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Should Iowa Establish a Court of Claims? - Part I

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"I assert without fear of contradiction that if any private company was subject to the disorganization, the decentralization, the lack of supervision and the faulty administration of our judicial system in New York, it would not survive bankruptcy for six months."

Such an indictment may not lie against the courts of Iowa, but in a measure it is as true of Iowa as it is of New York. In whatever degree it may be true of any of our courts it ought to be cured. Such a condition, if it be true to any extent whatever, needs no new law for its remedy. The local bar association is the place where it ought to be discussed and the remedy found.

In my opinion the district and county bar associations are already among the most useful organizations in the state. Their recent growth is most gratifying. Their opportunities for patriotic services are very great. Every lawyer in the state owes it to the profession to aid in their promotion and maintenance to the end that the administration of justice in Iowa may be, not only above criticism, but as perfect as it can be made.

Very truly yours,

SETH THOMAS, President.

Should Iowa Establish a Court of Claims?

By FRANK E. HORACK, STATE UNIVERSITY OF IOWA.

The doctrine that the States inherited the King's legal immunity was one of the legacies of the American Revolution; and as they could do no wrong, they were not liable to suits at law. Consequently the decision of Chief Justice John Marshall in the case of Chisholm v. Georgia aroused consternation and promptly led to the adoption of the Eleventh Amendment to the Constitution of the United States which established the legal immunity of the States from suits by individuals. Henceforth no sovereign State could be degraded by being called to answer in a court of law by any person as plaintiff.

The "King's conscience", however, would not permit any of his subjects to suffer injustice because of his legal immunity, and the problem of giving substantial justice to the citi-
zen in cases where the State was a party was encountered early in the history of the Commonwealth governments. Some provision for justice to individuals was necessary; and since it is a common provision of State Constitutions that "no money shall be drawn from the treasury but in consequence of an appropriation made by law," an appeal to the State legislature was the logical recourse for those whose grievances would have made the State a defendant in a court of law, but for its legal immunity.

NUMBER AND FORM OF CLAIM BILLS IN IOWA.

Those who have merely thumbed the pages of our biennial session laws in recent years must have been impressed by the large number of persons seeking and obtaining legislative justice. From 1917 to 1927 claims granted by legislative action averaged about twenty-three per session. About half of these claims were for personal injury, but the amounts were seldom large. The procedure followed in the earlier years was very simple: the claimant solicited the interest of his Representative or Senator, who introduced a claim bill under his own name or "by request." Such bills usually carried a redundant preamble reciting the circumstances giving rise to the claim, and the reasons why it should be granted.

Such bills were referred to the claims committees of the respective houses. If approved by the committee on claims the bills went to the appropriations committee under a long standing rule that all bills carrying appropriations or involving the expenditure of State funds shall be referred to the committee on appropriations.

Both the form of claim bills and the procedure under which they are enacted have undergone changes in recent years. The tendency today is to omit the preamble. No claim bills of either the Forty-third or Forty-fourth General Assembly carried preambles. The reason for the claim, however, is often incorporated in the act. The following act gives the reason for the claim in the purview.

"Be it enacted by the General Assembly of the State of Iowa:

"SECTION 1. There is hereby appropriated to Gerald L. Bolen the sum of fifteen thousand dollars ($15,000.00) to compensate him for moneys expended in medical attendance, hospital care, and nursing, for loss of time and for permanent injury growing out of an injury received while driving a truck owned by the state of Iowa under the direction of the Iowa state highway commission on federal highway
No. 30 at a point four miles east of State Center, Iowa; and the auditor of state is hereby authorized to draw his warrant for said sum to the said Gerald L. Bolen, and the treasurer of state is hereby authorized and directed to pay the same out of the primary road fund of the state of Iowa.

"Sec. 2. The receipt of the said sum by the said Gerald L. Bolen shall be in full settlement of all claims growing out of said injury against the state of Iowa or the Iowa state highway commission.

"Sec. 3. This act being deemed of immediate importance shall be in full force and effect from and after its publication in Deep River Record, a newspaper published in Deep River, Iowa, and in Slater News, a newspaper published in Slater, Iowa, without expense to the state.”

