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House Bill 591: Florida Compensates Rosewood Victims and Their Families for a Seventy-One-Year-Old Injury

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HOUSE BILL 591: FLORIDA COMPENSATES ROSEWOOD VICTIMS AND THEIR FAMILIES FOR A SEVENTY-ONE-YEAR-OLD INJURY

C. JEANNE BASSETT

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I. INTRODUCTION

On May 4, 1994, Governor Chiles signed into law what had been perhaps the most controversial claim bill ever considered by the Florida Legislature.¹ House Bill 591, which sought compensation for families of Rosewood,² Florida, for both property and hedonic damages,³ sparked more news media attention than any other claim bill in Florida in more than ten years.⁴ "Rosewood" occurred more than seventy years ago, a fact which not only caused public controversy but

1. Fla. HB 591 (1994).

2. Rosewood is located on State Road 24 in Levy County, approximately 45 miles west of Gainesville and approximately nine miles southeast of Cedar Key.

3. Hedonic damages are a calculation of a person's loss of enjoyment of life. See Fla. H.R., transcript of special master hearing at vol. III, 290, 334 (Mar. 1, 1994) (available at Fla. Dep't of State, Div. of Archives, Tallahassee, Fla.) (testimony of Stan V. Smith, president of Corporate Financial Group, Ltd., of Chicago). The original version of House Bill 591 sought more than \$7 million in compensation for survivors and relatives of survivors of the incident. Fla. HB 591 (1994).

4. Bill Moss, *Rosewood Awaits His Word*, ST. PETERSBURG TIMES, Mar. 19, 1994, at 5B. ("It certainly has had more interest than any claims bill we've ever done," quoting Richard Hixson, Claim Bill Special Master and Staff Director for the House Committee on Judiciary, who has been with the Legislature for 11 years).

also made the injuries claimed in the bill more difficult to substantiate.⁵

This Comment first briefly examines Florida's procedure for legislative claim bills. It then discusses the events which occurred at Rosewood in 1923 and served as the impetus for House Bills 813 and 2425, and, ultimately, House Bill 591. Finally, the Comment traces the legislative history of these bills and examines several issues raised by the passage of House Bill 591.

II. WHAT IS A CLAIM BILL?

A claim bill seeks compensation for a person injured by an act or omission of the state, its subdivisions, agencies, officers, or employees when there is no other available remedy.⁶ Claim bills involve two types of claims: excess judgment claims filed pursuant to section 768.28(5), *Florida Statutes*, and equitable claims filed without an underlying excess judgment.⁷ Claim bills may also be either local bills or general bills. Local bills make claims against a municipality, county, special district, or local constitutional officer, while general bills make claims against a state agency.⁸ Because the state was the respondent in House Bill 591, which sought an appropriation from the State Comptroller, House Bill 591 was a general bill.

A claim bill may be introduced into either chamber of the Legislature. A companion bill in the other chamber is not commonly required because information is generally exchanged between the House and Senate for the benefit of the claimant and the respondent state agency.⁹ Both the Senate and the House of Representatives appoint a special master to hear claim bills; the special masters usually conduct joint hearings.¹⁰ Claim bill hearings are conducted during the legislative session only in extraordinary circumstances,¹¹ a fact which underscores the uniqueness of the Rosewood claim bill. The hearings for

5. The State asserted, among other defenses, a defense of laches, based upon the lack of evidence and based upon the prejudicial effect on the State of such an old claim. See STATE OF FLORIDA'S PREHEARING MEMORANDUM, IN THE MATTER OF RELIEF OF ARNETT T. GOINS v. STATE, at 5-7, HB 591 [hereinafter STATE'S PREHEARING MEMORANDUM].

6. THE FLA. S. OFFICE OF THE PRESIDENT & THE FLA. H.R. COMM. ON JUDICIARY, LEGISLATIVE CLAIM BILLS HANDBOOK, POLICIES, PROCEDURES, AND INFORMATION CONCERNING INTRODUCTION AND PASSAGE I (1992) [hereinafter CLAIM BILLS HANDBOOK].

7. FLA. S. RULE 4.8 (1992).

8. CLAIM BILLS HANDBOOK, *supra* note 6, at 2-3.

9. *Id.* at 1.

10. *Id.*

11. *Id.*

House Bill 591 were conducted from March 4 to March 18, during the 1994 Regular Session.¹²

Discovery procedures are governed by the Florida Rules of Civil Procedure.¹³ However, House Rule 6.63 provides that a party must move for discovery, which may then be granted by the special master, and that such discovery "may be limited in time, scope and method by the special master."¹⁴ The special master prepares a report, setting forth findings of fact, conclusions of law, and the special master's recommendations based thereon.¹⁵ The special master's report is then heard by the Select Committee on Claims, a subcommittee of the House Committee on Judiciary.¹⁶ If the bill is reported favorably, it next goes to the Rules and Calendar Committee, which selects bills for consideration by the House.¹⁷ Subsequently, the claim bill is subjected to the same legislative process as other bills.¹⁸

III. BACKGROUND ON ROSEWOOD¹⁹

In January 1923, Rosewood was a small, mostly African-American community of approximately 120 residents; it was located on the Sea-

12. RICHARD HIXSON, H.R. SPECIAL MASTER, SPECIAL MASTER'S FINAL REPORT 1 (Mar. 21, 1994) (available at Fla. Dep't of State, Div. of Archives, Tallahassee, Fla.) [hereinafter H.R. SPECIAL MASTER'S FINAL REP.]. However, the dates on the hearing transcripts indicate that the hearings actually began on Feb. 25 and ended on Mar. 11. See Fla. H.R. Special Master, transcript of proceedings, vols. I-VII (Feb. 25 - Mar. 11) (available at Fla. Dep't of State, Div. of Archives, Tallahassee, Fla.).

