.00
D	Ambulance Fee	47.00

8. Claimant has received medical insurance payments in the amount of $147, as a result of this incident, which amount is a set-off pursuant to the "Act".

9. Claimant lost 12 days of work, of which 7 were compensated by sick pay, leaving a net of 5 days lost wages. The claimant's average lost pay per day was $41.82, therefore, his lost time under the "Act" amounted to $209.10.

10. Pursuant to Illinois Revised Statutes, 1973, Ch. 70, Sec. 71, this Court must deduct the first $200 in expenses.

11. That the proof submitted in support of this claim satisfies all of the requirements of this Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the sum of $74.10 (SEVENTY FOUR DOLLARS AND TEN CENTS) be awarded Robert D. Wilson, as a victim of a violent crime.

(No. 74-CV-28—Claimant awarded $639.46.)

PAUL C. KETTLER, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed January 14, 1975.

PAUL C. KETTLER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; LEONARD CAHNMANN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION Am—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed

in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal aggravated battery on January 25,1974, at approximately 9 p.m. at 79th and Crandon, Chicago, Illinois. Paul C. Kettler, age **32,** of **7435** South Yates Boulevard, Chicago, Illinois, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, (hereafter referred to as the "Act") ***Ill. Rev. Stat., 1973, Ch. 70, Sec. 71,*** et seq.

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matter set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows.

1. That the Claimant was a victim of a violent crime covered under ***Ill. Rev. Stat., 1973, Ch. 70, Sec. 72,*** to wit:

"Aggravated Battery, Ill. Rev. Stat., 1973 Ch. 38, Sec. 12-4."

2. That said crime occurred at approximately **9** p.m. on January 25,1974, at 79th and Crandon Avenue, Chicago, Illinois, at which time the claimant suffered gunshot wounds in both his lungs. A detailed summary of the facts and information considered **by** the Court is contained in an investigative report prepared by the Attorney General. **A** copy of said report remains in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

3. That the crime was promptly reported to the Chicago Police Department, and claimant has cooperated

fully with law enforcement officials. That the assailants or assailant have not been identified, and that an investigation is continuing by the Chicago Police Department.

4. That there was no evidence that claimant was a relative or member of the same household of the assailants.

5. That the injury to the claimant was not attributable to either his wrongful act or substantial provocation on his part.

6. That claimant has suffered pecuniary loss in excess of $200, as a result of his injury, compensable under Sec. **4** of the Act, as stated below:

Total Hospital & Medical Expenses incurred	**$3,916.95**

7. That insurance payments have been made as a result of the injury by the General American Life Insurance Company and the Hartford Insurance Company in the amount of **$3,077.49;** and the victim received no other payments from insurance of any kind, state, local or federal government, or from any other source as a result of his injury.

Deducting Insurance Benefits received [As required by §7(d) of the Act]	**3,077.49**
TOTAL UNREIMBURSED EXPENSES.	**$ 839.46**
Pursuant to Sec. 7(d) of the Act, the court must also deduct the first $200 of unreimbursed expenses	**200.00**
NET AMOUNT OF PECUNIARY LOSS AFTER DEDUCTIBLES	**$ 639.46**

The court finds that the proof submitted in support of this claim satisfies all the requirements of this Act, and the claim is therefore compensable thereunder in the amount last stated above.

The court carefully considered claimant's contention that he is equitably entitled to be compensated for loss of earnings for the 2-month period of his disability pursuant to the following provision of §4 of the Act:

"Loss **of earnings, loss of future earnings and loss of support shall be determined on the basis of the victim's average monthly earnings for the 6 months immediately preceding the date of the injury or on $500 per month, whichever is less."**

Although claimant was not employed during the six month period prior to his injury, he was actively pursuing his doctorate degree in anticipation of re-entering the job market. Claimant argues that his injury delayed his education and, therefore, delayed his re-entry to the job market. Hence, claimant contends that he suffered pecuniary loss when the injury caused him to lose 2 months time from his studies. Claimant concedes that this does not bring his claim for loss of earning literally within the language of the Act. The court respects the logic of claimant's argument but feels that, even a most liberal interpretation of the Act, would not justify the acceptance of the claimant's position on this point without our engaging in judicial legislation, and exercising equitable powers we do not possess.

IT IS HEREBY ORDERED that the sum of $639.46 **(SIX HUNDRED THIRTY-NINE** and 46/100ths **DOLLARS)** be awarded Paul C. Kettler, as an innocent victim of a violent crime.

(No. 74-CV-3—Claimant awarded $2,505.81.)

LARRY L. KEELY, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed July 15. 1974.
Amended Opinion filed January 27, 1975.

LARRY L. KEELY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; GEORGE A. MUSTIS, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION Am—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of criminal aggravated battery on December 23,1973, at 4646 North Hermitage Avenue, Chicago, Illinois. Larry Keely seeks compensation pursuant to provisions of the "Crime Victims Compensation Act" (hereafter referred to as "the Act"), Ill. Rev. Stat., 1973. Ch. 70, 071, *et. seq.*

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime covered under Ill. Rev. Stat., 1973, Ch. 70, Sec. 72, to wit:

"Aggravated Battery Sec. 12-4, Ch. 38, Ill. Rev. Stat., 1973".

2. That said crime occurred at 5:00 a.m. on December 23, 1973, at 4646 North Hermitage Avenue, Chicago, Illinois, at which time claimant suffered a stab wound to the stomach which penetrated the peritoneum and peritoneal cavity.

3. That said crime was reported to the Chicago

Police Department promptly and claimant at all times has cooperated with law enforcement officials.

4. There was no evidence claimant was a relative or member of the same household of the assailant.

5. The injury to claimant was not attributable either to his wrongful act or provocation on his part.

6. Claimant has suffered damages in excess of $500.00 compensable by Section 74 of the Act, to wit:

A.	**Ravenswood Hospital**	**$1,825.75**
	12/23/73 to 12/31/73 less personal expenses.	**2.80**
		$1,822.95
B.	**Surgeon—Dr. Cunningham**	**620.00**
C.	**Eye Glasses.**	**44.95**
D.	**Police Report.**	**3.00**
E.	**Lost Wages 12/24/73 to 1/4/74**	**186.33**
		$2,677.23

7. Claimant has received compensation in the amount of **$171.42** from private insurance as a result of these injuries.

8. That the proof submitted in support of this claim satisfies all of the requirements of this Act, and the claim is therefore compensable thereunder.

It Is Hereby Ordered that the sum of **$2,505.81** (Two Thousand Five Hundred Five Dollars and Eighty-one Cents) be awarded Larry L. Keely as an innocent victim of a violent crime.

This court has previously filed its opinion in the above matter awarding compensation to the claimant in the total sum of—**$2,505.81.** However, payment of the said award has been delayed due to an omission in the law concerning certain payment procedures which the General Assembly will remedy as expeditiously as possible.

To expedite a payment of part of the compensation to which the above named claimant is entitled, the court on its own motion orders herewith an immediate partial payment up to the limit which this court is legally authorized to order paid in such claims from the Court of Claims Fund.

Accordingly, the court hereby supplements and amends the opinion and order previously filed in this claim by adding the following further order:

IT IS FURTHER ORDERED that the sum of $999.99 (Nine Hundred Ninety-nine Dollars and ninety-nine cents) be paid to the claimant immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $1,505.82 be referred forthwith to the General Assembly for its approval.

(No. 74-CV-4—Claimant awarded $4,159.00.)

JAMES H. DEIR, as father of THOMAS DEIR, Deceased, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed January 14, 1975.
Amended opinion filed January 27, 1975.

JAMES D. BIGGS, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; LEONARD CAHNMANN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal homicide which occurred on October 31, 1973, at 6651 South Hoyne Avenue, Chicago. James H. Deir, father of the deceased, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act (hereafter referred to as the "Act") *Ill.Rev.Stat., 1973, Ch. 70, §71 et seq.*

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates the matters as set forth in the application; that on October 31,1973, at 8:00 p.m., Thomas Deir, age 16, of 6601 South Hamilton Street, Chicago, was sitting on the front porch of a friend's home when he was struck in the head by a bullet fired from the revolver of a man who was running from an attempted gas station robbery. The victim was rushed to Holy Cross Hospital where an emergency craniotomy was performed. The victim remained in critical condition and expired on November 5, 1973.

Victor J. Welch, age 17, of 1234 West 97th Place, Chicago, was arrested by the Chicago Police Department, Area 3 Homicide and charged with the murder of Thomas F. Deir. Welch confessed to the murder, and his confession substantiates the events set forth by the claimant in his application.

A detailed summary of the facts and information considered by the Court is contained in an investigative report prepared by the Attorney General. A copy of said report remains in the Court's file in this matter, and the facts as reported herein are incorporated in this opinion by reference.

Based upon the documents and other evidence submitted before the Court, the Court finds as follows:

1. The claimant is the father of a victim of a violent crime covered under the "Act", to wit:

"Murder, Ill. Rev. Stat., 1973, Ch. 38, Sec. 9-1."

2. That the claimant has suffered pecuniary loss in excess of $200 compensable by Sec. 4 of the Act to wit:

A.	Hospital Expenses		$1,762.00
B.	Doctor Expenses		$ 980.00
C.	Funeral Expenses		
	Preparation & Casket	$1,265.00	
	Cemetery	160.00	
	Clergyman	35.00	
	Obituary Notices	39.75	
	Copies of Death Certificate	7.00	
	Flowers	110.25	
			$1,617.00
	TOTAL EXPENSES		$4,359.00

The Assistant Attorney General felt that it was for the Court to determine whether the cost of obituary notices and flowers contained in the funeral bill are compensable under the Act. As the Court reads the Act as a whole it is apparent that it was the legislative intent that the Court should apply the rule of reasonableness in determining the compensable amount for funeral and burial expenses. In this particular case and in the light of all the circumstances attending this tragic loss, the Court feels that all items in this particular funeral bill are reasonable and should be compensable.

TOTAL COMPENSABLE EXPENSES	$4,359.00
Less $200.00 deductible which the Court is required by statute to deduct from all claims	–$ 200.00
TOTAL	$4,159.00

3. That the appropriate law enforcement officials, Chicago Police Department, Area 3 Homicide, were promptly notified of the perpetration of the crime allegedly causing the injury to the victim.

4. That claimant has cooperated with law enforcement officials to the fullest extent possible under the circumstances and that the assailant, Victor Welch, age

17 of 1234 West 97th Place, Chicago, Illinois, has confessed to the murder of the victim.

5. That the victim and his assailant were not related and sharing the same household.

6. That the injury to the victim was not attributable to his wrongful act or substantial provocation of his assailant.

7. That a Notice of Intent to File a Claim was duly filed as required by the Act. That claimant's Application, Subrogation Agreement and Authorization for Records and Reports were timely filed with the Court.

8. That at the conclusion of a hearing held before this Court it was determined that the proof submitted in support of this claim satisfied all the requirements of the Act.

9. That this claim is therefore compensable under the Act.

10. That the amount of compensation due the claimant is $4,159.00 as determined by Sec. 4 and 7 (d) of the Act.

IT IS HEREBY ORDERED that the sum of $4,159.00 (FOUR THOUSAND ONE HUNDRED AND FIFTY NINE DOLLARS) be awarded, James H. Deir, the father of Thomas Deir, an innocent victim of a violent crime.

This court has previously filed its opinion in the above matter awarding compensation to the claimant in the total sum of $4,159.00. However, payment of the said award has been delayed due to an omission in the law concerning certain payment procedures which the General Assembly will remedy as expeditiously as possible.

To expedite a payment of part of the compensation

to which the above named claimant is entitled, the court on its own motion orders herewith an immediate partial payment up to the limit which this court is legally authorized to order paid in such claims from the Court of Claims Fund.

Accordingly, the court hereby supplements and amends the opinion and order previously filed in this claim by adding the following further order:

IT IS FURTHER ORDERED that the sum of $999.99 (Nine Hundred Ninety-nine Dollars and ninety-nine cents) be paid to the claimant immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $3,159.01 be referred forthwith to the General Assembly for its approval.

(No. 74-CV-6—Claimant awarded $1,070.05.)

LEO REGLI, on behalf of, BRIGITTE REGLI, Deceased, Claimant, vs. STATE OF ILLINOIS, Respondent.

Opinion filed December *17, 1974.*
Amended opinion filed *January* 27, *1975.*

LEO REGLI, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; PAUL C. WEST, Senior Law Student under supervision of WILLIAM KARAGANIS, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of the death by homicide of Brigitte Regli, 16 years of age, of 1748 Sangamon Street, Crete, Illinois, discovered in December 8, 1973, at Elmscourt Lane, Crete, Illinois. The victim's father, Leo Regli, of 1748 Sangamon Street, Crete, Illinois, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act" (hereafter referred to as the "Act"), Ill. Rev. Stat., *1973, Ch. 70, Sec. 71 et seq.*

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matter set forth in the application. Based upon the documents and other evidence submitted before the Court, the Court finds as follows:

1. The claimant herein is the father of a deceased victim of a compensable violent crime, to wit:

Murder, specifically enumerated in paragraph 72 of the Act. (Murder; Ill. Rev. Stats., 1973, Ch. 38, Par. 9-1 (a) (1).

2. That the crime was promptly reported to the applicable law enforcement officials of Will County, Illinois.

3. That at all times claimant has fully cooperated with law enforcement officials in the investigation of this incident.

4. That the assailant or assailants have not been apprehended by law enforcement officials and that the investigation is ongoing by the Will County Sheriffs Police.

5. That there is no evidence to show that claimant, or claimant's deceased daughter were related to or members of the same household of the assailant.

6. There is no evidence that the injury to the claimant's deceased daughter was attributable to her wrongful act or her provocation.

7. Claimant seeks reasonable funeral expenses for their daughter of $1,270.05.

8. Claimant has received no other deductible compensation, pursuant to the Act.

9. Pursuant to par. 77 (d) of the Act, the Court must deduct the first $200 of expenses.

10. That the proof submitted in support of this claim satisfies all of the requirements of the Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the sum of $1,070.05 (ONE THOUSAND SEVENTY DOLLARS AND FIVE CENTS) be awarded Leo Regli for reasonable funeral expenses incurred in the criminal death of Brigitte Regli.

AMENDED OPINION
and
SUPPLEMENTARY ORDER

This court has previously filed its opinion in the above matter awarding compensation to the claimant in the total sum of $1,070.05. However, payment of the said award has been delayed due to an omission in the law concerning certain payment procedures which the General Assembly will remedy as expeditiously as possible.

To expedite a payment of part of the compensation to which the above named claimant is entitled, the court on its own motion orders herewith an immediate partial payment up to the limit which this court is legally authorized to order paid in such claims from the Court of Claims Fund.

Accordingly, the court hereby supplements and amends the opinion and order previously filed in this claim by adding the following further order:

IT IS FURTHER ORDERED that the sum of $999.99 (Nine Hundred Ninety-nine Dollars and ninety-nine cents) be paid to the claimant immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $70.06 be referred forthwith to the General Assembly for its approval.

(No. 74-CV-14—Claimant awarded $10,000.00.)

EVERETT W. BRADFORD, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed January 8, 1975.
Amended opinion filed January 27, 1975.

EVERETT W. BRADFORD, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal aggravated battery on December 11, 1973, at 309 South Horace Avenue, Rockford, Illinois. Everett W. Bradford, age 52, of 2516 Highcrest Road, Rockford, Illinois, seeks compensation pursuant to the provisions of the "Crime Victims Com-

pensation Act" (hereafter referred to as the "Act") Ill. Rev. Stat., 1973, Ch. 70. Sec. 71 et. seq.

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matter set forth in the application. Based upon the documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime covered under Ill. Rev. Stat., 1973, Ch. 70, Sec. 72, to wit:

"Aggravated Battery, Ill. Rev. Stat., 1973, Ch. 38 Sec. 12-4"

2. That said crime occurred at approximately 5:30 p.m. on December 11, 1973, at 309 South Horace Avenue, Rockford, Illinois, at which time claimant suffered a gunshot wound to the head.

3. That said crime was reported to the Rockford Police Department, Rockford, Illinois, promptly and claimant has cooperated fully with law enforcement officials. That the assailant or assailants have not been identified and that the investigation is ongoing by the Rockford Police.

4. That there was no evidence that claimant was a relative or member of the same household of the assailant.

5. That the injury to claimant was not attributable either to his wrongful act or substantial provocation on his part.

6. That claimant has incurred expenses in excess of $200 compensable by Sec. 74 of the Act, to wit:

A. Hospital Expenses	**$3,281.70**
B. Doctor Expenses	**$1,634.70**
TOTAL MEDICAL EXPENSES	**$4,916.40**

7. That, as the result of his injuries claimant was unable to work from December **11,1973,** to December **11,1974,** and continues to be unable to work as of the date of this opinion. Claimant has sustained an actual net loss of earnings for this period of **12** months in the amount of **$7,800.** The maximum compensation for loss of earnings in one year, pursuant to Sec. **4** of the Act, is **$6,000.**

COMPENSABLE LOST WAGES	$6,000.00
TOTAL EXPENSES AND LOST WAGES TO THIS DATE.	**$10,916.40**

8. That claimant's future loss of wages, although undetermined at this time, need not be considered in this award since the claimant has established that the total amount of his pecuniary loss already exceeds the maximum amount payable to a claimant under the Act.

9. That there is no evidence that claimant has received any compensation from Workman's Compensation, local state or federal funds or insurance of any kind.

10. Pursuant to Par. **77** (d) of the Act, the Court must deduct the first **$200** of expenses.

−$ 200.00

$10,716.40

11. A detailed summary of the facts and information by the Court is contained in an investigative report

prepared by the Attorney General. A copy of said report remains in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

12. That the proof submitted in support of this claim satisfies all the requirements of this Act, and the claim is therefore compensable thereunder for the maximum award allowed by the Act.

IT IS HEREBY ORDERED that the sum of $10,000.00 (TEN THOUSAND DOLLARS AND NO CENTS) be awarded Everett W. Bradford, as an innocent victim of a violent crime.

AMENDED OPINION
and
SUPPLEMENTARY ORDER

This court has previously filed its opinion in the above matter awarding compensation to the claimant in the total sum of—$10,000.00. However, payment of the said award has been delayed due to an omission in the law concerning certain payment procedures which the General Assembly will remedy as expeditiously as possible.

To expedite a payment of part of the compensation to which the above named claimant is entitled, the court on its own motion orders herewith an immediate partial payment to the limit which this court is legally authorized to order paid in such claims from the Court of Claims Fund.

Accordingly, the court hereby supplements and amends the opinion and order previously filed in this claim by adding the following further order:

IT IS FURTHER ORDERED that the sum of $999.99 (Nine Hundred Ninety-nine Dollars and ninety-nine cents) be paid to the claimant immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $9,000.01 be referred forthwith to the General Assembly for its approval.

No. 74-CV-23—Claimant awarded $2,107.06.)

MINA PLUMMER, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed August 2, 1974.
Amended opinion filed January 27, 1975.

MINA PLUMMER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD **W.** FELDMAN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a battery on November 20, 1973, at 13th and South Grand Avenue, Springfield, Illinois. Mina Plummer seeks compensation pursuant to provisions of the "Crime Victims Compensation Act" hereafter referred to as "the Act".

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the

matters set forth in the application. Based upon these documents and other evidence submitted to the Court, the Court finds as follows:

1. That the claimant, Mina Plummer, was a victim of a violent crime covered under Illinois Revised Statutes, 1973, Chap. 70, Sec. 72, to wit:

Battery §12-3, Chapter 38, Illinois Revised Statutes, 1973

when she was struck in a robbery on November 20,1973, at 13th and South Grand, Springfield, Illinois.

2. That said crime was promptly reported to the Springfield City Police Department and that claimant has at all times provided whatever cooperation and assistance sought by law enforcement officials.

3. That the assailant has not been apprehended, which fact has no bearing on the eligibility of the claimant for recovery under the Act. (Ill. Rev. Stat., 1973, Ch. 70, par. 77(a).)

4. Claimant has no knowlege of the identity of the assailant and the assailant was not a relative or member of claimant's household.

5. The injury sustained by the claimant was not attributable either to her wrongful act or provocation on her part.

6. Claimant has suffered damages in excess of $500 compensable by Section 74 of the Act, to wit:

Hospital, surgical and doctor bills for repair of fractures of the left arm, left ribs and left hip.

Hospital & physicians	**$2,570.33**
Physicians	**1,297.00**
TOTAL compensable medical expenses.	**$3,867.33**

7. As a result of this incident, claimant has received the following reimbursements which must be set

off from any award pursuant to paragraph 77(d) of the Act:

Medicare & Medicaide benefits.	**$1,449.77**
Insurance.	**310.80**
TOTAL SET OFF	**$1,760.27**

8. The claimant has received no other compensation as a result of these injuries.

9. Claimant was not employed at the time of the incident.

10. That the proof submitted in support of this claim satisfied all of the requirements of this Act, and the claim is, therefore, compensable thereunder.

IT IS HEREBY ORDERED that the sum of $2,107.06 (TWO THOUSAND ONE HUNDRED SEVEN DOLLARS AND SIX CENTS) be awarded Mina Plummer as an innocent victim of a violent crime.

AMENDED OPINION
and
SUPPLEMENTARY ORDER

This court has previously filed its opinion in the above matter awarding compensation to the claimant in the total sum **of—$2,107.06.** However, payment of the said award has been delayed due to an omission in the law concerning certain payment procedures which the General Assembly will remedy as expeditiously as possible.

To expedite a payment of part of the compensation to which the above named claimant is entitled, the court on its own motion orders herewith an immediate partial payment up to the limit which this court is legally

authorized to order paid in such claims from the Court of Claims Fund.

Accordingly, the court hereby supplements and amends the opinion and order previously filed in this claim by adding the following further order:

IT IS FURTHER ORDERED that the sum of $999.99 (Nine Hundred Ninety-nine Dollars and ninety-nine cents) be paid to the claimant immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $1,107.07 be referred forthwith to the General Assembly for its approval.

(**No.** 74-CV-26—Claimant awarded $1,314.49.)

THOMAS VANDERBILT, on behalf of **SHERYL VANDERBILT,** Deceased, Claimant, *vs.* **STATE** OF ILLINOIS, Respondent.

Opinion filed December 17, 1974.
Amended opinion filed January 27, 1975.

THOMAS VANDERBILT, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; LEONARD CAHNMANN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out **of** a criminal homicide on November 15,1973, at 5425 South Woodlawn Avenue, Chi-

cago, Illinois. Thomas Vanderbilt, the father of the victim, Sheryl Vanderbilt, seeks compensation pursuant to the "Crime Victims Compensation Act" (hereafter referred to as the "Act") *Ill. Rev. Stat.*, **1973,** Ch. **70,** Sec. 71 et. seq.

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matter set forth in the application. Based upon the documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant is the father of a victim of a violent crime covered under *Ill. Rev. Stat.*, **1973,** Ch. **70,** Sec. **72** to wit:

"**Murder,** *Ill. Rev. Stat.*, **1973, Ch. 38,** Sec **9-1**

2. That said crime occurred at 5:00 p.m., on November **15, 1973,** at **5425** South Woodlawn, Chicago, Illinois, at which time the victim was stabbed to death.

3. That the crime was reported to the Chicago Police Department, and the claimant has cooperated fully with law enforcement officials. That the assailant was identified as, Clifton West, age 15, of **5314** South Kimbark. That Clifton West was charged with the murder of Sheryl Vanderbilt, and is being held by juvenile authorities for prosecution.

4. There is no evidence that the victim was a relative or member of the same household of the assailant.

5. That the death of the victim was not attributable either to her wrongful act or substantial provocation on her part.

6. That claimant suffered damages in excess of $200 compensable by Sec. 74 of the Act to wit:

FUNERAL EXPENSES. $1,514.49

7. That no insurance claim or death benefits were paid as a result of the victims death.

8. That $200 shall be deducted pursuant to Sec. 7 (d) of the Act. $1,514.49 less $200 deductible equals: $1,314.49.

9. That the proof submitted in support of this claim satisfies all of the requirements of this Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the sum of $1,314.49 (ONE THOUSAND THREE HUNDRED FOURTEEN DOLLARS AND FOURTY NINE CENTS) be awarded Thomas Vanderbilt as the father of an innocent victim of a violent crime.

AMENDED OPINION
and
SUPPLEMENTARY ORDER

This court has previously filed its opinion in the above matter awarding compensation to the claimant in the total sum of—$1,314.47. However, payment of the said award has been delayed due to an omission in the law concerning certain payment procedures which the General Assembly will remedy as expeditiously as possible.

To expedite a payment of part of the compensation to which the above named claimant is entitled, the court on its own motion orders herewith an immediate partial payment up to the limit which this court is legally authorized to order paid in such claims from the Court of Claims Fund.

Accordingly, the court hereby supplements and amends the opinion and order previously filed in this claim by adding the following further order:

IT IS FURTHER ORDERED that the sum of **$999.99** (Nine Hundred Ninety-nine Dollars and ninety-nine cents) be paid to the claimant immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of **$314.50** be referred forthwith to the General Assembly for its approval.

(No. 74-CV-50—Claimant awarded $4,145.45.)

RHONDA L. DAY, Claimant, ***vs.*** **STATE OF ILLINOIS, Respondent.**

Opinion filed October 11, 1974.
Amended opinion filed January 27, 1975.

STANLEY S. DAY, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; GEORGE A. MUSTIC, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of criminal aggravated battery on March **25, 1974,** at **1407** North Wells, Chicago, Illinois. Rhonda Day of **3215** Overland Avenue, Los Angeles, California, **seeks** compensation pursuant to the provisions **of** the "Crime Victims Compensation **Act"**

[hereafter referred to as the "Act"], Ill. Rev. Stat., 1973, Ch. 70, Sec. 71 ***et seq.***

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matter set forth in the application. Based upon the documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime covered under Ill. Rev. Stat., 1973, Ch. 70, Sec. 72, to-wit:

"Aggravated Battery Sec. 12-4, Ch. 38, Ill. Rev. Stats., 1973."

2. That said crime occurred at 1:40 p.m. on March 25, 1974, at 1407 North Wells, Chicago, Illinois, at which time claimant suffered a gunshot wound to the lower abdomen.

3. That said crime was reported to Area 6 Robbery Division of the Chicago Police Department promptly and claimant has cooperated fully with law enforcement officials.

5. The injury to claimant was not attributable either to her wrongful act or provocation on her part.

6. Claimant has suffered damages in excess of $200.00 compensable by Section 74 of the Act, to wit:

A. Hospital Expense	**$3,438.45**
B. Surgical and Doctor's expense	**907.00**
TOTAL EXPENSES	**4,345.45**
less **$200.00 deductible**	**200.00**
TOTAL	**4,145.45**

7. Claimant has received no benefits or reimburse-

ments from any other source, nor is she or her family entitled to any such benefits from other sources as a result of her injuries.

8. That the proof submitted in support of this claim satisfies all of the requirements of this Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the sum of $4,145.45 (FOUR THOUSAND ONE HUNDRED FORTY-FIVE DOLLARS AND FORTY-FIVE CENTS) be awarded Rhonda Day, as an innocent victim of a violent crime.

AMENDED OPINION
and
SUPPLEMENTARY ORDER

This court has previously filed its opinion in the above matter awarding compensation to the claimant in the total sum of—$4,145.45. However, payment of the said award has been delayed due to an omission in the law concerning certain payment procedures which the General Assembly will remedy as expeditiously as possible.

To expedite a payment of part of the compensation to which the above named claimant is entitled, the court on its own motion orders herewith an immediate partial payment up to the limit which this court is legally authorized to order paid in such claims for the Court of Claims Fund.

Accordingly, the court hereby supplements and amends the opinion and order previously filed in this claim by adding the following further order:

IT IS FURTHER ORDERED that the sum of $999.99 (Nine Hundred Ninety-nine Dollars and ninety-nine

cents) be paid to the claimant immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $3,145.46 be referred forthwith to the General Assembly for its approval.

(No. 74-CV-54—Claimant awarded $2,917.24.)

HOWARD WENDZINSKI, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed December 17, 1975.
Amended opinion filed January 27, 1975.

HOWARD WENDZINSKI, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal aggravated battery on May 17, 1974, at 5812 W. 35th Street, Cicero, Illinois. Howard Wendzinski of 5804 W. 35th Street, Cicero, Illinois, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act" (hereafter referred to as the "Act"), Ill. *Rev. Stat.*, 1973 Chap. 70 Sec. 71 et. seq.

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney Gen-

eral of the State of Illinois, which substantiates the matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime covered under the Act to wit:

"Aggravated Battery, Ill. Rev. *Stat.*, 1973, Ch. 38, Sec. 12-4

2. That the claimant has suffered damages in excess of $200 compensable by Sec. 4 of the Act to wit:

A.	Hospital Expenses	$2,127.55
B.	Doctor Expenses	$ 339.00
	TOTAL MEDICAL EXPENSES	$2,466.55
C.	That claimant was unable to work from May 17, 1974, to July 15, 1974, as a result of his injuries. That he sustained an actual net loss in wages in the amount of $651.44 for this 2-month period. NET WAGE LOSS or $500 per month whichever is less:	$ 651.44
	TOTAL EXPENSES & LOST WAGES	$3,117.99
D.	That claimant has received no benefits or reimbursements from any other source, nor is he or his family entitled to such benefits from other sources as a result of his injuries. TOTAL UNREIMBURSED EXPENSES	$3,117.99
E.	That there if $.75 telephone charge on claimant's hospital bill that is not compensable under the Crime Victims' Compensation Act. LESS UNCOMPENSABLE EXPENSES	$ .75
	LESS $200 Deductible Pursuant to Sec. 7 (d)	$ 200.00
	TOTAL	$2,917.24

3. That the appropriate law enforcement officials, Cicero Police Department, were notified of the perpetration of the crime allegedly causing the injury to the victim as soon after its perpetration as was reasonably practicable under the circumstances.

4. That claimant has cooperated fully with law

enforcement officials. That, as of the this date, the assailant has not been identified or apprehended.

5. That the victim and his assailant were not related and sharing the same household.

6. That the injury to the victim was not substantially attributable to his wrongful act or substantial provocation of his assailant.

7. That a timely notice was filed June 15, 1974. That claimant's timely Application, Subrogation, and Authorization for Records and Reports were filed with the Clerk on June 6, 1974.

8. That the proof submitted in support of this claim satisfies all the requirements of this Act.

9. That the claim is therefore compensable.

10. That the amount of compensation due the claimant is $2,917.24 as determined by Sec. 4 and 7 (d) of the Act.

IT IS HEREBY ORDERED that the sum of $2,917.24 (TWO THOUSAND NINE HUNDRED AND SEVENTEEN DOLLARS AND TWENTY FOUR CENTS) be awarded Howard Wendzinski as an innocent victim of a violent crime.

AMENDED OPINION
and
SUPPLEMENTARY ORDER

This court has previously filed its opinion in the above matter awarding compensation to the claimant in the total sum of—$2,917.24. However, payment of the said award has been delayed due to an omission in the law concerning certain payment procedures which the General Assembly will remedy as expeditiously as possible.

To expedite a payment of part of the compensation to which the above named claimant is entitled, the court on its own motion orders herewith an immediate partial payment up to the limit which this court is legally authorized to order paid in such claims from the Court of Claims Fund.

Accordingly, the court hereby supplements and amends the opinion and order previously filed in this claim by adding the following further order:

IT IS FURTHER ORDERED that the sum **of $999.99** (Nine Hundred Ninety-nine Dollars and ninety-nine cents) be paid to the claimant immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $1,917.25 be referred forthwith to the General Assembly for its approval.

(No. 74-CV-52—Claimant awarded $1,422.97.)

JEROME PETERS, Claimant, *vs.* **STATE** OF **ILLINOIS,** Respondent.

Opinion filed November 4, 1974.
Amended opinion filed January 27, 1975.

JEROME PETERS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; GEORGE MUSTIS, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal aggravated battery on December 17, 1973, at 147th and Ashland Avenue, Harvey, Illinois. Jerome Peters of 16349 Dixie Highway, Markham, Illinois, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act" (hereafter referred to as the "Act"), ***Ill. Rev. Stat., 1973, Ch. 70, Sec. 71 et. seq.***

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matter set forth in the application. Based upon the documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime covered under ***Ill. Rev. Stat., 1973, Ch. 70, Sec. 72,*** to wit:

"Aggravated Battery, ***Ill. Rev. Stat., 1973, Ch. 38, Sec. 12-4"***

2. That said crime occurred at 6:05 p.m. on December 17,1974, at 147th and Ashland Avenue, Harvey, Illinois, at which time claimant suffered gunshot wounds to the face and abdomen.

3. That said crime was reported to Harvey Police Department, Harvey, Illinois, promptly and claimant has cooperated fully with law enforcement officials. That, the assailant was identified as Gary Jordan, of YMCA, Harvey, Illinois. That Gary Jordan pleaded guilty to the battery of the claimant and further that the assailant, Gary Jordan, was sentenced on March 7, 1974 to 11 months in the Cook County Jail with two years probation at completion of sentence.

4. That there was no evidence that claimant was a relative or member of the same household of the assailant.

5. That the injury to claimant was not attributable either to his wrongful act or substantial provocation on his part.

6. That claimant has suffered damages in excess of $200.00 compensable by Section 74 of the Act, to wit:

A.	Hospital Expenses	$ 8,482.49
B.	Doctor Expenses	$ 2,235.00
	TOTAL MEDICAL EXPENSES	$10,717.49

7. That claimant was unable to work from December 18, 1973, to March 29, 1974, as the result of his injuries. That he sustained an actual net loss in wages in the amount of $1,062.15 for this period. That this loss is less than the statutory maximum and is totally compensable under the Act.

NET WAGE LOSS	$ 1,06215
TOTAL EXPENSES AND LOST WAGES	$11,779.64

8. That direct benefits have been paid to the hospital and doctors by Blue Cross and Blue Shield, Certificate No. 51100-96440 in the amount of $10,153.55.

LESS INSURANCE BENEFITS	$10,153.55
TOTAL UNREIMBURSED EXPENSES	$ 1,626.09

9. That there are $3.12 telephone and personal charges on claimant's hospital bill that are not compensable under the Crime Victims' Compensation Act.

LESS UNCOMPENSABLE	$ 3.12
LESS $200.00 DEDUCTIBLE Pursuant to Sec. 7(d)	$ 200.00
TOTAL	$ 1,422.97

10. That the proof submitted in support of this claim satisfied all of the requirements of this Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the sum of $1,422.97 (ONE THOUSAND FOUR HUNDRED TWENTY TWO DOLLARS AND NINETY SEVEN CENTS) be awarded Jerome Peters, as an innocent victim of a violent crime.