In other claim bills no reason at all is assigned for the appropriation made, the act merely stating that a certain sum of money has been appropriated to or for a certain individual. A bill adopted in 1931 read as follows:

"SECTION 1. There is hereby appropriated out of any funds in the state treasury not otherwise appropriated the sum of one thousand dollars ($1,000.00), the same to be paid as follows: one hundred dollars ($100.00) on July 1, 1931, which is allowed to Rhinehart and McLaughlin for attorney fees; and thirty dollars ($30.00) per month to George Brown of Indianola, Iowa, on the first day of August and thirty dollars ($30.00) on the first day of each month thereafter for twenty-nine (29) months.

"Sec. 2. The auditor of state is hereby authorized and directed to draw his warrants and the treasurer of state is hereby authorized and directed to pay the same as afore-said.”

Most of the claims allowed carry a section somewhat as follows: “The receipt of the said ............... shall be in full settlement of all claims arising from said injuries.” Only one claim act for personal injury granted by the Forty-third General Assembly did not state that it was a full settlement. This was an appropriation to Joseph Roy Collins for $127.74 “to reimburse him for expenses incurred for treatment for injuries received while an employee of the Iowa state training school for boys at Eldora, Iowa, on April 18, 1927”. In 1931 a claim for $126.70 was allowed to the same claimant “for doctor bills and expenses incurred in treating an injury received while employed by the state of Iowa at the boy’s industrial school at Eldora, Iowa”.

1 Laws of Iowa, 1929, Ch. 317.
2 Laws of Iowa, 1931, Ch. 278.
There is nothing in this second act indicating when the injury occurred, or that it was in any way related to the first claim, nor does the second act state that the payment made is a full settlement, although the record of the committee states that it shall be in full settlement of this and any future claims which may arise from the accident. Apparently the way is left open for another claim for the same accident.

The number of claim bills and the number of claimants has increased sharply since 1927. Fifty-nine claim bills were introduced in the Forty-third General Assembly and fifty-one were introduced in the Forty-fourth. Previous to 1929 each claim bill usually represented a single claimant, but the recent tendency has been to consolidate several claimants in the same bill. Thus twelve of the fifty-nine claim bills of the Forty-third General Assembly represented the claims of fifty-nine different persons, and nineteen claim bills out of the fifty-one introduced in the Forty-fourth General Assembly represented eighty-seven different claimants.

The following is a fair example of a bill containing the claims of several different claimants:

"Be it enacted by the General Assembly of the State of Iowa:

"SECTION 1. There is hereby appropriated out of the primary road fund of the state of Iowa to G. C. Bell the sum of one hundred ninety-five dollars ($195.00) to compensate him for damages done to his automobile when it met and was crowded off the highway by a road maintainer operated by the Iowa state highway commission.

"SEC. 2. There is hereby appropriated out of the primary road fund of the state of Iowa to A. L. McClintock the sum of two hundred ninety dollars ($290.00) to compensate him for cattle killed while being driven on the highway by collision with an automobile operated by the Iowa state highway commission.

"SEC. 3. There is hereby appropriated out of the primary road fund of the state of Iowa to Harley Cowman the sum of one hundred dollars ($100.00) to compensate him for damages done to his automobile when it collided with a truck upon the highway, operated by the Iowa state highway commission.

"SEC. 4. There is hereby appropriated out of the primary road fund of the state of Iowa to D. F. Brownlee the sum of five dollars ($5.00) to compensate him for a hog killed by reason of defective snow fence erected and maintained by the Iowa state highway commission upon the land of the claimant."
"SEC. 5. The auditor of state is hereby authorized and
directed to draw his warrant, and the treasurer of state is
hereby directed to pay the same as aforesaid; and the receipt
of the said sums by the respective claimants shall be in full
settlement of all claims growing out of said damages."3

RECENT INCREASE IN CLAIMS AGAINST THE STATE.

The extensive highway program undertaken by the State
of Iowa in the last few years has brought many claimants to
the legislative halls. In 1929 there were twenty claim bills
based upon injuries or damages arising out of highway con-
struction or maintenance or where a State owned car was
involved, and in 1931 there were thirty-three such bills.

For convenience the writer has classified the claims pre-
sented in the Forty-third and Forty-fourth General Assem-
blies under the following headings:

1. Cases in torts, including all claims for personal injury
or damages to property.

2. Cases in contracts, including claims of construction
companies for delays, changes of plans, etc., legal services
in behalf of State officers or employees to protect State in-
terests; rentals on property used by the State; the work of
local veterinarians aiding in the State campaign against
animal diseases; capitol extension claims; and the like.