13. FLA. S. RULE 4.8(b) (1992) and FLA. H.R. RULE 6.63(d) (1993).

14. FLA. H.R. RULE 6.63(d) (1993).

15. FLA. S. RULE 4.8(b) (1992) and FLA. H.R. RULE 6.63(f) (1993).

16. FLA. H.R. RULE 6.63(g) (1993).

17. D. Stephen Kahn, *Legislative Claim Bills, A Practical Guide to a Potent(ial) Remedy* [hereinafter *Practical Guide*], FLA. B.J., Apr. 1988, at 23.

18. For a chart showing how a claim bill passes through the Legislature, See *Practical Guide*, *supra* note 17, at 7.

19. The following synopsis of the events which took place at Rosewood in 1923 was taken largely from MAXINE D. JONES, ET AL., A DOCUMENTED HISTORY OF THE INCIDENT WHICH OCCURRED AT ROSEWOOD, FLORIDA, IN JANUARY 1923 [hereinafter HISTORY]. Readers seeking a more complete history of the Rosewood incident should refer to the report, which is available at the Fla. Dep't of State, Div. of Archives, Tallahassee, Fla. Although it is certain that a large disturbance took place in Rosewood during the first week of 1923, the accuracy of the incident's details as presented in the HISTORY may be questionable. The report was based mainly on the testimony of people who were very young children at the time of the incident, and whose memories were called upon to recount those events some 70 years later. The report also relies heavily on contemporary newspaper accounts of the event. These articles were not subject to verification. See STATE'S PREHEARING MEMORANDUM, *supra* note 5, at 3, 13. Additional information in this section of the Comment was incorporated from the H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, which contains a summary of the events at Rosewood compiled from the information provided in the HISTORY, as well as the testimony of survivors and witnesses who appeared at the claim bill hearing.

board Air Line Railroad, nine miles east of Cedar Key.²⁰ The community at one time had a post office, a timber mill, several stores, a depot, and a hotel; but, by 1923, most of the cedar trees in the area had been harvested and the sawmill operation moved to Sumner (a settlement three miles west of Rosewood).²¹ Some of the African-American men who did not leave Rosewood when the cedar was depleted earned their living by working at the sawmill in Sumner.²² They also hunted and farmed, and many of the African-American women worked as domestics for the white residents of Sumner.²³

In 1923, the African-American community of Rosewood consisted of approximately twenty families, several of which were related by marriage.²⁴ Some of these families owned their own homes as well as other property in the area.²⁵ In addition to the businesses discussed above, the community had a one-room school, at least two churches, and a Masonic lodge.²⁶ The main store, which had been owned by a white man named John Wright, is the only Rosewood structure remaining from 1923.²⁷ Rosewood is now identifiable only by a small green highway marker on State Road 24.²⁸

On the morning of January 1, 1923, Fannie Taylor, a white resident of Sumner, reported that she had been attacked by an unidentified African-American man.²⁹ That afternoon, Aaron Carrier, an African-American, was apprehended by a group of white men and was taken by Sheriff Robert Elias Walker of Levy County to the Bronson jail for his own protection.³⁰ Later that afternoon, a group of white men apprehended and killed another African-American named Sam Carter.³¹

On January 4 there was a gun battle between a group of white men and members of the Carrier family in their Rosewood home.³² Two white men were killed and several others were wounded during the

20. H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 3-4. Cedar Key and Rosewood are located in Levy County, Florida.

21. *Id.* at 4.

22. HISTORY, *supra* note 19, at 22-23.

23. H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 4.

24. *Id.* at 3-4.

25. *Id.* at 4.

26. *Id.*; HISTORY, *supra* note 19, at 23.

27. Lori Rozsa, *Survivors of Rosewood Massacre Will Ask Florida to Right a Wrong*, MIAMI HERALD, Dec. 28, 1992, at A1, A8.

28. HISTORY, *supra* note 19, at 56.

29. *Id.* at 25.

30. *Id.* at 35-36.

31. *Id.* at 31, 37-38.