AMENDED OPINION
and
SUPPLEMENTARY ORDER

This Court has previously filed its opinion in the above matter awarding compensation to the claimant in the total sum of—$1,422.97. However, payment of the said award has been delayed due to an omission in the law concerning certain payment procedures which the General Assembly will remedy as expeditiously as possible.

To expedite a payment of part of the compensation to which the above named claimant is entitled, the Court on its own motion orders herewith an immediate partial payment up to the limit which this Court is legally authorized to order paid in such claims from the Court of Claims Fund.

Accordingly, the Court hereby supplements and amends the opinion and order previously filed in this claim by adding the following further order:

IT IS FURTHER ORDERED that the sum of $999.99 (Nine Hundred Ninety-nine Dollars and ninety-nine cents) be paid to the claimant immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award

due the claimant in the sum of $422.98 be referred forthwith to the General Assembly for its approval.

(No. 74-CV-65—Claimant awarded $2,605.86.)

MAHLON MIMS, Claimant, ***us.*** **STATE OF ILLINOIS,** Respondent.

Opinion filed January 8, 1975.
Amended Opinion filed January 27, 1975.

MAHLON MIMS, Claimant, pro se.

WILLIAM **J. SCOTT,** Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal aggravated battery on May **11, 1974,** in the vicinity of 86th Street and Ashland Avenue, Chicago, Illinois. Mahlon Mims of **13130** Eberhart, Chicago, Illinois, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act" (hereafter referred to as the "Act"), ***Ill. Rev. Stat., 1973, Ch. 70, Sec. 71 et. seq.***

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matter set forth in the application. Based upon the documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime covered under *Ill. Rev. Stat., 1973, Ch.* 70, *Sec.* 72 to wit:

"**Aggravated Battery,** *Ill. Rev. Stat., 1973, Ch. 38 Sec. 12-4*"

2. That said crime occurred at approximately **11:00** p.m. on May **11, 1974** in the vicinity of 86th Street and Ashland Avenue, Chicago, Illinois, at which time Claimant suffered gunshot wounds to the abdomen.

3. That said crime was reported to Chicago Police, Chicago, Illinois, promptly and claimant has cooperated fully with law enforcement officials. That, the assailants have not been identified and that the investigation is ongoing under the direction of Investigator Fred Haley, Star No. **9780** of the Chicago Police Department.

4. That there was no evidence that claimant was a relative or member of the same household of the assailant.

5. That the injury to claimant was not attributable either to his wrongful act **or** substantial provocation on his part.

6. That cla'imant has sustained expenses in excess of $200.00 compensable by Sec. **74** of the Act, to wit:

A. Hospital Expenses	**$5,403.17**
B. Doctor Expenses	**$1,461.00**
TOTAL MEDICAL EXPENSES	**$6,864.17**

7. That claimant was unable to work for a period of **14** weeks, or **3.5** months. That he sustained an actual loss in wages in the amount of **$4,704.00.** That he was reimbursed by disability benefits from his union **of $745.00,** making his net loss $3,959. That, based on the statutory maximum compensation of **$500.00** per month

over the 3.5 month period of wage loss, the maximum compensation available to claimant is $500 x 3.5, or $1,750.

ACTUAL WAGES LOST	$4,704.00
DISABILITY BENEFITS	−$ 745.00
NET LOSS	$3,959.00
STATUTORY MAXIMUM COMPENSATION AS EXPLAINED ABOVE	$1,750.00
TOTAL EXPENSES AND COMPENSABLE LOST WAGES	$8,614.17

8. That medical benefits have been paid by claimant's union welfare fund in the amount of $5,782.44.

LESS INSURANCE BENEFITS	$5,782.44
TOTAL UNREIMBURSED EXPENSES	$2,831.73

9. That there are $25.87 in telephone and personal service charges on claimant's Hospital bill that are not compensable under the Crime Victims Compensation Act.

LESS UNCOMPENSABLE	− $ 25.87
LESS $200 DEDUCTIBLE PURSUANT TO SEC. 7(d)	− $200.00
TOTAL	$2,605.86

10. That the proof submitted in support of this claim satisfied all the requirements of this Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the sum of $2,605.86 (Two THOUSAND AND FIVE DOLLARS AND EIGHTY SIX CENTS) be awarded to Mahlon Mims, as an innocent victim of a violent crime.

11. A detailed summary of the facts and information by the Court is contained in an investigative report prepared by the Attorney General. A copy of said report

remains in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

AMENDED OPINION
and
SUPPLEMENTARY ORDER

This court has previously filed its opinion in the above matter awarding compensation to the claimant in the total sum of—$2,605.86. However, payment of the said award has been delayed due to an omission in the law concerning certain payment procedures which the General Assembly will remedy as expeditiously as possible.

To expedite a payment of part of the compensation to which the above named claimant is entitled, the court on its own motion orders herewith an immediate partial payment up to the limit which this court is legally authorized to order paid in such claims from the Court of Claims Fund.

Accordingly, the court hereby supplements and amends the opinion and order previously filed in this claim by adding the following further order:

IT IS FURTHER ORDERED that the sum of **$999.99** (Nine Hundred Ninety-nine Dollars and ninety-nine cents) be paid to the claimant immediately from the Court of Claims Funds as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $1,605.87 be referred forthwith to the General Assembly for its approval.

(No. 75-CV-30—Claimant awarded $1,580.00.)

DALBERT STEELE, a minor by RUTH STEELE, his mother and next friend, on behalf of ANREW STEELE, Deceased, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed January 8, 1975.
Amended opinion filed January 27, 1975.

SOL A. GAYLE, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; LEONARD CAHNMANN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal homicide on April 11, 1974, at 8143 South Kingston, Chicago, Illinois. Dalbert Steele, the son of the victim, a minor, by Ruth Steele, his mother and next friend, seeks compensation pursuant to the "Crime Victims Compensation Act" (hereafter referred to as the "Act"), *Ill. Rev. Stat.*, 1973, Ch. 70. Sec. 71 et. seq.

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court, and a report by the Attorney General of the State of Illinois, which substantiates the matter set forth in the application. Based upon documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant is the son of a victim of a

violent crime covered under *Ill. Rev.* Stat., Ch. 70, Sec. 72, to wit:

"Murder, *Ill. Rev.* Stat., 1973, Ch. 38, Sec. 9-1"

2. That said crime occurred at approximately 1:00 p.m. on April 11,1974, at 8143 South Kingston Avenue, Chicago, Illinois, at which time the victim died of gunshot wounds.

3. That the crime was reported to the Chicago Police Department promptly by William Williams, of 7021 South 'Woodlawn, Chicago, Illinois, and that the claimant has cooperated fully with law enforcement officials, but that no arrests have been made as a result of the crime.

4. That there is no evidence that the victim was a relative or member of the same household of the assailant.

5. That the death of the victim is not attributable either to his wrongful act or substantial provocation on his part.

6. That the Claimant suffered damages in excess of $200 compensable by Sec. 74 of the Act to wit:

Loss of child support payments of $20.00 per week from April 11, 1974, the date of the victim's death to December 27, 1975, the date he reaches his majority, a total of 89 weeks. This being pursuant to Court Order 66-D-18624, entered on May 16, 1972, by Judge David Linn in the Circuit Court of Cook County, ordering the victim, Andrew Steele, to pay $20.00 per week to Ruth Steele, the mother of the Claimant, for the support of the Claimant, her minor son, until he reaches his majority.

89 weeks at $20.00 per week equals $1,780.00

7. That no insurance claims or death benefits, other than monthly social security of $147.00 were paid to the claimant as a result of the victims death.

8. That $200 shall be deducted pursuant to Sec. 7 (d) of the Act. $ 200.00

TOTAL **$1,580.00**

IT IS HEREBY ORDERED that pursuant to the Court Order in paragraph **6,** that the sum **of** $1,580.00 (ONE THOUSAND FIVE HUNDRED AND EIGHTY DOLLARS) be awarded to Ruth Steele, for the use, benefit and support of her minor son Dalbert, the son of an innocent victim of a violent crime.

A detailed summary of the facts and information considered by the Court is contained in an Investigative Report prepared by the Attorney General. A copy of said report remains in the Court's file in this matter, and the facts as reported therein are incorporated in this Opinion by reference.

AMENDED OPINION
and
SUPPLEMENTARY ORDER

This Court has previously filed its opinion in the above matter awarding compensation to the claimant in the total sum of—$1,580.00. However, payment of the said award has been delayed due to an omission in the law concerning certain payment procedures which the General Assembly will remedy as expeditiously as possible.

To expedite a payment of part of the compensation to which the above named claimant is entitled, the Court on its own motion orders herewith an immediate partial payment up to the limit which this Court is legally authorized to order paid in such claims from the Court of Claims Fund.

Accordingly, the Court hereby supplements and amends the opinion and order previously filed in this claim by adding the following further order:

IT IS FURTHER ORDERED that the sum of $999.99 (Nine Hundred Ninety-nine Dollars and ninety-nine cents) be paid to the claimant immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $580.01 be referred forthwith to the General Assembly for its approval.

(No. 75-CV-115—Claimant awarded $2,757.50.)

JAMES ZUMER, JR., Claimant, *vs.* **STATE OF ILLINOIS, Respondent.**

Opinion filed November 12, 1974.
Amended opinion filed January 27, 1975.

JAMES ZUMER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION Am—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arising out of a criminal incident on May 29, **1974,** at 1023 N. 9th Street, East St. Louis, Illinois, seeks payment of compensation to claimant .pursuant to provisions of the "Crime Victims Compensation Act" (hereafter referred to as "the Act"). Illinois Revised Statutes, 1973, Ch. 70, Sec. 71, ***et seq.***

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime under Illinois Revised Statutes, 1973, Ch. 70, sec. 71: to wit, assault, Illinois Revised Statutes, 1973, Ch. 38, Par. 12-1.

2. That said crime occurred at 4:55 p.m. at 1023 N. 9th Street, East St. Louis, Illinois, at which time claimant suffered a fractured left leg and other numerous injuries.

3. That said crime was reported to the East St. Louis Police Department promptly and claimant at all times has cooperated with law enforcement officials.

4. That the alleged assailant has not been apprehended.

5. Claimant, as indicated by the report of the Attorney General, did not provoke the incident.

6. Claimant is not a relative of or a member of the same household of the assailant.

7. Claimant has suffered damages in excess of $200 compensable by Section 74 of the Act: to wit:

A:	Hospital	$1,788.50
B.	Doctors:	
	Dr. Harold S. Harsin	253.00
	Dr. Henry M. Hurd	800.00
C.	X-Ray	81.00
D.	Ambulance Fee	35.00

8. Claimant has not received nor is he entitled to any sums of money as a result of this injury which would be considered a set-off to any award.

9. Pursuant to Illinois Revised Statutes, 1973, Chap. 70, Sec. 71, this Court must deduct the first $200 in expenses.

10. That the proof submitted in support of this claim satisfied all of the requirements of this Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the sum of $2,757.50 (TWO THOUSAND SEVEN HUNDRED FIFTY SEVEN DOLLARS AND FIFTY CENTS) be awarded James Zumer, Jr. as a victim of a violent crime.

AMENDED OPINION
and
SUPPLEMENTARY ORDER

The Court has previously filed its opinion in the above matter awarding compensation to the claimant in the total sum of—$2,757.50. However, payment of the said award has been delayed due to an omission in the law concerning payment procedures which the General Assembly will remedy as expeditiously as possible.

To expedite a payment of part of the compensation to which the above named claimant is entitled, the Court on its own motion orders herewith an immediate partial payment up to the limit which this Court is legally authorized to order paid in such claims from the Court of Claims Fund.

Accordingly, the Court hereby supplements and amends the opinion and order previously filed in this claim by adding the following further order:

IT IS FURTHER ORDERED that the sum of **$999.99** (Nine Hundred Ninety-nine Dollars and ninety-nine cents) be paid to the claimant immediately from the Court of Claims Fund as a partial payment on the total amount **of** this award, and that balance of the award due the claimant in the sum of $1,757.51 be referred forthwith to the General Assembly for its approval.

(No. 75-CV-4—Claimant awarded $1,840.00.)

LUELLA M. LEU, Claimant, ***us.*** **STATE OF ILLINOIS, Respondent.**

Opinion filed January 14, 1975.
Amended opinion filed January 27, 1975.

JOHN LUSAIC, Attorney for Claimant.

WILLIAM **J.** SCOTT, Attorney General;. LEONARD CAHNMANN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within **2** years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal aggravated battery on June 2, **1975,** at **614** West Kemper, Chicago, Illinois. Luella M. Leu of **614** West Kemper, Chicago, Illinois, seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, (hereafter referred to as the "Act")***Ill. Rev. Stat., 1973, Ch. 70, Sec. 71 et. seq.***

This Court has carefully considered the application

for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matter set forth in the application. Based upon the documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime covered under *Ill. Rev. Stat., 1973, Ch. 70, Sec. 72,* to wit:

"Aggravated Battery, Ill. Rev. Stat., 1973, Ch. 38, Sec. 12-4."

2. That said crime occurred at approximately 12:10 a.m. on June 2, **1974** at **614** West Kemper Street, Chicago, Illinois, at which time claimant suffered a beating administered by three assailants and suffered injuries therefrom. **A** detailed summary of the facts and information considered by the Court is contained in an investigative report prepared by the Attorney General. **A** copy of said report remains in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

3. That the crime was promptly reported to the Chicago Police Department, and claimant has cooperated fully with law enforcement officials. That two of the assailants have been identified as Dr. Ronald Gilbert and Glenn Hammerland. That they have been arrested, charged, and are awaiting trial. That the third assailant has not been identified.

4. That there was no evidence that claimant was a relative or member of the same household of the assailants.

5. That injury to the claimant was not attributable to either her wrongful act or substantial provocation on her part.

6. That claimant has suffered damages in excess of **$200** compensable under Sec. **4** of the Act, to wit:

A. Hospital Expenses	**$ 261.50**
B. **Doctor Expenses**	**$ 278.50**
TOTAL MEDICAL EXPENSES	**$ 540.00**

7. That claimant was unable to work for the three month period from June 2, **1974,** to September **2, 1974,** as a result of her injuries; that she sustained loss of earnings during this period in the amount of **$4,295.83,** based on her earnings during the six months period prior to **the incident. That this** loss **is greater than the** statutory maximum of $500 per month for loss **of** earnings payable under the Act.

STATUTORY MAXIMUM 3 MONTH LOSS OF **EARNINGS**	**$1,500.00**
TOTAL EXPENSES AND LOSS OF **EARNINGS**	**$2,040.00**

8. That there is no evidence that claimant has received any compensation from, local, state or federal funds, insurance of any kind, or from any other source.

9. Pursuant to Sec. 77(d) of the Act, the Court must deduct the first $200 of expenses

expenses	*−$200.00*
TOTAL	**$1,840.00**

10. That the proof submitted in support of this claim satisfies all the requirements of this Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the sum of **$1,840.00** (ONE THOUSAND EIGHT HUNDRED AND FORTY DOLLARS) be awarded Luella **M.** Leu, as an innocent victim of a violent crime.

AMENDED OPINION
and
SUPPLEMENTARY ORDER

This Court has previously filed its opinion in the above matter awarding compensation to the claimant in the total sum of—$1,840.00. However, payment of the said award has been delayed due to an omission in the law concerning certain payment procedures which the General Assembly will remedy as expeditiously as possible.

To expedite a payment of part of the compensation to which the above named claimant is entitled, the Court on its own motion orders herewith an immediate partial payment up to the limit which this Court is legally authorized to order paid in such claims from the Court of Claims Fund.

Accordingly, the Court hereby supplements and amends the opinion and order previously filed in this claim by adding the following further order:

IT IS FURTHER ORDERED that the sum of $999.99 (Nine Hundred Ninety-nine Dollars and ninety-nine cents) be paid to the claimant immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $840.01 be referred forthwith to the General Assembly for its approval.

(No. 75-CV-12—Claimant awarded $10,000.00.)

PAULA CHRISTINE SIMPSON, on behalf of DONALD E. SIMPSON, Deceased, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed January 30, 1975.

PAULA CHRISTINE SIMPSON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on April 4, 1974, at 307 Court Street, Tazewell County, Pekin, Illinois. Paula Christine Simpson, wife of the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act,'' *Ill.Rev.Stat., 1973,* Ch. 70, 071, et *seq.* (hereafter referred to as "the Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant's deceased husband, Donald E. Simpson, age 28, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Murder", (*Ill.Rev.Stat., 1973, ch. 38, §9-1*).

2. That on April 4, 1974, claimant's husband was beaten severely by three men after leaving Lindy's Tavern at 307 Court Street in Pekin. Prior to the beating, Donald Simpson had been sitting peaceably at Lindy's Tavern.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the decedent for the attack upon him by three other patrons of Lindy's Tavern.

4. That the victim died on April 10, 1974, as a result of the injuries he received in the beating of April 4, 1974. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the three assailants, William Ray Justice, Tom Cross and Robert E. Hilst, were indicted in Tazewell County on charges of murder.

6. That the victim and his assailants were not related nor sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. That the claimant seeks compensation under the Act for loss of support to herself and her three children, Donjell Simpson, age 5; Donald Simpson, age 3; and Paulette Simpson, infant.

9. That at the time of Donald Simpson's death, he was 28 years old and had a life expectancy of age 71 according to actuarial tables. Therefore, we must conclude that the decedent's family lost his financial support for the remainder of his normal life expectancy, computed to be 43 years.

10. That the victim's average monthly earnings for

the 6 months immediately preceding his death were **$525,** but earnings of only **$500** per month can be considered as the basis for determining loss of support, pursuant to the following provision in §4 of the Act:

". . . loss of support shall be determined on the basis of the victim's average monthly earnings for the **6** months immediately preceding the date of the injury or on $500 per month, whichever is less."

11. That, based on the victim's normal life expectancy of **43** years, and taking $500 per month as his average earnings, the loss of support to his family is computed to be an amount far in excess of the $10,000 maximum amount that can be awarded as compensation under the Act for any loss resulting from a violent crime.

12. That, in addition to loss of support, the claimant incurred medical, hospital and funeral expenses for the victim which were partially covered by insurance benefits, and the gross amount of the pecuniary loss for these items as computed before deductions and setoffs as is follows:

1)	Hospital	$3,089.50
2)	Medical	**122.00**
3)	Funeral	**2,061.00**
		$5,272.50

13. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this court—

"(d) shall deduct **$200** plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source, [except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .]".

We interpret the above provision to mean that the benefits received by the victim's family as a result of his death, and deduction of **$200,** shall be deducted from the

total loss sustained and not from the $10,000 maximum amount payable under the Act. On this point we are adopting a recent opinion of the Massachusetts Supreme Court on the same point arising under the provisions of an Act identical to ours in all material respects: ***Gurley* v. *Commonwealth* *(1973) 296 N.E.2d 477.***

14. That, in the claim before us, the benefits received by the claimant from other sources which must be deducted from her loss, as contemplated by §7(d) of the Act, were shown to be in the total sum of $3,089.50. This amount, plus the statutory deduction of $200, having been deducted from the gross amount of loss as calculated in **811** and **12,** leaves the amount of the actual loss sustained by the claimant and her children far in excess of the $10,000 **maximum amount that can be awarded** under the Act for any loss resulting from a violent crime. Hence, the claimant and her children are entitled to an award in the maximum amount payable under the Act, $10,000.

The Court takes notice of the fact that the three minor children of the deceased victim, who are named in ¶8 of this opinion, were also dependent on Donald E. Simpson as was his surviving spouse, Paula Christine Simpson, the claimant, and the mother of decedent's said three minor children, who are all under age five.

Under these circumstances the Court is required to interpret and comply with the following language of the Act found in §8(b):

"(b) If the Court of Claims finds, in the case of an application made by a person dependent for [her] support on a deceased victim, that persons other than the applicant were also dependent on that victim for their support, it [the Court] shall also (1) name those persons in its order; (2) state the percentage share of the total compensation award and the dollar amount to which each is entitled, and (3) order that those amounts be paid to those persons directly or, in the case of a minor or incompetent, to his [her] guardian or conservator, as the case may be."

To comply strictly with the above legislative directive, it would seem appropriate and reasonable to order the distribution of the $10,000 award in accordance with the rule of distribution stated in ***§11(1) of the Probate Act.*** This rule would allow one-third [$3,333.33] to the victim's surviving spouse, and the remaining two-thirds [$6,666.66] divided equally among the victim's three minor children. This would create three separate estates in the amount of $2,222.22 each for Donjell Simpson, age 5; Donald Simpson, age **3;** and Paulette Simpson, age **1.**

However, to make distribution in this manner, we believe would impose an undue hardship on the mother. If the $10,000 award were paid to her in a lump sum, she would be holding **$6,666.66** in trust for her three minor children. Although she is guardian of their person, she would have no power to administer their estates nor use their funds unless she is duly appointed guardian of each minor's estate as provided by law. ***Perry v. Carmichael*** (1880) ***95 Ill. 519.*** After such appointment, she would be required to manage her children's funds frugally under the direction of the appointing court and present periodic accounts of her guardianship of such Court. She would also be responsible for Court costs and any legal expenses required in filing her petition for appointment, oath, surety bond, and accounts.

To obviate the necessity of the claimant being appointed guardian of her children's estates, and considering all other facts in this case, the Court believes that the best interest of the victim's family would be served by our ordering that this award be disbursed to the claimant in periodic monthly payments as authorized in §8(a)(4) of the Act. As the natural guardian of her three minor children, the mother has a legal obligation to provide for

their suitable support and education. In fulfilling this obligation, we believe she would necessarily be required to expend the proper amount from each monthly payment received hereunder for the care and nurture of all three of her children as well as for her own necessities.

IT IS HEREBY ORDERED that the total sum of $10,000 be awarded to the claimant and her three minor children, collectively, as persons who were all dependent for their support on Donald E. Simpson, the deceased victim of a violent crime.

IT IS FURTHER ORDERED that the aforesaid award be paid to the claimant, Paula Christine Simpson, in twenty (20) equal monthly installments of $500 each. The Court directs that said monthly payments shall be made from the Court of Claims Fund insofar as it is legally possible to do so.

(No. 74-CV-&Claimant awarded $10,000.00.)

WILLIAM F. BOSWELL, Claimant, *us.* **STATE** OF **ILLINOIS,** Respondent.

Opinion filed January 31, 1975.

WILLIAM F. BOSWELL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on January 15, 1974, at 6245 South Drexel, Chicago, Cook County, Illinois. William F. Boswell, victim of a violent crime, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat., 1973, Ch. 70, Sec. 71, et seq.* (hereafter referred to as *"the Act")*.

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, William F. Boswell, age 64, was a victim of a violent crime, as defined in Sec. 2 (c) of the Act, to wit:

"Aggravated Battery", *(Ill. Rev. Stat., 1973, Ch. 38, Sec. 12-4)*

2. That on January 15, 1974, claimant was shot by an unknown assailant or assailants as he was entering his car. The assault was completely unexpected and claimant did not see who fired the shot.

3. That there was no evidence found by police investigation of any provocation by the claimant for the attack upon him.

4. That, as a result of this injury, claimant suffers complete paralysis of his lower extremities. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported there in are incorporated in this opinion by reference.

5. That there is no evidence that the victim and his assailant or assailants were related or sharing the same household.

6. That the criminal offensewas promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

7. That the claimant seeks compensation under the Act for lost earnings to the date of this opinion as a result of his continuing disability.

8. That the victim's average monthly earnings for the **6** months immediately preceding his injury were **$946.88.** As a result of his injury claimant was unable to work from January 15, **1974,** to January **15, 1975,** and continues to be unable to work as the date of this opinion. Using his average monthly earnings as a basis, claimant has sustained a loss of earnings of **$5,681.28** for the first **26** weeks of his disability. He was, however, indemnified by Metropolitan Life Insurance in the amount of **$5,200.00,** resulting in **a** net loss for the first **26** weeks of **$481.28.**

9. Claimant has sustained an unindemnified loss of earnings for the second half of the one year period of **$5,681.28.** The maximum compensation for loss of earnings in a period of one half year, or **6** months, pursuant to Sec. **4** of the Act, is $3,000.

10. That, in addition to loss of earnings, the claimant incurred medical and hospital expenses which were partially covered by insurance benefits, and the gross amount of the pecuniary loss as computed before deductions and setoffs is as follows:

1)	Loss **of Earnings**	$ **3,481.28**
2)	**Hospital**	$20,123.25
3)	**Medical**	$ **1,195.00**
		$24,799.53

11. That, in determining the amount of compensation to which an applicant is entitled, Sec. 7 (d) **of** the Act states that this court—

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workman'sCompensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)".

We interpret the above provision to mean that the benefits received by the victim and deduction of $200, shall be deducted from the total loss sustained and not from the $10,000 maximum amount payable under the Act. On this point, we are adopting a recent opinion **of** the Massachusetts Supreme Court on the same point arising under the provisions of the Act identical to ours in all material respects: ***Gurley* v. *Commonwealth (1973) 296 N.E. 2d 477.***

12. That, in the claim before us, the benefits received by the claimant, as contemplated by Sec. 7 (d) of the Act, were shown to be in the total sum of $120.00. This amount, plus the statutory deduction of $200, having been deducted from the gross amount of loss shown in Par. 10, leaves an amount of **$24,479.53** as the actual loss sustained by the claimant. Hence, the claimant is entitled to an award in the maximum amount payable under the Act, $10,000.

IT IS HEREBY ORDERED that the total sum of $10,000 be awarded to the claimant, William **F.** Boswell, the innocent victim **of** a violent crime.

IT IS FURTHER ORDERED that the sum of **$999.99 (NINE HUNDRED NINETY NINE DOLLARS AND NINETY NINE CENTS)** be paid immediately from the Court of Claims fund as a partial payment on the total amount of this award, and that the balance of the award due the

claimant is the sum of **$9,000.01** be referred forthwith to the General Assembly for its approval.

(No. 74-CV-17—Claimant awarded $147.00.)

VIOLET MAE WATERMANN, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed January 31, 1975.

VIOLET MAE WATERMANN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable *to* the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that *oc*curred on November **6, 1973, 207** East Chicago Street, Elgin, Kane County, Illinois. Violet Mae Watermann, a victim of a violent crime, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act", ***Ill. Rev. Stat., 1973, Ch. 70, Sec. 71, et. seq.*** (hereafter referred to as ***"the Act"***).

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Violet Mae Watermann, age 56, was a victim of a violent crime, as defined in Sec. 2(c) of the Act, to wit: "Aggravated Battery",

"Aggravated Battery", (*Ill. Rev. Stat., 1973, Ch. 38, Sec. 12-4*).

2. That on November 6, 1973, claimant was stabbed twice by an unidentified assailant, during an apparent robbery of her store at 207 East Chicago in Elgin.

3. That an investigation by the police investigators after the crime was committed presents no evidence of any provocation by the victim for the attack upon her.

4. That the victim was hospitalized from November 6, 1973, to November 11, 1973, as a result of the injuries she received as a result of the stabbing of November 6, 1973. A further, and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That there is no evidence that the victim and her assailant were related or sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance. The investigation is presently continuing.

7. That the claimant seeks compensation under the Act for loss of earnings caused by her absence from her store as a result of her injuries.

8. That the victim was unable to work during the period of November 6, 1973, to November 20, 1973, as a result of her injuries; that she sustained loss of earnings

during this period in the amount of $375.00 based on her average monthly earnings for the 6 months immediately preceeding her injury. This amount is compensable pursuant to the following provision in Sec. 4 of the Act:

"Loss of earnings, loss of future earnings and loss of support shall be determined on the basis of the victim's average monthly earnings for the 6 months immediately preceding the date of the injury or on $500 per month, whichever is less."

9. That, in addition to loss of earnings, the claimant incurred medical and hospital expenses which were covered by insurance benefits, and the gross amount of the pecuniary loss as computed before deductions and setoffs is as follows:

1)	Loss of earnings	$ 375.00
2)	Hospital	$ 451.75
3)	Medical	$ 207.00
		$1,033.75

10. That, in determining the amount of compensation to which an applicant is entitled, Sec. 7(d) of the Act states that this Court—

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workman's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefits of the applicant . . .)".

11. That, in the claim before us, the benefits received by the claimant, as contemplated by Sec. 7(d) of the Act, were shown to be in the total sum of $684.70. This amount, the statutory deduction of $200, and an uncompensable service charge of $2.05 having been deducted from the gross amount of loss shown in Par. **9,** leaves an amount **of** $147.00 as the actual compensable loss sustained by the claimant. Hence, the claimant is entitled to an award in the amount of $147.00.

IT IS HEREBY ORDERED that the total sum of $147.00 (ONE HUNDRED FORTY SEVEN DOLLARS) be awarded to the claimant, an innocent victim of a violent crime.

(No. 74-CV-24—Claimant awarded $227.04.)

DORIS SPENCER, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed January 31, 1975.

DORIS **SPENCER,** Claimant, pro se.

WILLIAM **J. SCOTT,** Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on February 26,1974, at Armitage and Orchard Streets in Chicago. Doris Spencer, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat., 1973, Ch. 70, Sec.* 71 *et seq.* (hereafter referred to as the "Act").

This Court has carefully considered **the** application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant, Doris L. Spencer, age 24, was a victim of a violent crime as defined in sec. 2(c) of the Act, to wit:

"Aggravated Battery", (Ill. *Rev.* Stat., *1973, ch. 38, sec. 12-4).*

2. That at approximately 10:00 P.M., on February 26,1974, the claimant was waiting for a bus at the corner

of Armitage and Orchard Avenue. That she was approached by an unidentified person, brandishing a gun, who told her to "be quiet and don't move." That she was shot three times. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

3. That a passing motorist, one Robert L. Friedlander, hearing the shots fired and seeing the claimant fall, stopped his car and hailed a passing police car.

4. That the claimant was taken to Augustana Hospital where she was hospitalized from February **26,1974,** to March **7, 1974.**

5. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon her.

6. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance by viewing suspect photos. That claimant was unable to make an identification of her assailant and that no arrests have been made in connection with this criminal offense.

7. That the claimant and her assailant were not related nor sharing the same household.

8. That claimant seeks compensation under the Act for medical expenses and lost wages.

9. That claimant was unable to work from February **26, 1974,** to March **22,1974.** That claimant's average net earnings for the six month period immediately pre-

ceding the injury was $458.09. That claimant received sick pay of $130.81. That claimant's actual net earning loss was $327.28.

10. That, in addition to lost earnings, the claimant incurred medical and hospital expenses which were partially covered by insurance benefits, and the gross amount of the pecuniary loss as computed before deductions and setoffs is as follows:

1)	**Hospital**	**$2,128.76**
2)	**Medical**	**75.00**
3)	Loss **of Earnings**	**327.28**
		$2,531.04

11. That in determining the amount of compensation to which an applicant is entitled, sec. 7(d) of the Act states that this court—

> "(d) **shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workman'sCompensation Act,'** or **from local governmental, State or Federal funds or from any other source . . ."**

12. That, in the claim before us, the benefits received by the claimant from other sources which must be deducted from her loss, as contemplated by sec. 7(d) of the Act, were shown to be $2,104.00. This amount, plus the statutory deduction of $200, having been deducted from the gross amount **of** loss shown in sec. 10, leaves an amount **of** $227.04.

IT IS HEREBY ORDERED, that the sum of $227.04 (Two HUNDRED TWENTY-SEVEN DOLLARS AND FOUR CENTS) be awarded Doris L. Spencer, as an innocent victim of a violent crime.

(No. 74-CV-53—Claimant awarded $327.00.)

JUAN A. SOLANO, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed January 31, 1975.

JUAN A. SOLANO, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on April 18, 1974, at Beldon and Bissell Streets in Chicago. Juan A. Solano, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill.* Rev. Stat., *1973, Ch. 70, Sec. 71, et seq.* (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant, Juan A. Solano, age 24, is a victim of a violent crime as defined in Sec. 2 (c) of the Act, to wit:

"Aggravated Battery", *(Ill. Rev. Stat., 1973, ch. 38, Sec. 12-4).*

2. That on April 18, 1974, at approximately 7:30 P.M., the claimant was walking home from De Paul University where he is a law student. That as he approached the corner of Beldon and Bissell streets, he was

hit over the head twice with a steel pipe by an unknown assailant. That the assailant then fled. That the claimant made his way a half a block to his home. That his parents took the claimant to the hospital and called the police. A further and more detailed summary of the facts and information considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

3. That the criminal offense was reported promptly by the claimant's parents to the Chicago Police Department, and that the claimant has cooperated fully with their requests for assistance. That the claimant was able to give a general description of his assailant, but no arrests have been made in connection with this offense.

4. That statements taken by the police shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon him.

5. That the claimant and his assailant were not related nor sharing the same household.

6. That the claimant was taken to Augustana Hospital, where a scalp laceration was closed with 16 sutures.

7. That as the result of his injuries, the claimant has sustained the following expenses:

1)	Hospital..	$472.00
2)	Doctor..	50.00
3)	Medication..	5.00
		$527.00

8. That the claimant was a full time law student at De Paul University and is not making a claim for lost earnings.

9. That the claimant has received no benefits or reimbursements, directly or indirectly, nor is he or his family entitled to any such benefits from other sources as a result of his injuries.

10. That in determining the amount of compensation to which an applicant is entitled, sec. 7(d) of the Act states that this Court—

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workman's Compensation Act', or from local governmental, State or Federal funds or from any other source . . ."

That after the statutory deduction of **$200.00,** the amount of compensation to which the claimant is entitled is **$327.00.**

IT IS HEREBY ORDERED, that the sum of **$327.00** (THREE HUNDRED TWENTY-SEVEN DOLLARS) be awarded Juan A. Solano, as an innocent victim of the violent crime.

(No. 75-CV-10—Claimant awarded $10,000.00.)

FRANK BEATO, Claimant, ***vs.*** **STATE OF ILLINOIS,** Respondent.

Opinion filed January 31, 1975.

FRANK BEATO, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of ***$500*** or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on June 7,1974, at 522 South Laramie Avenue, Cook County, Chicago, Illinois. Frank Beato, a victim of crime, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act", *Ill. Rev. Stat., 1973, Ch. 70, Sec. 71, et seq.* (hereafter referred to as *"the Act").*

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence presented at a hearing held before the Commissioner on December 5, 1974, the Court finds:

1. That the claimant, Frank Beato, age 56, was a victim of a violent crime, as defined in Sec. 2(d) of the Act, to wit:

"Aggravated Battery", *(Ill. Rev. Stat., 1973, Ch. 38, Sec. 12-4).*

2. That on June 7, 1974, claimant was shot in the back while working in his sandwich shop at 522 South Laramie. Prior to the shooting, Frank Beato was getting ready to close his shop and pick his daughter up from school.