3. Voluntary services to the State, such as the rescue of
fish or the apprehension of a parole violator.

4. Pensions, including soldier bonuses not previously
paid, annual or monthly stipends paid to early Indian
fighters, or installments paid over a period of years in cases
of personal injury.

5. Public improvements benefiting State property, such
as paving, sewers, drainage, and the like.

6. Refunds on taxes or fees erroneously paid.

7. Cases arising out of the exercise of the police power
by the State. These are chiefly claims for domestic animals
killed by order of the State Veterinary Department.

The following table shows the amount of each type of
claim presented in the Forty-third and Forty-fourth General
Assemblies:

3 Laws of Iowa, 1931, Ch. 276.
<table>
<thead>
<tr>
<th>Description</th>
<th>43rd G. A.</th>
<th>44th G. A.</th>
<th>Total for both sessions</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Tort Claims</td>
<td>$35,379.06</td>
<td>$29,809.04</td>
<td>$65,188.10</td>
</tr>
<tr>
<td>(2) Contract Claims</td>
<td>15,595.56</td>
<td>20,789.09</td>
<td>36,384.65</td>
</tr>
<tr>
<td>(3) Services to State</td>
<td>847.71</td>
<td>520.50</td>
<td>1,368.21</td>
</tr>
<tr>
<td>(4) Pensions</td>
<td>1,635.00</td>
<td>350.00</td>
<td>1,985.00</td>
</tr>
<tr>
<td>(5) Public Improvements</td>
<td>8,684.35</td>
<td>34,863.14</td>
<td>43,547.49</td>
</tr>
<tr>
<td>(6) Refunds</td>
<td>2,785.27</td>
<td>1,506.11</td>
<td>4,291.38</td>
</tr>
<tr>
<td>(7) Police power</td>
<td>1,960.14</td>
<td>80.00</td>
<td>2,040.14</td>
</tr>
<tr>
<td></td>
<td><strong>$66,887.09</strong></td>
<td><strong>$87,917.88</strong></td>
<td><strong>$154,804.97</strong></td>
</tr>
<tr>
<td>Claims Refused by Legislature</td>
<td>14,921.88</td>
<td>14,178.26</td>
<td>29,098.14</td>
</tr>
<tr>
<td>Net Amount Allowed</td>
<td><strong>$51,965.21</strong></td>
<td><strong>$73,741.62</strong></td>
<td><strong>$125,706.83</strong></td>
</tr>
</tbody>
</table>

The claims refused or reduced constitute about 19 per cent of the total claims allowed for these two sessions. This estimate includes only claims for which bills were actually introduced. Only a few claims were reduced on the floor, but many reductions were made in committee. Such bills usually represent the committee's recommendation. If however, we eliminate the claim of Slifer and Abrahamson for $13,322.50 for services in connection with the capitol extension program, which was refused, the total of all claims refused by the Assembly is approximately ten per cent of the claims recommended.

Appropriations made to pay for public improvements benefiting State property and those listed as contract claims might perhaps have been handled as appropriation bills rather than as claim bills. House File No. 530, Forty-third General Assembly, was a claim bill, while its companion bill, Senate File No. 497, which was passed, was an appropriation bill. If we eliminate such bills we can account for nearly half of the claims recommended. Now, if we subtract the tort claims from the remainder, we find that all the other claims amount to less than $10,000. Thus it is clear that tort claims constitute by far the largest item of what we ordinarily consider claims against the State.

The total tort claims presented in the Forty-third and Forty-fourth General Assemblies represented the claims of seventy different claimants aggregating $65,188.10. Of these seventy claimants fifty presented claims for personal injuries or damages to automobiles or other property arising out of highway construction or maintenance, or cases in which the operation of a State-owned car was involved. These claims amounted to $58,884.63, representing about nine-tenths of all the tort claims. As one reads the long list of tort claims allowed by our recent General Assemblies he can not but wonder whether the State is not in some cases, paying for the individual's carelessness and negligence.
CONSTITUTIONAL AND LEGAL PROVISIONS GOVERNING CLAIM BILLS.