32. *Id.* at 38-43.

shoot-out.³³ Sarah and Sylvester Carrier were killed, and other members of the family were wounded.³⁴ Rosewood's African-American residents fled into the surrounding swamps.³⁵ An African-American church, as well as several unprotected homes, were burned.³⁶ On the same day, an African-American man named Lexie Gordon was killed.³⁷ On January 5, Governor Cary Hardee³⁸ was notified of the violence.³⁹ Reportedly, the Governor considered sending the Florida National Guard to quell the disturbance but decided not to do so based on Sheriff Walker's report that the National Guard would not be needed.⁴⁰ On the same day, Alachua County Sheriff P.G. Ramsey prepared to leave for Rosewood to assist Sheriff Walker.⁴¹ James Carrier, who had managed to escape from the Carrier house during the shoot-out the night before, was killed by a group of white men who believed he had information concerning the assault on Fannie Taylor.⁴²

On January 6, African-American refugees⁴³ were evacuated by train from the swamps to Gainesville.⁴⁴ The next day, between 100 and 150 white men returned to Rosewood and burned down the remaining structures.⁴⁵ These events were widely reported at that time by both the Florida press and the national news media.⁴⁶ One month after the destruction of Rosewood, a grand jury was convened in Levy County to investigate the incident, but it returned no indictments.⁴⁷

IV. THE CONTROVERSY

Today, there are no records of the grand jury proceedings other than some old newspaper accounts, and there are no records to suggest that any other official investigation of the incident was ever con-

33. *Id.* at 40.

34. *Id.* at 43-44.

35. *Id.* at 43, 45.

36. *Id.* at 44-45.

37. *Id.*

38. Jan. 4, 1921 - Jan. 6, 1925.

39. HISTORY, *supra* note 19, at 4, 48-49.

40. *Id.* at 48-49.

41. *Id.* at 4, 41.

42. *Id.* at 50-51.

43. These refugees reportedly included only women and children. *Id.* at 65.

44. *Id.*

45. See *supra* text accompanying note 26.

46. HISTORY, *supra* note 19, at 67; H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 2.

47. H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 2.

ducted.⁴⁸ No researched report of this incident was published until July 25, 1982, when investigative journalist Gary Moore published a comprehensive article in *The Floridian* magazine.⁴⁹ The article prompted a CBS *60 Minutes* report, which aired on December 13, 1983.⁵⁰ However, no official investigation was conducted at that time.⁵¹ It was not until 1993 that the Rosewood matter was first brought before the Legislature, and not until 1994 that the claimants were granted relief.

The claimants named in House Bill 591, represented by the Holland & Knight law firm, are former residents and descendants of former residents of Rosewood. They contended that the destruction of their community, deaths of their relatives, loss of their property, and their physical and emotional suffering were the results of acts or omissions of law enforcement and other officials of Levy County and the State of Florida.⁵²

The State, represented by James A. Peters, Assistant Attorney General, argued that the claims presented in House Bill 591 were without legal basis and that the available evidence did not support the claimants' allegations.⁵³ The State further argued that the claims should be barred by the statute of limitations and that bringing the claims at this time prohibited any reasonable defense of the allegations because the officials charged were now deceased and could not be called to testify as to the events in question.⁵⁴

The record presented in the claim bill hearings was comprised of news media accounts of the events, incomplete public records, stories told by former residents to their descendants, and the recollections of elderly witnesses, whose testimony was difficult to corroborate or cross-examine due to the age of the claim.⁵⁵ Had the claim proceedings

48. *Id. See No Indictments of Mob Members by the Grand Jury*, FLORIDA TIMES-UNION (Jacksonville), Feb. 16, 1923, at 4; FLORIDA TIMES-UNION (Jacksonville), Feb. 14, 1923, at 12; *Special Jury in Race Clash to Hear Witnesses Today*, FLORIDA TIMES-UNION (Jacksonville), Feb. 13, 1923, at 4.

49. H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 2-3; Gary Moore, *Rosewood*, THE FLORIDIAN, July 25, 1982, at 6A. THE FLORIDIAN is a Sunday supplement to the ST. PETERSBURG TIMES.

50. A tape of this broadcast is available, along with other evidence submitted at the claim bill hearing, at the Fla. Dep't of State, Div. of Archives, Tallahassee, Fla.

51. H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 3. It is interesting to note that Ed Bradley, CBS commentator and correspondent for 60 MINUTES, is a descendant of the Rosewood Bradley family. However, Mr. Bradley was not a claimant named in any of the claim bills filed concerning the Rosewood incident.

52. H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 1.

53. *Id.* at 2; STATE'S PREHEARING MEMORANDUM, *supra* note 5.

54. STATE'S PREHEARING MEMORANDUM, *supra* note 5, at 4-5; H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 2.

55. H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 2.

been conducted in a court of law, the claims would have been precluded from consideration by the evidentiary principles of hearsay and by the statute of limitations.⁵⁶ However, a claim bill hearing is an equitable proceeding, not bound by such rules of law, and the special master's findings could therefore be presented to the Legislature with the caveat that conclusive findings of fact as to all relevant issues were not possible.⁵⁷

Ostensibly, the public controversy stemmed from three concerns. First, the alleged events occurred more than seventy years ago and damages suffered by the victims of Rosewood were caused by individuals no longer present to be held accountable. Many Floridians felt that it was not fair for today's taxpayers to be assessed damages for injuries which they had no part in causing.⁵⁸ Second, given the age of the claim, the lack of definitive evidence as to individual responsibility, and the large amount of damages, it would be impossible to substantiate the claimants' allegations to the satisfaction of tax-paying citizens who would ultimately bear the cost of restitution.⁵⁹ Third, and probably most compelling, was the fear that providing restitution in this case might establish a precedent for other groups injured in Florida's past.⁶⁰ One newspaper editorial, summing up this sentiment, stated that "[m]odern-day Floridians should not be made to pay for all the sins of the past."⁶¹