3. That no evidence was presented of any provocation by the claimant for the shooting of him in his shop.

4. That Mr. Aaron Harris of 8223 South Jeffrey, discovered the body and notified the Chicago Police who transported the victim to Loretto Hospital, 645 South Central, Chicago. The victim was transferred to Presbyterian Saint Lukes Hospital, 1753 West Congress, on June 25, 1974, and to Marionjoy Rehabilitation Hospital in Wheaton on July 26, 1974. A further and more detailed summary of the facts and information considered

by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the assailant, fled in an unknown direction and has not been identified.

6. That the victim and his assailant were not related nor sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their request for assistance.

8. That the claimant seeks compensation under the Act for medical expenses, loss of earnings and loss of future earnings.

9. That investigation by the Attorney General's Office revealed that claimant is paralyzed from the waist down. That this is a permanent disability which will keep claimant from working for the remainder of his life.

10. That at the time of Frank Beato's injury, he was 56 years old and has a life expectancy to age 76 according to actuarial tables. Therefore, we must conclude that the claimant has lost his earnings and future earnings for the remainder of his normal life expectancy, computed to be 20 years.

11. That the claimant's average monthly earnings for the 6 months immediately preceding his injury were $369.17. This is to be considered as the basis for determining loss of earnings, pursuant to the following provision in Sec. 4 of the Act:

"Loss of earnings, loss of future earnings and loss *of* support shall be determined on the basis of the victim's average monthly earnings for the **6** months immediately preceding the date of the injury or on **$500** per month, whichever is less."

12. That, based on the claimant's normal life expectancy of 20 years, and taking $369.17 per month as his average earnings, the loss of earnings and future earnings is computed to be $88,600, an amount far in excess of the $10,000 maximum amount that can be awarded as compensation under the Act for any loss resulting from a violent crime.

13. That, in addition to loss of earnings, the claimant incurred medical and hospital expenses which were partially covered by insurance benefits, and the gross amount of the pecuniary loss as computed before deductions and setoffs is as follows:

1)	Loss **of** earnings and future earnings	$ **88,600.00**
2)	Hospital	$ **24,775.01**
3)	Medical	$ **2,907.53**
		$116,282.54

14. That, in determining the amount of compensation to which an applicant is entitled, Sec. 7 (d) of the Act states that this Court—

"(d) shall deduct **$200** plus the amount of benefits, payments or awards, payable under the 'Workman's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefits of the applicant . . .)".

15. That, in the claim before us, the benefits received by the claimant and anticipated benefits, as contemplated by Sec. 7 (d) of the Act, were shown to be in the total sum of $23,884.24. This amount, plus the statutory deduction of $200, having been deducted from the gross amount of loss shown in Par. 13, leaves an amount of $92,198.30 as the actual loss sustained by the claimant.

Hence, the claimant is entitled to an award in the maximum amount payable under the Act, $10,000.

IT IS HEREBY ORDERED that the sum of $10,000.00, be awarded Frank Beato, as an innocent victim of a violent crime.

IT IS FURTHER ORDERED that the sum of $999.99 (NINE HUNDRED NINETY NINE DOLLARS AND NINETY NINE CENTS) be paid immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $9,000.01 be referred forthwith to the General Assembly for its approval.

(No. 75-CV-11—Claimant awarded $391.55.)

LAWRENCE A. HAUPT, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Oprnion filed January 31, 1975.

LAWRENCE A. HAUPT, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on April 15, 1974, at 810 South Kilbourn, in Chicago. Lawrence A. Haupt, seeks payment of compensation pursuant to the provisions of the "Crime Victims

Compensation Act", *Ill. Rev. Stat., 1973, Ch. 70, Sec. 71, et seq.* (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Lawrence A. Haupt, age 35, was a victim of a violent crime, as defined in Sec. 2 (c) of the Act, to wit:

"Aggravated Battery", *(Ill. Rev. Stat., 1973, ch. 38, sec. 12-4).*

2. That on April 15, 1974, the claimant entered an alley behind 810 South Kilbourn, where, without warning, he was struck on the head from behind. The claimant, who was knocked unconscious, fell forward striking his face on the pavement.

3. That the claimant was found by one Gil Ashford, who helped the claimant to a nearby residence and called the police. A further and more detailed summary of the facts and information considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

4. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon him.

5. That the criminal offense was promptly reported to law enforcement officials. That claimant has fully

cooperated with their requests for assistance, but has not been able to make an identification of his assailants.

6. That the victim and his assailants, were not related nor sharing the same household.

7. That the claimant was hospitalized at Loretto Hospital from April 15, **1974,** to April 18, **1974,** where he was treated for multiple lacerations of the face and head, a sprained neck and a cerebral concussion.

8. That the claimant was unable to work as the result of his injury from April **15, 1974,** until April **19, 1974,** a total of **4** working days. That based upon the claimant's average net earnings for the six months immediately preceding his injury, his net earnings per day **were** $20.45.

That the court shall determine loss of earnings based on victim's average monthly earnings of **$500** per month, whichever is less. That claimant's net earning loss is $81.80.

9. That the claimant has incurred medical, hospital expenses, and loss of earnings as follows:

1)	**Hospital**	**$464.75**
2)	**Doctor**	**45.00**
3)	**Loss of Earnings**	**81.80**
		$591.55

10. That the claimant has received no benefits or reimbursements, directly or indirectly, from any other source, nor is he entitled to any such benefits from any other source as the result of his injuries.

11. That in determining the amount of compensation to which the applicant is entitled, sec. 7(d) of the Act states that this **Court—**

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the "Workman's Compensation Act,' or from local governmental, State or Federal funds or from any other source . . ."

That after the statutory deduction of $200.00, the amount of compensation to which the claimant is entitled is $391.55.

IT IS HEREBY ORDERED that the sum of $391.55 (THREE HUNDRED NINETY-ONE DOLLARS AND FIFTY-FIVE CENTS) be awarded Lawrence A. Haupt, as an innocent victim of a violent crime.

(No. 75-CV-17—Claimant awarded $2,422.80.)

DOROTHY SERRITELLA, on behalf of RUSSEL P. SERRITELLA, Deceased, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed January 31, 1975.

DOROTHY SERRITELLA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where **person** is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within **2** years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on October 31, 1973, at 29th Avenue and St. Charles Road, Bellwood, Cook County, Illinois. Dorothy Serritella, mother of the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act", Ill. ***Rev.*** Stat., ***1973, Ch. 70 Sec. 71, et seq.*** (hereafter referred to as *"the Act'?.*

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant's deceased son, Russell P. Serritella, age 25, was a victim of a violent crime, as defined in Sec. 2(c) of the Act, to wit: "Murder", (*Ill. Rev.*

"Murder", *(Ill.* ***Reu.*** *Stat.,* ***1973, Ch. 38,*** *Sec. 9-1).*

2. That on April **4,1974,** claimant's son was shot by unknown assailants after leaving Mock Fun Casino at Mannheim Road and North Avenue, in Stone Park. Prior to the shooting, Russell P. Serritella had been driving home after an evening of drinking at several taverns.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the decedent for the attack upon him.

4. That the victim died on October **31, 1974,** as a result of the wound he received in the shooting of October **31, 1974.** A further and more detailed summary of the facts and information considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the assailants have not been identified.

6. That there is no evidence that the victim and his assailants were related or sharing the same household.

7. That the criminal offense was promptly reported

to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. That the victim at the time of his death was unemployed and not contributing to the support of the claimant.

9. That the claimant incurred medical, hospital and funeral expenses for the victim which were partially covered by insurance benefits, and the gross amount of the pecuniary loss as computed before deductions and setoffs is as follows:

1)	**Hospital**	**$ 129.00**
2)	**Funeral and Burial**	**$2,893.80**
		$3,022.80

10. That, in determining the amount of compensation to which an applicant is entitled, Sec. 7 (d) **of** the Act states that this court—

"(d) **shall deduct $200 plus the amount of benefits, payments or awards, payable under the Workman's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars** of **life insurance that would inure to the benefit of the applicant** . . .)".

11. That, in the claim before us, the benefits received by the claimant, as contemplated by Sec. 7 (d) of the Act, were shown to be in the total sum of $400. This amount, plus the statutory deduction of $200 having been deducted from the gross amount of loss shown in Par. **9,** leaves an amount of $2,422.80 as the actual compensable loss sustained by the claimant. Hence, the claimant is entitled to an award payable under the Act of $2,422.80.

It Is Hereby Ordered that the total sum of $2,422.80 be awarded to the claimant, Dorothy Serritella, as a relative who assumed the funeral expenses for

Russell P. Serritella, the deceased victim of a violent crime.

IT IS FURTHER ORDERED that the sum of **$999.99** (NINE HUNDRED NINETY NINE DOLLARS AND NINETY NINE CENTS) be paid immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of **$1,422.81** be referred forthwith to the General Assembly for its approval.

(No. 75-CV-102—Claimant awarded $10,000.00.)

SONJA BUZAN, on behalf of WILLIAM P. BUZAN, Deceased, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed February 6, 1975.

SONJA BUZAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on January 5, **1974,** at Derby Tavern, Christian County, Taylorville, Illinois. Sonja Buzan, wife of the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act", Ill. Rev. Stat., **1973,** Ch. **70,** §**71,** et seq. (hereafter referred to as "the Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the court, the court finds:

1. That the claimant's deceased husband, William P. Buzan, age **35,** was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Murder", (*Ill. Rev. Stat., 1973, ch. 38, §9-1*).

2. That on January **5, 1974,** claimant's husband was shot to death by Jack Stevens at Derby Tavern in Taylorville. Prior to the beating, William Buzan had been sitting peaceably at the Derby Tavern, drinking.

3. The police investigation, after the crime was committed, presents no evidence of any provocation by the decedent for the attack upon him by Jack Stevens on the night of January **5, 1974,** at the Derby Tavern.

4. That the victim died on January **5, 1974,** as a result of the injuries he received in the shooting of that night. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That Jack Stevens was indicted in Christian County on charges of murder and subsequently tried and found guilty in said county and sentenced to a period of 50 to 90 years in the State of Illinois correctional institutions.

6. That the victim and his assailants were not related nor sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. That the claimant seeks compensation under the Act for loss of support to herself and her daughter, Susan Jane Buzan, age 10.

9. That at the time of William P. Buzan's death, he was 35 years old and had a life expectancy to age 76 according to actuarial tables. Therefore, we must conclude that the decedent's family has lost his financial support for the remainder of his normal life expectancy, computed to be 41 years.

10. That the victim's average monthly earnings for the 6 months immediately preceding his death were $800, but earnings of only $500 per month can be considered as the basis for determining loss of support, pursuant to the following provision in §4 of the Act:

> ". . . loss of support shall be determined on the basis of the victim's average monthly earnings for the 6 months immediately preceding the date of the injury or on $500 per month, whichever is less."

11. That, based on the victim's normal life expectancy of 41 years, and taking $500 per month as his average earnings, the loss of support to this family is computed to be an amount far in excess of the $10,000 maximum amount that can be awarded as compensation under the Act for any loss resulting from a violent crime.

12. That, in addition to loss of support, the claimant incurred funeral expenses for the victim which were partially covered by insurance benefits, and the gross amount of the pecuniary loss as computed before deductions and setoffs is as follows:

Funeral Expenses $1,855.48

13. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this court—

"(d) **shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workman's Compensation Act,' or from local governmental, State or Federal funds or from any other source, [except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .]**".

We interpret the above provision to mean that the benefits received by the victim's family as a result of his death, and deduction of $200, shall be deducted from the total loss sustained and not from the $10,000 maximum amount payable under the **Act.** On this point we are adopting a recent opinion of the Massachusetts Supreme Court on the same point arising under the provisions of an Act identical to ours in all material respects: ***Gurley*** v. ***Commonwealth*** (1973), 296 N.E. 2d 477.

14. That, in the claim before us, the benefits received by the claimant, as contemplated by §7(d) of the Act, were shown to be in the total sum of **$1,855.48.** This amount, plus the statutory deduction of $200, having been deducted from the gross amount of loss as calculated in ¶11 and 12, leaves the amount of the actual loss sustained by the claimant and her child far in excess of the $10,000 maximum amount that can be awarded under the Act for any loss resulting from **a** violent crime. Hence, the claimant and her child are entitled to an award in the maximum amount payable under the Act, $10,000.

The Court takes notice of the fact of the minor child of the deceased victim, who is named in ¶8 of this opinion, was also dependent on William Buzan as was his surviving spouse, Sonja Buzan, the claimant, and the mother of decedent's said minor child.

Under these circumstances the court is required to interpret and comply with the following language of the Act found in §8(b):

"(b) If the Court of Claims finds, in the case of an application made by a person dependent for [her] support on a deceased victim, that persons other than the applicant were also dependent on that victim for their support, it [the Court] shall also (1) name those persons in its order; (2) state the percentage share of the total compensation award and the dollar amount to which each is entitled, and (3) order that those amounts to be paid to those persons directly or, in the case of a minor or incompetent, to his [her] guardian or conservator, as the case may be."

To comply strictly with the above legislative directive, it would seem appropriate and reasonable to order the distribution of the $10,000 award in accordance with the rule of distribution stated in §11(1) of the Probate Act. This rule would allow one-third ($3,333.33) to the victim's surviving spouse, and the remaining two-thirds ($6,666.66) to the victim's minor child. This would create a separate estate in the amount of *$6,666.66* for Susan Buzan, age 10.

However, to make distribution in this manner, we believe would impose an undue hardship on the mother: If the $10,000 award were paid to her in a lump sum, she would be holding *$6,666.66* in trust for her minor child. Although she is guardian of her person, she would have no power to administer her estate nor use her funds unless she is duly appointed guardian of the minor's estate as provided by law. *Perry* v. *Carmichael,* (1880), 95 Ill. 519. After such appointment, she would be required to manage her child's funds frugally under the direction of the appointing Court and present periodic accounts of her guardianship to such Court. She would also be responsible for Court costs and any legal expenses required in filing her petition for appointment, oath, surety bond, and accounts.

To obviate necessity of the claimant being appointed.

guardian of her child's estate, and considering all other facts in this case, the Court believes that the best interest of the victim's family would be served by our ordering that this award be disbursed to the claimant in periodic monthly payments as authorized in §8(a) (4) of the Act. As the natural guardian of the minor child, the mother has a legal obligation to provide for her suitable support and education. In fulfilling this obligation, we believe she would necessarily be required to expend the proper amount from each monthly payment received hereunder for the care and nurture of her child as well as for her own necessities.

IT IS HEREBY ORDERED that the total sum of $10,000 be awarded to the claimant and her minor child, collectively, as persons who are dependent for their support on William Buzan, the deceased victim of a violent crime.

IT IS FURTHER ORDERED that the aforesaid award be paid to the claimant, Sonja Buzan, in twenty (20) equal monthly installments of $500 each. The Court directs that said monthly payments shall be made from the Court of Claims Fund insofar as it is legally possible to do so.

(No. 74-CV-2—Claimant awarded $913.68.)

CLARENCE AUSTIN, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed February 13, 1975.

CLARENCE AUSTIN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after

the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on December 8, **1973,** at **6954** South Yale Avenue, Cook County, Chicago, Illinois. Clarence Austin, victim of crime, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act", ***Ill. Rev. Stat., 1973, Ch. 70, Sec. 71, et. seq.*** (hereafter referred to as ***"the Act"***).

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence presented at a hearing held before the Commissioner on December **5, 1974,** the Court finds:

1. That the claimant, Clarence Austin, age 25, was a victim of a violent crime, as defined in Sec. 2(c) of the Act, to wit:

"Aggravated Battery", *(Ill. Reu. Stat., 1973, Ch. 38, Sec. 12-4).*

2. That on December 8, **1973,** claimant was accosted by three men as he was getting out of his car at **6954** South Yale in Chicago. One of the men took out a straight razor and slashed the victim on the face and fingers.

3. That there was no evidence presented that the injury to the claimant was attributable to his wrongful act or substantial provocation of his assailant.

4. That the victim transported himself to Wood-

lawn Hospital, 6060 South Drexel, Chicago, Illinois, where surgery was performed by Dr. Edlberto Nepomunceno. A further and more detailed summary of the facts and information considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the assailants, fled from the scene and have not been identified.

6. That the victim and his assailant were not related nor sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. That the claimant seeks compensation under the Act for medical expenses and loss of earnings.

9. That the claimant was unable to work from December 8, 1973, to February 12, 1974, a total of 2 1/5 months, or 67 days.

10. That the claimant's average monthly earnings for the 6 months immediately preceeding his injury were $650 or $21.35 per day and $1,430.68 for the 67 days. That claimant received compensation for his lost earnings in the amount of $600, and that his lost earnings as a result of his injury were therefore $830.68. This amount is less than $500 per month and is therefore compensable pursuant to the following provision in Sec. 4 of the Act:

"Loss of earnings, loss of future earnings and loss of support shall be determined on the basis of the victim's average monthly earnings for the 6 months immediately preceding the date of the injury or on $500 per month, whichever is less."

11. That, in addition to loss of earnings, the claimant incurred medical expenses which were partially covered by insurance benefits, and the gross amount of the pecuniary loss for these items as computed before deductions and setoffs is as follows:

1)	Hospital	**$1,527.95**
2)	Medical	$ 840.00
		$2,367.95

12. That, in determining the amount of compensation to which an applicant is entitled, Sec. 7 (d) of the Act states that this court—

"(d) shall deduct **$200** plus the amount of benefits, payments of awards, payable under the 'Workman's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first **($25,000)** Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)".

13. That, in the claim before us, the benefits received by the claimant from other sources which must be deducted from his loss, as contemplated by Sec. 7(d) of the Act, were shown to be in the total sum **of $2,084.95.** This amount, plus the statutory deduction of $200, having been deducted from the gross amount of loss as calculated in Par. 10 and 11 leaves a loss compensable under the act of **$913.68.** Hence, the claimant is entitled to an award in the amount of **$913.68,** *i.e.*,

Net loss of earnings	$ **830.68**
Net Hospital and Medical	**283.00**
	$1,113.68
Less **$200** deductible	**200.00**
Amount awarded	**$ 913.68**

IT IS HEREBY ORDERED that the total sum of **$913.68 (NINE HUNDRED THIRTEEN DOLLARS AND SIXTY EIGHT CENTS)** be awarded to the claimant, an innocent victim of a violent crime.

(No. 74-CV-29—Claimant awarded $10,000.00.)

ELNORA PRICE, on behalf of ELLIS PRICE, Deceased, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed February *13, 1975.*

IRVING DROBNY, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on November 16, 1973, at 2936 West Adams Street, Chicago. Elnora Price, widow of the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat., 1973, Ch. 70, Sec. 71, et seq.* (hereafter referred to as the *"Act").*

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the court finds:

1. That the claimant's deceased husband, Ellis Price, age 49, was a victim of a violent crime, as defined in Sec. 2(c) of the Act to wit:

"Murder", (Ill. *Rev.* Stat., *1973, Ch.* 38, *Sec. 9-1).*

2. That on November 16, 1973, at approximately 6:15 p.m., Ellis Price was returning to his home from a grocery store when he was accosted by two unidentified men at the entrance to an alley at 322 South Whipple, who attempted to rob him. There was a struggle and one of the men shot Price in the back of the head.

3. That there were two eye witnesses to the shooting: Michael Parker, age 13, of 318 South Whipple, and Michael D. White, age 14 of 323 South Albany.

4. That a third witness, Manyou Mickels of 330 South Whipple, heard a shot, looked out her window and saw the victim lying on the ground and two men running down the alley. That Ms. Mickels telephoned the Chicago Police Department immediately after the shooting. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That statements, taken by the police investigators shortly after the crime was committed present no evidence of provocation by the decedent for the attack upon him by his two assailants.

6. That the victim and his assailants were not related nor sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has cooperated fully with their requests for assistance.

8. That the victim was taken to Mt. Sinai Hospital where he was pronounced dead on arrival. That death was caused by a large caliber bullet entering the top of the head and shattering the brain.

9. That the claimant seeks compensation under the Act for loss of support to herself and her three children, Michael, age **17,** Terry, age 15, and Leewanda, age **13.**

10. That at the time of Ellis Price's death, he was **49** years old and had a life expectancy to age **73** according to actuarial tables. Therefore, we must conclude that the decedent's family lost his financial support for the remainder of his normal life expectancy, computed to be **24** years.

11. That the victim's average monthly earnings for the six months immediately preceding his death was **$965.59,** but earnings of only $500 per month can be considered as the basis for determining loss of support, pursuant to the following provision in Sec. **4** of the Act:

". . . loss **of support shall be determined on the basis** of **the victim's average monthly earnings for the 6 months immediately preceding the date of the injury or on $500 per month, whichever is less."**

12. That based on the victim's normal life expectancy of **24** years, and taking $500 per month as his average earnings, the loss of support to his family is computed to be **$144,000.**

13. That, in addition to loss of support, the claimant incurred funeral expenses in the amount of **$1,786.00.** That the gross amount of the pencuniary loss as computed before deductions and setoffs is as follows:

1) **Loss of Support**	$144,000.00
2) **Funeral**	$ 1,786.00
	$145,786.00

14. That, in determining the amount of compensation ***to*** which an applicant is entitled, Sec. 7(d) of the Act states that this court—

"(d) **shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workman'sCompensation Act', or from local governmental, State or Federal funds or from any other source, (except annuities, pension**

plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)"

We interpret the above provision to mean that the benefits received by the victim's family as a result of his death, and deduction of $200, shall be deducted from the total loss sustained and not from the $10,000 maximum amount payable under the Act. On this point we are adopting a recent opinion of the Massachusetts Supreme Court on the same point arising under the provisions of an Act identical to ours in all material respects: ***Gurley*** v. ***Commonwealth*** *(1973) 296* ***N.E.*** *2d 477.*

15. That, in the claim before us, the claimant has received life insurance benefits in the amount of $70,013.27. That pursuant to Sec. 7(d) of the **Act,** the first $25,000 of life insurance that inurs to the benefit of the applicant are exempt from the statutory deductions. Accordingly, **$45,013.27,** plus the statutory deduction of **$200,** having been deducted from the gross amount of loss as shown in Par. **13,** leaves an amount of **$100,572.73** as the actual loss sustained by the claimant and her children. Hence, the claimant and her children are entitled to an award in the maximum amount payable under the Act, $10,000.

The Court takes notice of the fact that the three minor children of the deceased victim, who are named in Par. **9** of this opinion, were also dependent on Ellis Price as was his surviving spouse, Elnora Price, the claimant and the mother of decedent's said three minor children.

Under these circumstances the Court is required to interpret and comply with the following language of the Act found in Sec. 8(b):

"(b) If the Court of Claims finds, in the case of an application made by a person dependent for (her) support on a deceased victim, that persons other

than the applicant were also dependent on that victim for their support, it (the Court) shall also (1) name those persons in its order; (2) state the percentage share of the total compensation award and the dollar amount to which each is entitled, and (3) order that those amounts be paid to those persons directly or, in the case of a minor or incompetent, to his (her) guardian or conservator, as the case may be."

To comply strictly with the above legislative directive, it would seem appropriate and reasonable to order the distribution of $10,000 award in accordance with the rule of distribution stated in sec. 11(1) *of the Probate Act.* This rule would allow one-third ($3,333.33) to the victim's surviving spouse, and the remaining two-thirds ($6,666.66) divided equally among the victim's three minor children. This would create three separate estates in the amount of $2,222.22 each for Michael, age 17, Terry, age 15, and Leewanda, age 13.

However, to make distribution in this matter, we believe would impose an undue hardship on the mother. If the $10,000 award were paid to her in a lump sum, she would be holding $6,666.66 in trust for her three minor children. Although she is guardian of their person, she would have no power to administer their estates nor use their funds unless she is duly appointed guardian of each minor's estate as provided by law. *Perry v. Carmichael (1880) 95 Ill. 519.* After such appointment she wuold be required to manage her children's funds frugally under the direction of the appointing Court and present periodic accounts of her guardianship to such court. She would also be responsible for Court costs and any legal expenses required in filing her petition for appointment, oath, surety bond, and accounts.

To obviate the necessity of the claimant being appointed guardian of her children's estates, and considering all other facts in this case, the Court believes that the best interest of the victim's family would be served by

our ordering that this award be disbursed to the claimant in periodic monthly payments as authorized in sec. 8(a)(4) of the Act. As the natural guardian of her three minor children, the mother has a legal obligation to provide for their suitable support and education. In fulfilling this obligation, we believe she would necessarily be required to expend the proper amount from each monthly payment received hereunder for the care and nurture of all three of her children as well as for her own necessities.

IT IS HEREBY ORDERED that the total sum of $10,000 be awarded to the claimant and her three minor children, collectively, as persons who were all dependent for their support on Ellis Price, the deceased victim of a violent crime.

IT IS FURTHER ORDERED that the aforesaid award be paid to the claimant, Elnora Price, in twenty (20) equal monthly installments of $500 each. The Court directs that said monthly payments shall be made from the Court of Claims Fund insofar as it is legally possible to do so.

(No. 74-CV-83—Claimant awarded $902.00.)

JUDITH DULIN, on behalf of JIMMY B. DULIN, Deceased, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed February 13, 1975.

JUDITH DULIN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same

household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on March **16, 1974,** at **7933** South Parnell, Chicago. Judith Dulin, wife of the victim, seeks payment of compensation pursuant to the "Crime Victims Compensation Act," ***Ill. Rev. Stat., 1973, Ch. 70, Sec. 71 et seq.*** (hereafter referred to as "the Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant's deceased husband, Jimmy B. Dulin, was a victim of a violent crime, as defined in Sec. 2(c) of the Act, to wit:

"Murder", ***Ill. Rev. Stat., 1973, Ch. 38, Sec. 9-1.***

2. That on the morning of March **16, 1974,** the body of Jimmy B. Dulin was found in the basement of **7933** South Parnell, Chicago. The body had been stabbed ***55*** times.

3. That Wilbur Hilliard of **7933** South Parnell called the police to report that a dead man was in the basement. That when the police arrived, it was determined that the victim had been dead for several hours.

4. That subsequent police investigation revealed that the victim had been drinking the night before; that he met Wilbur Hilliard who invited him to spend the

night at his home; that the victim accompanied Hilliard to his home; that during the early morning hours, Hilliard went into the basement and stabbed the victim to death with a kitchen knife; that Hilliard then attempted to dispose of the knife by throwing it on the roof top of a neighboring house.

5. That statements, taken by police investigators shortly after the crime was committed, present no evidence of any provocation by the decedent for the attack upon him by his assailant. A further and more detailed summary of the facts and information considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

6. That in a jury trial held the week of January 27, 1975, before Judge Romiti in the Circuit Court of Cook County, Wilbur Hilliard was found guilty of the murder of Jimmy B. Dulin.

7. That the victim and his assailant were not related nor sharing the same household.

8. That the criminal offense was reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

9. That the victim had been unemployed for two years preceding his death.

10. That loss of support is determined pursuant to the following provision in Sec. 4 of the Act:

"Loss of earnings, loss of future earnings and loss of support shall be determined on the basis of the victim's average monthly earnings for 6 months immediately preceding the date of the injury or on $500 per month, whichever is less."

11. That the court must follow the statutory language when determining the dependent's loss of support. That as the victim had not been supporting his family for the six month period immediately preceding his death, this Court can not make an award for loss of support.

12. That the claimant has incurred funeral expenses for the victim in the amount of $1,102.00.

13. That, in determining the amount of compensation to which an applicant is entitled, Sec. 7(d) of the Act states that this court

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workman's Compensation Act,' or from local governmental, State or Federal funds or from any other sources, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)"

14. That the claimant or her family has not received nor will be entitled to receive any benefits from any other sources as the result of the victim's death.

15. That the claimant has incurred $1,102.00 of expenses from which $200 must be deducted pursuant to Sec. 7(d) of the Act.

IT IS HEREBY ORDERED that the total sum of $902.00 (NINE HUNDRED AND TWO DOLLARS) be awarded to Judith Dulin, as widow of Jimmy B. Dulin, an innocent victim of a violent crime.

(No. 75-CV-21—Claimant awarded $1,618.13.)

JEROME E. ZARING, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed February 13, 1975.

JEROME E. ZARING, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; LEONARD CAHNMANN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on January 31, 1974, at 624 West Division Street, Cook County, Chicago, Illinois. Jerome Zaring, victim of crime, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act", *Ill. Rev. Stat., 1973, Ch. 70, Sec. 71, et seq.* (Hereafter referred to as "*the Act*").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Jerome Zaring, age 40, was a victim of a violent crime, as defined in Sec. 2(c) of the Act, to wit:

"Aggravated Battery", (Ill. Rev. Stat., *1973,* Ch. *38, Sec. 12-4).*

2. That on June 7, 1974, claimant was struck over the left eye with a baseball bat while decending the stairs from the 12th floor of the Cabrini Green Housing Project at 624 West Division Street. Prior to the battery

Jerome Zaring was making a sales call in apartment 1209.

3. That no evidence was presented that claimant's injury was attributable to either his wrongful act or substantial provocation on his part.

4. That the victim notified the Chicago Police Department who transported the victim to Henrotin Hospital, 111 West Oak Street, Chicago, where he was treated in the emergency room and transferred to Northwestern Memorial Hospital, Superior and Fairbanks Street, Chicago, where he was treated for a skull fracture and deep lacerations. A further and more detailed summary of the facts and information considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the victim and his assailant were not related nor sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance. However, the assailant has not been identified and the police have suspended their investigation.

7. That the claimant seeks compensation under the Act for medical expenses and loss of earnings.

8. That the claimant was in the hospital from January 31, 1974, to February 6, 1974, and that he did not return to work for two weeks after he came home from the hospital. That this was a reasonable amount of time for recovery from the type of injury that the claimant suffered.

9. That the claimant's average monthly earnings for the 6 months immediately preceding his injury were $566, but earnings of only $500 per month can be considered as the basis for determining loss of support, pursuant to the following provision in Sec. **4** of the Act:

"Loss of earnings, loss of future earnings and loss of support shall be determined on the basis of the victim's average monthly earnings for the 6 months immediately preceding the date of the injury or on $500 per month, whichever is less."

10. That based on a period of three weeks lost time, and taking $500 per month as his average earnings his loss of earnings is computed to be $375.

11. That in addition to loss of earnings, the claimant incurred medical and hospital expenses which were not covered by insurance benefits, the amount of pecuniary loss for these items is as follows:

1)	Hospital	**$1,308.13**
2)	Medical	$ **135.00**
		$1,443.13

12. That in determining the amount of compensation to which an applicant is entitled, Sec. 7(d) of the Act states that this Court—

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workman's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant. . .)"

13. That in this claim before us the claimant has not received any benefits from other sources. The statutory deduction of $200 having been deducted from the gross amount of loss as calculated in Paragraphs **10** and **11** leaves a loss compensable under the Act of **$1,618.13.** Hence, the claimant is entitled to an award in the amount of **$1,618.13.**

IT IS HEREBY ORDERED that the total sum of $1,618.13 be awarded to the claimant as an innocent victim of a violent crime.

IT IS FURTHER ORDERED that the sum of $999.99 (NINE HUNDRED AND NINETY NINE DOLLARS and NINETY NINE CENTS) be paid immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $618.04 be referred forthwith the General Assembly for its approval.

The Court adds this parenthetical note for imformational purposes. The claimant has informed the Court that he is contemplating having plastic surgery to remove scars on his face that resulted from his injury. Without further evidence that this is an appropriate medical expense pursuant to Sec. 4 of the Act, the court can make no determination as to this issue. The claimant may, however, seek modification of this award at a future date pursuant to Sec. 9 of the Act.

(No. 75-CV-83—Claimant awarded $5,255.50.)

KENNETH J. WEINBERGER, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed February 13, 1975.

KENNETH J. WEINBERGER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed

in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on June 15, 1974, at 4348 Cullom, Cook County, Chicago, Illinois. Kenneth J. Weinberger, a victim of a violent crime, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat., 1973, Ch. 70 Sec. 71, et seq.* (hereafter referred to as "*the Act*").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Kenneth J. Weinberger, age 25, was a victim of a violent crime, as defined in Sec. 2(c) of the Act, to wit:

"Aggravated Battery," *(Ill. Rev. Stat., 1973, Ch 38, Sec. 12-4).*

2. That on June 15, 1974, claimant was shot by unidentified assailants upon entering the scene of a burglary in process at the home of his girl friend. This same criminal action resulted in injuries to other victims which are not discussed in the subject claim.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the victim for the attack upon him by the unidentified burglars.

4. That the victim was hospitalized from June 15 to June 26, 1974, as a result of the injuries he received in

the shooting of June 15, **1974.** A further and more detailed summary of the facts and information considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That there is no evidence that the victim and his assailants were related or sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

7. That the claimant was unemployed at the time of his injury and can not show any loss of earnings for the period of his disability.

8. That the claimant incurred medical and hospital expenses which were not covered by insurance benefits, and the gross amount of the pecuniary loss for these items is as follows:

1)	**Hospital**	**$4,295.50**
2)	**Medical..**	**$1,160.00**
		$5,455.50

9. That there is no evidence that claimant has received any compensation from, local, state or federal funds, insurance of any kind, or from any other source.

10. Pursuant to Sec. 7(d) of the Act, the court must deduct the first **$200** of expenses.

11. That the proof submitted in support of this claim satisfies all the requirements of this Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the total sum of

$5,255.50 be awarded to claimant, an innocent victim of a violent crime.

IT IS FURTHER ORDERED that the sum of $999.99 (NINE HUNDRED AND NINETY NINE DOLLARS AND NINETY NINE CENTS) be paid immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $4,255.51 be referred forthwith to the General Assembly for its approval.

(No. 74-CV-71—Claimant awarded $10,000.00.)

JOAN M. PRICE, on behalf of RICHARD J. PRICE, Deceased, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed February 20, 1975.

JOAN M. PRICE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on November 29, 1973, at 3158 N. Clark, Cook County, Chicago, Illinois. Joan M. Price, wife of the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat., 1973, Ch. 70, Sec. 71, et seq.* (hereafter referred to as "*the Act*").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant's deceased husband, Richard J. Price, age 40, was a victim of a violent crime, as defined in Sec. 2(c) of the Act, to wit:

"Murder", (*Ill.Rev.Stat., 1973, Ch. 38, Sec. 9-1*).

2. That on November 29,1973, claimant's husband was shot in the head during a robbery of Stahl's Auto Supply, 3158 N. Clark Street, Chicago, Illinois, where he was employed as store manager.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the decedent for the attack upon him.

4. That the victim died on December 5, 1973, as result of the injuries he received in the shooting of November 29, 1973. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the assailants, Sylvester Buckner and Charles Taylor, were indicted in Cook County on charges of murder.

6. That the victim and his assailants were not related nor sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully *co*-operated with their requests for assistance.