In order to determine whether it would be desirable to establish a court of claims in Iowa, let us examine in detail the constitutional and legal provisions as well as the rules of the General Assembly which bear on the subject of claims.

In Art. III, Sec. 31, of the Constitution of Iowa, we find the provision: "nor shall any money be paid on any claim the subject matter of which shall not have been provided for by preexisting laws, and no public money or property shall be appropriated for local, or private purposes, unless such appropriation, compensation or claim be allowed by two-thirds of the members elected to each branch of the General Assembly".

Up to 1923 all claim bills were handled through the committees on claims and appropriations in the two houses. For many years both houses had separate as well as joint rules governing claims. Joint Rule No. 17 of the Forty-fourth General Assembly provides:

"It shall be the duty of the committee on claims in each house to keep a book of record in which shall be entered each claim for money against the state referred to them, whether presented in favor of private persons or municipal or other corporations, entering therein the name of the claimant, the amount of the claim, the grounds therefor, with note of the evidence offered in support of the same, and the final conclusion of the committee thereon. At the close of the session said book of record shall be deposited with the auditor of state, to be kept by him, and he shall provide an index, showing the names of the claimants recorded therein. At any subsequent session the same shall be delivered, when desired, to the like committee having jurisdiction of such claims and shall always be open to the examination of the said committee of either house."

By Senate Rule 21 and House Rule 48, all bills carrying appropriations or involving the expenditure of State funds must be referred to the committee on appropriations. Thus two legislative committees in each house pass upon claim bills before they are presented to their respective houses, and then they must receive a two-thirds vote in each house.

In 1923 the Fortieth General Assembly passed an act for the investigation of claims by the Attorney General. This act was rewritten and codified by the Code Commission in 1924 and now appears as Sections 403, 404, and 405, in the Code of 1931. It contains the following provision:
"Claims which are not allowable under the law shall be referred to the attorney general who shall forthwith fully investigate the facts upon which each claim is based with a view to determining whether in equity and good conscience the claim should be paid by the state. He may take written testimony in the form of affidavits or otherwise, and in so doing he and any of his duly appointed assistants shall have power to administer oaths."

It is also made the duty of the Attorney General to report all such testimony "together with a summarized finding of fact in each case" to the Senate or House committee on claims immediately upon the organization of the regular session of the General Assembly.

Thus the Constitution, the law, and the rules of the General Assembly require the following procedure in allowing claims:

1. Investigation of the claims by the Attorney General together with his recommendations to claims committees of House and Senate.
2. Consideration and action by the claims committees of each house.
3. Consideration and action by the appropriation committees of each house.
4. Passage by a two-thirds vote in each house.
5. Approval by the Governor.

From information obtained by correspondence with the chairmen of the claims committees of the Forty-third and Forty-fourth General Assemblies and by examination of the minutes of the claims committees for these sessions and the records of the claims filed in the Attorney General's office it appears that the procedure in submitting claims is somewhat as follows:

The claims committees of both houses of the Forty-third and Forty-fourth General Assemblies met as a joint committee, a majority of whom were entitled to act, and an assistant from the Attorney General's office was usually present to advise and recommend in relation to claims filed with him or with the committee.

All claims were ultimately filed in the Attorney General's office though all did not bear his recommendation, nor did those he recommended always indicate what sum he deemed just and equitable under the circumstances.

The committee's minutes and reports show that members of the Assembly or attorneys for claimants appeared before the committee to present cases.

Action by the committee usually followed immediately
upon the presentation of a case. This might be to defer action, to allow, or to disallow. Action was not often deferred. Nor, as a rule, was any reason given in the minutes why a claim has been allowed or rejected.

The record shows that many claims which were rejected by previous legislatures or at the time the claim was first presented were brought up again for reconsideration. Some of these were rejected a second or third time, some were reduced and allowed, while others were allowed in full on reconsideration.

The case of the Reverend F. A. Moore, of Knoxville, Iowa, is a good illustration of how persistence and enlisting the sympathy and influence of members of the Assembly may get a claim allowed. In the records of the joint committee on claims of the Forty-fourth General Assembly we read: "Representative J. H. Johnson then introduced Rev. F. A. Moore of Knoxville, Iowa, who came before the committee with his three little boys ranging from seven to eleven years. The youngest of the three was permanently and severely injured in an accident which occurred March 5, 1930, when they were following behind a maintenance grader which was pulled by a caterpillar tractor. The hub cap caught the little chap and carried him around several times severely injuring his thigh. He was in the hospital for sixty-nine weeks and Rev. Moore feeling that the state was negligent asks that he be reimbursed for the hospital and doctor bills incurred, which aggregate the sum of $494.25."