56. *Id.*

57. *Id.*

58. See Tim Nickens, *Rosewood Bill Narrowly Survives House Committee*, MIAMI HERALD, Mar. 24, 1994, at B5 ("Is it fair to look back with what we know 70 years later and hold government at fault?" quoting Rep. David Thomas, Repub., Sarasota); Bill Cotterell, *Rosewood Massacre, Hearing on Rosewood Nearing Completion*, TALLAHASSEE DEMOCRAT, Mar. 4, 1994, at C5 ("[M]any Big Bend residents think the payments are unjustified and would only open old wounds[.]" paraphrasing Sen. Charles Williams, Dem., Tallahassee). See also V. R. Clifton, *State Has No Responsibility to Pay Damages to Rosewood Victims*, PENSACOLA NEWS J., Mar. 19, 1994, at A15 ("The people who did the 'damage' should pay for it, not today's taxpayers who regard this as blatant extortion, and after seventy years, frivolous as well. . . . The person who wrote the bill (for compensation) should be ashamed of himself for having no respect or concern for the taxpayers of this state.").

59. Charlotte Sutton, *Slim Chance for a Vote on Rosewood Bill*, ST. PETERSBURG TIMES, Apr. 4, 1993, at B1, B2 ("Legislators decided that the Rosewood case needed to be better studied before compensation could be awarded.").

60. Adam Yeomans, *ROSEWOOD MASSACRE Williams Says He Opposes Bill*, TALLAHASSEE DEMOCRAT, Mar. 3, 1994, at B4 ("I'm opposed to us establishing a precedent, which would attempt to make whole a situation that occurred 71 years ago in this state. . . . I think it'll open a Pandora's box to many other claims of social injustices by others other than blacks[.]" quoting Sen. Charles Williams who represents District 4 which includes the former community of Rosewood). See also Clifton, *supra* note 58, at A15 ("[P]eople are lining up to file similar suits because 'the state of Florida failed to protect them' also, from murder, rape, robbery, car jackings. (British tourist, Fort Lauderdale and Miami riots, etc., etc.)").

61. *Rosewood Case Takes Wrong Path*, PENSACOLA NEWS J., Apr. 18, 1994, at A6.

Although the stale claim issue and the liability issue were underlying concerns of various members of the public and the Legislature, the conflict ultimately boiled down to dollars and the fear that putting money in the bill would set a precedent for future claims. "I object only to the money," stated one state representative, "[b]ut a recognition that something terrible happened, I could support that."⁶² A newspaper account of the debate on the bill noted that "if [conservative North Florida Democrats] strip it down any further, [Representative Miguel De Grandy] may stand up on the House floor and angrily withdraw the whole thing—delivering just the sort of embarrassment House leaders were striving to avoid when they muscled the claims bill through the Judiciary Committee"⁶³

V. LEGISLATIVE HISTORY

A. Failed Bills

House Bill 591 was not the first bill proposed to address the Rosewood incident. Two other bills, filed in the House of Representatives in 1993, concerned the victims of violence at Rosewood.⁶⁴ House Bill 813 would have provided legislative findings, and an appropriation both for compensation of victims of the violence and for the erection of a monument commemorating the victims.⁶⁵ The findings consisted largely of a dramatic account of the incident at Rosewood, along with a statement calling upon the patriotism of the members of the Legislature:

The time has . . . come for the State of Florida to recognize the courageous individuals, both black and white, who, despite tremendous personal danger, stood up for what was right to help the residents of Rosewood. The state should commemorate these individuals and all the citizens of Rosewood who died with their town as examples of the courage and ideals that make America a great county [sic], by erecting an appropriate memorial to their heroism.⁶⁶

House Bill 813 was written more like a resolution⁶⁷ than an appropriations bill. The bill cited no source as evidence for the 1923 events. Nor

62. Bill Cotterell, *Rosewood Bill, Group: It's the Money*, TALLAHASSEE DEMOCRAT, Mar. 25, 1994, at B4 (quoting Rep. Robert D. Trammell, Dem., Marianna).

63. *Id.*

64. Fla. HB 813 (1993); Fla. HB 2425 (1993).

65. Fla. HB 813 (1993).

66. *Id.* § 1(2)(c).

67. See FLA. H.R. BILL DRAFTING SERV., GUIDELINES FOR BILL DRAFTING 16-17 (1992) [hereinafter GUIDELINES FOR BILL DRAFTING].

did it indicate what amount was to be appropriated, stating only that

(1) [t]here is hereby appropriated from funds in the General Revenue Fund an amount sufficient to compensate those persons identified by the Legislature of the State of Florida as victims of the tragedy known as the Rosewood massacre.