8. That the claimant seeks compensation under the Act for loss of support to herself and one child, Joan Marie Price, age **16.**

9. That at the time of Richard Price's death, he was **40** years old and had a life expectancy **to** age **73** according to actuarial tables. Therefore, we must conclude that the decedent's family lost his financial support for the remainder of his normal life expectancy, computed to be **33** years.

10. That the victim's average monthly earnings for the **6** months immediately preceding his death were **$676.08,** but earnings of only $500,per month'can be considered as the basis for determining loss of support, pursuant to the following provision in Sec. **4** of the Act:

". . . loss of support shall be determined on the basis of the victim's average monthly earnings for the 6 months immediately preceding the date of the injury or on $500 per month, whichever is less."

11. That, based on the victim's normal life expectancy of **33** years, and taking $500 per month as his average earnings, the loss of support to his family is computed to be an amount far in excess of'the **$10,000** maximum amount that can be awarded as compensation under the Act for any loss resulting from a violent crime.

12. That in addition to loss of support, the claimant incurred funeral expenses for the victim which were not covered by insurance benefits, and the gross amount of the pecuniary loss for these items is as follows:

Funeral **$755.00**

13. That, in determining the amount of compensa-

tion to which an applicant is entitled, Sec. 7(d) of the Act states that this court—

"shall deduct $200. . ."

We interpret this provision to mean that the deduction of $200, shall be deducted from the total loss sustained and not from the $10,000 maximum amount payable under the Act.

14. That the statutory deduction of $200, having been deducted from the gross amount of loss as calculated in Secs. 11 and 12, leaves the amount of the actual loss sustained by the claimant and her child far in excess of the $10,000 maximum amount that can be awarded under the Act for any loss resulting from a violent crime. Hence, the claimant and her child are entitled to an award in the maximum amount payable under the Act, $10,000.

The Court takes notice of the fact that the child of the deceased victim, who is named in Sec. 8 of this opinion, was also dependent on Richard Price as was his surviving spouse, Joan M. Price, the claimant, and the mother of decedent's said minor child, who is under age 18.

Under these circumstances the Court is required to interpret and comply with the following language of the Act found in Sec. 8(b):

"(b) If the Court of Claims finds, in the case of an application made by a person dependent for (her) support on a deceased victim, that persons other than the applicant were also dependent on that victim for their support, it (the Court) shall also (1) name those persons in its order; (2) state the percentage share of the total compensation award and the dollar amount to which each is entitled, and (3) order that those amounts be paid to those persons directly or, in the case of a minor or incompetent, to his (her) guardian or conservator, as the case may be."

To comply strictly with the above legislative directive, it would seem appropriate and reasonable to order

the distribution of the $10,000 award in accordance with the rule of distribution stated in *Sec. 11(1) of the Probate Act.* This rule would allow one-third ($3,333.33) to the victim's surviving spouse, and the remaining two-thirds ($6,666.66) to the victim's minor child.

However, to make distribution in this manner, we believe would impose an undue hardship on the mother. If the $10,000 award were paid to her in a lump sum, she would be holding **$6,666.66** in trust for her minor child. Although she is guardian of her person, she would have no power to administer her estate, nor use its funds unless she is duly appointed guardian of the minor's estate as provided by law. *Perry* v. *Carmichael* (1880) *95 Ill.519.* After such appointment she would be required to manage her child's funds frugally under the direction of the appointing Court and present periodic accounts of her guardianship to such Court. She would also be responsible for Court costs and any legal expenses required in filing her petition for appointment, oath, surety bond, and accounts.

To obviate the necessity of the claimant being appointed guardian of her child's estate, and considering all other facts in this case, the Court believes that the best interest of the victim's family would be served by our ordering that this award be disbursed to the claimant in periodic monthly payments as authorized in Sec. 8(a)(4) of the Act. As the natural guardian of her minor child, the mother has a legal obligation to provide for her suitable support and education. In fulfilling this obligation, we believe she would necessarily be required to expend the proper amount from each monthly payment received hereunder for the care and nurture of her daughter as well as for her own necessities.

IT IS HEREBY ORDERED that the total sum of $10,000

be awarded to the claimant and her minor child, collectively, as persons who were dependent for their support on Richard J. Price, the deceased victim of a violent crime.

IT IS FURTHER ORDERED that the aforesaid award be paid to the claimant, Joan M. Price, in twenty (20) equal monthly installments of $500 each. The Court directs that said monthly payments shall be made from the Court of Claims Fund insofar as it is legally possible to do so.

(No. 75-CV-53—Claimant awarded $759.38.)

RODNEY K. PETERSON, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed *March 13, 1975.*

RODNEY K. PETERSON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal aggravated assault on March 13, 1974, in Farmer City, Illinois. Rodney K. Peterson seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, Ill. Rev. Stat., 1973, Ch. 70, Par. 71, et seq. (hereafter referred to as the "Act").

This Court has carefully considered the application

for benefits submitted on the form prescribed and furnished' by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the 'Court finds as follows:

1. That the claimant was a victim of a violent crime covered under the Act to wit:

"Battery", Illinois Revised Statutes, 1973, Ch. 38, Par. 12-3.

2. A detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter and the facts as reported herein are incorporated in this opinion by reference.

3. That said crime occurred at 12:15 p.m. on Water Street, Farmer City, Illinois, at which time claimant was severely beaten. Claimant suffered a severe break of the left ankle and other severe contusions.

4. That said crime was promptly reported to the Farmer City Police Department and that claimant at all times has cooperated with law enforcement officials.

5. That the alleged assailant, Wayne Freeman, has pled guilty to one count of battery before the DeWitt County Circuit Court.

6. Claimant, as indicated by the report of the Attorney General, did not provoke the incident.

7. Claimant is not related to or a member of the same household of the assailant.

8. Claimant has suffered pecuniary loss in excess of $200 compensible by section 74 of the Act, to wit:

Hospital and Doctor $2,109.98

9. Claimant has received **$1,908.60** in hospital and medical insurance as a result of this injury which shall be considered a set-off to this award.

10. Claimant was unable to work for a period from March **13, 1974,** to May **20, 1974.** Claimant's average gross monthly income for the six months prior to this incident was $625.

11. Claimant's lost income for the 68-day period he was unable to work computed on the basis of $625 per month was **$1,486.** Claimant received disability benefits in the amount of $728, leaving a net loss of income of $758.

12. Pursuant to Ill. Rev. Stat., **1973,** Ch. **70,** Par. **71,** this Court must deduct the first $200 of pecuniary loss.

13. That the proof submitted in support of this claim satisfies all of the requirements of this Act and the claim is, therefore, compensible thereunder.

IT IS, HEREBY ORDERED that the sum of **$759.38 (SEVEN HUNDRED FIFTY NINE DOLLARS AND THIRTY EIGHT CENTS)** be awarded Rodney K. Peterson as a victim of a violent crime.

(No. 75-CV-27—Claimant awarded $3,930.00.)

GARY WHEATON, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed March 14, 1975.

GARY WHEATON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **HOWARD W. FELDMAN,** Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal aggravated assault and battery on January 21, 1974, at approximately 2:24 a.m., on 5th Street in Madison, Illinois. Gary Wheaton seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, Ill. Rev. Stat., 1973, Ch. 70, Par. 71, et seq. (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime covered under the Act to wit:

"Aggravated Assault, Illinois Revised Statutes, 1973, Ch. 38, Par. 12-2."

2. A detailed summary of the facts and information considered by the Court is contained in an Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter and the facts as reported herein are incorporated in this opinion by reference.

3. That said crime occurred at 2:24 a.m. at 5th Street, Madison, Illinois, at which time claimant was severely injured by two gunshot wounds fired by Tom

4. That said crime was reported to Madison City Police Department promptly and claimant at all times has cooperated with law enforcement officials.

5. That the alleged assailant, Tom Dalton, has been indicted for aggravated assault, aggravated battery and attempted murder by a Madison County Grand Jury.

6. Claimant, as indicated by the report of the Attorney General, did not provoke the incident.

7. Claimant is not a relative of or a member of the same household of the assailant.

8. Claimant has suffered damages in excess of $200 compensible by section 74 of the Act, to wit:

St. Elizabeth Hospital	$3,330.60
Lag Surgical Clinic	650.00
Doctor	150.00
	$4,130.60

9. Claimant has not received nor is he entitled to any sums of money as a result of this injury which would be considered a set-off to any award.

10. Pursuant to Ill. Rev. Stat., 1973, Ch. 70, Par. 71, this Court must deduct the first $200 in expenses.

11. That the proof submitted in support of this claim satisfies all of the requirements of this Act and the claim is, therefore, compensible thereunder.

IT IS HEREBY ORDERED that the sum of $3,930.00 be awarded Gary W. Wheaton as a victim of a violent crime.

(No. 74-CV-5—Claimant awarded $3,975.23.)

FRED W. ROEDER, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed March 17, 1975

FRED W. ROEDER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; JEROME FELSENTHAL, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal battery on February 15, 1974, at 10:00 p.m. at 3403 N. Marshfield, Chicago, Illinois. Fred W. Roeder, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act" (thereafter referred to as the "Act"), *Ill. Rev. Stat., 1973 Chap. 70 Sec. 71 est. seq.*

This Court has carefully considered the application. for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime covered under the Act to wit:

"Aggravated Battery", Ill. *Rev.* Stat., *1973 Ch. 38, Sec. 12-4.*

2. That the claimant has suffered pecuniary loss in excess of $200 compensable by Sec. 4 of the Act to wit:

A.	Hospital Expenses	$10,057.15
B.	Nurses	164.00
C.	Doctor Expenses	1,378.00
	Total Medical Expenses	$11,599.15

D. That claimant was unable to work from **2-16-74** to **6-17-74** as a result of his injuries. That he sustained an actual net loss in wages in the amount of $4,440.00 for this period.	**$4,440.00**
less insurance reimbursement	–800.00
Net Wage **Loss**	**$3,640.00**
Net allowable wage loss **$500** month	**2,000.00**
Total Expenses and **Loss** Wages	**13,599.15**
E. That direct benefits have been paid to the hospital and doctors and nurses by Continental Assurance Company Certificate No. **L-10637-D4** in the amount of **$9,423.92** and no other insurance compensation has been received or is claimant entitled to.	
Less insurance benefits	**–9,423.92**
Total unreimbursed expenses	**4,175.23**
Less **$200** deductible pursuant to Sec. 7 (d)	–200.00
Total	$3,975.23

3. That the appropriate law enforcement officials, The Chicago Police Department were notified of the perpetration of the crime allegedly causing the injury to the victim as soon after its perpetration as was reasonably practicable under the circumstances.

4. That claimant has cooperated fully with law enforcement officials. That, James Matin, the assailant has been identified, apprehended and pleaded guilty to aggravated battery.

5. That the victim and his assailant were not related and sharing the same household.

6. That there was no evidence presented that the injury to the claimant was attributable to his wrongful act or substantial provocation of his assailant.

7. That a Notice of Intent to File a Claim was duly filed as required by the Act on **3-11-74.** That claimant's application, subrogation, and authorization for records and reports were timely filed with the Court.

8. That, briefly summarized, the facts are: On February 15,1974, at about 10:00 p.m., Fred Roeder, age 45, of 3403 North Marshfield, Chicago, was at his home when he heard loud yelling out on the street. He went; outside to investigate and to make sure his son was not involved. He walked about a block and returned to the entrance of his home. Then he heard a noise "like a firecracker" and turned to see who was there. Roeder saw a man with a sawed off shotgun standing in a "gangway" pointing the weapon at him. At this point, the offender shot the victim in the stomach.

Subsequent investigation by the Chicago Police Department identified the offender as one James Michael Martin who confessed to the crime.

A more detailed summary of the facts and information considered by the Court is contained in an Investigative Report prepared by the Attorney General. A copy of said report remains in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

9. That at the conclusion of a hearing held before Commissioner Fisher on December 5, 1974, it was determined that the proof submitted in support of this claim satisfied all the requirements of the Act.

10. That this claim is, therefore, compensable under the Act.

11. That the amount of compensation due the claimant is $3,975.23 as determined by Sec. 4 and 7(d) of the Act.

IT IS HEREBY ORDERED that the sum of $3,975.23 (THREE THOUSAND NINE HUNDRED SEVENTY-FIVE AND 23/100THS DOLLARS) be awarded Fred W. Roeder as an innocent victim of a violent crime.

IT IS FURTHER ORDERED that the sum of $999.99 (NINE HUNDRED NINETY-NINE AND 99/100THS DOLLARS) be paid to the claimant immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $2,975.24 be referred forthwith to the General Assembly for its approval.

Claimant.

WILLIAM J. SCOTT, Attorney General; JEROME FELSENTHAL, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of criminal act of murder of Joseph J. Zappia on December 20, 1973, at 3149 West Chicago Avenue, Chicago, Illinois. Rosolino Zappia age 81, father of decedent, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act" (thereafter referred to as the "Act"), Ill. Rev. Stat., 1973, Ch. 70, Sec. 71 et. seq.

After hearings held before Commissioner J. Barry Fisher, on 12-5-74 and 1-29-75, this Court has carefully

considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matter set forth in the application. Based upon the documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant's decedent was a victim of a violent crime covered under Ill. Rev. Stat., 1973, Ch. 70, Sec. 72, to wit:

"Murder" *Ill. Rev. Stat., 1973, Ch. 38, Sec. 91.*

2. That said crime occurred at approximately on December 20, 1973, at 3149 West Chicago Avenue, Chicago, Illinois, at which time claimant's decedent suffered a fatal gunshot wound.

3. That said crime was reported promptly to the Chicago Police Department and claimant has cooperated fully with law enforcement officials. That the assailant or assailants have not been identified and that the investigation is ongoing by the Chicago Police.

4. That there was no evidence that claimant was a relative or member of the same household of the assailant.

5. That there was no evidence presented that the injury to the decedent was attributable to his wrongful act or substantial provocation of his assailant.

6. That claimant has incurred expenses in excess of $200 compensable by Sec. 74 of the Act, to wit:

A. Funeral Expenses—Rag0 Bros.	**$1,133.50**
Total Expenses	**51,133.50**

7. That there is no evidence that claimant has received or is entitled to any compensation from Workman's Compensation, local, state or

Federal funds or insurance of any kind. **($255.00** already deducted from funeral bill.)

8. Pursuant to Par. **77** (d) of the Act, the Court must deduct the first **$200** of expenses.

200.00

$ 933.50

9. That a timely Notice was filed **4-16-74.** That claimant's timely application, subrogation and authorization for records were filed with the clerk on **6-7-74.**

10. Claimant has made a claim for loss of earnings. The claimant was **81** years old and lived with his decedent son who was 50 years old in a building owned by the claimant which also had a tenant.

The claimant's pension **$282.00** a month, was intermingled with the decedent's earnings. Claimant's exhibit #4 show the following gross earnings for the decedent. **1972—$3,326.44, 1973—$3,022.86.**

11. In view of the age of the claimant, his earnings and building income together with the tax returns of the decedent, we feel that the claimant has failed to prove a loss of earnings claim. Therefore, this portion of the claim should be denied.

12. **A** detailed summary of the facts and information considered by the Court is contained in an Investigative Report prepared by the Attorney General. **A** copy of said report remains in the Court's file in this matter. The facts as reported therein are incorporated in this opinion by reference, and are briefly summarized as follows: On December 20, **1973,** Joseph J. Zappia, age 50, of **1064** N. Spaulding Avenue, Chicago, was working at the "Chez Joe Snack Shop,'' which he owned at **3149** W. Chicago Avenue. On said day, at about 2:30 p.m., was

emptying garbage in the alley behind his restaurant when he was shot and killed by an unknown person or persons.

The victim was discovered by one Joseph Liginza, a friend of the victim, who had been sitting in the victim's restaurant. Liginza stated that the victim had been disposing of garbage in the alley; that when the victim did not return after about 10 minutes, Liginza proceeded to the alley behind the restaurant and discovered the victim lying in the snow. Liginza ran to the corner of Kedzie and Chicago, flagged down a passing police car, and informed a Sgt. Morseth, Star #1732, of the Chicago Police Department. The victim was removed by ambulance to Mt. Sinai Hospital and was pronounced dead on arrival. The coroner's report indicated that the victim suffered two wounds from a pistol (caliber unknown) that entered the heart and liver.

13. That the proof submitted in support of this claim satisfies all the requirements of this Act, and that the claim is, therefore, compensable thereunder in the amount of **$933.50** for the funeral expenses incurred. There were no doctor or hospital expenses since the victim was pronounced dead on arrival at Mt. Sinai Hospital. As stated in ¶11, we find that the decedent's income was scarcely enough for his own subsistence, and that the claimant was not dependent upon the deceased victim for support. Hence the claim for loss of support must be denied.

14. That claimant was represented at the hearing by the law firm of MASS MILLER & JOSEPHSON of Chicago, and that a fee charged to the claimant for their services in the amount of $185.00 would be reasonable.

IT IS HEREBY ORDERED that the sum of **$933.50** (NINE

HUNDRED THIRTY-THREE AND 50/100THS DOLLARS) be awarded Rosolino'Zappia, as father of an innocent victim of a violent crime.

(No. 74-CV-85—Claimant awarded $105.00.)

CLARENCE E. JOHNSON, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Amended opinion filed March 18, 1975.

CLARENCE E. JOHNSON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This Court has previously filed its opinion in the above matter awarding compensation to the claimant in the total sum. . . $422.43.

In that opinion, compensation for loss of three days' earnings from part-time employment was denied to claimant. This claim of $105.00 was denied pursuant to the standards set down by the General Assembly in §4 of the Act.

However, re-evaluation of the legislative intent of this section, as interpreted by the Court, will permit loss of future earnings for such employment when established by competent evidence. Upon investigation by the

Attorney General, such competent evidence of lost earnings has been established by claimant.

Accordingly, the Court hereby supplements and amends the opinion and order previously filed in this claim by adding the following further order:

IT IS FURTHER ORDERED that the sum of $105.00 (ONE HUNDRED AND FIVE DOLLARS) be paid to the claimant immediately from the COURT OF CLAIMS FUND to complete the total award due the claimant.

(No. 75-CV-16—Claimant awarded $71.04.)

JOHN FRANCES LITTLER, Claimant, *vs.* **STATE OF ILLINOIS, Respondent.**

Opinion filed March 18, 1975.

JOHN FRANCIS LITTLER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; LEONARD CAHNMANN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on February 1, 1974, at 860 North DeWitt, Cook County, Chicago, Illinois. John F. Little, victim of crime, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act", (*Ill.Rev.Stat., 1973, Ch. 70, §71, et seq.*) (hereafter referred to as the *"Act")*.

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, John F. Littler, age 61, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery", *(Ill.Rev.Stat., 1973, Ch. 38, §12-4.)*

2. That on February 1, 1974, claimant was beaten and kicked as he was walking two women home.

3. That statements, taken by police investigators shortly after the crime was committed, present no evidence of any wrongful act or provocation by the claimant for the attack upon him by the assailant.

4. That the victim was transported by police car to Northwestern Memorial Hospital, 222 West Fairbanks Street, Chicago, where he was treated for orbital hematoma by Dr. T. B. Rothstein. A further and more detailed summary of the facts and information considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter and the facts as reported therein are incorporated in this opinion by reference.

5. That the victim and his assailant were not related or sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials; however, the assailants have not been identified.

7. That the claimant incurred medical and hospital

expenses which were partially covered by insurance, as follows:

1)	Medical	$ 70.50
2)	Hospital	670.00
		$ 740.50

8. That in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this court—

(d) "shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act', or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)".

9. That in this claim before us, the benefits received by the claimant from other sources which must be deducted from his loss as contemplated by §7(d) of the Act were shown to be in the total sum of **$469.46.** This amount, plus the statutory deduction of $200 having been deducted from the ***gross*** amount of loss, as calculated in Paragraph #7, leaves a loss compensable under the Act of $71.04. Hence, the claimant is entitled to an award in the amount of $71.04. i.e.,

Net Hospital & Medical	$271.04
Less $200 deductible	–200.00
	$ 71.04

IT IS HEREBY ORDERED that the total sum of $71.04 **(SEVENTY ONE DOLLARS AND FOUR CENTS)** be hereby awarded to the claimant, an innocent victim of a violent crime.

(No. 75-CV-44—Claimant awarded $710.86.)

RAYMOND KAEPPLINGER, Claimant, us. STATE OF ILLINOIS, Respondent.

Opinion filed March 18, 1975.

RAYMOND KAEPPLINGER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred December 4, 1973, at 5653 W. Fullerton Avenue, Cook County, Chicago, Illinois. Raymond Kaepplinger, victim, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill.Rev.Stat., 1973, Ch. 70, 071, et. seq.* (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the court, the court finds:

1. That the claimant, Raymond Kaepplinger, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery". (*Ill. Rev. Stat., 1973, ch. 38, §12-4.*)

2. That on December 4, 1973, the claimant was beaten by two unknown men in his photo studio at 5653 West Fullerton, in Chicago. Prior to the beating, the claimant was conducting his business at the studio.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any wrongful act or provocation by the claimant for the attack upon him by the two men in his photo studio.

4. That the claimant was transported to St. Anne's Hospital, 4950 West Thomas, Chicago, where he was treated for his injuries by Dr. E. R. Felix. A further and more detailed summary of the facts and information considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter and the facts reported therein are incorporated in this opinion by reference.

5. That the victim and his assailant were not related nor sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials and claimant has fully cooperated with their requests for assistance. However, the assailants have not been identified at this time.

7. That the claimant seeks compensation for medical expenses and loss of earnings.

8. That the claimant was unable to work from December 4, 1973, to December 13, 1973, and, again, from December 24, 1973, to January 2, 1974, as a result of his injury, a total of 19 days.

9. That the claimant has proved to the court's satisfaction that his loss of earnings compensable under the statute was $312.00.

10. That in addition to loss of earnings, the claimant incurred medical and hospital expenses which were partially covered by insurance benefits, and the gross

amount of the pecuniary loss for these items as computed before deductions and setoffs is as follows:

1) Hospital	$1,294.65
2) Medical	725.00
	$2,019.65

11. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this Court—

(d) "shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act', **or** from local governmental, State **or** Federal funds **or** from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure *to* the benefit **of** the applicant. . .)".

12. That, in the claim before us, the benefits received by the claimant from other sources which must be deducted from his loss, as contemplated by §7(d) of the Act, were shown to be in the total sum of $1,420.79. This amount, plus the statutory deduction of $200, having been deducted from the gross amount of loss as calculated in paragraphs 9 and 10, leaves a loss compensable under the Act of $710.86. Hence, the claimant is entitled to an award in the amount of $710.86, i.e.,

Net loss of earnings	$312.00
Net Hospital & Medical	598.86
	910.86
Less $200 deductible	–200.00
	$710.86

IT IS HEREBY ORDERED that the total sum of $710.86 (SEVEN HUNDRED TEN DOLLARS AND **EIGHTY SIX** CENTS) be awarded Raymond Kaepplinger, an innocent victim of a violent crime.

(No. 75-CV-49—Claimant awarded $520.51.)

DEREK SEAN O'NEILL, Claimant, *us.* **STATE OF ILLINOIS**, Respondent.

Opinion filed March 18, 1975.

DEREK **SEAN** O'NEILL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on May **10, 1974,** at **3954** North Keeler Street, Chicago, Illinois. Derek Sean O'Neill, a victim of a violent crime, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill.Rev.Stat., 1973, Ch. 70, §71, et. seq.* (hereafter referred to as the "Act").

This court has carefully considered the application for benefits submitted on the form prescribed and furnished by the court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the court, the court finds:

1. That the claimant, Derek Sean O'Neill, age **31,** was a victim of a violent crime, as defined in **82** (c) of the Act, to wit:

"Aggravated Battery", (*Ill.Rev.Stat., 1973,* Ch. *38, §12-4).*

2. That on May 10, 1974, claimant was severely beaten about the head and face by about ten unidentified assailants after leaving the Red Star Inn at 3954 North Keeler Street, in Chicago.

3. That statements taken by police investigators shortly after the crime was committed present no evidence of provocation by the victim for the attack upon him.

4. That the victim was hospitalized from May 10, 1974 to May 24, 1974, as a result of the beating of May 10, 1974. A further and more detailed summary of the facts and information considered **by** the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter and the facts reported therein are incorporated in this opinion by reference.

5. That there is no evidence that the victim and his assailant were related nor sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance. The police investigation is presently continuing.

7. That the claimant seeks compensation under the Act for loss of earnings as a result of his injuries.

8. That the victim was unable to work during the period of May 10, 1974. to June 18, 1974, as a result of his injuries; that the sustained loss of earnings during this period is in the amount of $1,967.66, based on his average monthly earnings for the 6 months immediately preceding his injury. This amount is compensable pursuant to the following provision in **Q4** of the Act:

"Loss of earnings, loss of future earnings and loss of support shall be determined on the basis **of** the victim's average monthly earnings for the 6

months immediately preceding the date of the injury or on **$500** per month, whichever is less."

The amount of actual loss of earnings sustained by the claimant is greater than $500 per month. In accordance with §4 of the Act, the $500 per month limit is controlling, and, using this rate for 1 month and 8 days, the total compensable loss of earnings sustained by the claimant is **$631.44.**

9. That in addition to loss of earnings, the claimant incurred medical and hospital expenses which were covered by insurance benefits, and the gross amount of all pecuniary losses as computed before deductions and set-offs is as follows:

1)	Loss of earnings	$ 631.44
2)	Hospital	**1,915.49**
3)	Medical	1,064.00
		$3,611.93

10. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this Court—

"(d) shall deduct **$200** plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act', or from local government, State or Federal funds, or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first **($25,000)** Twenty-five Thousand Dollars *of* life insurance that would inure to the benefits of the applicant. . .)".

11. That in the claim before us, the benefits received by the claimant, as contemplated by §7(d) of the Act, were shown to be in the total sum of $2,891.42. Also deducted from the gross figure is the statutory deduction of $200.00. This leaves a total of $520.51 as the actual amount of loss sustained by the claimant. Hence, the claimant is entitled to an award in the amount of $520.51.

IT IS HEREBY ORDERED that the total sum of $520.51

(FIVE HUNDRED TWENTY DOLLARS AND FIFTY ONE CENTS) be hereby awarded to the claimant, an innocent victim of a violent crime.

(No. 75-CV-171—Claimant awarded $873.86.)

MORRIS D. SPEARE, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed March *18,* 1975.

MORRIS D. SPEARE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; LEONARD CAHNMANN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on August **3, 1974,** at **1709 W.** Juneway Terrace, Cook County, Chicago, Illinois. Morris **D.** Speare, victim of crime, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act", (*Ill.Rev.Stat., 1973, Ch. 70, Sec. 71, et seq.*) (hereafter referred to as the ***"Act").***

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Morris D. Speare, age 60, was a victim of a violent crime, as defined in sec. 2(c) of the Act, to wit:

"Aggravated Battery". *(Ill.Rev.Stat., 1973, Ch. 38, Sec. 12-4).*

2. That on August **3, 1974,** claimant was beaten with an iron pipe while leaving a client at **1709** Juneway Terrace, Chicago. Prior to the beating, claimant was making an insurance collection for his job.

3. That statements, taken by police investigators shortly after the crime was committed, present no evidence of any wrongful act or provocation by the claimant for the attack upon him by the assailant.

4. That the victim was transported by private car to **Bethesda** Hospital, **2451** West Howard Street, Chicago, where he was treated for multiple lacerations of the scalp. A further and more detailed summary of the facts and information considered by the court is contained in the Investigatory Report prepared by the Attorney General. A **copy** of said report is retained in the Court's file in this matter and the facts as reported therein are incorporated in this opinion by reference.

5. That the victim and his assailant were not related nor sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials, that the assailants have been identified as Avell Wandick, Freddie Bates, and James Collins and that they have been indicted, tried and convicted.

7. That the claimant seeks compensation under the Act for medical expenses and loss of earnings.

8. That the claimant was unable to work from August **3, 1974,** to August **9, 1974,** and from August **19,**

1974, to August 23, 1974, when he went back into the hospital. This is a total of 12 days.

9. That the claimant's average monthly earnings for the 6 months immediately preceding his injury were $997.00, but earnings of only $500.00 per month can be considered as the basis for determining loss of earnings, pursuant to the following provision in sec. 4 of the Act:

"Loss of earnings, loss of future earnings and loss of support shall be determined on the basis of the victim's average monthly earnings for the 6 months immediately preceding the date of the injury or on $500 per month, whichever is less."

10. That based on a period of 12 days lost time and taking $500/month as his average earnings, his loss of earnings is computed to be $197.16.

11. That, in addition to loss of earnings, the claimant incurred medical and hospital expenses which were partially covered by insurance, as follows:

1)	Medical	$ 519.00
2)	Hospital	1,032.70
		$1,551.70

12. That in determining the amount of compensation to which an applicant is entitled, sec. 7(d) of the Act states that this court—

(d) "shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act', or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant. . .)"

13. That in this claim before us, the benefits received by the claimant from other sources which must be deducted from his loss as contemplated by sec. 7(d) of the Act were shown to be in the total sum of $675. This amount, plus the statutory deduction of $200 having been deducted from the gross amount of loss, as calcu-

lated in Paragraphs 10 and 11, leaves a loss compensable under the Act of $873.86. Hence, the claimant is entitled to an award in the amount of $873.86. i.e.,

Net loss of earnings	$ 197.16
Net Hospital & Medical	876.70
	$1,073.86
Less $200 deductible	–200.00
	$ 873.86

IT IS **HEREBY ORDERED** that the total sum of $873.86 be awarded to the claimant as an innocent victim of a violent crime.

(Nos. 74-CV-9, 75-CV-126, CONSOLIDATED, Claimants awarded $10,000.00.)

LAURA L. MORRIS, and JAMES H. MORRIS, SR., on behalf of **JAMES H. MORRIS, JR.,** Deceased, Claimants, *us.* **STATE OF ILLINOIS,** Respondent.

***Opinion filed March** 20, 1975.*

LAURA L. ,MORRIS, and **JAMES H. MORRIS, SR.,** Claimants, pro se.

WILLIAM J. SCOTT, Attorney General; **LEONARD CAHNMANN,** Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION Am—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable. to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on January 24, 1974, at 21621 S. Main Street, Cook County, Matteson, Illinois. Laura L. Morris, wife of the victim and James H. Morris, Sr., father of the victim,

seek compensation pursuant to the provisions of the Crime Victims Compensation Act, (*Ill.Rev.Stat.,* ***1973, Ch. 70, Sec. 71, et seq.***) (hereafter referred to as the ***"Act").***

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That James H. Morris, Jr., the husband **of** the claimant, Laura L. Morris, and the son of the claimant, James H. Morris, Sr., was a victim of a violent crime, as defined in Sec.2(c) of the Act, to wit:

"Murder",*(Ill.Rev.Stat., 1973, Ch. 38, Sec. 9-1).*

2. That on January 24, **1974,** while visiting Christiana Mancino at 21621 South Main Street, Matteson, Illinois, the victim was shot and killed by a person or persons unknown. Also killed at the same time were Christiana Mancino and her stepfather, Walter Mancino.

3. That no evidence was presented that would indicate that the victim's death was attributable to his wrongful act or the substantial provocation of his assailant.

4. That a further and more detailed report of the facts and information considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the assailant or assailants have not been identified; however, it was recommended in the coroner's

verdict, that "the police continue to make a diligent search for the person or persons responsible for this act and when apprehended, they be held to the Grand Jury of Cook County on the charge of murder."

6. That there was no evidence that the victim and his assailants were related or sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials and claimants have fully cooperated with their requests for assistance.

8. That the claimant, Laura L. Morris, seeks compensation under the Act for loss of support to herself and her minor child, Leigh Ann Morris, infant.

9. That the claimant, James H. Morris, Sr., seeks compensation under the Act for funeral and burial expenses.

10. That the claimant, Laura L. Morris, has proved to the court's satisfaction that the loss of support that she suffered as a result of the victim's death was in the amount of $332.57 per month.

11. That at the time of his death, James H. Morris, Jr., was 20 years old.

12. That based on the average life expectancy of a 20 year old male, and taking $332.57 per month as the victim's average monthly earnings, the loss of support to his family resulting from the victim's death is computed to be far in excess of the $10,000 maximum that can be awarded.

13. That the claimant, James H. Morris, Sr., father of the victim, incurred funeral and burial expenses as a result of his son's death. The amount of pecuniary loss for these items is as follows:

Funeral	$2,191.60
Ambulance to move body	60.00
	$2,251.60

14. That, in determining the amount of compensation to which an applicant is entitled, sec 7(d) of the Act states that this court—

(d) "shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act', or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant. . .)".

We interpret the above provision to mean that the benefits received by the victim's family as a result of his death, and a deduction of $200, shall be deducted from the total loss sustained and not from the $10,000 maximum amount payable under the Act. On this point, we are adopting a recent opinion of the Massachusetts Supreme Court on the same point arising under the provisions of an Act identical to ours in all material respects: ***Gurley*** v. ***Commonwealth*** *(1973) 296* ***N.E.*** *2d 477.*

15. That in the claim before us, no benefits other than social security, which is not deductible under the Act, have been received by either claimant from other sources. The statutory deduction of $200, having been deducted from the amount of loss calculated in Paragraphs 13 and 14, leaves an amount of loss sustained by both claimants far in excess of the $10,000 maximum amount that can be awarded under the Act for any loss resulting from a violent crime.

16. That, before an award is granted for loss of support, the claimant, James H. Morris, Sr., is entitled to an award to compensate him for the pecuniary loss suffered as a result of the funeral, $2,251.60. Hence, the claimant, James H. Morris, Sr., is entitled to an award of

$2,251.60. This leaves an amount of $7,748.40 that can be awarded to the claimant, Laura L. Morris and her minor child.

This Court takes notice of the fact that the minor child of the deceased victim, who is named in §8 of this opinion, was dependent on James H. Morris, Jr., as was his surviving spouse, Laura Morris, the claimant and the mother of decedent's said minor child.

Under these circumstances, the court is required to interpret and comply with the following language of the Act found in §8(b):

> "If the Court of Claims finds, in the case of an application made by a person dependent for (her) support on a deceased victim, that persons other than the applicant were also dependent on that victim for their support, it (the Court) shall also (1) name those persons in its order; (2) state the percentage share of the total compensation award and the dollar amount to which each is entitled; and (3) order that those amounts be paid to those persons directly or, in the case of a minor or incompetent, to his (her) guardian or conservator, as the case may be."

To comply strictly with the above legislative directive, it would seem appropriate and reasonable to order the distribution of the $7,748.40 award in accordance with the rule of distribution stated in §11(1) of the Probate Act. This rule would allow one-third ($2,582.80) to the victim's surviving spouse, and the remaining two-thirds ($5,165.60) to the victim's minor child.