The maintenance engineer testified that the State was in no way to blame, that the boy deliberately stepped in between the spokes of the wheel of the grader. The Attorney General did not recommend that this claim be paid, but attached to the record of the claim is a copy of a letter written by him to the Reverend Moore advising him to have his Representative watch the claim. The claim was refused by the committee on March 20, 1931. On April 1st, Representative Van Wert brought up the claim again. He spoke very highly of Rev. Moore as a man, told of his small salary, and how hard the accident to the boy had borne upon him, but at no time did he allege that the State was in any way at fault. The committee this time recommended the full amount of $494.25 and the bill was passed the day before adjournment in one house and the day of adjournment in the other.

In a letter to the writer an assistant in the Attorney General's office states: "These statutes [Secs. 403-405 of the Code of 1931] authorizes the Attorney General to hold hearings on these claims to take evidence and make findings both of the
facts and the law. We have never held any of these hearings but have presented any contested cases directly to the committee in joint session during the legislative session. * * * Some [claims] are presented both on affidavits and upon oral testimony taken before the committee.”

The following incident indicates how one of the larger claims was handled through the Attorney General's office.

Francine Talbot of Marshalltown filed a claim for $6006.00 in the Forty-second General Assembly for permanent injury and expense incurred in connection with the treatment of a wound received from a stray bullet fired on the rifle range of Company H of the Iowa National Guard. The facts of the case are fully stated, the description of her wound is set forth in an affidavit by her physician, accompanied by an X-ray photograph showing the course and location of the bullet. Affidavits were also submitted by the attending nurse, the hospital superintendent, the Roentgenologist, and a deputy sheriff who made an examination of the cartridges used by Company H and who testified that many had been shot at rocks across the river from which they could easily have ricocheted to hit the claimant. Affidavits from members of the picnic party, the mother of the girl, and the claimant herself were all made a part of the record.

The findings submitted by the Attorney General were as follows:

“We find that the injury suffered by the claimant was the result of an accident beyond control and was received by her without any negligence or other fault on her part and that the claimant is entitled to some just claim against the state of Iowa.

“We therefore recommend that the claim be allowed in such sum as your Honorable Body deems just and equitable and that funds for the payment thereof be appropriated by this the Forty-second General Assembly of Iowa.”

The claims committee approved this recommendation and the General Assembly allowed the full sum asked.

The claim of Delpha Nelson also illustrates the need for a judicial determination of personal injury cases against the State.

According to her own affidavit, Miss Nelson contracted a papilloma at the swimming pool of the women’s gymnasium and was sent by the student health physician to the University Hospital for radium treatment. The hospital diagnosis was: “two very small Verruca Vulgaris on the ball of the right foot”. She was given radium treatment at the hospital and her record shows that she made in all ten visits to
the hospital between February 24, 1928, and April 10, 1928, at which time the record reads: "Lesion entirely healed with good result. No evidence of remaining Verruca or callus. Patient discharged."

On October 10, 1928, she returned to the hospital. This time the hospital record reads: "Definite evidence of a generalized mycotic infection of right foot and toes. No evidence of Verrucae at the time. Advised to see Dr. Kessler."

On May 8, 1930, Miss Nelson wrote a letter to the University Hospital stating that she had been compelled to give up work because she could not be on her feet. She stated that three doctors in Des Moines told her she had a severe radium burn and she threatened court action if something was not done about it. The hospital administrator wrote her a courteous letter stating that the University Hospital, being an arm of the State, was not subject to suit, nor could it, if it wished, do anything, since the legislature had provided no funds for such purposes.

When the Forty-fourth General Assembly met in January, 1931, Miss Nelson submitted a claim for $2000, $600 of which was to compensate her for "doctor bills, room and board, medicine and footwear". The remainder was asked as damages because she had been compelled to give up her life work as a physical education teacher. In her affidavit, she stated that she "took treatments in Des Moines, Iowa, from January, 1930, until August, 1930," and stopped because she was unable financially to keep them up and was also told by her doctor that he could do no more for her.