(2) There is hereby appropriated from funds in the General Revenue Fund an amount sufficient to erect an appropriate memorial as a solemn tribute to the courage of the victims and heroes of the tragedy known as the Rosewood massacre.⁶⁸

Representative De Grandy⁶⁹ explained to the press that “[n]o dollar amount was placed on the bills . . . because the sponsors thought it appropriate to have the Legislature agree on an amount.”⁷⁰ Unfortunately for the Rosewood claimants, House Bill 813 was, as a result, short on facts and long on emotional appeal. It lacked sufficient evidentiary support for House members to feel comfortable voting for an appropriation.⁷¹ Perhaps not surprisingly, given its lack of substance in light of its controversial nature, House Bill 813 died in the Committee on Judiciary, and was not considered by the full House of Representatives.⁷²

House Bill 2425, also filed during the 1993 Regular Session, took a different approach. This bill would have provided for a \$50,000 appropriation to fund a grant for an investigation of the destruction of Rosewood, along with a report by the investigative team to be presented to the Legislature by January 1, 1994.⁷³ Although House Bill 2425 met with more success than House Bill 813, it too ultimately died, after passing in the House and being placed on the Senate calendar.⁷⁴

The circumstances surrounding the passage of a Rosewood claim bill were particularly political. Representative Al Lawson,⁷⁵ leader of the black caucus, alleged that there had been some sort of conspiracy during the 1993 Regular Session to prevent the two Rosewood bills filed that year from passing. Representative Lawson publicly stated,

68. Fla. HB 813, § 2 (1993).

69. Repub., Miami, 1989-1994.

70. Sutton, *supra* note 59, at B2.

71. *Id.* at B1.

72. FLA. LEGIS., FINAL LEGISLATIVE BILL INFORMATION, 1993 REGULAR SESSION, HISTORY OF HOUSE BILLS at 224, HB 813 [hereinafter FINAL LEGISLATIVE BILL INFORMATION].

73. *Id.* at 323, HB 2425.

74. *Id.*

75. Alfred J. Lawson, Jr., Dem., Tallahassee, co-sponsored HB 813, HB 2425, and HB 519.

"[t]o some extent, I think there might have been just a conspiracy not to [fund a study of the Rosewood incident], but it's going to end up in a major fight. . . . I'm going to speak with the Governor about doing that in the call (of a special session)."⁷⁶ About three months later, Representative Lawson complained that the House Speaker had been disrespectful to him by not responding to his request to attend the 1993 National Conference of State Legislators.⁷⁷

Even House Bill 591, which ultimately passed, encountered resistance in the House and Senate. On March 31, 1994, members of the black caucus met with Governor Chiles to compel him to use his influence to dislodge House Bill 591 from the House Appropriations Committee, in which there had been insufficient support to pass it from the committee's hands.⁷⁸ According to one newspaper account, "the caucus gave Gov. Lawton Chiles an ultimatum: Use the influence of his office to help swing enough votes to pass Rosewood or face the possibility of losing the caucus' support on the Governor's critical health-care package."⁷⁹ These legislative politics did not go unnoticed. One editorial accused legislators of throwing around taxpayer money to collect minority votes.⁸⁰

In addition to the usual legislative politics, the Rosewood issue was also the subject of academic politics. In 1993, there was competition among the Florida universities to acquire the \$50,000 grant for the study of the Rosewood incident and the bid proposal process was not free from traditional school rivalries, particularly those between the University of Florida and Florida State University.⁸¹

On top of all this, there was conflict between Gary Moore, a journalist who first brought the Rosewood incident to wide public attention, and the academic research team appointed to conduct the study

76. Bill Cotterell, *Lawson Vows to Keep Racial Attack Alive*, TALLAHASSEE DEMOCRAT, Apr. 5, 1993, at A1, A6.

77. Dana Peck, *Lawson Says He Asked to Attend, But Was Snubbed by House Speaker*, TALLAHASSEE DEMOCRAT, July 25, 1993, at C1, C3. This article indicated that Rep. Lawson and Rep. Bolley L. Johnson, Dem., Milton, (1978-1994) had suffered strained relations for years: "The flak over Lawson's attendance at the NCSL is yet another episode between the two representatives who have had strained relations ever since Lawson appeared not to support Johnson for the speaker's position five years ago." *Id.*

78. See, e.g., Roosevelt Wilson, *Fight Over Rosewood Bill Brings Out the Best in Black Caucus*, TALLAHASSEE DEMOCRAT, Apr. 8, 1994, at A15.

79. *Id.*

80. *Compensating Rosewood Survivors*, ORLANDO SENTINEL, Apr. 10, 1994, at G2.

81. Letter from Tom Dye, Rosewood Academic Research Team Member, to Gary Moore, investigative journalist (Apr. 30, 1993) (available at Fla. Dep't of State, Div. of Archives, Tallahassee, Fla.) ("Our meeting with Al Lawson went much better than I had expected. He has agreed to change the bill and make Florida State University the primary research institution to conduct the 'official' investigation. (I get a great deal of satisfaction out of screwing the Gators).").

of the events at Rosewood.⁸² Moore continually criticized the efforts of the team and complained that his research was not being given adequate consideration by the team: "Repeatedly, though I had originally been invited to join the Team as a consultant, my participation was postponed and prevented while I protested the Team's secrecy and failure to address delusional aspects of the claims case."⁸³

B. *A Study Is Commissioned*

In response to the issues raised by House Bill 813 and House Bill 2425, then-Speaker of the House Bolley L. Johnson, commissioned an academic research team to study the events surrounding the destruction of Rosewood and to report its findings to the Legislature. The team was chaired by Dr. Maxine Jones⁸⁴ of the Florida State University Department of History and included professors from Florida State University, Florida Agricultural and Mechanical University, and the University of Florida.