However, to make distribution in this manner, we believe would impose an undue hardship on the mother. If the $7,748.40 award were paid to her in a lump sum, she would be holding $5,165.60 in trust for her minor child. Although she is guardian of her person, she would have no power to administer her estate, nor use her funds, unless she is duly appointed guardian of the minor's estate as provided by law. *Perry* v. *Carmichael* (1880) *95 Ill. 519.* After such appointment, she would be

required to manage her child's funds frugally under the direction of the appointing Court and present periodic accounts of her guardianship to such Court. She would also be responsible for Court costs and any legal expenses required in filing her petition for appointment, oath, surety bond, and accounts.

To obviate the necessity of the claimant, Laura L. Morris, being appointed guardian of her child's estate, and considering all other facts in this case, the Court believes that the best interest of the victim's family would be served by ordering that this award be disbursed to the claimant in periodic monthly payments as authorized in §8(a) (4) of the Act. As the natural guardian of her minor child, the mother has a legal obligation to provide for her suitable support and education. In fulfilling this obligation, we believe she would necessarily be required to expend the proper amount from each monthly payment received hereunder for the care and nurture of her child as well as for her own necessities.

IT IS HEREBY ORDERED AS FOLLOWS:

1) The sum of $2,251.60 is awarded to the claimant, James H. Morris, Sr., the father of the victim of a violent crime, for funeral expenses this claimant paid for the victim.

2) The total sum of $7,748.40 be awarded to the other claimant and her minor child, collectively, as persons who were all dependent for their support on James H. Morris, Jr., the deceased victim of a violent crime.

3) That the aforesaid award in the previous paragraph be paid to the claimant, Laura L. Morris, in 16 monthly installments, the first 15 in equal amounts of $500 each, and the last installment in the amount of $248.40. The court directs that said monthly payments

shall be made from the Court of Claims Fund insofar as it is legally possible to do so.

(No. 74-CV-44—Claimant awarded $10,000.00.)

MARY BARTH, on behalf **of RICHARD J. BARTH,** Deceased, Claimant, *us.* **STATE OF ILLINOIS**, Respondent.

Opinion filed March ***24,*** 1975.

CARL F. G. HENNINGER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; JEROME FELSENTHAL, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal act of murder that occurred on March 18, **1974,** in Downers Grove. Mary Barth, widow of Richard J. Barth, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill.Rev.Stat., 1973, Ch. 70, Sec. 71, et seq.* (hereafter referred to as the ***"Act").***

This court has carefully considered the application **for** benefits submitted on the form prescribed and furnished by the court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the court, the court finds:

1. That the claimant's deceased husband, Richard

J. Barth, age 25, was a victim of a violent crime, as defined in Sec. 2(c) of the Act to wit:

"Murder", (*Ill.Rev.Stat., 1973, Ch. 38, Sec. 9-1*).

2. That on March 18, 1974, the victim, Richard J. Barth, of 945 Burlington, Downers Grove, was employed as a police officer [badge #11] for the Village of Downers Grove Police Department. Officer Barth reported for duty on this day at the 7:45 a.m. roll call. He began his assignment at 8:00 a.m., which was motorized patrol of Beat 1, 2, 4 and 5. At 12:28 p.m. Officer Barth was directed by radio communication to respond to a "suspicious person" call at Northwest Park, located at Cornel1 and Chicago Avenues in Beat 4. At 12:33 p.m. victim Barth acknowledged that he was at the scene, and would continue communication by portable radio. At the same time one Officer Ralph Harrison also of the Downers Grove Police Department, was assigned to the scene as back-up to Officer Barth. Officer Harrison arrived at Northwest Park at 12:35 p.m. As Officer Harrison stepped away from his squad car, he heard four shots fired, then heard from Officer Barth, via his portable radio, that he had been shot. No further communication was heard and Officer Harrison proceeded into the wooded area searching for Officer Barth, and found him. He was alive but unable to speak.

3. That based on the police report and coroner's report, the victim apparently was shot while struggling with his assailants. Subsequent to being shot the victim was able to release four rounds from his own revolver. The victim suffered two gun shot wounds from a .25 caliber pistol that punctured both lungs. He was dead upon arrival at Hinsdale Sanitarium.

4. That subsequent investigation resulted in the arrest of two individuals, both minors, and at this time

they are being held at the DuPage County Youth Home. Claimant fully cooperated with law enforcement officers.

5. That there was no evidence to indicate that the victim's injuries were attributable to the victim's wrongful act or substantial provocation of his assailants. The victim was in the active performance of his duties as a law enforcement officer.

6. That there was no indication whatsoever that the victim was a relative of or ever shared the same household with his assailants.

7. That a timely notice was filed on April **25, 1974.** Claimant's application, Subrogation Agreement and Authorization for Records and Reports were filed with the Clerk of this court on May 20, **1974.**

8. That the claimant, Mary A. Barth, is the widow of the deceased victim, Richard **J.** Barth, and was dependent on the victim for her support.

9. That the claimant apparently has received or is eligible to receive the following compensation or benefits from sources other than this Act as a result of the death of her husband:

Workmen's Compensation	$26,900.00
United Benefit Life Insurance Company	25,000.00
Life Insurance Company of Illinois	20,000.00
Downers Grove Group Insurance	10,000.00
State of Illinois (Law Enforcement and Fireman's Compensation)	20,000.00
Federal Social Security Death Benefit	255.00
Accrued Sick Days and Personal Days paid by Village of Downers Grove	998.82
	$103,153.82

In addition, claimant will receive from a Widow's Pension the sum of **$437.50** per month for the rest of her life or until she remarries.

10. That there is no claim for medical or hospital expenses since the victim was dead upon arrival at the hospital. That life insurance proceeds, after excluding the first $25,000, more than cover the funeral bill.

11. That the one phase of this claim which is cognizable under the Act is claimant's loss of support as a dependent of the victim, and the court analyzes this claim as follows: The victim was employed by the Village of Downers Grove Police Department. His average monthly earnings [minus FICA, State and Federal withholding tax] for the 6-month period prior to his death were $643.58 per month. Since this income is more than $500 per month, we are required [by 04 of the Act] to use the amount of $500 per month in calculating the claimant's loss of future support from her deceased husband. He was 25 years old when he died. Projecting an income of $500 per month over a period of the decedent's normal life expectancy according to actuarial tables [or only to the early retirement age of police officers] we arrive at a sum which, after deducting all the death benefits to the claimant shown in ¶9, far exceeds $10,000, the maximum amount that may be awarded under the Act [§7(c)].

Considering the fact that the claimant has received substantial death benefits in lump sum payments, we hold that the further compensation to be awarded to her under this Act [pursuant to §8(a)(4)] should be in periodic monthly payments. Considering the further fact that the claimant receives a widow's pension in the sum of $437.50 per month for the rest of her life or until she remarries, we find that periodic payments under this Act in the amount of $250 per month, to supplement her pension, would give the claimant a monthly income of slightly more than her husband's net income at the time of his death. We will, therefore, order periodic payments

to the claimant in the amount of $250 per month for a period of 40 months, but that such payments be terminated upon her remarriage, if that event occurs within the 40 months.

Parenthetically, the Court will comment on the fact that the claimant apparently will be entitled to a lump sum payment from the State in the sum of $20,000 pursuant to the Law Enforcement Officers and Firemen Compensation Act. The court has been advised by members of the General Assembly that the Legislature did not intend to provide death benefits to claimants under both the aforesaid Act and the Crime Victims Act. However, until such legislative intent is expressed in the statutes, the dependents of a police officer who is murdered while in the active performance of his duties, are eligible to apply for death benefits under both Acts.

IT IS HEREBY ORDERED as follows:

1. That the claimant, Mary Barth, as the widow of the deceased victim of a violent crime, is hereby awarded periodic monthly payments for loss of her husband's support in the sum of $250 per month for a period of 40 months or until her widowhood is terminated by her remarriage, if the later event occurs before the said 40 month period has expired and the maximum amount of $10,000 has been paid. The said periodic payments for support will also be terminated in the event of the death of the claimant.

2. That it is the duty of the claimant to inform this Court in writing if she remarries before this award is paid in full, and it is the duty of her personal representative to inform this Court in the event of claimant's death.

(No. 75-CV-118—Claimant awarded $2,170.55.)

JOSEPH J. OZIMEK, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed March 24, 1975.

JOSEPH J. OZIMEK, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on July **30,1974,** at **8601** South Manistee, Chicago, Illinois. Joseph J. Ozimek, a victim of a violent crime, seeks payment **of** compensation pursuant to the provisions of the "Crime Victims Compensation Act." *Ill.* ***Rev. Stat., 1973, Ch. 70, §71, et seq.*** (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Joseph J. Ozimek, age **47,** was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery", (Ill. ***Rev.*** Stat., ***1973, Ch. 38, §12-4).***

2. That on July 30, 1974, the claimant was shot in the abdomen after he interrupted a robbery in progress at Ed's Sport Club, at 8601 South Manistee Street, in Chicago.

3. That statements taken by police investigators shortly after the crime was committed present no evidence of provocation by the victim for the attack upon him.

4. That the victim was hospitalized from July 30, 1974, to August 12, 1974, as a result of the shooting of August 12, 1974. A further and more detailed investigation considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter and the facts reported therein are incorporated in this opinion by reference.

5. That there is no evidence that the victim and his assailant were related nor sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance. The police investigation is presently continuing.

7. That the claimant seeks compensation under the Act for loss of earnings as a result of his injuries.

8. That the victim was unable to work during the period of July 30,1974, to October 16,1974, as a result of his injuries; that the sustained loss of earnings during this period is in the amount of $1,819.93, based on his average monthly earnings for the 6 months immediately preceding his injury. This amount is compensable pursuant to the following provision in §4 of the Act:

"Loss of earnings, loss of future earnings and loss of support shall be determined on the basis of the victim's average monthly earnings for the 6

months immediately preceding the date of the injury or on $500 per month, whichever is less."

The amount of actual loss of earnings sustained by the claimant is greater than $500 per month. In accordance with **94** of the Act, the $500 per month limit is controlling, and, using this rate for **2** months and **16** days, the total compensable loss of earnings sustained by the claimant is **$1,263.16.**

9. That in addition to loss of earnings, the claimant incurred medical and hospital expenses which were covered by insurance benefits, and the gross amount of all pecuniary losses as computed before deductions and set-offs is as follows:

1)	Loss of Earnings	$1,263.16
2)	Hospital	1,941.35
3)	Medical	1,045.00
		$4,249.55

10. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this Court—

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local government, State or Federal funds, or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)".

11. That in the claim before us, the benefits received by the claimant, as contemplated by §7(d) of the Act, were shown to be:

Gross losses	$4,249.55
Less Insurance Benefits	−1,620.00
Less Public Aid benefits	− 249.00
Less Statutory deduction	− 200.00
Net Compensable Claim	$2,170.55

It is to be noted that there was a deduction from the gross figure; this is the statutory deduction of $200. This leaves a total of $2,170.55 as the actual amount of loss sustained by the claimant. Hence, the claimant is entitled to an award in the amount of $2,170.55.

IT IS HEREBY ORDERED that the total sum of $2,170.55 (TWO THOUSAND ONE HUNDRED SEVENTY DOLLARS AND FIFTY-FIVE CENTS) be awarded to the claimant, Joseph J. Ozimek, an innocent victim of a violent crime.

IT IS FURTHER ORDERED that the sum of $999.99 (NINE HUNDRED NINETY-NINE DOLLARS AND NINETY-NINE CENTS) be paid immediately from the COURT OF CLAIMS FUND to Joseph J. Ozimek, as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $1,170.56 be referred forthwith to the GENERAL ASSEMBLY for its approval.

(No. 74-CV-47—Claimant awarded $344.40.)

CARMEN C. DE SIMONE, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed March 27, 1975.

CARMEN C. DE SIMONE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for, Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on April 29, 1974, at 23rd & Wabash Streets, Chicago, Illinois. Carmen C. DeSimone seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat., 1973, Ch. 70, §71, et seq.* (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the court, the court finds as follows:

1. That the claimant, Carmen C. DeSimone, age 60, was a victim of a violent crime as defined in §2(c) of the Act, to wit:

"Aggravated Battery", *(Ill. Rev. Stat., 1973, Ch. 38, §12-4).*

2. That on April 29, **1974,** at approximately 5:00 p.m., the claimant was walking to the Elevated Station near 23rd and Wabash, when he was attacked by three young men who demanded his wallet. When he refused, they pushed him to the ground.

3. That the claimant immediately called the police for assistance. The police **took** the claimant to Mercy Hospital for emergency treatment of facial laceration.

4. That the claimant then called his family who took him to MacNeal Memorial Hospital in Berwyn, Illinois, where he was treated for severe contusions of the head and a severe sprain of the right ankle.

A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in

this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That statements taken by the police shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon him.

6. That the claimant and his assailants were not related nor sharing the same household.

7. That, as the result of his injuries, the claimant was unable to work from April 29, 1974, until May 28, 1974, a total of 29 days. The claimant's average monthly earnings was $600.00 per month which is greater than the statutory maximum. That in accordance with the Act, the maximum amount of compensation for loss of earnings that this Court can grant is $477.05.

8. That in addition to loss of earnings, the claimant incurred hospital and medical expenses:

Hospital	**$ 63.60**
Medical	**67.35**
Loss **of Earnings**	**477.05**
Total	**$608.00**

9. That benefits in the amount of $63.60 were paid to the claimant by Blue Cross.

10. That in determining the amount of compensation to which a claimant is entitled, §7(d) of the Act states that this court—

> "(d) . . **shall deduct** $200 **plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source** . . ."

That after the statutory deduction of $200.00, plus the insurance benefits of $63.60, the amount of compensation to which the claimant is entitled is $344.40.

It Is Hereby Ordered that the sum of $344.40

(THREE HUNDRED FORTY-FOUR DOLLARS AND FORTY CENTS) be awarded the claimant, Carmen C. DeSimone, the victim of a violent crime.

(No. 74-CV-87—Claimant awarded $88.00.)

ALICE E. REGAN, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed March 27, *1975.*

ALICE E. REGAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; LEONARD CAHNMANN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred May 17, 1974, on 55th Street near Richmond, Cook County, Chicago, Illinois. Alice E. Regan, victim, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act," Ill. *Rev. Stat., 1972, Ch. 70, §71, et. seq.* (hereafter referred to as the "Act".)

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Alice E. Regan, was a victim of a violent crime, as defined in §2(c) of the Act, to wit: **"Aggravated Battery",** (*Ill.Rev.Stat.,* **1973,** *Ch. 38, §12-4).*

2. That on May **17,1974,** the claimant was accosted by two youths as she was walking with a friend on 55th Street near Richmond. When claimant resisted, she was thrown to the ground and beaten.

3. That statements taken by police investigators shortly after the crime was committed present no evidence of any wrongful act or substantial provocation by the claimant for the attack upon her by the two youths.

4. Claimant was transported to Holy Cross Hospital by police car. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter and the facts reported therein are incorporated in this opinion by reference.

5. That the victim and her assailant were not related nor sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials and claimant has fully cooperated with their requests for assistance. However, the assailants have not been identified at this time.

7. That the claimant seeks compensation for medical expenses.

8. That the claimant incurred medical and hospital expenses which were partially covered by insurance benefits, and the gross amount of the pecuniary loss for these items as computed before deductions and setoffs is as follows:

1)	Hospital	$ 684.08
2)	Medical	351.00
		$1,035.08

9. That, in determing the amount of compensation to which an applicant is entitled, §7(d) **of** the Act states that this court—

(d) "shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefitsand the net proceeds of the first($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)".

10. That, in the claim before us, the benefits received by the claimant from other sources which must be deducted from his loss, as contemplated by §7(d) of the Act, were shown to be in the total sum of $747.08. This amount, plus the statutory deduction of $200, having been deducted from the gross amount of loss as calculated in ¶8, leaves a loss compensable under the Act **of** $88.00. Hence, the claimant is entitled to an award in the amount of $88.00, i.e.,

Net Hospital & Medical	288.00
Less $200 deductible	–200.00
	$ 88.00

IT IS HEREBY ORDERED that the total sum **of** $88.00 (EIGHTY EIGHT **DOLLARS)** be awarded Alice E. Regan, an innocent victim of a violent crime.

(No. 75-CV-33—Claimant awarded $1,036.57.)

JUDY L. SCHWARTZ, Claimant, *us.* **STATE** OF ILLINOIS, Respondent.

Opinion filed March **27, *1975.***

ANGELOS & ANGELOS, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION Am—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on December 6, 1973, at 2150 West Crescent, Park Ridge, Illinois. Judy L. Schwartz seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat.*, *1973, Ch. 70, §71, et seq.* (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant, Judy L. Schwartz was a victim of a violent crime as defined in §2(c) of the Act, to wit:

"Aggravated Battery", *(Ill. Rev. Stat., 1973, Ch. 38, §12-4).*

2. That on the afternoon of December 6, 1973, the claimant had returned home from work and was opening her mail box when she was struck from behind with a large instrument. The claimant was dragged into the apartment of a neighbor, Stephen Talbett, of 2150 West Crescent, Park Ridge, Illinois. Mr. Talbett called the police.

3. That Stephen Talbett admitted to the police that he heard the claimant at her mailbox, that he came up behind her and struck her with a machete, that she began bleeding and he dragged her to his apartment, where he called the police. Talbett stated that he had heard that the claimant had turned in some of his friends on a narcotic arrest and that he wanted to get her for it. A machete with a dried red stain was found in Talbett's apartment. Steve Talbet was charged with the aggravated battery of the claimant. He will appear before Judge Fitzgerald on March 31,1975. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein. are incorporated in this opinion by reference.

4. That statements taken by the police shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon her.

5. That the claimant and her assailant were not related nor sharing the same household.

6. That the claimant was taken to Resurrection Hospital where she was treated for a depressed parietal skull fracture, multiple lacerations and cerebral concussion. The claimant incurred the following expenses:

Hospital..	$1,761.60
Doctors	901:00
	$2,662.60

7. That as the result of her injuries the claimant was unable to work from December 6,1973, to February 15, 1974. The claimant's average monthly earnings was $600.00 per month which is greater than the statutory

maximum. That in accordance with the Act, the maximum amount of compensation for loss of earnings that this Court can grant is $1,158.00.

8. That benefits in the amount of $2,584.03 were paid to the claimant by the Seaboard Life Insurance Company.

9. That in determining the amount of compensation to which a claimant is entitled, §7(d) of the Act states that this court—

> **"(d) . . . shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source . . ."**

That after the statutory deduction of $200.00, plus the insurance benefits of $2,584.03, the amount of compensation to which the claimant is entitled is $1,036.57.

IT IS HEREBY ORDERED that the sum of $1,036.57 be awarded the claimant, Judy L. Schwartz, the victim of a violent crime.

IT IS FURTHER ORDERED that the sum of **$999.99** (NINE HUNDRED NINTY-NINE DOLLARS AND NINETY-NINE CENTS) be paid immediately from the Court of Claims Fund to Judy L. Schwartz, as a partial payment on the total amount of this award, and that the balance **of** the award due the claimant in the sum of $36.58 be referred forthwith to the General Assembly for its approval.

(No. 75-CV-34—Claimant awarded $2,422.19.)

JULIA DZIERZAWSKI, Claimant, *us.* STATE OF ILLINOIS, **Respondent.**

Opinion filed March 27, 1975.

JULIA DZIERZAWSKI, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on May 23, 1974, at 3914 North Bernard, Chicago. Julia Dzierzawski seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat., 1973, ch. 70, §71, et seq.* (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the court, the Court finds as follows:

1. That the claimant, Julia Dzierzawski, age 49, was a victim of a violent crime as defined in §2(c) of the Act, to wit:

"Aggravated Battery". (Ill. Rev. Stat., *1973, Ch. 38, §12-4.)*

2. That on May 23, 1974, at approximately 9:00 a.m., claimant left her home to *go* to work. As she was unlocking her car at 3914 North Bernard, she was attacked by two men wearing ski masks. The assailants stabbed her in the side three times with a knife.

That George Koste, Star #4436, an off-duty police

officer, was standing in a doorway at 3905 North Bernard, talking with a friend when he observed the claimant being jostled by two men. When he noticed that the men were wearing ski masks, he ran to the claimant to assist her and the assailants jumped into a car and sped away at high speed. Officer Koste administered first aid to the claimant and called the police.

A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter and the facts as reported therein are incorporated in this opinion by reference.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon her.

4. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance by viewing suspect photos. That claimant made an identification of one of her assailants but that no arrests have been made in connection with this criminal offense.

5. That the claimant and her assailants were not related nor sharing the same household.

6. That claimant seeks compensation under the Act for medical expenses and lost wages.

7. That claimant was hospitalized at Swedish Covenant Hospital where she underwent emergency surgery for repair of a lacerated liver and adrenal gland.

That as the result of this medical treatment, the claimant incurred hospital and surgical expenses, as follows:

Hospital	$2,969.15
Medical	996.00
	$3,965.15

8. That claimant was unable to work from May **23,** 1974, until September **24,1974,(4** months). That claimant was employed at the Lincoln Manufacturing Company in Chicago where she earned $800.00 per month before her injury. That claimant's loss of earnings during her disability was **$3,200,** less disability benefits of **$302.86.** That in considering the loss of earnings, the court may not award more than $500 per month. Based upon this maximum, the claimant has sustained **$2,000** in compensable lost earnings.

9. That based upon the calculations set forth in ¶7 & **8,** claimant's pecuniary loss is:

Medical	**$3,965.15**
Loss **of Earnings**	2,000.00
	$5,965.15

10. That the claimant received insurance benefits from the Aetna Insurance Company in the amount of **$3,342.96** and is not entitled to additional compensation therefrom.

That in determining the amount of compensation to which a claimant is entitled, §7(d) **of** the Act states that this Court—

> "(d) . . . **shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source . . ."**

That after the statutory deduction **of $200.00,** plus the insurance benefits of **$3,342.96,** the amount of **com**pensation to which the claimant is entitled is **$2,422.19.**

IT IS **HEREBY ORDERED** that the sum **of $2,422.19** be awarded the claimant, Julia Dzierzawski, the victim of a violent crime.

IT IS FURTHER ORDERED that the sum of $999.99 (NINE HUNDRED NINETY-NINE DOLLARS AND NINETY-NINE CENTS) be paid immediately from the COURT OF CLAIMS FUND to Julia Dzierzawski as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $1,422.20 be referred forthwith to the General Assembly for its approval.

(No. 75-CV-56—Claimant awarded $1,238.00.)

JUAN AREVALOS, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed March 27, *1975.*

JUAN AREVALOS, Claimant, pro *se.*

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on March 30, 1974, at the vicinity of 300 South Racine Avenue, Chicago, Cook County, Illinois. Juan Arevalos, the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," Ill. *Rev.* Stat., *1973, Ch. 70, Sec. 71* et *seq.* (hereafter referred to as "the Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and fur-

nished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Juan Arevalos, age 51, was a victim of a violent crime, as defined in Sec. 2(c) of the Act, to wit:

"Aggravated Battery" (Ill. Rev. Stat., 1973, Ch. 38, Sec. 12-4).

2. That on March 30, 1974, claimant was beaten during a robbery attempt by two men while walking down the street near his home. Claimant had never seen these men before and has not seen them since.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon him.

4. That the victim sustained numerous injuries for which he was hospitalized and received surgery. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the two assailants have not been identified or apprehended. The case remains under investigation by the Chicago Police Department.

6. That there is no evidence that the victim and his assailants were related or sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. That the victim's average monthly earnings for the **6** months immediately preceding his injury were **$633.84** but earnings of only $500 per month can be considered as the basis for determining loss of earnings, pursuant to the following provision of Sec. **4** of the Act:

"... loss of earnings shall be determined on the basis **of** the victim's average monthly earnings for the 6 months immediately preceding the date **of** the injury or on $500 per month, whichever is less."

9. That the victim, as a result of his injuries was unable to work during the period of April **1, 1974,** through July **15, 1974,** a period of **3.5** months. In accordance with the statutory limit of compensation of $500 per month victim is entitled to **$1,750.00.**

10. That, in addition to loss of earnings, the claimant incurred medical and hospital expenses which were partially covered by insurance benefits, and the ***gross*** amount of the precuniary loss for these items as computed before deductions and setoffs is as follows:

1)	Hospital	**$ 946.50**
2)	Medical	**$ 509.50**
		$1,456.00

11. That, in determining the amount of compensation to 'whichan applicant is entitled, Sec. 7(d) of the Act states that this court—

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workman's Compensation Act,' or from local governmental, State **or** Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds **of** the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)".

That, in the claim before us, the benefits received by the claimant from othes sources which must be deducted from his loss, as contemplated by Sec. 7(d) of the Act, were shown to be in the total sum of **$1,968.00.** This amount, plus the statutory deduction of $200, having

been deducted from the gross amount of loss as calculated in Par. 9 and 10, leaves an amount of compensable loss sustained by the claimant of **$1,238.00.**

IT IS HEREBY ORDERED that the sum of $1,238.00 be awarded to the claimant, as the innocent victim of a violent crime.

IT IS FURTHER ORDERED that the sum of $999.99 (NINE HUNDRED NINETY NINE DOLLARS AND NINETY NINE CENTS) be paid immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of **$238.01** be referred forthwith to the General Assembly for its approval.

(No. 74-CV-35—Claimant awarded $4,069.90.)

KATHLEEN FOX, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed April 1, 1975.

KATHLEEN FOX, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on January 5, 1974, at the Elevated Station at Roscoe and Southport Streets, in Chicago, Illinois. Kathleen Fox seeks payment of compensation pursuant

to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat. 1973, Ch. 70, §71, et seq.* (hereafter referred to as the "Act").

The Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant, Kathleen **Fox,** age **26,** was a victim **of** a violent crime as defined in §2(c) of the Act, to wit:

"Aggravated Battery". *(Ill. Rev. Stat., 1973, Ch. 38, §12-4).*

2. That on January **5, 1973,** at approximately 1:00 a.m., the claimant walked into the Elevated Station at Roscoe and Southport, Chicago, Illinois. There she was accosted by several males who beat and robbed her. The claimant was found lying unconscious in a pool of blood by Edwin Pennington, of **1332** West Eddy, an off-duty patrolman, who had just gotten off the northbound train and observed the claimant lying on the ground severely beaten. He immediately contacted the Chicago Police Department. Beat **1912,** Officers L. Blair, Star No. **2991** and **T.** Kuroski, Star No. **15313** responded to the call. **A** police wagon transported the claimant to St. Joseph's Hospital. Upon entering the hospital, the claimant was diagnosed to be in a comatose state with multiple facial lacerations and nasal fracture. She was placed in intensive care and remained in a critical condition for ten days.

A further and more detailed summary of the facts and information considered by the Court is contained in

the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon her.

4. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance by viewing suspect photos. That claimant was unable to make an identification of her assailant and that no arrests have been made in connection with this criminal offense.

5. That the claimant and her assailant were not related nor sharing the same household.

6. That claimant seeks compensation under the Act for medical expenses and lost wages.

7. That claimant was unable to work from January 5, 1974, until May 15, 1974. That claimant was employed as a waitress at Pearson's Restaurant in Chicago where she earned $540.00 per month before her injury.

That in considering the loss of earnings, the court may not award more than $500 per month. Based upon this maximum, the claimant has sustained $2,250 in compensable lost earnings.

8. That the claimant was hospitalized twice, January 5, to January 22, 1974, and February 24, to February 25, 1974. That the Illinois Public Aid Department through its Aid to the Medically Indigent Program assumed all of the hospital expenses except $66.40.

9. That the claimant incurred medical expenses by surgeons and physicians in the amount of **$1,780.**

10. That in addition to loss of earnings and hospital and medical expenses, the claimant made four round trips from her home in Decatur to medical specialists in Chicago. In connection with these appointments, she incurred **$173.50** of expenses which this Court considers to be appropriate medical expenses.

11. That based upon the calculations set forth in §7, 8, **9** and **10,** claimant's actual pecuniary loss is:

Hospital	$ **66.40**
Medical	**1,780.00**
Loss **of Earnings**	**2,250.00**
Miscellaneous	**173.50**
	$4,269.90

12. That the claimant has received no benefits or reimbursements, directly or indirectly, from any other source, nor is she entitled to such benefits from any other source as the result of her injuries, with the exception of Public Aid benefits referred to in ¶8. These Public Aid benefits have been set off against the expenses that the claimant incurred. The calculation of pecuniary loss is based upon expenses that the claimant has incurred which are in excess **of** the Public Aid assistance.

13. That in determining the amount of compensation to which the applicant is entitled, the Act states that this Court shall deduct $200.

That after the statutory deduction of $200.00, the amount of compensation to which the claimant is entitled is $4,069.90.

IT IS **HEREBY ORDERED** that the sum of $4,069.90 be awarded the claimant, Kathleen Fox, the victim of a violent crime.

IT IS FURTHER ORDERED that the sum of **$999.99** (NINE HUNDRED NINETY-NINE DOLLARS AND NINETY-NINE CENTS) be paid immediately from the COURT OF CLAIMS FUND to Kathleen Fox, as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of **$3,069.91** be referred forthwith to the General Assembly for its approval.

(No. 74-CV-82—Claimant awarded $1,503.00.)

MARY PAYTON, on behalf of IRENE DENNIS, Deceased, Claimant, vs. STATE OF ILLINOIS, Respondent.

Opinion filed April 1, 1975.

MARY PAYTON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; LEONARD CAHNMANN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred March **19, 1974,** at **7339** South Coles, Cook County, Chicago, Illinois. Mary Payton, claimant, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act", Ill. ***Rev. Stat., 1973, Ch. 70, §71, et seq.*** (Hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and fur-

nished by the Court; and **a** report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Mary Payton, was the mother of the victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Murder". *(Ill. Rev. Stat., 1973, Ch. 38, §9-1.)*

2. That on March **19, 1974,** the victim's body was found bound and gagged with a stab wound in the chest by the janitor in her building.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any wrongful act **or** provocation by the claimant for her death.

4. That the victim's body was transported to South Shore Hospital in Chicago, where she was pronounced **D.O.A.** The remains were then transferred to the **Cook** County Morgue. A further and more detailed summary of the facts and information considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the court's file in this matter and the facts reported therein are incorporated in this opinion by reference.

5. That the victim and her assailant were not related nor sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials and claimant has fully cooperated with their requests for assistance. However, the assailants have not been identified at this time.

7. That the claimant seeks compensation for funeral and burial expenses.

8. That funeral and burial expenses were paid by the claimant in the amount of $1,703.00.

9. That life insurance benefits were paid by Metropolitan Life Insurance Company to the victim's brother, Melvin Payton, and sister, Carolyn Payton, in the amount of $10,000 each as a result of the victim's death.

10. That both Carolyn Payton and Melvin Payton have waived all claims that they have pursuant to the Crime Victims Compensation Act as a result of the victim's death.

11. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this Court—

(d) "shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that wound inure to the benefit of the applicant. . .)".

12. That, in this claim before us, the claimant has not received any benefits from other sources. The statutory deduction of $200, having been deducted from the gross amount of loss as calculated in ¶8, leaves a loss compensable under the Act of $1,503. Hence, the claimant is entitled to an award in the amount of $1,503.

IT IS HEREBY ORDERED that the total sum of $1,503 be awarded to the claimant, the mother of an innocent victim of a violent crime.

IT IS FURTHER ORDERED that the sum of $999.99 (NINE HUNDRED NINETY-NINE DOLLARS AND NINETY-NINE CENTS) be paid immediately from the Court of Claims Fund to Mary Payton, as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $503.01 be

referred forthwith to the General Assembly for its approval.

(No. 75-CV-112—Claimant awarded $10,000.00.)

HENRY HALL, Claimant, ***us.*** **STATE OF ILLINOIS,** Respondent.

Opinion filed April 1, 1975.

HENRY HALL, Claimant, pro se.

WILLIAM **J. SCOTT,** Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on February 8, **1974,** at **6339** South Carpenter, Chicago, Cook County, Illinois. Henry Hall, the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," ***Ill. Rev. Stat. 1973, Ch. 70, 971, et seq.*** (hereafter referred to as the ***"Act").***

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Courts finds:

1. That the claimant, Henry Hall, age **47,** was a

victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery." *(Ill. Rev. Stat. 1973, Ch. 38, §12-4).*

2. That on February 8, 1974, claimant was shot during a robbery attempt by a man in the hallway of an apartment building owned by claimant.

3. That statements, taken by the police investigators shortly after the crime was committed, present no substantial evidence of any provocation by the claimant for the attack upon him.

4. That the victim sustained numerous injuries for which he was hospitalized and received surgery. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's **file** in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the assailant, Raymond Blevens, was convicted of Aggravated Battery in the Cook County Criminal Court on March 24, 1975. (Indictment #74-3707.)

6. That there is no evidence that the victim and his assailant were related or sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. That the victim's loss of earnings during the period of his disability as a result of his injury is too speculative to calculate. In addition, since claimant has established medical expenses beyond the maximum award possible under the Act, such a calculation is unnecessary.

9. That the claimant incurred medical and hospital expenses which were partially covered by insurance benefits, and the gross amount of the pecuniary loss for these items as computed before deductions and setoffs is as follows:

1) Hospital	$17,959.75
2) Medical	**3,100.00**
	$21,059.75

10. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this Court—

> "(d) **shall deduct** $200 **plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefitsand the net proceeds of the first** ($25,000) **Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant**)"

That, in the claim before us, the benefits received by the claimant from other sources which must be deducted from his loss, as contemplated by §7(d) of the Act, were shown to be in the total sum of **$5,122.00.** This amount, plus the statutory deduction of $200, having been deducted from the gross amount of loss as calculated in ¶9, leaves an amount of compensable loss, sustained by the claimant of $15,737.75.

IT IS HEREBY ORDERED that the sum of $10,000, the maximum award allowable under the Act, be awarded to the claimant, as the innocent victim of a violent crime.

IT IS FURTHER ORDERED that the sum of **$999.99 (NINE HUNDRED NINETY-NINE DOLLARS AND NINETY-NINE CENTS)** be paid immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the

claimant in the sum of **$9,000.01** be referred forthwith to the General Assembly for its approval.

(No. 75-CV-239—Claimant awarded $1,427.60.)

WILLIAM J. BERRON, on behalf of **ARLENE C. ZANDULAB,** Deceased, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed April 1, 1975.