She also submitted affidavits of two Des Moines physicians stating that they had treated her for radium dermatitis which treatments included the use of ultra violet rays. Both stated that treatments resulted in little or no improvement in the foot.

Three affidavits in almost identical words were submitted by three residents of Iowa City stating that Miss Nelson had lived at their residence and that they knew she had suffered much pain and all three (laymen) disagreed with the hospital doctor's diagnosis of her case and insisted that it was the result of a radium burn.

On March 21, 1931, the assistant in the Attorney General's office in charge of claims wrote to the hospital asking for any information which might be submitted to the claims committee. The hospital administrator replied on March 24, 1931, reviewed the history of the case, and called attention to the fact that "on April 10th, 1928, the lesion was entirely healed with a good result and the patient discharged", and
that the mycotic infection for which she returned six months later could bear no relationship to radium therapy. "The record", wrote the administrator, "is wholly inconsistent with any radium burn having occurred here. In view of the condition of the patient as reported in her letter to the hospital dated May 8th, 1930, we would suggest that an investigation be made of any X-ray or radium treatment the patient may have obtained elsewhere." The writer is unable to find that any such investigation was made.

The Attorney General's office made no written recommendation or report on this claim, but an oral statement was made before the joint committee on claims.

The record of the claim of Delpha Nelson in the claim book of the Forty-fourth General Assembly reads as follows:

"The next claim that of Delphia Nelson of Harlan, Ia., in the amount of $2000.00 for injuries sustained while a student at the Iowa State University on Feb. 24th, 1929 when after contracting Popaloma (Papilloma), a germ which habitates around swimming pools, she was ordered by the Student Health to the University Hospital for treatment and Dr. Baxter, head of the X-ray department treated her with radium which he had left in too long on her foot which resulted in a severe radium burn on the ball of her right foot. She was compelled to leave the school and could not continue in her line of endeavor as Physical Culture Director. Miss Nelson has already spent $600.00 trying to cure this burn and should any money be allowed her she will go to the Mayo Clinic for further treatment.

"Miss Nelson who was present said that the epidemic had spread Popaloma (Papilloma) and about 300 students had contracted it but that ordinarily with right treatment it was easily cured but that several other girls were also sent to the Hospital by the Student Health and that after treatment a petition was gotten out and Dr. Baxter left the staff voluntarily.

"Rep. Miller—a member of this committee took the floor in support of Miss Nelson's claim saying that he had known her and that any moneys allowed her would be spent on curing this foot.

"The rules were suspended and a motion made by Rep. Rawlings to allow the claim in the amount of $2000.00. Seconded by Sen. Myers.

"Motion carried and claim allowed."

The significant point to note in the hearing on this case as shown by the minutes is the ex parte character of the proceedings. The committee assumed that the State was at fault,
completely ignoring the fact that the girl had received X-ray treatment by two physicians in Des Moines two years after she had been discharged from the University Hospital as cured and more than a year after the mycotic infection developed which according to the hospital authorities could bear no relationship to radium therapy.

The claimant’s home town is also the residence of the Representative who championed her case before the committee. Apparently it is still profitable to have “a friend at court”.

The bill providing for the payment of $2000 to Miss Nelson for her injury was introduced in the House of Representatives on April 3, 1931, and was passed in both houses on the day of adjournment, with only one dissenting vote in the House.

Without in any way attempting to pass upon the merits of this claim, the writer would like to point out that the cause of justice would have been much better promoted if this case could have been heard in the calm and judicial atmosphere of a courtroom rather than in the highly politically charged atmosphere of the closing hours of the Forty-fourth General Assembly.

Indeed, the apparent absurdity of many of the claims is enough to suggest that there ought to be a better and more judicial method of handling them. The following are taken at random from the minutes of the joint claims committee of the Forty-third and Forty-fourth General Assemblies as illustrating some of the many claims which take up the time and thought of members of the committee.

A farmer found a steer dead, alleged that it had been shot by hunters unknown to him, and claimed that the State should compensate him to the extent of $56.00.

A horse at the State fair grounds shied in passing through one of the barns and in doing so shoved a door against a bystander’s fingers and he asked the State for $305.40.