The team conducted its research during the 1993 legislative interim and issued its report, *A Documented History of the Incident Which Occurred At Rosewood, Florida, in January 1923*, on December 22, 1993.⁸⁵ Exceptions were taken to this report by Gary Moore, who accused the academic research team of "delusion, sloppiness and dreamy bias."⁸⁶ Moore's criticisms prompted a thorough review of the report headed by Dr. Richard Greaves, Chairman of the Florida State University Department of History.⁸⁷ The findings and methodologies of the academic research team were endorsed with only minor reservations.⁸⁸ Moore then submitted a detailed analysis of that review to the Legislature; that analysis was made part of the record in the legislative proceedings, together with Moore's other input, the academic research studies, reports, reviews, and appendices.⁸⁹

C. *A New Claim Bill Is Filed; A Special Master Hearing Is Conducted*

House Bill 591 was prefiled on January 4, 1994,⁹⁰ and then referred

82. See *supra* note 49 and accompanying text.

83. Letter from Gary Moore, investigative journalist, to Richard Greaves, Ph.D., Chairman, Fla. St. Univ. Dep't of History 4 (Jan. 5, 1994) (available at Fla. Dep't of State, Div. of Archives, Tallahassee, Fla.).

84. Associate Professor of History.

85. See *supra* note 19.

86. Bill Moss, *Writer Blasts Rosewood Report*, ST. PETERSBURG TIMES, Mar. 4, 1994, at B4.

87. H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 3.

88. See RICHARD L. GREAVES & PATRICK RIORDAN, *Review of The Rosewood Project* (Feb. 2, 1994).

89. H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 3.

90. Fla. HB 591 (1994). A brief explanation of bill-filing is in order. FLA. H.R. RULE 7.14

to the House Committees on Judiciary and Appropriations.⁹¹ The bill was introduced and again referred by the Speaker of the House to the committees on Judiciary and Appropriations on February 8, 1994,⁹² after which Special Master Richard Hixson conducted claim bill hearings.⁹³

Several witnesses testified at the claim bill hearings for House Bill 591. These witnesses included survivors of Rosewood and their descendants, as well as expert witnesses who provided testimony as to hedonic damages and posttraumatic stress disorder.⁹⁴

The special masters⁹⁵ addressed several issues in their final reports. First was the applicability of the statute of limitations. Section 11.065(1), *Florida Statutes*, provides that "[n]o claims against the state shall be presented to the Legislature more than 4 years after the cause for relief accrued," and "[a]ny claim presented after this time of limitation shall be void and unenforceable."⁹⁶ However, the special masters adhered to case law, which supports the principle that if an equitable basis exists for the consideration of a claim, there is no legal restriction on the power of the Legislature to enact a claim bill.⁹⁷ The House special master explained that the statute of limitations is an expression of legislative policy, rather than a prohibition against the consideration of claims against the state.⁹⁸

The next issue to be addressed was the State's defense of laches. House Special Master Hixson stated in his final report that the defense of laches, like the statute of limitations, should not be construed

provides that members may file bills with the clerk of the House before the legislative session convenes, at which time the clerk assigns numbers to the bills and presents them to the speaker of the House for reference to appropriate House committees. Once a bill has been referred to a committee or committees, the clerk notifies the chairman of each such committee. The committees then consider the bills and report their actions (indicating whether a bill is reported favorably or not and whether any amendments have been attached) to the clerk. Prefiled bills are to be given first reading either on the first day of a regular session or as soon as possible thereafter. FLA. H.R. RULE 7.14 (1993) (an explanation of the bill-reading process is beyond the scope of this Comment. Interested readers should refer to THE RULES, FLORIDA HOUSE OF REPRESENTATIVES (1993)).

91. FINAL LEGISLATIVE BILL INFORMATION, *supra* note 72, at 255, HB 591.

92. *Id.*

93. See H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12 (1994). Senate Special Master David Kerns also participated in the hearings and made a final report, see *infra* note 97.

94. See Fla. H.R., transcript of special master hearing at vols. I-VII (Mar. 1, 1994) (available at Fla. Dep't of State, Div. of Archives, Tallahassee, Fla.).

95. Senate Special Master David V. Kerns also presided at the hearings. See *supra* text accompanying note 10.

96. H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 9; DAVID V. KERNS, SENATE SPECIAL MASTER, SPECIAL MASTER'S FINAL REPORT 10 (Apr. 4, 1994) (available at Fla. Dep't of State, Div. of Archives, Tallahassee, Fla.) [hereinafter S. SPECIAL MASTER'S FINAL REP.].