WILLIAM J. BERRON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on August **29, 1974,** at **1444** West Winona, Chicago. William J. Berron, father of the victim, seeks payment of compensation pursuant to the "Crime Victims Compensation Act," *Ill. Rev. Stat., 1973, Ch. 70, §71, et seq.* (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished **by** the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant's deceased daughter, Arlene

C. Zandulab, age 40, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Murder", (*Ill. Rev. Stat., 1973, Ch. 38, §9-1.*)

2. On August 29, 1974, at 11:00 a.m., the discovery of a nude body of a woman lying on a garage floor at 1444 West Winona, was reported to police by an unidentified caller. The body was removed to the County Morgue, where an autopsy revealed the cause of death to be strangulation. A pair of panty hose found at the scene appeared to have been used in the murder. The body was later identified as Arlene C. Zandulab.

3. That at this time, the assailant or assailants have not been identified. That a further, and more detailed, summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter and the facts as reported therein are incorporated in this opinion by reference.

4. That the police investigation has presented no evidence of provocation by the decedent for the attack upon her.

5. That the victim and her assailant were not related nor sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

7. That the claimant seeks compensation for funeral, interment and inquest fees in the amount of $1,627.60 that he incurred as the result of his daughter's death.

8. That the claimant or his family has not received

nor will be entitled to receive any benefits from any other source as the result of the victim's death.

9. That the claimant has incurred a pecuniary loss in the amount of $1,627.60 from which $200 must be deducted pursuant to §7(d) of the Act.

10. That the proof submitted in support of this claim satisfies all the requirements of this Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the total sum of $1,427.60 be awarded to William J. Berron, the father of an innocent victim of a violent crime.

IT IS FURTHER ORDERED that the sum of $999.99 (NINE HUNDRED AND NINETY-NINE DOLLARS AND NINETY-NINE CENTS) be paid immediately from the COURT OF CLAIMS FUND as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $427.61 be referred forthwith to the General Assembly for its approval.

(No. 74-CV-30—Claimant awarded $3,746.45)

LOUISE K. GEORGE, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed April 11, 1975.

LOUISE K. GEORGE, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed

in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal aggravated assault and battery on October 13,1973, at 3:00 a.m. at 273 Longwood Drive, Kankakee, Illinois. Louise George seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, Ill. Rev. Stat., Ch. *70,* Par. 71, ***et seq.*** (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and'furnished by the Court; and a report by the Attorney General **of** the State of Illinois, which substantiates the matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim **of** a violent crime covered under the Act to wit:

"Aggravated Assault, Illinois Revised Statutes, 1973, Ch. 38, par. 12-2."

2. **A** detailed summary of the facts and information considered by the Court is contained in an Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter and the facts as reported therein are incorporated in this claimant was severely injured by three gunshots wounds.

3. That said crime occurred at 3:00 a.m. at 273 Longwood Drive, Kankakee, Illinois, at which time claimant was severely injured by three gunshot wounds.

4. That said crime was reported to Kankakee City Police promptly and claimant at all times has cooperated with law enforcement officials.

5. That the alleged assailant has not been identified.

6. Claimant, as indicated by the report of the Attorney General, did not provoke the incident.

7. Claimant is not a relative of or a member of the same household of the assailant.

8. Claimant has suffered pecuniary loss in excess of $200 compensible by section 74 of the Act, to wit:

St. Mary's Hospital	
10-13-73 to 11-2-73	$3,361.95
Physician	391.00
Associated Radiologists of Joliet	193.50
	$3,946.45

9. Claimant has not received nor is she entitled to any sums of money as a result of this injury which would be considered a set-off to any award.

10. Pursuant to Ill. Rev. Stat., 1973, Ch. 70, Par. 71, this Court must deduct the first $200 in expenses.

11. That the proof submitted in support of this claim satisfies all of the requirements of this Act and the claim is, therefore, compensible thereunder.

IT IS HEREBY ORDERED that the sum of $3,746.45 (THREE THOUSAND SEVEN HUNDRED FORTY SIX DOLLARS AND FORTY FIVE CENTS) be awarded Louise K. George as a victim of a violent crime.

(No. 75-CV-357—Claimant awarded $20.90.)

MARIE L. VIRGO, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed April 11, 1975.

MARIE L. VIRGO, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household, the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal assault on November **10,** 1974 at approximately 10:15 p.m. in the 700 block of North Church Street in Decatur, Illinois. Marie Virgo seeks compensation pursuant to the provisions of the Crime Victims Compensation Act, Ill. Rev. Stats., **1973,** Ch. 70, Par. **71,** ***et seq.*** (Hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report by the Attorney General of the State of Illinois, which substantiates the matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant was a victim of a violent crime covered under the Act to wit:

"Aggravated Assault, Illinois Revised Statutes, **1973,** Ch. 38, Par. 12-2."

2. **A** detailed summary of the facts and information considered by the Court is contained in an Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's **file** in this matter and the facts as reported therein are incorporated in this opinion by reference.

3. That said crime occurred at 10:15 p.m. in the 700 block of North Church Street, Decatur, Illinois, at which

time claimant was struck on the head and knocked to the ground.

4., That said crime was reported to Decatur City Police Department promptly and claimant at all times has cooperated with law enforcement officials.

5. That the assailants have not been apprehended.

6. Claimant, as indicated by the report of the Attorney General, did not provoke the incident.

7. Claimant is not 'a relative of or a member of the same household of the assailant.

8. Claimant has suffered pencuniary loss in excess of $20.0 compensible by section 74 of the Act, to wit:

Hospital	$ 85.10
Ambulance	34.80
Medication	5.00
	$124.90

9. Claimant has suffered a loss of wages in the amount of $96 based on pay vouchers submitted to the Attorney General.

10. Claimant has petitioned the Court for personal property stolen during the commission of this attack. In Section 74 of the Act, the Legislature has specifically stated that personal property shall not be considered as pecuniary loss.

11. Claimant has not received nor is she entitled to any sums of money as a result of this injury which would be considered a set-off of any award.

12. Pursuant to Ill. Rev. Stats., 1973, ch. 70, par. 71, this Court must deduct the first $200 in expenses.

13. That proof submitted in support of this claim

satisfies all of the requirements of this Act and the claim is, therefore, compensible thereunder.

IT IS HEREBY ORDERED that the sum of $20.90 (TWENTY DOLLARS AND NINETY CENTS) be awarded Marie L. Virgo as a victim of a violent crime.

(No. 74-CV-10—Claimant awarded $371.40.)

ASHOUR BADALPOUR, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed April 15, 1975.

ASHOUR BADALPOUR, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on April 15, 1974, at 810 South Kilbourn, in Chicago. Ashour Badalpour seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," ***Ill. Rev. Stat., 1973, Ch. 70, §71, et seq.*** (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and

other evidence submitted before the Court, the Court finds:

1. That the claimant, Ashour Badalpour, age 22, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"**Aggravated** Battery", *(Ill. Rev. Stat., 1973, Ch. 38, §12-4.)*

2. That on February 21, **1974,** at approximately 11:00 p.m., the claimant was driving in his car with two friends, Simon Pera and Ninus Ushana, in the area of Glenwood and Winnemac, when a **1969-70** brown Buick pulled up beside them, blocking their lane of traffic. The claimant recognized the occupants of the Buick on sight and believed them to be members of the TJO street gang. After some obscenities were exchanged, both drivers and passengers got out of their cars. The driver of the Buick went back to his car, grabbed a baseball bat and struck one of the claimant's passengers, Ninus Ushana. A fist fight ensued among all occupants of both cars.

When the fight was over, the claimant went to the aid of one of his friends and the assailants jumped in their car and sped away as the police approached the scene in response to a call of a disturbance in the area. The claimant was able to drive himself and his two friends to the Edgewater Hospital.

A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy **of** said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon him.

4. That the criminal offense was promptly reported to law enforcement officials. That claimant has fully cooperated with their requests for assistance, but has not been able to make a positive identification of his assailants.

5. That the victim and his assailants were not related nor sharing the same household.

6. That the claimant was hospitalized at Edgewater Hospital from February **22, 1974,** to February **24, 1974,** where he was treated for a severe contusion to the lumbar area.

7. That the claimant was unable to work as the result of his injury from February **21,1974,** until March **3, 1974,** a total of **10** days. That claimant's average earnings immediately preceding his injury was $600 per month.

That the **Court** shall determine loss of earnings based on the victim's average monthly earnings or $500 per month, whichever is less. The maximum rate per day based on $500 per month is **$16.45. As** the claimant was unable to work for **10** days, the maximum loss of earnings that this Court can award is **$164.50.**

8. That the claimant has incurred medical, hospital expenses and loss of earnings as follows:

1)	**Hospital**	**$331.90**
2)	**Doctor**	**75.00**
3)	Loss **of Earnings**	**164.50**
		$571.40

9. That the claimant has received no benefits or reimbursements, directly or indirectly, from any other source, nor is he entitled to any such benefits from any other source as the result of his injuries.

10. That in determining the amount of compensation to which the applicant is entitled, §7(d) of the Act states that this Court—

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workman's Compensation Act,' or from local governmental, State or Federal funds or from any other source . . ."

That after the statutory deduction of $200.00, the amount of compensation to which the claimant is entitled is $371.40.

IT IS HEREBY ORDERED that the sum of $371.40 be awarded Ashour Badalpour, as an innocent victim of a violent crime.

(No. 74-CV-60—Claimant awarded $1,532.58.)

SARAH LEE CATO, Claimant, *vs.* STATE OF ILLINOIS, Respondent.

Opinion filed April 15, 1975.

SARAH LEE CATO, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on November 17, 1973, at 7423 South Evans, Chicago. Sarah Lee Cato seeks payment of compensation pursuant to the provisions of the "Crime Victims Com-

pensation Act," *Ill. Rev. Stat., 1973, Ch. 70, 971, et seq.* (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant, Sarah Lee Cato, age 52, was a victim of a violent crime as defined in §2(c) of the Act, to wit:

"Battery". *(Ill. Rev. Stat., 1973, Ch. 38, §12-3.)*

2. **That on November 17, 1973, at approximately** 4:30 p.m., the claimant was entering her home when an unidentified man grabbed her from behind, pulled her down the porch stairs and fled with her purse. The **claimant's husband heard her scream for help, assisted** her into the house and called the police.

A further and more detailed summary of the facts and information considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the court's file in this matter and the facts as reported therein are incorporated in this opinion by reference.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon her.

4. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance by viewing

suspect photos. That claimant was unable to identify assailant and that no arrests have been made in connection with this criminal offense.

5. That the claimant and her assailant were not related nor sharing the same household.

6. That, as the result of her injuries, the claimant was hospitalized at Jackson Park Hospital where she underwent surgery for the repair of a compound dislocation of the left 1st and 2nd tarsal metatarsal joints. All of the expenses that she incurred for this treatment have been or will be paid by claimant's insurance companies, Aetna Casualty and Blue Cross/Blue Shield.

7. That the claimant was employed by the Board of Education as a lunchroom attendant at the rate of $413 per month. She was disabled as the result of this injury from November 17, 1973, to September 5, 1974. The claimant's employment, however, would have ended with the close of school on June 15, 1974. Therefore, she was off of work a total of 7 months. At the rate of $413 per month, her loss of earnings was $2,891.00. She received disability benefits in the amount of $1,158.42. Her loss of earnings, less' disability benefits, is $1,732.58 which is less than the statutory maximum.

8. That as all of the claimant's medical expenses will be covered by private insurance, claimant is limited in her recovery to her loss of earnings less the disability benefits which she received. That claimant's pecuniary loss is $1,732.58.

9. That pursuant to §7(d) of the Act, $200 must be deducted from claimant's pecuniary loss. That after the statutory deduction of $200.00, the amount of compensation to which the claimant is entitled is $1,532.58.

IT IS HEREBY ORDERED that the sum of **$1,532.58** be awarded the claimant, Sarah Lee Cato, the victim **of** a violent crime.

IT IS FURTHER ORDERED that the sum of **$999.99** (NINE HUNDRED NINETY-NINE DOLLARS AND NINETY-NINE CENTS) be paid immediately from the Court **of** Claims Fund as a partial payment on the total amount **of** this award, and that the balance of the award due the claimant in the sum of **$532.59** be referred forthwith to the General Assembly for its approval.

(No. 75-CV-2—Claimant awarded $1,570.69.)

THOMAS A. KELLY, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed April 15, 1975.

THOMAS A. KELLY, Claimant, pro se.

WILLIAM **J.** SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred December **29,1973,** at **2200** North Lincoln, Cook County, Chicago, Illinois. Thomas Anthony Kelly, victim, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act", ***Ill. Rev. Stat., 1973, Ch. 70,*** *§71, et seq.* (hereafter referred to as the "Act").

This court has carefully considered the application for benefits submitted on the form prescribed and furnished by the court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the court, the court finds:

1. That the claimant, Thomas Anthony Kelly, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery". *(Ill. Rev. Stat., 1973, Ch. 38, §12-4.)*

2. That on December **29, 1973,** claimant was beaten and stabbed by three men in the area of **2200** North Lincoln Avenue in Chicago, Illinois. Prior to the stabbing, claimant and a friend were walking home from the Earl of Old Town, **1615** North Wells in Chicago.

3. That statements taken by police investigators shortly after the crime was committed, present no evidence of any wrongful act or provocation by the claimant for the stabbing and beating.

4. That claimant walked to Children's Memorial Hospital, **2300** Children's Plaza, where he was given emergency First Aid. He was then transported to Grant Hospital by police car, where he was treated for his injuries by Dr. Fedor F. Banuchi. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. **A** copy of said report is retained in the Court's file in this matter and the facts reported therein are incorporated in this opinion by reference.

5. That the victim and his assailants were not related nor sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials and claimant has cooperated with their requests for assistance. However, the assailants have not been identified at this time.

7. That the claimant seeks compensation for medical expenses and loss of earnings.

8. That the claimant was unable to work from December **31, 1973,** to January **8, 1974,** a total of 8 days.

9. That the claimant has proved to the Court's satisfaction that his loss of earnings compensable under the statute was **$165.14.**

10. That, in addition to loss of earnings, the claimant incurred medical and hospital expenses which were **not covered by insurance benefits, and the amount of the** pecuniary loss for these items is as follows:

1)	**Hospital**	$ **930.55**
2)	**Medical**	**675.00**
		$1,605.55

11. That, in determing the amount **of** compensation to which an applicant is entitled, §7(d) of the Act states that this Court—

(d) **"shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or** from **any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant. . .)".**

12. That, in this claim before us, the claimant has not received any benefits from other sources. The statutory deduction of **$200,** having been deducted from the gross amount of loss as calculated in ¶9 and **10,** leaves a loss compensable under the Act of **$1,570.69.** Hence, the claimant is entitled to an award in the amount of **$1,570.69.**

IT IS HEREBY ORDERED that the total sum of **$1,570.69** be awarded to the claimant an innocent victim of a violent crime.

IT IS FURTHER ORDERED that the sum of **$999.99** (NINE HUNDRED NINETY-NINE DOLLARS AND NINETY-NINE CENTS) be paid immediately from the COURT OF CLAIMS FUND to Thomas A. Kelly, as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $570.70 be referred forthwith to the General Assembly for its approval.

(No. 75-CV-36—Claimant awarded $4,071.24.)

EDWARD J. QUIROZ, Claimant, *us.* STATE OF **ILLINOIS,** Respondent.

Opinion filed April 15, 1975.

EDWARD J. QUIROZ, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on June 8, **1974,** at the vicinity of Cicero and Cornelia, Chicago, Cook County, Illinois. Edward J. Quiroz, the victim, seeks payment **of** compensation pursuant to the provisions of the "Crime Victims' Compensation Act", ***Ill. Rev. Stat., 1973, Ch. 70, §71, et seq.*** (hereafter referred to as the ***"Act").***

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Edward J. Quiroz, age 24, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery." (*Ill. Rev. Stat., 1973, Ch. 38, §12-4*).

2. That on June 8, 1974, claimant was beaten severely by a group of men in the street near his home. Prior to the beating, claimant had been walking home peacefully after spending the evening at a neighborhood tavern.

3. That statements, taken by the police investigators after the crime was committed, present no substantial evidence of any provocation by the claimant for the attack upon him.

4. That the victim sustained numerous injuries for which he was hospitalized and received surgery. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the assailants have not been identified. An investigation by the Chicago Police Department continues with claimant's cooperation.

6. That there is no evidence that the victim and his assailants were related or sharing the same household.

7. That the victim's average monthly earnings for the period immediately preceding the injury were **$605.18,** but earnings of only **$500** per month can be considered as the basis for determining loss of support, pursuant to the following provision in §4 **of** the Act:

> "Loss **of earnings . . . shall be determined on the basis of the victim's average monthly earnings for the 6 months immediately preceding the date of the injury or on $500 per month, whichever is less."**

8. That the claimant was out of work for **24** days and suffered a loss of earnings of **$394.74.** (This figure is determined by dividing the $500 monthly earnings by **30.4,** the average days in a month and multiplying the total by **24,** the number **of days** lost.)

9. That, in addition to loss of earnings, the claimant incurred medical and hospital expenses which were not covered by insurance benefits, and the gross amount **of** these expenses is as follows:

1)	**Hospital**	**$1,186.50**
2)	**Medical**	**$2,690.00**

10. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this Court "Shall deduct **$200."** This amount, having been deducted from the gross amount of loss as calculated in ¶8 and **9,** leaves an amount of compensable loss, sustained by the claimant of **$4,071.24.**

IT IS HEREBY ORDERED that the sum of **$4,071.24** be awarded to the claimant, as the innocent victim of a violent crime.

IT IS FURTHER ORDERED that the sum of **$999.99 (NINE HUNDRED NINETY-NINE DOLLARS AND NINETY-NINE CENTS)** be paid immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the

claimant in the sum of **$3,071.25** be referred forthwith to the General Assembly for its approval.

(No. 75-CV-62—Claimant awarded $1,066.88.)

AMELIA KLINE, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed April 15, 1975.

AMELIA KLINE, Claimant, pro se.

WILLIAM **J. SCOTT,** Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed **in the Court of Claims within 2 years of the date of injury, compensation is** payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred at **12:10** a.m., May **26, 1974,** near **658** North St. Clair, Cook County, Chicago, Illinois. Amelia Kline, victim, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act," ***Ill.*** *Rev.* ***Stat., 1973, Ch.*** *70, §71,* ***et seq.*** (hereafter referred **to** as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report **of** the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Amelia Kline, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Assault". *(Ill.* ***Rev.*** Stat., ***1973, Ch. 38,*** *§12-2.)*

2. That on May 26, **1974,** claimant was threatened to be killed by a Negro male. Prior to the threat, the assailant had beaten claimant's companion and taken his wallet.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any wrongful act or provocation by the claimant for the assault upon her.

4. That the claimant went to Henrotin Hospital, **111** West Oak Street, Chicago, Illinois, in her own car where she was treated in the emergency room. **A** further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. **A** copy of said report is retained in the Court's file in this matter and the facts reported therein are incorporated in this opinion by reference.

5. That the victim and her assailant were not related nor sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials and claimant has fully ***co***-operated with their requests for assistance. However, the assailants have not been identified at this time.

7. That the claimant seeks compensation for medical expenses and loss of earnings.

8. That the claimant was unable to work for a period of 6 weeks following the assault due to a general anxiety state and a specific fear of all black men, which kept her in her apartment for 6 weeks.

9. That the claimant has proved to the court's satisfaction that her loss of earnings compensable under the statute was **$689.88.**

10. That in addition to loss of earnings, claimant incurred expenses for psychological counseling, dental work, hospital and other medical expenses which were partially covered by insurance benefits, and the gross amount of the pecuniary loss for these items as computed before deductions and setoffs is as follows:

1) Psychological counseling	**$200.00**
2) Dental Work	**365.00**
3) Hospital	**20.30**
4) Medical	**97.30**
	$597.30

11. That, in determining the amount of compensation **to** which an applicant is entitled, §7(d) of the Act states that this Court—

(d) **"shall deduct** $200 **plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State** or **Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds** of **the first ($25,000) Twenty-five Thousand Dollars** of **life insurance that would inure to the benefit of the applicant** . . .)".

12. That, in the claim before us, the benefits received by the claimant from other sources which must be deducted from his loss, as contemplated by §7(d) of the Act, were shown to be in the total sum of $20.30. This amount, plus the statutory deduction of $200, having been deducted from the gross amount of loss as calculated in ¶9 and 10, leaves a loss compensable under the Act of **$1,066.88.** Hence, the claimant is entitled to an award in the amount of **$1,066.88.**

It Is Hereby Ordered that the sum of **$1,066.88** be awarded the claimant, Amelia Kline, the victim of a violent crime.

It Is Further Ordered that the sum of **$999.99 (Nine Hundred Ninety-Nine Dollars And Ninety-Nine Cents)** be paid immediately from the Court of

Claims Fund to Amelia Kline, as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $66.89 be referred forthwith to the General Assembly for its approval.

(No. 75-CV-137—Claimant awarded $1,020.19.)

ELIZBIETA POMIANOWSKA, Claimant, *us.* STATE OF ILLINOIS, **Respondent.**

Opinion filed April 15, 1975.

ELIZBIETA POMIANOWSKA, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on July 11,1974, at Ashland and Chicago Avenues, Chicago, Illinois. Elizbieta Pomianowska seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," (*Ill. Rev.* ***Stat., 1973, Ch. 70,*** *§71,* ***et*** *seq.*) (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report **of** the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and

other evidence submitted before the Court, the Court finds as follows:

1. That the claimant, Elizbieta Pomianowska, age **30,** was a victim of a violent crime as defined in §2(c) of the Act, to wit:

"Battery". *(Ill. Rev. Stat., 1973, Ch. 38, §12-3).*

2. That on July **11, 1974,** at approximately 4:30 p.m., the claimant got off a CTA bus at the corner of Ashland and Chicago. As she proceeded down Ashland Ave., she was struck from behind on the head by an unknown assailant. The claimant fell to the ground and the assailant grabbed a small change purse that she was carrying and fled in an unknown direction. .

The claimant **got** to her feet and walked home. Later that evening, the claimant began to feel dizzy and a friend drove her to Illinois Research Hospital. The hospital officials called the police and reported the crime.

A further and more detailed summary of the facts and information considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter and the facts as reported therein are incorporated in this opinion by reference.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon her.

4. That the criminal offense was reported to law enforcement officials, as soon as possible under the circumstances, and claimant has cooperated with their requests for assistance, but has had difficulty in understanding police requests, as she does not speak or

understand the English language. .The claimant could not identify her assailant and no arrests have been made in connection with this criminal offense.

5. That the claimant and her assailants were not related nor sharing the same household.

6. That claimant seeks compensation under the Act for medical expenses and lost wages.

7. That as the result of this incident, the claimant was hospitalized on two occasions: Illinois Research Hospital: July 1, 1974, to July 6, 1974. St. Mary's Hospital: July 30, 1974, to August 16, 1974. She was treated for a severe cervical spine sprain.

That as the result of this medical treatment, the claimant incurred hospital and medical expenses, as follows:

Hospital	$3,091.73
Doctors	604.40
	$3,696.13

8. That claimant was unable to work from July 1, 1974, until July 14, 1974, and from July 30, 1974, to September 29, 1974, (104 days). That claimant was employed at the Commonwealth Edison Company in Chicago, where she earned $439.16 per month before her injury. That claimant's loss of earnings during her disability was $1,502.80, less disability benefits of $970.20, or $532.60. That claimant's loss is less than the statutory maximum and therefore compensable.

9. That based upon the calculations set forth in §7 & 8, claimant's pecuniary loss is:

Medical	$3,696.13
Loss of Earnings	532.60
	$4,228.73

10. That the claimant received insurance benefits from Commonwealth Edison's group policy in the amount of $3,008.54 and is not entitled to additional compensation therefrom.

That in determining the amount of compensation to which a claimant is entitled, §7(d) of the Act states that this Court—

> "(d) . . . shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source . . ."

That after the statutory deduction of $200, plus the insurance benefits of $3,008.54, the amount of compensation to which the claimant is entitled is $1,020.19.

It Is Hereby Ordered that the sum of $1,020.19 be awarded the claimant Elizbieta Pomianowska, the victim of a violent crime.

It Is Further Ordered that the sum of $999.99 (Nine Hundred Ninety-Nine Dollars and Ninety-Nine Cents) be paid immediately from the Court of Claims Fund to Elizbieta Pomianowska as partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $20.20 be referred forthwith to the General Assembly for its approval.

(No. 75-CV-169—Claimant awarded $1,315.00.)

Vernon J. Pizano, Claimant, *vs.* **State of Illinois,** Respondent.

Opinion filed April 15, 1975.

Vernon J. Pizano, Claimant, pro se.

William J. Scott, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on July 13,1974, at 12:00 midnight, at 925 West Carmen, Chicago, Illinois. Vernon J. Pizano, a victim of a violent crime, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat., 1973, Ch. 70, 071, et seq.* (hereinafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Vernon J. Pizano, age 20, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Battery," *Ill. Rev. Stat., 1973, Ch. 38, §12-3).*

2. That on July 13, 1974, claimant was injured by the janitor of an apartment building where claimant was looking for a friend. The janitor struck the claimant on the mouth with a board. The offender, James H. Espy, was convicted of battery in Branch 5 of the Cook County Criminal Court on September 17,1974. (Case #1192427)

3. That statements, taken by police investigators shortly after the crime was committed, present no evidence of any provocation by the victim for the attack

upon him by James Espy, the janitor of the apartment building where the attack occurred.

4. That the victim was treated by a dentist as a result of the injuries he received in the attack. The claimant refused hospitalization. A further and more detailed summary of the facts considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That there is no evidence that the victim and his assailant were related or sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully co-operated with their requests for assistance.

7. That the claimant was employed at the time of his injury, but that since no work was missed as a result of the injury, no claim was made for loss of income.

8. That the claimant incurred dental expenses which were not covered by insurance benefits. The total amount of the pecuniary loss for these items is as follows:

Dentist Fees—Dr. Stephen A. Meler (Oak Brook, Illinois) $1,515.00

9. That there is no evidence that claimant has received or will receive any compensation from local, state or federal funds, insurance of any kind, or from any other source.

10. Pursuant to §7(d) of the Act, the Court must deduct the first $200.00 of expenses.

11. That the proof submitted in support of this claim satisfies all of the requirements of this Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the total sum of **$1,315.00** be awarded to the claimant, an innocent victim of a violent crime.

IT IS FURTHER ORDERED that the sum of **$999.99** (NINE HUNDRED AND NINETY-NINE DOLLARS AND NINETY-NINE CENTS) be paid immediately from the COURT OF CLAIMS FUND as a partial payment on the total amount of the award, and that the balance of the award due to the claimant in the sum of **$315.01** be referred forthwith to the General Assembly for its approval.

(No. 75-CV-66—Claimant awarded $10,000.00.)

LOIS R. **BOYD**, on behalf of MELVIN C. **BOYD**, Deceased, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed April 16, 1975.

MAX J. BECKER, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on June **3, 1974,** at **7723** South Yates, Chicago, Illinois. Lois F. Boyd, wife of the deceased victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," ***Ill. Rev. Stat., 1973, Ch. 70, §71, et seq.*** (hereafter referred to as the "Act").

This court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant's deceased husband, Melvin C. Boyd, age 48, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Murder", *(Ill. Rev. Stat., 1973, Ch. 38, §9-1).*

2. That on June 3, 1974, the claimant's husband was first held up by one of his two assailants, then later shot by the other assailant, after the victim's return to his truck following a dry cleaning delivery to 7723 South Yates.

3. That the statements of two eye-witnesses, taken by police investigators shortly after the crime was committed, present no evidence of any provocation by the decedent for the attack upon him.

4. That the victim died on June 3, 1974, as a result of the wound he received in the shooting of June 3, 1974. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the two assailants, Glenn Addison and Angelo Jones, were indicted by the Cook County Grand Jury on charges of murder. They are presently awaiting trial.

6. That the victim and his assailants were not related nor sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. That the claimant seeks compensation under the Act for loss of support to herself and her four children: Karen Boyd, age 22; Carole Boyd, age 20; James Boyd, age 16; and Douglas Boyd, age 15.

9. That at the time of Melvin C. Boyd's death, he was 48 years old and had a life expectancy of age 73 according to Vital Statistics of the U.S. 1970, U.S. Department of Health, Education and Welfare Public Health Service mortality table for the U.S. population. Therefore, we must conclude that the decedent's family has lost his financial support for the remainder of his normal life expectancy, computed to be 25 years.

10. That the victim's average monthly earnings for the 6 months immediately preceding his death were $1,150.88 but earnings of only $500 per month can be considered as the basis for determining loss of support, pursuant to the following provision in 94 of the Act:

> " . . . loss of support shall be determined on the basis of the victim's average monthly earnings for the 6 months immediately preceding the date of the injury or on $500 per month, whichever is less."

11. That, based on the victim's normal life expectancy of 25 years, and taking $500 per month as his average earnings, the loss of support to his family is computed to be an amount far in excess of the $10,000 maximum amount that can be awarded as compensation under the Act for any loss resulting from a violent crime.

12. That, in addition to loss of support, the claimant incurred coroner's costs and funeral expenses for the victim which were partially covered by insurance benefits, and Veteran's Administration benefits, and the

gross amount of the pecuniary loss for these items as computed before deductions and setoffs is as follows:

1) Coroner'scosts..	**$ 30.60**
2) Funeral costs	**1,607.00**
	$1,637.60

13. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this court—

"(d) **shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits, and the net proceeds of the first ($25,000)Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant. . .)**".

We interpret the above provision to mean that the benefits received **by** the victim's family as a result of his death, and deduction of $200, shall be deducted from the total loss sustained and not from the **$10,000** maximum amount payable under the Act. On this point, we are adopting a recent opinion of the Massachusetts Supreme Court on the same point arising under the provisions of an Act identical to ours in all material respects: ***Gurley*** v. ***Commonwealth*** *(1973) 296* ***N.E.*** *2d 477.*

14. That, in the claim before us, the benefits received by the claimant, as contemplated by §7(d) of the Act, were shown to be in the total sum **of $39,991.47.** This amount, plus the statutory deduction of **$200,** having been deducted from the gross amount of loss shown in ¶11 and (112, leaves the amount of actual loss sustained by the claimant and her four children far in excess of the **$10,000** maximum amount that can be awarded under the Act for any loss resulting from a violent crime. Hence, the claimant and her four children are entitled to an award in the maximum amount payable under the Act, **$10,000.**

The Court takes notice of the fact that the four children of the deceased victim, who are named in ¶8 of this opinion, were also dependent on Melvin C. Boyd, as was his surviving spouse, Lois F. Boyd, the claimant, and the mother of decedent's said four children.

Under these circumstances the Court is required to interpret and comply with the following language of the Act found in §8(b):

"(b) If the Court of Claims finds, in the case of an application made by a person dependent for (her) support on a deceased victim, that persons other than the applicant were also dependent on that victim for their support, it (the court) shall also (1) name those persons in its order, (2) state the percentage share of the total compensation award and the dollar amount to which each is entitled, and (3) order that those amounts be paid to those persons directly or, in the case of a minor incompetent, to his (her) guardian or conservator, as the case may be"

To comply strictly with the above legislative directive, it would seem appropriate and reasonable to order the distribution of the $10,000 award in accordance with the rule of distribution stated in *§11(1) of the Probate* **Act.** This rule would allow one-third **($3,333.33)** to the victim's surviving spouse, and the remaining two-thirds ($6,666.66) divided equally among the victim's four children. This would create four separate estates in the amount of **$1,666.66** each for Karen Boyd, age 22; Carole Boyd, age 20; James Boyd, age **16;** and Douglas Boyd, age 15.

However, to make distribution in this manner, we believe would impose an undue hardship on the mother. If the $10,000 award were paid to her in a lump sum, she would be holding **$6,666.66** in trust for her four children. Although she is guardian for their person, she would have no power to administer their estates nor use their funds unless she is duly appointed guardian of each minor's estate as provided by law. ***Perry*** v. ***Carmichael*** (1880) ***95 Ill. 519.*** After such appointment she would be

required to manage her children's funds frugally under the direction of the appointing court and present periodic accounts of her guardianship to such Court. She would also be responsible for Court costs and any legal expenses required in filing her petition for appointment, oath, surety bond and accounts.

To obviate the necessity of the claimant being appointed guardian of her children's estates, and considering all other facts in this case, the Court believes that the best interest of the victim's family would be served by our ordering that this award be disbursed to the claimant in periodic monthly payments as authorized in §8(a) (4) of the Act. As the natural guardian of her four children, the mother has legal obligation to provide for their suitable support and education. In fulfilling this obligation, we believe she would necessarily be required to expend the proper amount from each monthly payment received hereunder for the care and nurture of all four of her children as well as for her own necessities.

IT IS **HEREBY ORDERED** that the total sum of **$10,000** be awarded to the claimant and her four children, collectively, as persons who were all dependent for their support on Melvin C. Boyd, the deceased victim of a violent crime.

IT IS **FURTHER ORDERED** that the aforesaid award be paid to the claimant, Lois F. Boyd, in twenty (20) equal monthly installments of **$500** each. The Court directs that said monthly payments shall be made from the Court of Claims Fund insofar as it is legally possible to do so.

(No. 74-CV-70—Claimant **awarded $2,813.00.)**

STEVE NAGY, **Claimant,** *vs.* STATE **OF ILLINOIS, Respondent.**

Opinion filed April 23, 1975.

STEVE NAGY, Claimant, pro se.

WILLIAM J. SCOTT, Attorney 'General, for Respondent.

CRIME VICTIMS COMPENSATION Am—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on May 13, 1974, at the Elevated Station at Morse Avenue in Chicago. Steve Nagy seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act,'' *Ill. Rev. Stat., 1973, Ch. 70, §71, et seq.* (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds as follows:

1. That the claimant, Steve Nagy, age 50, was a victim of a violent crime as defined in §2(c) of the Act, to wit:

"Aggravated Battery", (Ill. *Rev.* Stat., *1973, Ch. 38, §12-4).*

2. That on May 13, 1974 at 2:00 a.m., the claimant was on his way home from work at Arnie's Restaurant. As he got off the "El" at Morse Avenue, he was accosted by three men who demanded his money. He offered them some change. One of the assailants kicked the money out

of his hand and the other two began delivering punches to his back and face. One of the assailants used a gun to beat the claimant's head. The claimant was pushed down the "El" steps and the assailants fled with his wallet. The ticket seller at the "EI" stop telephoned the police. They arrived in a matter of moments and the claimant was rushed to Edgewater Hospital.

A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon him.

4. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance by viewing suspect photos. That claimant was unable to make an identification of his assailants and that no arrests have been made in connection with this criminal offense.

5. That the claimant and his assailants were not related nor sharing the same household.

6. That as the result of the attack upon him, the claimant was hospitalized from May 13,1974, to May 21, 1974, at Edgewater Hospital where he was treated for a brain concussion, forehead laceration, and loss of teeth.