The Highway Commission detoured travel from a road under construction and a grocer thought he should be compensated for his loss of trade.

A mad dog bit a number of hogs which the owner killed and then asked the State to compensate him.

A daring youngster attempted to scale a cliff in a State park, fell, and injured himself. His father wanted to be compensated for the doctor and hospital bills because the cliff was not guarded.

Rain washed mud on a paved road and a speeding car skidded and was damaged. The owner was sure the State was at fault and should compensate him.
An inmate of an insane hospital escaped and set fire to a farmer's barn. The farmer thought the State should make good his loss to the extent of $7000.00.

A horse and saddle belonging to an Iowan was, he alleged, captured by the Confederates in the Civil War. In the year 1929, he claimed he should get $165.00 for his loss.

Most of such claimants, of course, rely more upon political influence than merit.

Almost any injury or loss which under ordinary circumstances would be attributed to an act of God, hard luck, foolhardiness, or culpable negligence is twisted by the claimant or his attorney to show that the State should compensate him accordingly. A new type of ambulance chasing may be said to have developed especially in connection with personal injuries and damages arising out of highway accidents. The ease with which affidavits are obtained is well known to all. These are assembled in imposing numbers by attorneys for claimants for presentation to the claims committee.

A new feature in drafting of claim bills has recently appeared—namely, the inclusion of the attorney's fees as a special item in the bill to be paid to him directly. This may indicate that the attorneys do not trust their clients or that the legislature does not trust the attorneys.

Section 1 of Chapter 290, *Laws of the Forty-fourth General Assembly*, not only illustrates how attorney's fees are incorporated in the claim bill of his client, but it also is a good illustration of careless bill drafting. The section is as follows: "There is hereby appropriated out of the fish and game protective fund of the state of Iowa, to Fred Hill the sum of three hundred seventy-eight dollars ($378.00), one hundred fifty dollars ($150.00) of which shall be paid to C. J. Eller, attorney at law, to compensate the said Fred Hill for damages to his automobile, and one hundred fifty dollars ($150.00) to the said C. J. Eller for attorney fees in connection with the said case for damages growing out of an automobile collision with a car driven by a deputy fish and game warden of the state of Iowa." The State Auditor's office experienced difficulty in deciding what was to be paid but finally paid Hill $378.00 and his attorney $150.00.

It is a significant fact that all but one of the recent attempts to change the method of handling claims against the State have been introduced as committee bills from the claims committee, or by one of its members. The General Assembly is striving to set up some judicial or quasi-judicial machinery to sift out the worthy from the spurious, leaving to the
legislature the enactment of the necessary appropriation
bills to meet the claims recommended.
(To be continued in March Issue.)

In Memoriam

KOS HARRIS.

Kos Harris, attorney of Wichita, Kansas, died October 10, 1931, at his home in Wichita. Mr. Harris was born in Centerville December 3, 1851 and has been in Wichita, Kansas, since 1874. He is survived by a son, two daughters, two grandchildren and three great grandchildren.

AMANUEL JAMES ANDERS.

Amanuel James Anders died December 6, 1931. He was a pioneer lawyer and banker of Oelwein, Iowa. His family came to Iowa in 1859 from Pennsylvania. Mr. Anders opened his law office in Oelwein in the fall of 1892 and was the oldest attorney in northeastern Iowa. For the past twenty years, he has been president and director of the Aetna State Bank of Oelwein.

He is survived by his wife and daughter and a brother.

AMBROSE V. BURKE.

Ambrose V. Burke, aged 62, of Logan, Iowa, died November 21, 1931, from cancer of the tongue. Mr. Burke was born in Council Bluffs December 25, 1868 and studied law under the late Walter I. Smith. At the age of twenty-one, Mr. Burke was admitted to the bar and in 1890 he became associated with the late Emmet Tinley. A year later, Mr. Burke moved to Great Falls, Montana, to continue his practice and in 1893 he returned to Iowa to remain for the rest of his life.

He is survived by his widow, a son, three sisters and two brothers.

WILLARD H. LYON.

Attorney Willard H. Lyon, of Knoxville, Iowa, died September 7, 1931, after an illness of two years. He was born in Dallas County, near Dexter, on February 15, 1877. After teaching school for a time, he entered the law department