97. H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 9.

98. *Id.*

so as "to preclude the [L]egislature's consideration of these claims to determine whether there is a moral obligation on the part of the State of Florida which should be addressed."⁹⁹

Senate Special Master Kerns addressed the standard of proof in his final report, stating that, except for ministerial claims, "all claim bills . . . should be based on some showing of fault, negligence, or wrongdoing by a state or local governmental officer or agency whose act or failure to act is shown to be a proximate cause of the loss to or the harm sustained by the claimant."¹⁰⁰ Special Master Kerns went on to find that both Sheriff Walker and Governor Hardee had duties which they did not fulfill, but that Sheriff Walker was more at fault than was Governor Hardee.¹⁰¹

This assignment of liability led to the issue of the claimants' ability to recover from Levy County and the State. Special Master Kerns noted that to recover from the county, the claimants would have had to file a local bill, and that House Bill 591 did not meet the requirements of a local bill.¹⁰² Specifically, a local bill requires either a pre-introduction advertisement or a referendum provision, neither of which were accomplished by Senate Bill 1774 (the identical companion bill to House Bill 591).¹⁰³ Special Master Kerns therefore concluded that the option of directing that payments be made by the Levy County Sheriff's Department or by the Board of County Commissioners of Levy County was unavailable to the Legislature, unless the claim bill were to be amended to meet local bill criteria.¹⁰⁴ Special Master Kerns then stated that it would not be appropriate to direct the State to pay because of Governor Hardee's alleged action or non-action, because there had been an insufficient showing that he breached either his constitutional or statutory duty, given his reasonable reliance upon Sheriff Walker's assurances that the Rosewood situation was under control.¹⁰⁵

Special Master Kerns next addressed the issue of whether the claimants could be paid from the general revenue on the basis of *solatium*. He explained that "[s]olatia are payments made, often by governments, to victims of misfortune and most often in wrongful death cases, without regard to admission of fault or wrongdoing, and not

99. *Id.* at 10.

100. S. SPECIAL MASTER'S FINAL REP., *supra* note 96, at 10.

101. *Id.* at 10-11.

102. *Id.* at 12.

103. *Id.*

104. *Id.*

105. *Id.*

necessarily out of legal responsibility."¹⁰⁶ Special Master Kerns did point out, however, that *solatia* are meant to serve as condolences, not to redress specific economic damages or loss of property,¹⁰⁷ implying that it would not be appropriate for the Legislature to provide *solatia* to the Rosewood claimants on the basis of Senate Bill 1774.

Special Master Hixson did not address the issue of *solatia*, but instead examined the facts of the Rosewood claim to determine whether a governmental taking occurred. Hixson compared the displacement of Rosewood residents to that of Japanese-Americans displaced from their homes and property during World War II, citing *Hohri v. United States*,¹⁰⁸ in which the United States Court of Appeals for the District of Columbia held that the takings claims of displaced Japanese-Americans were compensable regardless of whether the government took title to the claimants' property.¹⁰⁹ Hixson stated that, even given the distinctions between the federal internment program of Japanese-Americans and the displacement of Rosewood residents, the claimants in both cases were forced to leave their homes and their property.¹¹⁰

Hixson dismissed the State's argument made in reliance upon *Monarch Insurance Co. of Ohio v. District of Columbia*,¹¹¹ finding that case inapposite. The State had argued that the *Monarch* court held that an individual citizen does not have a substantive right to recover damages which resulted from the failure of a government or its officers to keep the peace.¹¹² Hixson, however, distinguished the claim of the Rosewood claimants from the claim in *Monarch*, pointing out that the *Monarch* court itself recognized that where a claim arises from a *taking* of property, there is a cognizable cause of action.¹¹³

Special Master Hixson next cited *National Board of Young Men's Christian Ass'ns v. United States*,¹¹⁴ which held that individuals whose

106. *Id.* at 12-13.

107. *Id.* at 13.

108. 782 F.2d 227 (D.C. Cir. 1986), *vacated*, 482 U.S. 64 (1987).

109. *Id.* at 242; H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 10-11.

110. H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 11. Special Master Hixson found that the displacement of the Rosewood residents was done "with the knowledge and assistance of law enforcement officers," thus likening the case to *Hohri*, in which the damage to real and personal property suffered by Japanese-Americans was directly caused by the federal government's internment program. *Id.*

111. 353 F. Supp. 1249 (D.C. Cir. 1973), *aff'd*, 497 F.2d 683 (D.C. Cir.), *cert. denied*, 419 U.S. 1021 (1974).

112. *Id.* at 1260; STATE'S PREHEARING MEMORANDUM, *supra* note 5, at 11.

113. 353 F. Supp. at 1252 (dealing with claims brought against the United States for *property damages* arising from riots after the assassination of Dr. Martin Luther King Jr.); H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 11-12.