7. That all of the claimant's medical expenses were paid by Public Aid with the exception of a bill submitted by Dr. Samuel Berger for $93.00. This bill was for fol-

low-up care covering the period of June 24, 1974, to October 5, 1974. Dr. Berger refused to take the Public Aid green card.

8. That the claimant has been unemployed since the date of his injury. He and his family lived on their savings the first few months. After the savings had been exhausted, the claimant applied for and received Public Aid assistance. This assistance began four months after the injury and continues at this time. The claimant receives $385.00 a month from Public Aid.

9. That claimant's loss of earnings is computed as follows:

May 13, 1974, to Sept. 22, 1974 ..... (4 months at $500/month)	$2,000.00
Sept. 22,1974 to May 22,1974 ..... (8 months at $115/month—$500-$385 from Public Aid)	920.00
	$2,920.00

10. That based upon the calculations set forth in ¶7 and 9, claimant's pecuniary loss is:

Medical	93.00
Loss of Earnings	2,920.00
	$3,013.00

11. That the claimant has received no benefits or reimbursements, directly or indirectly, from any other source, nor is he entitled to such benefits from any other source, as the result of his injuries, with the exception of Public Aid benefits referred to in ¶7, 8 and 9. These Public Aid benefits have been set off against the expenses that the claimant incurred. The calculation of pecuniary loss is based upon expenses that the claimant has incurred which are in excess of the Public Aid Assistance.

12. That in determining the amount of compensation to which the applicant is entitled, the Act states that this Court shall deduct $200.

That after the statutory deduction of $200.00, the amount of compensation to which the claimant is entitled is $2,813.00.

IT IS HEREBY ORDERED that the sum of $2,813.00 be awarded the claimant, Steve Nagy, the victim of a violent crime.

IT IS FURTHER ORDERED that the sum of $999.99 (NINE HUNDRED NINETY-NINE DOLLARS AND NINETY-NINE CENTS) be paid immediately from the Court of Claims Fund to Steve Nagy as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $1,813.01 be referred forthwith to the General Assembly for its approval.

(No. 75-CV-14—Claimant awarded $10,000.00.)

CELIA SPIVAK, on behalf of LEWIS B. SPIVAK, Deceased, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed *April 23, 1975.*

CELIA SPIVAK, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION Am—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on June 20, 1974, at 3801 West Cermak 'Road,

Chicago, Illinois. Celia Spivak, wife of the deceased victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat., 1973, Ch. 70, Sec. 71, et seq.* (hereafter referred to as "The Act.")

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court, and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant's deceased husband, Lewis B. Spivak, age 55, was a victim of a violent crime, as defined in Sec. 2(c) of the Act, to wit:

"Murder," *(Ill. Rev. Stat. 1973, Ch. 38, Sec. 9-1).*

2. That on June 20, 1974, the claimant's husband was found shot and lying on the office floor of the Standard Automotive Warehouse Company building at 3801 West Cermak Road, Chicago, Illinois.

3. That the statements taken by police investigators shortly after the crime was committed present no evidence of any provocation or wrongful act on the part of the decedent.

4. That the victim died on June 20, 1974, as a result of the wounds he received in the shooting of the same day. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That a Coroner's Inquest upon the body of the victim was held on August 9, 1974. That the verdict of the Coroner's Jury found this incident to have been murder.

6. That the assailant(s) remain unknown at this time, and police investigation into the case still continues.

7. That there is no evidence that the victim and his assailant(s) were related or sharing the same household.

9. That the criminal offense was reported promptly to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

9. That the claimant seeks compensation under the Act for loss of support to herself and her child, Susan, age 16.

10. That at the time of his death, Lewis B. Spivak was 55 years old, and had a life expectancy to age 74.6 according to Vital Statistics of the U.S. 1970, U.S. Department of Health, Education, and Welfare Public Health Service mortality table for the U.S. population. Therefore, we must conclude that the decedent's family has lost his financial support for the remainder of his normal life expectancy, computed to be 19.6 years.

11. That the victim's average monthly earnings for the six months immediately preceding his death were $2,650.00, but earnings of only $500.00 per month can be considered as the basis for determining loss of support, pursuant to the following provision in Sec. 4 of the Act:

> " . . . loss of support shall be determined on the basis of the victim's average monthly earnings for the six months immediately preceding the date of the injury or on $500.00 per month, whichever is less."

12. That, based upon the victim's normal life expectancy of 19.6 years, and taking $500.00 per month as

his average monthly earnings, the loss of support to his family is computed to be an amount far in excess of the $10,000.00 maximum amount that can be awarded as compensation under the Act for any loss resulting from a violent crime.

13. That, in addition to loss of support, the claimant incurred funeral expeneses and numerous coroner's costs which were covered by insurance benefits and other compensation programs, and the gross amount **of** the pecuniary loss for these items as computed before ,deductions and setoffs is as follows:

Coroner's Reports	$ 22.50
Coroner's Inquest Fee	**30.60**
Death Certificates	**13.00**
Funeral	1,797.25
	$1,863.35

14. That, in determining the amount of compensation to which an applicant is entitled, Sec. 7(d) of the **Act** states that this Court—

"(d) shall deduct $200.00 plus the amount of benefits, payments or awards, payable under the 'Workman's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000.00) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)."

We interpret the above provision to mean that the benefits received by the victim's family as a result of his death, and deduction of $200.00; shall be deducted from the total loss sustained and not from the $10,000.00 maximum amount payable under the Act. On this point, we are adopting a recent opinion of the Massachusetts Supreme Court on the same point arising under the provisions **of** an Act identical to ours in all material respects: ***Gurley*** v. ***Commonwealth (1973)*** 296 ***N.E. 2d 477.***

15. That, in the claim before us, the benefits received by the claimant, as contemplated by §7(d) of the Act, were shown to be in the total sum of **$54,184.87.** This amount, plus the statutory deduction of **$200.00,** having been deducted from the gross amount **of** loss shown in paragraph **12** and **13,** leaves the amount of the actual loss sustained by the claimant and her child far in excess of the $10,000.00 maximum amount that can be awarded under the Act for any loss resulting from a violent crime. Hence, the claimant and her child are entitled to an award in the maximum amount payable under the Act, **$10,000.00.**

The Court takes notice of the fact that the daughter of the deceased victim, who is named in paragraph 9 of this opinion, **was also** dependent on Lewis B. **Spivak, as** was his surviving spouse, Celia Spivak, the claimant, and the mother **of** the decedent's said child.

Under the circumstances the Court is required to interpret and comply with the following language of the Act found in §8(b):

"(b) If the Court of Claims finds, in the case of an application made by a person dependent for (her) support on a deceased victim, that persons other than the applicant were also dependent on that victim for their support, it (the court) shall also (1) name those persons in its order; (2) state the percentage share of the total compensation award and the dollar amount to which each is entitled, and (3) order that those amounts be paid to those persons directly or, in the case of a minor incompetent, to his (her) guardian or conservator, as the case may be."

To comply strictly with the above legislative directive, it would seem appropriate and reasonable to order the distribution of the $10,000.00 award in accordance with the rule of distribution stated in *§11(1) of* ***the Probate Act.*** This rule would allow one-third **($3,333.33)** to the victim's surviving spouse, and the remaining two-thirds to the victim's child. This would create a separate estate in the amount of ***$6,666.66*** for Susan Spivak, age **16.**

However, to make distribution in this matter, we believe would impose an undue hardship on the mother. If the $10,000.00 award were paid to her in a lump sum, she would be holding **$6,666.66** in trust for her child. Although she is guardian of her daughter's person, she would have no power to administer her child's estate, nor use her child's funds unless she is duly appointed guardian of the daughter's estate as provided by law. ***Perry*** v. ***Carmichael*** (1880) 95 ***Ill. 519.*** After such appointment she would be required to manage her child's funds frugally under the direction of the appointing Court and present periodic accounts of her guardianship to such court. She would also be responsible for Court costs and any legal expenses required in filing her petition for appointment, oath, surety bonds and accounts.

To obviate the necessity of the claimant being appointed guardian **of** her daughter's estate and considering all facts in this case, the court believes that the best interest of the victim's family would be served by our ordering that this award be disbursed to the claimant in periodic monthly payments as authorized in §8(a) **(4)** of the Act. As the natural guardian of her daughter, the mother has a legal obligation to provide for the child's suitable support and education. In fulfilling. this obligation, we believe she would necessarily be required to expend the proper amount from each monthly payment received hereunder for the care and nurture of her daughter well as for her own necessities.

IT IS HEREBY ORDERED that the total sum of $10,000.00 be awarded to the claimant and her daughter, collectively, as persons who were all dependent for their support on Lewis B. Spivak, the deceased victim of a violent crime.

IT IS FURTHER ORDERED that the aforesaid award be

paid to the claimant, Celia Spivak, in twenty (20) equal monthly installments of $500.00 each. The Court directs that said monthly payments shall be made from the Court of Claims Fund insofar as it is legally possible to do so.

(No. 75-CV-54—Claim denied.)

DOLLY S. COLEMEN, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed April 23, 1975.

DOLLY S. COLEMAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of an incident that occurred on June 29, 1974, at approximately 2:30 p.m., on Lake Street near Austin Boulevard, Oak Park, Illinois. Dolly Coleman, claimant, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act," Ill. ***Rev. Stat., 1973, Ch. 70, §71, et seq.*** (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set

forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That on June 29, 1974, the claimant was struck and knocked down by a bicycle ridden by an 11-year-old boy. Both her wrists were fractured. A further and more detailed summary of the facts and information considered by the Court.

4. There was no indication whatsoever that the claimant was a relative or ever shared the same household with the assailant.

5. There was no evidence to indicate that the claimant's injuries were attributable to her wrongful act or substantial provocation of her assailant.

6. All claimant's medical and hospital bills were paid by Public Aid.

7. Claimant was unemployed and, therefore, suffered no loss of earnings as a result of her injury.

8. The only pecuniary loss sustained by the claimant was $12/day for 75 days or $900 she paid a woman to take care of her by cooking, shopping, cleaning, and other household help.

9. Claimant has met the statutory filing time for all necessary documents.

10. The Attorney General's office has verified the facts of this case and submits that the requirements of the Act have not been met and the claim is, therefore, not compensable thereunder.

(No. 75-CV-71—Claimant awarded $1,833.55.)

LARRY STARLING, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed April 23, 1975.

LARRY **STARLING,** Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a crimina1 offense that occurred on October **27, 1973,** at **7927** South Crandon, Cook County, Chicago, Illinois. Larry Starling a victim of a violent crime, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," ***Ill. Rev. Stat., 1973, Ch. 70 Sec. 71, et seq.*** (hereafter referred to as ***"the Act.")***

This **Court** has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report **of** the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Larry Starling, age **23,** was a victim **of** a violent crime, as defined in Sec. 2(c) of the Act, to wit:

"Aggravated Battery," (Ill. Rev. Stat., 1973, Ch. 28, Sec. 12-4).

2. That on October **27, 1973,** claimant was shot during a robbery in front of the home of his girlfriend.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the victim for the attack upon him.

4. That the victim was hospitalized from October **28,1973,** to December **15,1973,** as a result of the injuries he received in the shooting of October **27, 1973. A** further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. **A** copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That there is no evidence that the victim and his assailants were related or sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

7. That the victim's average monthly earnings for the six months immediately preceding his death were **$479.36.** The claimant missed three months and **14.5** days as **a** result of his injury. Using the Court accepted method of calculating compensable lost earnings, one month's earnings is divided by **30.4,** the average days in a month, and multiplied by **14.5,** the days lost beyond full months. This total of **$228.64** is added to the total of **$497.36** multiplied by three months, or **$1,438.08.** The sum of these figures is **$1,666.72.**

8. That, in addition to loss of earnings, the claimant incurred medical, and hospital expenses which were

partially covered by insurance benefits, and the gross amount of the pecuniary loss as computed before deductions and setoffs is as follows:

1)	**South Shore Hospital**	**$13,782.41**
2)	**Medical**	**2,470.00**
		$16,252.41

9. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this Court—

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefits of the applicant . . .)."

That, in the claim before us, the benefits received by the claimant from other sources which must be deducted from his loss, as contemplated by §7(d) of the Act, were shown to be in the total sum of **$15,885.58.** This amount, plus the statutory deduction of $200, having been deducted from the ***gross*** amount of loss as calculated in paragraphs 7 and 8, leaves an amount of compensable loss, sustained by the claimant of **$1,833.55**.

10. That the proof submitted in support of this claim satisfies all requirements of this Act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the total sum of **$1,833.55** be awarded to claimant, an innocent victim of a violent crime.

IT IS FURTHER ORDERED that the sum of **$999.99** (Nine Hundred and Ninety Nine Dollars and Ninety Nine Cents) be paid immediately from the Court of Claims Fund as a partial payment on the total amount of this award, and that the balance of the award due the

claimant in the sum of $833.56 be referred forthwith to the General Assembly for its approval.

(No. 75-CV-77—Claimant awarded $10,000.00.)

EDITH LOPEZ, on behalf **of** OCTAVIO **LOPEZ,** Deceased, Claimant, ***us.*** **STATE** OF ILLINOIS, Respondent.

Opinion filed April 23, 1975.

EDITH LOPEZ, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; LEONARD **CAHNMANN,** Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occured on March 18, 1974, at **4501** West Sixteenth Street, Cook County, Chicago, Illinois. Edith Lopez, wife of the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," Ill. ***Rev. Stat., 1973, Ch. 70,*** *§71,* ***et seq.*** (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant's deceased husband Octavio Lopez, age 28, was a victim of a violent crims, as defined in §2(c) of the Act to wit:

"Murder", *(Ill.Rev. Stat., 1973, ch. 38, §9-1.)*

2. That on March 18,1974, claimant's husband was shot as he boarded a C.T.A. Bus at 16th and Kilbourn. Prior to the shooting, Octavio Lopez had been leaving his place of employment, Brock & Rankin, 4501 West 16th Street, Chicago, Illinois.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation or wrongful act by the decedent for the shooting of him at the C.T.A. bus stop.

4. That the victim died on March 18, 1974, as a result of the injuries he received in the shooting of March 18, 1974. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the three suspects were charged with the murder of the victim. However, there were no eye witnesses and the three were discharged for lack of probable cause.

6. That the victim and his assailants were not related nor sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. That the claimant seeks compensation under the Act for loss of support to herself and her son, Octavio, Jr., infant.

9. That the claimant has proved **to** the Court's satisfaction that her loss of support as a result of the victim's death was well over $10,000 which is the maximum amount compensable under the Act.

10. That, in addition to loss of support, the claimant incurred funeral expenses for the victim and the gross amount of the pecuniary loss for this item is as follows:

Funeral **$1,291.00**

11. That, in determining the amount of compensation to which an applicant is entitled, §7(d) **of** the Act **states that** this **Court—**

"(d). shall deduct $200 plus the amount of benefits payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first $25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)."

We interpret the above provision to mean that the benefits received by the victim's family as a result of his death, and deduction of $200, shall be deducted from the total loss sustained and not from the $10,000 maximum amount payable under the Act. On this point, we are adopting a recent opinion of the Massachusetts Supreme Court on the same point arising under the provisions of an Act identical to ours in all material respects: ***Gurley*** v. ***Commonwealth (1973) 296 N.E.2d 477.***

12. That in the claim before us, the only benefits received by the claimant from other sources which must be deducted from his loss, as contemplated by §7(d) of the Act, were Public Aid benefits of $117/month. This amount has been deducted in determining the amount of loss **of** support in ¶9. The statutory deducting of $200, having been deducted from the amount of loss as calculated in 89 and 10 leaves the amount of loss sustained

by the claimant and her son far in excess of the $10,000 maximum amount that can be awarded under the Act for any loss resulting from a violent crime. Hence, the claimant and her son are entitled to an award in the maximum amount payable under the Act, $10,000.

The Court takes note of the fact that the minor son of the deceased victim, who is named in ¶8 of this opinion, was also dependent on Octavio Lopez as was his surviving spouse, Edith Lopez, the claimant, and the mother of decedent's minor son who is an infant.

Under these circumstances the Court is required to interpret and comply with the following language of the Act found in §8(b):

"(b) . . . If the Court of Claims finds, in the case of an application made a person dependent for (her) support on a deceased victim, that persons other than the applicant were also dependent on that victim for their support, it (the court) shall also (1) name those persons in its order; (2) state the percentage share of the total compensation award and the dollar amount to which each is entitled, and (3) order that those amounts be paid to those persons directly or, in the case of a minor or incompetent, to his (her) guardian or conservator, as the case may be."

To comply strictly with the above legislative directive, it would seem appropriate and reasonable to order the distribution of the $10,000 award in accordance with the rule of distribution stated in *§11(1) of the Probate Act.* This rule would allow one-third ($3,333.33) to the victim's surviving spouse, and the remaining two-thirds ($6,666.66) to the victim's minor son.

However, to make distribution in this manner, we believe would impose an undue hardship on the mother. If the $10,000 award were paid to her in a lump sum, she would be holding $6,666.66 in trust for her minor son. Although she is guardian of his person, she would have no power to administer his estate nor use his funds unless she is duly appointed guardian of her minor son's

estate as provided by law. ***Perry*** v. *Carmichael* (1880) ***95*** *Ill.* ***519.*** After such appointment she would be required to manage her son's funds frugally under the direction of the appointing Court and present periodic accounts **of** her guardianship to such Court. She would also be responsible for court costs and any legal expenses required in filing her petition for appointment, oath, surety bond and accounts.

To obviate the necessity of the claimant being appointed guardian of her son's estate, and considering all other facts in this case, the Court believes that the best interest **of** the victim's family would be served by our ordering that this award be disbursed to the claimant in periodic monthly payments as authorized in §8(a) (4) of the Act. As the natural guardian of her minor son, the mother has a legal obligation to provide for his suitable support and education. In fulfilling this obligation, we believe she would necessarily be required to expend the proper amount from each monthly payment received hereunder for the care and nurture of her son as well as for her own necessities.

IT IS HEREBY ORDERED that the total sum of $10,000 be awarded to the claimant and her minor son, collectively, as persons who were both dependent for their support on Octavio Lopez, the deceased victim of a violent crime.

IT IS FURTHER ORDERED that the aforesaid award be paid to the claimant, Edith Lopez, in twenty **(20)** equal monthly installments of **$500** each. The court directs that said monthly payments shall be made from the COURT OF CLAIMS FUND insofar as it is legally possible to do so.

(No. 75-CV-82—Claimant awarded $650.00.)

VEOLA ADAMS, on behalf of BERNARD ROMEL ADAMS, Deceased, Claimant, vs. STATE OF ILLINOIS, Respondent.

Opinion filed April 23, 1975.

VEOLA ADAMS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION Am—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on May 18, 1974, at 5266 South State Street, Chicago, Cook County, Illinois. Veola Adams, mother of the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat., 1973, Ch. 70,071, et seq.* (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant's deceased son, Bernard Romel Adams, age 22, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Murder", (*Ill. Rev.* Stat., *1973, Ch. 38, §9-1*).

2. That on May **18, 1974,** the claimant's son was found shot on a stairwell of the Robert Taylor Public Housing Project, **5266** South State Street, Chicago, Illinois.

3. That the victim died on May **18, 1974,** as a result of the injuries he received in the shooting of that date. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. **A** copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in 'this opinion by reference.

4. That the two alleged assailants, Jimmie Edward Armstrong of **5450** S. Michigan Avenue, Chicago, and Sherman Harris, were indicted in Cook County on charges **of** murder.

5. That the Chicago Police Department investigation of this case has revealed that the victim was a reported member of the Black Stone Rangers street gang. The police investigation has also stated that one of the assailants has gang affiliations with the Cobra Stones, a rival street gang. That these investigations, however, have not shown any connection between the victim's reported gang membership and his murder, and therefore that there is no evidence of any substantial direct provocation or wrongful act on the part of the victim.

6. That the victim and his assailants were not related nor sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. That the claimant seeks compensation under the Act for funeral expenses incurred by her as a result of

the victim's death. That these expenses were not covered by insurance benefits, and the gross amount of the pecuniary loss for these items is as follows:

Funeral $850.00

9. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this Court—

"shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)."

We interpret this provision to mean that the deduction of $200 shall be deducted from the total loss sustained and not from the $10,000 maximum amount payable under the Act.

10. That the statutory deduction of $200, having been deducted from the gross amount of loss as calculated in §8, leaves the amount of actual loss sustained by the claimant as $650.00. Hence, the claimant is entitled to an award totaling $650.00.

It Is Hereby Ordered that the total sum of $650.00 be awarded to the claimant, Veola Adams, as a relative who incurred funeral expenses as a result of the death of her son, Bernard Romel Adams, the deceased victim **of** a violent crime.

(No. 75-CV-95—Claimant awarded $5,537.50.)

Coresia Washington, on behalf of Cornell Washington, a minor, Claimant, *vs.* State of Illinois, Respondent.

Opinion filed April 23, 1975.

Coresia Washington, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on June 3, 1974, at the vicinity of 112 North Lotus, Chicago, Cook County, Illinois. Coresia Washington, the claimant, seeks payment of compensation for injuries incurred by her dependent son, Cornel1 Washington, pursuant to the provisions of the "Crime Victims Compensation Act." Ill. Rev. Stat., Ch. 70, 070 et seq. (hereafter referred to as the "Act".)

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant's dependent son, Cornel1 Washington, age 18, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery". (Ill. Rev. Stat., 1973, Ch. 38, §12-4.)

2. That on June 3, 1974, the claimant's son was shot by Charles Keesee after the victim had refused to participate in robberies planned by the assailant. Prior to the shooting, the victim was sitting with his girlfriend on the porch of her home.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon him.

4. That the victim sustained numerous injuries for which he was hospitalized and received surgery. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in the opinion by reference.

5. The assailant, Charles Keesee, Indictment No. 74-1810, was convicted of aggravated battery in Cook County Criminal Court on August 12, 1974.

6. That there is no evidence that the victim and his assailant were related or sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. That the victim at the time of his injury was unemployed and not contributing to the support of the claimant.

9. That the claimant incurred medical and hospital expenses for the victim which were not covered by insurance or other compensation, and the gross amount of the pecuniary loss as computed before deductions and setoffs is as follows:

1)	Hospital (Loretto)	$4,739.50
2)	Medical	998.00
		$5,737.50

10. That, in determining the amount of compensa-

tion to which an applicant is entitled, §7(d) of the Act states that this court —

"(d) shall deduct ***$200*** plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ***($25,000)*** Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant. . .)."

That, in the claim before us, no benefits were received by the claimant, as contemplated by §7(d) of the Act. The statutory deduction of $200 having been deducted from the gross amount of loss shown in ¶9, leaves an amount of $5,537.00 as the actual compensable loss sustained by the claimant.

IT IS HEREBY ORDERED that the sum of $5,537.50 be awarded to the claimant, Coresia Washington, as a relative who assumed the hospital and medical expenses for Cornel1 Washington, her dependent son and the victim of a violent crime.

IT IS FURTHER ORDERED that the sum of $999.99 (NINE HUNDRED NINETY-NINE DOLLARS AND NINETY-NINE CENTS) be paid immediately from the COURT OF CLAIMS FUND as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $4,537.51 be referred forthwith to the General Assembly for its approval.

(No. 75-CV-113—Claimant awarded $3,449.34.)

RONALD M. REED, Claimant, ***us.*** **STATE OF ILLINOIS,** Respondent.

Opinion filed April 23, 1975.

RONALD M. REED, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on July 30, 1974, at 1504 East 84th Place, Chicago, Cook County, Illinois. Ronald M. Reed, the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims' Compensation Act," *Ill. Rev. Stat. 1973, Ch. 70, 571, et seq.*

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Ronald M. Reed, age 23, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery." (Ill. Rev. Stat., 1973, Ch. 38, §12-4).

2. That on July 30,197.4,claimant was shot during a robbery attempt by a man in the vestibule of the claimant's home.

3. That statements taken by the police investigators shortly after the crime.was committed, present no

substantial evidence of any provocation by the claimant for the attack upon him.

4. That the victim sustained numerous injuries for which he was hospitalized and received surgery. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the assailant has not yet been identified.

6. That there is no evidence that the victim and his assailant were related or sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. No evidence was presented to indicate that the claimant's injuries were attributable to claimant's "wrongful act or substantial provocation of his assailant."

9. That the victim's average monthly earnings for the six months immediately preceding his injury were **$1,296.00** per month, but earnings of only $500.00 per month can be considered as the basis for determining loss of earnings, pursuant to the following provision in Sec. **4** of the Act:

" loss **of support shall be determined on the basis** of **the victim's average monthly earnings for the six months immediately preceding the date** of **the injury or on $500.00 per month, whichever** is **less**"

That, based on the Court accepted method of calculating salary losses over a portion of a month average monthly income ($500.00) divided by the average

number of days in a month **(30.4)** multiplied by the number of days out of work (seven months, three days) the claimant's compensable losses due to lost work days may be determined to total **$3,549.34.**

10. That the claimant incurred medical and hospital expenses which were partially covered by insurance benefits, and the gross amount of the pecuniary loss for these items as computed before deductions and setoffs is as follows:

1)	**Hospital**	**$9,331.00**
2)	**Medical**	**325.00**

11. That, in determining the amount of compensation to which an applicant is entitled, §7(d) **of** the Act states that this Court—

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000.00)Twenty-Five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)."

That, in the claim before us, the benefits received by the claimant from other sources which must be deducted from his loss, as contemplated by §7(d) of the Act, were shown to be in the total sum of **$9,466.00.** This amount, plus the statutory deduction of $200.00, having been deducted from the gross amount of loss as calculated in §9, leaves an amount of compensable loss, sustained by the claimant of **$3,539.34.**

IT IS HEREBY ORDERED that the sum of **$3,449.34** be awarded to the claimant, Ronald M. Reed, as the innocent victim of a violent crime.

IT IS FURTHER ORDERED that the sum of **$999.99** (Nine Hundred-ninety-nine Dollars and ninety-nine cents) be paid immediately from the Court **of** Claims

Fund as a partial payment on the total amount of this award, and that the balance of the award due the claimant in the sum of $2,449.35, be referred forthwith to the General Assembly for its approval.

(No. 75-CV-154—Claim denied.)

RAY FENTRESS, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed April 23, 1975.

RAY FENTRESS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on October 27, 1974, at 6537 South Western, Chicago, Illinois. Ray Fentress, a victim of a violent crime, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act." *Ill. Rev. Stat., 1973, Ch. 70,* 071, *et seq.* (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Ray Fentress, age 21, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery", *(Ill. Rev. Stat., 1973, ch. 38, §12-4.)*

2. That on October 27, 1974, the claimant was stabbed in the abdomen while fighting outside the Proud Mary Lounge on 6537 South Western, Chicago, Illinois.

3. That the victim was hospitalized from October 27, **1974,** to November 6, 1974, and from December 9, **1974,** to December 16, 1974, as a result of the incident. A further and more detailed investigation considered by the court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter and the facts reported therein are incorporated in this opinion by reference.

4. That statements taken by police investigators shortly after the crime present substantial evidence that the victim provoked the attack. Statements of claimant to the Attorney General further verify evidence of provocation; that the claimant had been drinking to the point of intoxication immediately prior to the incident; that the claimant on at least four separate occasions admitted starting the fight that led to the injury claimed herein. According to §3(f) of the Act, "A person is entitled to compensation under this Act if the injury to or the death of the victim was not substantially attributable to his wrongful act or substantial provocation of his assailant."

It is therefore the finding of this Court that the claimant has failed to meet a required condition precedent to his right to compensation under the Act.

Therefore, the Court finds that no compensation in

this claim is authorized under the aforesaid Act. Accordingly, this matter is closed.

(No. 75-CV-157—Claimant awarded $568.15.)

HOWARD ROY WEITZMAN, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed April 23, 1975.

HOWARD **ROY** WEITZMAN, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred December **4,** 1974, at the 12th Street Beach, Cook County, Chicago, Illinois. Howard Roy Weitzman, victim, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act." Ill. ***Rev. Stat., 1973, ch. 70,*** 970, ***et seq.*** (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Howard Roy Weitzman, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery". *(Ill. Rev. Stat., 1973, Ch. 38, §12-4.)*

2. That on July 7, 1974, at approximately 6:30 p.m., the claimant was visiting the beach area of the 12th Street Beach with his wife, Harriet Weitzman, daughter, Ardin Weitzman, and his daughter's friend, Julie Orlensky. The claimant stated that a group of male Latinos were creating a disturbance on the beach. Several of the youths appeared to attack a couple who were sitting near the rocks. Then the group began to flee. Claimant further stated that as they passed his family, one of the Latinos knocked his daughter and his daughter's friend to the ground. Claimant then grabbed the youth who had attacked his daughter and began to punch him about the face and body. The claimant, in defense of his daughter, was on top of the Latino punching him in the face when several of the Latino friends came back. One of the youths struck the victim in and about the head and shoulder area with a baseball bat. The Latinos then fled the area on foot.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any wrongful act or provocation by the claimant, substantial enough to bar his claim.

4. That claimant was taken to the first aid station at the beach and then transported to Mercy Hospital by police car where he was treated for his injuries by Dr. Edwin S. Sinaiko. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the

Court's file in this matter and the facts reported therein are incorporated in this opinion by reference.

5. That the victim and his assailant were not related nor sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials and claimant has fully cooperated with their requests for assistance. However, the assailants have not been identified at this time.

7. That the claimant,seeks compensation for medical expenses and loss of earnings.

8. That the claimant was unable to work from July **7, 1974** to July **23, 1974,** as a result of his injury, **a** total of 16 days.

9. That the claimant has proved *to* the Court's satisfaction that his loss of earnings compensable under the statute was **$263.15.**

10. That in addition to loss of earnings, the claimant incurred medical and hospital expenses which were not covered by insurance benefits, and the gross amount of the pecuniary loss for these items as computed before deductions and setoffs is as follows:

1)	**Hospital**	$205.00
2)	**Medical**	**$300.00**
		$505.00

11. That, in determining the amount of compensation to which an applicant is entitled, §7(d) **of** the Act states that this Court—

(d) **"shall deduct $200.00 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first** ($25,000) **Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant.** . .)."

12. That, in the claim before us, the claimant has not received any benefits from other sources which must be deducted from his loss, as contemplated by §7(d) of the Act. The statutory deduction of $200.00, having been deducted from the *gross* amount of loss as calculated in paragraphs 9 and 10, leaves a loss compensable under the Act of $568.15. Hence, the claimant is entitled to an award in the amount of $568.15. i.e.

IT IS HEREBY ORDERED that the sum of $568.15 be awarded to Howard Roy Weitzman, as an innocent victim of a violent crime.

(No. 75-CV-98—Claimant awarded $1,620.59.)

GUY GETTIS, Claimant, *us.* **STATE** OF **ILLINOIS,** Respondent.

Opinion filed April 28, 1975.

GUY GETTIS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; **HOWARD** W. FELDMAN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of ***$500*** or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arose out of a criminal aggravated assault on July 13, 1974, in Centreville, St. Clair County, Illinois. Guy Gettis seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act," Ill. Rev. Stat., 1973, Ch. **70,** Sec. 71, ***et seq.*** (hereafter referred to as ***the Act).***

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant was a victim of a violent crime, as covered under the Act, to wit:

"Aggravated Assault", (Ill. **Rev. Stats., 1973, ch. 38,** sec. **12-2).**

2. That on July **13, 1974,** claimant answered a knock at the door of his home at or about 10:00 p.m. at **6030** Laura Street, Centreville, Illinois, at which time claimant was shot twice in the abdomen. As a result of these gunshot wounds, claimant was hospitalized for a period from July **13, 1974,** to July **23, 1974.**

3. That said crime was promptly reported to the Centreville Police Department and that claimant at all times has cooperated with law enforcement officials, but that the assailant is unidentified and the investigation is continuing.

4. Claimant, as indicated by the report of the Attorney General, did not provoke the incident nor is the incident a result of any wrongful act of the claimant.

5. No evidence indicates that claimant is related to or a member of the same household as the assailant.

6. Claimant has suffered pecuniary loss in excess of $200 compensable under the Act as follows:

Hospital	**$1,897.75**
Doctor	**265.00**

7. Claimant was self-employed at the time of this incident but has been able to establish prior earnings in

excess of $500 per month. Claimant was unable to work for a period of 22 days subsequent to this incident. Section 74 of the Act states loss of earnings, loss of future earnings and support shall be determined on the basis of the victim's average monthly earnings for the six months immediately preceding the injury or, $500 per month, whichever is less. Based upon the figure of $500 per month and claimant's inability to work the 22 days, claimant's pecuniary loss of earnings is $311.84.

8. Claimant has not received nor is he entitled to receive any benefits as a result of this incident.

9. Pursuant to Illinois Revised Statutes, 1973, chap. 70, par. 71, this Court must deduct the first $200 of pecuniary loss.

10. A Supplemental Investigatory Report filed by the Attorney General in this matter indicates that Mr. Guy Gettis presently has an outstanding obligation to the State of Illinois for license plate fees in the amount of $654. Although the Court shall not recognize any liens on awards to applicants, except as provided under section 80d of the Act, this Court shall be guided by all the statutes of the State of Illinois, Chapter 15, Sec. 210.05 of Illinois Revised Statutes, 1973, provides that:

"Whenever any person shall be entitled to a warrant on the treasury or on other funds held by the State Treasurer or any account whatever, against whom there shall be any account or claim in favor of the state, then due and payable, the Comptroller, upon notification thereof, shall ascertain the amount due and payable to the State, as aforesaid, and draw a warrant on the treasury or on other funds held by the State Treasurer, stating the amount for which the party was entitled to a warrant, the amount deducted therefrom, and on what account, directing the payment of the balance; . . ."

The award due Mr. Gettis shall be reduced by the indebtedness to the Secretary of State of the State of Illinois for license plate fees as evidenced by the Supplemental Investigatory Report.

11. That the proof submitted in support of this claim satisfies all of the requirements of the Act.

IT IS HEREBY ORDERED that the sum of $1,620.59 (ONE THOUSAND SIX HUNDRED TWENTY DOLLARS AND FIFTY NINE CENTS) be awarded Guy Gettis as a victim of a violent crime and that the indebtedness to the Secretary of State in the sum of $654 is hereby satisfied.

(No. 75-CV-101—Claimants awarded $10,000.00.)

DONALD L. DOTY, SR., Administrator, and DEE ANN DOTY, CHARLES L. DOTY, JR. **and** RHONDA DOTY, **on behalf of** CHARLES L. DOTY, SR., Deceased, Claimants, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed April 28, 1975.

DONALD L. DOTY, SR., Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION Am—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of ***$500*** or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within **2** years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on March **12, 1974,** at 5th & Martin Luther King Drive, East St. Louis, St. Clair County, Illinois. Donald L. Doty, Sr., brother of the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," Illinois Revised Statutes, **1973,** Ch. 70, Par. **71,** et ***seq.*** (hereafter referred to as "the **Act**").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant's deceased brother, Charles L. Doty, age 42, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Murder", *(Ill. Rev. Stat., 1973, Ch. 38, §9-1).*

2. That on March 12, 1974, claimant's brother was shot by three men in the process of robbing Guccion's Market where the deceased was employed as a security guard.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the decedent for the attack upon him.

4. That the victim died on March 12, 1974, as a result of gunshot wounds he received on that date. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the three assailants, George Macklin, Darnell Carpenter, and Aaron Donald, were arrested and are pending trial for murder in St. Clair County.

6. That the victim and his assailants were not related nor sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully *co*-operated with their requests for assistance.

8. That the application of Donald L. Doty, Sr. has been amended to include the children of Charles L. Doty, deceased, being Charles L. Doty, Jr. [age 9], Dee Ann Doty [age **121** and Rhonda Sue Doty [age 71.

9. That the victim's average monthly earnings for the two months immediately preceding his death were $400.

10. Based upon the victim's **normal** life expectancy of **31** years and taking $400 per month as his average earnings, the loss of support to his family is computed to be an amount far in excess of the **$10,000** maximum amount that can be awarded as compensation under the Act for any loss resulting from a violent crime.

11. Donald L. Doty, Sr., has paid reasonable funeral expenses for the deceased victim in the amount of **$1,862.20.**

12. That the claimants did not receive, nor are they entitled to any benefits as a result of this incident. The claimants' petition for compensation under the Illinois Workmen's Compensation Act was denied.

13. That this Court recognizes that Donald L. Doty, Sr., is due **$1,862.20** for monies expended for the funeral of the deceased victim. The children **of** the deceased are due **$8,137.80** to be distributed to them equally after appointment of a legal guardian.

14. That, in compliance with the statutory requirement, $200 must be deducted from the total loss sustained. This Court intends that the statutory **$200** be deducted from the award to Donald L. Doty, Sr.

IT IS HEREBY ORDERED that the total sum of $1,662.20 (ONE THOUSAND SIX HUNDRED SIXTY TWO DOLLARS AND TWENTY CENTS) be awarded Donald L. Doty, Sr., and that **$8,137.80** (EIGHT THOUSAND ONE HUNDRED THIRTY SEVEN DOLLARS AND EIGHTY CENTS) be awarded the children of Charles L. Doty named in ¶8, the said amounts to be divided equally among the 3 of them so that Dee Ann Doty, Charles L. Doty, Jr., and Rhonda Sue Doty will each receive the sum of **$2,712.60.**

(No. 75-CV-402—Claimant awarded $251.45.)

DIANE L. SWIFT, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed April 28, 1975.

SCHOOLEY and HARTMAN, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; HOWARD W. FELDMAN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on July 11, 1974, at 3015 Marshall Street, Granite City, Illinois. Diane L. Swift, claimant, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act," Ill. Rev. Stat., **1973,** Ch. 70, par. 71, et seq. (hereafter referred to as "the Act").

This Court has carefully considered the application

for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Diane L. Swift, age 26, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery", (Ill. Rev. Stat., 1973, Ch. 38, Par. 12-4).

2. That on July **11, 1974,** claimant was stabbed by a juvenile when she discovered him inside her home.

3. That statements taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the decedent for the attack upon her by the juvenile.

4. That a further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the assailant, a minor, was charged with aggravated battery and robbery and was given one year of probation by the Madison County Circuit Court, Juvenile Division.

6. That the victim and the assailant were not related nor sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. That the claimant seeks compensation under the Act for pecuniary loss in the amount of **$451.45,** as follows:

Hospital	$338.20
Doctor	60.00
Medicine	28.25
Ambulance	25.00

9. That claimant does not claim any loss **of** income.

10. That this claimant is not entitled to nor has she received any benefits as a result **of** this criminal offense.

11. That the claimant did not provoke the incident.

12. That this Court must deduct the first $200 in pecuniary loss from any award that this claimant might be entitled to.

IT IS HEREBY ORDERED that the total **sum of** $251.45 (TWO **HUNDRED FIFTY ONE DOLLARS AND FORTY FIVE CENTS)** be awarded claimant, Diane L. Swift, as a victim **of** a violent crime.

(No. 75-CV-22—Claimant awarded $3,340.55.)

JUNE TANAKA, on behalf of **LAURA TANAKA, a** minor, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed May 1, 1975.

CRIME VICTIMS COMPENSATION Am—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within **2** years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on December 12, **1973,** at the vicinity of the 2000 block of Church Street, Evanston, Cook County, Illinois. June Tanaka, the claimant, seeks payment of compensation for injuries incurred by her dependent daughter, Laura Tanaka, pursuant to the provisions of the "Crime Victims Compensation Act." Ill. ***Rev. Stat., Ch. 70, §71 et seq.*** (hereafter referred to as the "Act".)

This Court has carefully considered the application for benefits submitted on the form prescribed by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant's dependent daughter, Laura Tanaka, age **15,** was a victim of a violent crime, as defined in 92 (c) of the Act, to wit:

"Rape"(Ill. Rev. Stat., 1973, Ch. 38, §11-1); and "Aggravated Battery" (Ill. Rev Stat., 1973, ch. 38, §12-4).

2. That on December 12, **1973,** the claimant's daughter sustained a knife wound to her hand and was subsequently raped. Prior to the incident, the victim was walking home from school.

3. That statements taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon her.

4. That the victim sustained numerous injuries for which she was hospitalized and received surgery. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of the said report is retained in the Court's file in

this matter, and the facts as reported therein are incorporated in the opinion by reference.

5. The assailants, Walter Leroy Palmer and Bryon Turner, stood trial for rape and aggravated battery. Palmer was committed to the Illinois Department of Mental Health and Turner was convicted and given five (5) years probation.

6. That there is no evidence that the victim and her assailants were related or sharing the same household.

8. That the victim at the time of her injury was unemployed and not contributing to the support **of** the claimant

9. That the claimant incurred medical and hospital expenses **for** the victim which were **not** covered **by** insurance or other compensation, and the gross amount of the pecuniary loss as computed before deductions and setoffs is as follows:

1)	**Hospital (Skokie)**	**$2,295.55**
2)	**Medical**	**$1,245.00**
	.	**$3,540.55**

10. That, in determining the amount of compensation to which an applicant is entitled, **47** (d) of the Act states that this Court—

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)."

That, in the claim before us, no benefits were received by the claimant, as contemplated by **47** (d) of the Act. The statutory deduction of $200 having been deducted from the gross amount of loss shown in ¶9, leaves

an amount of $3,340.55 as the actual compensable loss sustained by the claimant.

IT IS HEREBY ORDERED that the sum of $3,340.55 be awarded to the claimant, June Tanaka, mother of the victim, who assumed the hospital and medical expenses for Laura Tanaka, her dependent daughter and the victim of a violent crime.

(No. 75-CV-74—Claimant awarded $725.04.)

DONALD E. STEBBING, Claimant, *vs.* **STATE OF ILLINOIS, Respondent.**

Opinion *filed* May *1, 1975.*

DONALD E. STEBBING, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more, notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on April 1, 1974, at the corner of Chicago Avenue and Sedgwick Street, Chicago, Cook County, Illinois. Donald E. Stebbing, the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," Ill. ***Rev. Stat., 1973, Ch. 70 §71, et seq.*** (hereafter referred to as "the Act").

This Court has carefully considered the application

for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Donald Stebbing, age 63, was a victim of a violent crime, as defined in Sec. 2 (c) of the Act, to wit:

"Aggravated Battery" (*Ill. Rev. Stat., 1973, Ch. 38, Sec. 12-4*).

2. That on April 1, 1974, the claimant was beaten while being robbed by two assailants.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon him.

4. That the victim was hospitalized from April 1, 1974, to April 1974, and received treatment for injuries sustained in the beating. In addition, the claimant remained under the care of his private doctor, J. C. Adrian, from April 2, 1974, to June 7, 1974. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the two assailants have not been identified or apprehended. The case remains under investigation by the Chicago Police Department.

6. That there is no evidence that the victim and his assailants were related or sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and the claimant has fully cooperated with their requests for assistance.

8. That the victim's average monthly earnings for the 6 months immediately preceding his injury were $750.00, but earnings of only $500.00 per month can be considered as the basis for determining loss of earnings, pursuant to the following provision in Sec. 4 of the Act.

". . . loss of support shall be determined on the basis of the victim's average monthly earnings for the 6 months immediately preceding the date of the injury or on $500 per month, whichever is less."

That based on the Court accepted method of calculating salary losses over a portion of a month—average days in a month (30.4) multiplied by the number of days out of work (16)—the claimant's compensable losses due to lost work days may be determined to total $263.04.

9. That the claimant incurred medical and hospital expenses which were not covered by insurance benefits, and the gross amount of the pecuniary loss as computed before deductions and setoffs is as follows:

1)	Hospital	$552.00
2)	Medical	$110.00
3)	Loss of Salary	$263.04
		$925.04

10. That, in determining the amount of compensation to which an applicant is entitled, Sec. 7 (d) of the Act states that this Court:

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workman's Compensation Act,' or from local governmental, State, or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)"

That, in the claim before us, the claimant received no benefits from other sources, as contemplated by Sec. 7

(d) of the Act. The statutory deduction of $200, having been deducted from the gross amount of loss as calculated in ¶9, leaves an amount of compensable loss sustained by the claimant, as $725.04.

IT IS HEREBY ORDERED that the sum of $725.04 be awarded to the claimant, Donald E. Stebbing, as the innocent victim of a violent crime.

(No. 75-CV-140—Claimant awarded $946.87.)

WILLIAM J. FANDL, Claimant, *vs.* **STATE OF ILLINOIS,** Respondent.

Opinion filed May 1, *1975.*

WILLIAM J. FANDL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on April 12, 1974, at 5258 S. Laflin, Chicago, Cook County, Illinois, WILLIAM J. FANDL, the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill.Rev.Stat., 1973,* Ch. *70 & 71 et seq.* (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and fur-

nished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, **WILLIAM J. FANDL,** age **27,** was a victim of a violent crime, as defined in Sec. 2(c) of, the Act, to wit:

"Aggravated Battery." (Ill.Rev.Stat., 1973, Ch. 38, Sec. 12-4).

2. That on April **12, 1974,** claimant was stabbed while walking home with a friend.

3. That statements, taken by the police investigators shortly after the crime was committed, present no substantial evidence of any provocation by the claimant for the attack upon him.

4. That the victim sustained numerous injuries for which he was hospitalized and received surgery. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the assailants has been identified and indicated and the case is still pending.

6. That there is no evidence that the victim and his assailants were related or sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. No evidence was presented to indicate that the claimant's injuries were attributable to claimant's

"wrongful act or substantial provocation of his assailant."

9. That the victim's average monthly earnings for the six months immediately preceding his injury were **$584.13** per month, but earnings of only **$500.00** per month can be considered as the basis for determining loss of earnings, pursuant to the following provision in Sec. **4** of the Act.

"... loss of support shall be determined on the basis of the victim's average monthly earnings for the six months immediately preceeding the date of the injury or on $500.00 per month, whichever is less."

That, based on the Court accepted method of calculating salary losses over a portion of a month — average monthly income ($500) divided by the average number of **days** in **a** month (30.4) multiplied by the number of days out of work **(2** months and **11** days) the claimant's compensable losses due to lost work days may be determined to total of **$1,180.92.**

10. That the claimant incurred medical and hospital expenses which were partially covered by insurance benefits, and the gross amount of the pecuniary loss for these items as computed before deductions and setoffs is as follows:

1. Hospital **$2,948.25**
2. Medical **523.16**

11. That, in determining the amount of compensation to which an applicant is entitled, Sec. 7(d) of the Act states that this Court—

"(d) shall deduct $200.00 plus the amount of benefits, payments or awards, payable under the "Workmen's Compensation Act," or from the local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five thousand dollars of life insurance that would inure to the benefit of the applicant ...)."

That, in the claim before us, the benefits received by the claimant from other sources which must be deducted from his loss, as contemplated by Sec. 7(d) of the Act, were shown to be in the total sum of $3,505.46. This amount, plus the statutory deduction of $200.00, having been deducted from the gross amount of loss as calculated in Sec. 9, leaves an amount of compensable loss, sustained by the claimant of $946.87.

IT IS HEREBY ORDERED that the sum of $946.87 be awarded to the claimant, William J. Fandl, as the innocent victim of a violent crime.

(No. 75-CV-161—Claim denied.)

DOUGLAS POINDEXTER, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed May *1, 1975*

DOUGLAS POINDEXTER, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of *$500* or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the **Court** of Claims within 2 years of the date of injury, compensation is payable under the Act

PER CURIAM.

This cause coming on to be heard on the application of the claimant together with the Investigative Report of the Attorney General and Court being fully advised in the premises finds that although the victim incurred expenses for which compensation is sought, these ex-

penses were entirely reimbursed by Public Aid. Pursuant to the Illinois Crime Victims Compensation Act (Ill. Rev. Stat., 1973, ch. 70, 871 et seq.), Public Aid benefits are deductible from the loss sustained by the claimant. Because a minimum of **$200** must be incurred pursuant to the act, the claimant is unfortunately not eligible for compensation under the Act. Accordingly, this claim must be and is hereby dismissed.

(No. 75-CV-172—Claimant awarded $8,382.35)

EVELYN WILLIAMS, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed *May 1, 1975.*

EVELYN WILLIAMS, Claimant, pro se.

WILLIAM **J. SCOTT,** Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of *$500* or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on August 15, **1974,** at **2456** West Jackson Boulevard, Chicago, Illinois. Evelyn Williams, the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat., 1973, Ch. 70,871, et. seq.* (hereafter referred to as *"the Act'?.*

This Court has carefully considered the application for benefits submitted on the form prescribed and fur-

nished by the Court, and a report of the Attorney General of the State of Illinois, which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Evelyn Williams, age 51, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery" (*Ill. Rev. Stat, 1973, Ch. 38, §12-4*).

2. That on August 15, 1974, the claimant was shot twice during a robbery at Eiland's Liquors, 2456 West Jackson Boulevard, Chicago, her place of employment.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon her.

4. That the victim was hospitalized from August 15, 1974, to August 30, 1974, and received treatment for injuries sustained in the shooting. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is contained in the Court's file in this matter, and the facts as reported therein are incorporated in this Opinion by reference.

5. That the two assailants have not been identified or apprehended. The case remains under investigation by the Chicago Police Department.

6. That there is no evidence that the victim and her assailants were related or sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. That the victim's average monthly earnings for the 6 months immediately preceding her injuries were $584.29, but earnings of only $500 per month can be considered as the basis for determining loss of earnings, pursuant to the following provision in Sec. 4 of the Act:

> ". . . loss of support shall be determined on the basis of the victim's average monthly earnings for the 6 months immediately preceding the date of the injury or on $500 per month, whichever is less."

That, based on this formula, the loss of income sustained by the claimant due to lost work days totals $2,000.00. [Four months loss of time.]

9. That the claimant incurred medical and hospital expenses which were not covered by insurance benefits, and the gross amount of pecuniary loss as computed before setoffs and deductions is as follows:

1)	Hospital	$4,963.35
2)	Anesthesia	$ 190.00
3)	X-Rays	$ 149.00
4)	Orthopedics	$ 450.00
5)	Medical	$ 830.00
6)	Loss of salary	$2,000.00
		$8,582.35

10. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this Court—

> "(d) shall deduct $200 plus the amount of benefits, payments or awards payable under the 'Workman's Compensation Act,' or from local governmental, State, or Federal funds or from any other source (except annuities, pension plans, Federal social security benefits, and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefits of the applicant . . .)."

That, in the claim before us, the claimant received no benefits from other sources, as contemplated by Sec. 7 (d) of the Act. The statutory deduction of $200, having been deducted from the gross amount of loss as calcu-

lated in ¶9, leaves an amount of compensable loss sustained by the claimant as **$8,382.35.**

IT IS HEREBY ORDERED that the sum of **$8,382.35** be awarded to the claimant, Evelyn Williams, as the innocent victim of a violent crime.

(No. 75-CV-182—Claimant awarded $715.50.)

MICHAEL PETERSON, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed May ***1, 1975.***

MICHAEL PETERSON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within **2** years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on September 8, 1974, near Dam 1 of the Forest Preserve in Wheeling, Illinois. Michael Peterson, the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims' Compensation Act", Ill. ***Rev. Stats., 1973, Ch. 70,*** *§71,* ***et. seq.*** (hereafter referred to as the ***"Act").***

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney Gen-

eral of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Michael Peterson, age **26,** was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery" (*Ill. Rev. Stat., 1973, Ch. 38, §12-4*).

2. That on September 8, **1974,** the claimant was beaten and robbed in the Wheeling Forest Preserve by two men that he had met a few minutes earlier in the Foremost Liquors Tavern, Wheeling.

3. That statements taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon him.

4. That the victim sustained numerous injuries for which he was hospitalized. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That one of the two assailants, Daniel Krueger, was convicted of Aggravated Battery in the Arlington Heights Court on October **15,1974,** (Indictment **#74-VC-254806).** The other assailant has not been identified.

6. That there is no evidence that the victim and his assailant were related or sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance.

8. That the victim's average monthly earnings for the six months immediately preceding his injury were **$464.00.**

9. That the victim, as a result of his injuries, was unable to work during the period of September 8, 1974, through October 7, 1974, a period of one month. In accordance with the statutory limit of compensation of $500 per month, the victim is entitled to **$464.00.**

10. That in addition to loss of earnings, the claimant incurred medical and hospital expenses which were not covered by insurance benefits, and the gross amount of the pecuniary loss for these items is as follows:

1)	**Hospital**	**$553.50**
2)	**Radiologists**	**$ 48.00**
3)	**Doctors..**	**$100.00**
		$701.50

11. That there is no evidence that claimant has received any compensation from local, state or federal funds, or insurance of any kind, but that claimant was awarded **$250.00** circuit court ordered restitution from assailant. [Arlington Heights Court]

12. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this Court—

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) twenty-five thousand dollars of life insurance that would inure to the benefit of the applicant . . .)."

That, in the claim before us, the benefits received by the claimant from other sources which must be deducted from his loss, as contemplated by §7(d) of the Act, were shown to be in the total sum of $250.00. This amount,

plus the statutory deduction of $200.00, having been deducted from the gross amount of loss as calculated in ¶9 and ¶10 leaves an amount of compensable loss, sustained by the claimant of $715.50.

13. That the proof submitted in support of this claim satisfies all of the requirements of this act, and the claim is therefore compensable thereunder.

IT IS HEREBY ORDERED that the total sum of $715.50 (SEVEN HUNDRED FIFTEEN DOLLARS AND FIFTY CENTS) be immediately paid to the claimant, an innocent victim of a violent crime, from the Court of Claims fund as a complete payment of the total amount of this award.

(No. 75-CV-198—Claimant awarded $394.93.)

LAUREL BETH MARMEL, Claimant, *vs.* **STATE** OF ILLINOIS, Respondent.

Opinion filed *May* 1, 1975.

LAUREL BETH MARMEL, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on April 27, 1974, in a parking lot near 2237 N. Sheffield Avenue, Chicago, Illinois. Lauren Beth Mar-

mel, the victim, seeks payment of compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill.Rev.Stat., 1973, Ch. 70, Sec. 71 et seq.* (hereafter referred to as "the Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court, and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based on these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Laurel Beth Marmel, age 22, was a victim of a violent crime, as defined in Sec. 2(c) of the Act, to wit:

"Aggravated Battery" (*Ill.Rev.Stat., 1973, Ch. 38, Sec. 12-4*).

2. That on April 27, the claimant was stabbed several times after having been propositioned by her assailant.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon her.

4. That the victim was hospitalized from April 28, 1974, to May 5, 1974, and received treatment for injuries sustained in the stabbing. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That the assailant has not been identified or apprehended. The investigation of the case has been suspended by the Chicago Police Dept.

6. That there is no evidence that the victim and her assailant were related or sharing the same household.

7. That the criminal offense was promptly reported to law enforcement officials, and the claimant has fully cooperated with their requests for assistance.

8. That the victim's average monthly earnings for the *6* months immediately preceding her injuries was $700.00, but earnings of only $500.00 per month can be considered as the basis for determining loss of earnings, pursuant to the following provision in Sec. **4** of The Act:

". . . loss of support shall be determined on the basis of the victim is average monthly earnings for the 6 months immediately preceding the date of the injury or on $500.00 per month, whichever is less."

That, based on this provision, the claimant's compensable losses due to a month of lost work days may be determined to total $500.00.

9. That the claimant incurred medical and hospital expenses which were partially covered by insurance benefits, and the gross amount of the pecuniary loss as computed before deductions and setoffs is as follows:

1.	Hospital..	**$2,661.55**
2.	Medical	**494.00**
3.	Loss of Salary	500.00
		$3,655.55

10. That, in determining the amount **of** compensation to which an applicant is entitled, Sec. **7(d)** **of** The Act states that this Court—

"(d) shall deduct $200.00 plus the amount of benefits, payments, or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State, or Federal funds, or from any other source (except annuities, pension plans, Federal social security benefits, and the net proceeds of the first **($25,000.00)** Twenty-five thousand dollars of life insurance that would inure to the benefit of the applicant . . .)."

That, in the claim before us, the benefits received by

the claimant from other sources which must be deducted from her loss, as contemplated by Sec. 7(d) of the Act, were shown to be in the total sum of $3,060.62. This amount, plus the statutory deduction of $200.00, having been deducted from the gross amount of loss as calculated in ¶9, leaves an amount of compensable loss sustained by the claimant of $394.93.

It is hereby ordered that the sum of $394.93 be awarded to the claimant, Laurel Beth Marmel, as the innocent victim of a violent crime.

(No. 74-CV-45—Claimant awarded $255.62.)

GASPAR **RODRIGUEZ,** Claimant, *us.* **STATE OF** ILLINOIS, **Respondent.**

Opinion filed May 6, 1975.

GASPAR RODRIGUEZ, Claimant, pro se.

WILLIAM **J.** *SCOTT,* Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within **2** years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred on March 1, 1974, at 3935 West Chicago Avenue, Chicago, Illinois. Gaspar Rodriguez, the victim, seeks payment of compensation pursuant to the provisions **of** the "Crime Victims Compensation Act," ***Ill. Rev.***

Stat., 1973, Ch. 70, Sec. 71, et. seq. (hereafter referred to as *"the Act").*

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court, and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based on these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Gaspar Rodriguez, age 47, was a victim of a violent crime, as defined in Sec. 2 (c) of the Act, to wit:

"Aggravated Battery" (*Ill. Rev. Stat., 1973, Ch. 38, Sec. 12-4).*

2. That on March 1, 1974, the claimant was shot in the neck during a robbery attempt at the "El Tanampa" club, 3935 West Chicago Avenue, Chicago, Illinois.

3. That the victim was hospitalized from March 1, 1974, to March 13, 1974, and received treatment for injuries sustained in the shooting. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

4. That the criminal offense was promptly reported to law enforcement officials, and the claimant has fully cooperated with their requests for assistance in the investigation.

5. That the assailant has not been identified or apprehended. The investigation of the case remains open.

6. That statements, taken by police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon him.

7. That there is no evidence that the victim and his assailant were related or sharing the same household.

8. That the victim's average monthly earnings for the 6 months immediately preceding his injuries were **$585.98,** but earnings **of** only **$500** per month can be considered as the basis for determining loss of earnings, pursuant to the following provision in Sec. **4** of the Act:

> **..... loss of support shall be determined on the basis of the victim is average monthly earnings for the 6 months immediately preceding the date of the injury or on $500.00 per month, whichever is less."**

That the claimant has demonstrated that, due to injuries sustained in the incident, he missed 18 days of work. By using the court-accepted method of computing lost wages—Number of lost work days (18) multiplied by the average monthly income **($500)** divided by the average number of days in a month (30.4)—the claimant's compensable losses due to lost work days may be determined to total **$295.92.**

9. That the claimant incurred medical and hospital expenses which were partially covered by insurance benefits, and the gross amount of the pecuniary loss as computed before deductions and setoffs is as follows:

1)	**Hospital**	**$4,458.55**
2)	**Medical**	**$1,457.00**
3)	Loss **of salary**	**$ 295.92**
4)	**Records**	**$ 3.00**
		$6,214.47

10. That, in determining the amount **of** compensation to which an applicant is entitled, Sec. 7(d) of the Act states that this court—

"(d) shall deduct $200.00 plus the amount of benefits, payments, or awards, payable under the 'Workman's Compensation Act,' or from local governmental, State, or Federal funds, or from any other source (except annuities, pension plans, Federal social security benefits, and the net proceeds of the first ($25,000) Twenty-five thousand dollars of life insurance that would inure to the benefit of the applicant . . .)."

That, in the claim before us, the benefits received by the claimant from other sources which must be deducted **from** his loss, as contemplated by Sec. 7(d) of the Act, were shown to be in the total sum of $5,758.85. This amount, plus the statutory deduction **of** $200, having been deducted from the gross amount of loss as calculated in ¶9, leaves an amount of compensable loss sustained by the claimant of **$255.62.**

IT IS HEREBY ORDERED that the sum of **$255.62** (Two **HUNDERD FIFTY FIVE DOLLARS AND SIXTY** Two **CENTS) be** awarded to the claimant, Gaspar Rodriguez, as the innocent victim of a violent crime.

(No. 75-CV-41—Claimant awarded $1,463.00.)

TRESSA YOUNG, on **behalf of MICHAEL UNGER, Deceased, Claimant,** *us.* STATE **OF ILLINOIS, Respondent.**

Opinion filed May 6, 1975.

BENJAMIN AND SHAPIRO, Attorney for Claimant.

WILLIAM J. SCOTT, Attorney General; **LEONARD CAHNMANN,** Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred November 5, 1973, at 116th & Lafayette Avenue, Cook County, Chicago, Illinois. Tressa Young, mother of the victim, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat., 1973, ch. 70, §71, et seq.* (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant's deceased son, Michael Unger, age 17, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Murder". *(Ill. Rev. Stat., 1973, Ch. 38, §9-1.)*

2. That on November 5, 1973, at approximately 10:50 P.M., the victim was shot in the face and killed by the assailant, James J. Perry. The assailant had accused the victim of breaking into his house prior to the shooting. The victim denied he had anything to do with breaking into the assailant's home.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence of any wrongful act or provocation by the claimant for the attack.

4. That the victim died on November 5, 1973 as a result of the injuries he received in the shooting. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General.

A copy of said report is retained in the Court's file in this matter and the facts reported therein are incorporated in this opinion by reference.

5. That the victim and his assailant were not related nor sharing the same household.

6. That the criminal offense was promptly reported to law enforcement officials and claimant has fully cooperated with their requests for assistance in the apprehension and prosecution of the assailant.

7. That the assailant has been identified as James Perry, Jr., of 11565 South Lafayette, Chicago, Illinois. He has been indicted for the murder of the victim and is scheduled for trial in Cook County Criminal Court, May 5, 1975, in the Courtroom of Judge Porter.

8. That the claimant seeks compensation for funeral expenses and loss of support.

9. That the victim was unemployed for a period of at least 6 months prior to his death and, therefore, no loss of support would be shown as a result of his death.

10. That the claimant has incurred expenses for the funeral and burial of the victim as a result of his death, and the gross amount of the pecuniary loss for these items as computed before deductions and setoffs is as follows:

Funeral	$1,274.00
Burial	389.00
	$1,663.00

11. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this Court—

(d) "shall deduct $200 00 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local

governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000) Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)."

12. That, in the claim before us, the claimant has not received any benefits from other sources which must be deducted from his loss, as contemplated by §7(d) of the Act. The statutory deduction of $200.00, having been deducted from the gross amount of loss as calculated in ¶9 and **10,** leaves a loss compensable under the Act of **$1,463.00.** Hence, the claimant is entitled to an award in the amount of **$1,463.00.**

IT IS HEREBY ORDERED that the sum of ONE THOUSAND FOUR HUNDRED SIXTY-THREE ($1,463.00) DOLLARS be awarded to the claimant, Tressa **Young,** as mother of an innocent victim of a violent crime.

(No. 75-CV-122—Claimant awarded $1,656.20.)

MATTHEW BEVENS, Claimant, *us.* STATE OF ILLINOIS, Respondent.

Opinion filed May 6, 1975.

MATTHEW BIVENS, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General; LEONARD CAHNMANN, Assistant Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime; the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act.

PER CURIAM.

This claim arises out of a criminal offense that occurred December 7, 1973, at 15267 Vincennes Road, Cook County, Phoenix, Illinois. Matthew Bivens, victim, seeks compensation pursuant to the provisions of the "Crime Victims Compensation Act," *Ill. Rev. Stat.*, ***1973, ch. 70,*** *§71,* ***et seq.*** (hereafter referred to as the "Act").

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General **of** the State of Illinois which substantiates matters set forth in the application. Based upon these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Matthew Bivens, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery" *(Ill. Rev. Stat., 1973, Ch. 38, §12-4.)*

2. That on December 7, 1973, the claimant was shot in the chest **by** one of three men who were in the process of robbing a tavern at 15267 Vincennes Road, Phoenix, Illinois. Prior to the shooting, the claimant was doing some work in the back of the tavern.

3. That statements, taken by the police investigators shortly after the crime was committed, present no evidence that the claimant's injuries were in any way attributable to his wrongful act or the substantial provocation of his assailant.

4. That the claimant was transported by police ambulance to Ingalls Memorial Hospital in Harvey, Illinois where he was treated for his injuries by **Dr.** Frederick Weiss. A further and more detailed summary of the facts and information considered by. the Court is contained in the Investigatory Report prepared by the At-

7. That three men have been charged with attempted murder of the claimant and armed robbery. One of them, Michael Anderson, has pled guilty and was sentenced to five years. The other two, Herman Perrian and Johnny Proctor are scheduled for trial May 28, 1975, in the Circuit Court of Cook County in the Courtroom of Judge Wendt.

8. That the claimant seeks compensation for hospital and medical expenses.

9. That the claimant has incurred medical and hospital expenses which were partially covered by insurance benefits, and the gross amount of the pecuniary loss for these items as computed before deductions and setoffs is as follows:

1)	**Hospital**	**$1,610.60**
2)	**Medical**	**220.00**
3)	Carfare/Outpatient **treatment**	**25.60**
		$1,856.20

10. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this Court—

(d) **"shall deduct $200 plus the amount of benefits, payments or awards,**

plans, Federal social security benefits and the net proceeds of the first ($25,000)Twenty-five Thousand Dollars of life insurance that would inure to the benefit of the applicant . . .)."

11. That, in the claim before us, the claimant has not received benefits from other sources which must be deducted from his loss, as contemplated by §7(d) of the Act. The statutory deduction of $200, having been deducted from the gross amount of loss as calculated in 89, leaves a loss compensable under the Act of $1,656.20. Hence, the claimant is entitled to an award in the amount of $1,656.20.

IT IS HEREBY ORDERED that the total sum of $1,656.20 be awarded to the claimant, Matthew Bivens, as the innocent victim of a violent crime.

(No. 75-CV-150—Claimant awarded $1,052.52.)

ESTHER J. ANDERSON, Claimant, *us.* **STATE OF ILLINOIS,** Respondent.

Opinion filed May 6, 1975.

ESTHER J. ANDERSON, Claimant, pro se.

WILLIAM J. SCOTT, Attorney General, for Respondent.

CRIME VICTIMS COMPENSATION ACT—Where person is victim of violent crime as defined in the Act; has suffered pecuniary loss of $500 or more; notified and cooperated fully with law enforcement officials immediately after the crime, the victim and the assailant were not related and sharing the same household; the injury was not substantially attributable to the victims wrongful act or substantial provocation of the victim; and his claim was filed in the Court of Claims within 2 years of the date of injury, compensation is payable under the Act

PER **CURIAM.**

This claim arises out of a criminal offense that occurred on March 28,1974, at 11:00 p.m., at 5420 South Blackstone Avenue, Chicago, Illinois. Esther Anderson,

the victim, seeks payment of compensation pursuant to the "Crime Victims Compensation Act," *Ill. Rev. Stat., 1973, ch. 70, §71, et seq.* (hereinafter referred to as the "Act.")

This Court has carefully considered the application for benefits submitted on the form prescribed and furnished by the Court; and a report of the Attorney General of the State of Illinois which substantiates these documents and other evidence submitted before the Court, the Court finds:

1. That the claimant, Esther J. Anderson, age 67, was a victim of a violent crime, as defined in §2(c) of the Act, to wit:

"Aggravated Battery" (*Ill. Rev. Stats. 1973, Ch. 38, §12-4*).

2. That on March 28, 1974, the claimant was beaten and robbed of her purse in the elevator of her apartment building at 2851 South King Drive, Chicago, Illinois, by an unidentified assailant.

3. That statements taken by the police investigators shortly after the crime was committed, present no evidence of any provocation by the claimant for the attack upon her.

4. That the victim sustained numerous injuries for which she was hospitalized, including a broken jaw, a broken nose, loss of eyesight to her left eye, a detached retina, facial nerve dysfunction, an orbital floor fracture, a left vitreous hemorrhage, and a dislocated lens. A further and more detailed summary of the facts and information considered by the Court is contained in the Investigatory Report prepared by the Attorney General. A copy of said report is retained in the Court's file in this matter, and the facts as reported therein are incorporated in this opinion by reference.

5. That there is no evidence that the victim and his assailant were related to sharing the same household..

6. That the criminal offense was promptly reported to law enforcement officials, and claimant has fully cooperated with their requests for assistance. The assailant has not yet been identified, and the investigation is ongoing.

7. That the victim was fully paid during her absence from work. Therefore, she makes no claim **for** loss of earnings.

8. That the claimant incurred medical and hospital expenses as a result **of** her injuries and the *gross* amount of the pecuniary loss for these items is as follows:

1)	Hospital (Michael Reese)	$2,743.98
2)	Radiologists	15.00
3)	Doctors	990.00
4)	Opticians	69.75
5)	Dentist	20.00
6)	Drugs	43.12
		$3,881.85

9. That the claimant has received compensation from Blue Cross/Blue Shield in the amount of **$2,629.33.** She has not received any other insurance or disability benefits as a result of the injury.

10. That, in determining the amount of compensation to which an applicant is entitled, §7(d) of the Act states that this Court—

"(d) shall deduct $200 plus the amount of benefits, payments or awards, payable under the 'Workmen's Compensation Act,' or from local governmental, State or Federal funds or from any other source, (except annuities, pension plans, Federal social security benefits and the net proceeds of the first ($25,000)twenty-five thousand dollars of life insurance that would inure to the benefit of the applicant)"

That, in the claim before us, the benefits received **by** the claimant from other sources which must be deducted