114. 395 U.S. 85 (1969).

property was damaged after the occupation of buildings by federal troops did not have a Fifth Amendment claim for compensation.¹¹⁵ Hixson noted that, despite the holding that the plaintiffs had no Fifth Amendment claim, Justice Harlan did state in a concurring opinion that "it is for the Congress, not this Court, to decide the extent to which those injured in the riot should be compensated, regardless of the extent to which the police or military attempted to protect the particular property which each individual owns."¹¹⁶ Hixson applied this reasoning to the Rosewood claims, stating that "while it may be argued that there would not exist a judicially cognizable claim under the takings provisions of the federal and state constitutions, it is nonetheless clear that the legislature has the authority to determine the extent of compensation in this matter."¹¹⁷

D. House Bill 591 Moves Through House and Senate

House Bill 591 was heard by the House Committee on Judiciary on March 23, 1994 and passed as a committee substitute.¹¹⁸ Unlike the original House Bill 591, the committee substitute did not list the survivors and descendants of Rosewood individually, nor did it provide for specific appropriations to each individual survivor and descendant.¹¹⁹ Instead, it provided for a \$500,000 appropriation from which each eligible family could be awarded from \$20,000 to \$100,000 for real and personal property damages.¹²⁰ The committee substitute directed the Florida Department of Law Enforcement to investigate the 1923 Rosewood incident to determine whether criminal prosecutions might be pursued and to report its findings to the Legislature.¹²¹

Committee Substitute for House Bill 591 was next heard by the Committee on Appropriations on April 1, 1994, only seven days before the Regular Session was scheduled to end. The Appropriations Committee reported the committee substitute favorably with two amendments.¹²² The first amendment provided an appropriation of up

115. *Id.*; H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 1.

116. 395 U.S. at 96; H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 12.

117. H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 12.

118. FINAL LEGISLATIVE BILL INFORMATION, *supra* note 72, at 255, HB 591.

119. Fla. CS for HB 591 (1994); FLA. H.R. JOUR. 998 (Reg. Sess. 1994).

120. Fla. CS for HB 591 (1994) (note that this appropriation was considerably less than the \$7 million called for by HB 591).

121. *Id.* As of Jan. 9, 1995, FDLE had not yet made a report to the Legislature.

122. FINAL LEGISLATIVE BILL INFORMATION, *supra* note 72, at 255, CS for HB 591. As the bill had already been read the first time before being referred to the Committee on Appropriations, these amendments would still have to be adopted by the full House. See FLA. H.R. RULE 11.2 (1993).

to \$150,000 to each African-American Rosewood survivor.¹²³ The second amendment created "The Rosewood Family Scholarship Fund," offering scholarships to minority individuals, with preference given to direct descendants of the Rosewood families.¹²⁴

The committee substitute was passed by the full House, which added two amendments.¹²⁵ The first amendment added two preamble "whereas" clauses (statements at the beginning of a bill which recite the reasons for the enactment of the legislation, but do not actually become a part of the official law).¹²⁶ These clauses were much more substantive and less operative than those in House Bill 813. For example, House Bill 813 had stated,

WHEREAS, Rosewood, a small town in Levy County, Florida, was once a happy and thriving community, but in 1923, the town was transformed by a lawless and bloody massacre into the memory of a time of hate and terror, and . . . as Florida moves toward the dawn of a new century, the very definitions of honor, justice, and morality cry out for the state to rectify the Rosewood tragedy as best it can, and thereby diminish the shameful blemish on its history that is known as the Rosewood massacre¹²⁷

The Committee Substitute for House Bill 591 declared,

WHEREAS [t]he Rosewood Massacre was a unique tragedy in Florida's history in that the State and local government officials were on notice of the serious racial conflict in Rosewood during the entire week of January 1, 1923, and had sufficient time and opportunity to act to prevent the tragedy, and nonetheless failed to act to prevent the tragedy; an entire town was destroyed and its residents killed or fled, never to return; and the State and local government officials thereafter failed to reasonably investigate the matter, failed to bring the perpetrators to justice and failed to secure the area for the safe return of the displaced residents; and

WHEREAS, a hearing was held by the Special Master of the House of Representatives, and [the Rosewood survivors] have shown by a preponderance of the evidence that they were present and directly affected by the violence that took place at Rosewood in January, 1923, and that they each suffered compensable damages of at least \$150,000.¹²⁸

123. FLA. H.R. JOUR. 998 (Reg. Sess. 1994) (amendment 1).

124. *Id.* (amendment 2).

125. FINAL LEGISLATIVE BILL INFORMATION, *supra* note 72, at 255, CS for HB 591.

126. GUIDELINES FOR BILL DRAFTING, *supra* note 67, at 47.

127. Fla. HB 813 (1993).

128. FLA. H.R. JOUR. 998 (Reg. Sess. 1994) (amendment 1).

Two other amendments were offered which did not pass. The first would have replaced the appropriations provisions with a directive for the placement of a commemorative monument and highway markers.¹²⁹ Upon failure of this amendment, another amendment was proposed; it also failed. The second amendment would have diluted the amended "whereas" clauses to read as follows:

WHEREAS [t]he Rosewood Massacre was a unique tragedy in Florida's history in that it appears the State and local government officials were on notice of the serious racial conflict in Rosewood during the entire week of January 1, 1923, and *possibly* had sufficient time and opportunity to act to prevent the tragedy, and nonetheless *it appears* they failed to act to prevent the tragedy; an entire town was destroyed and its residents killed or fled, never to return, and

WHEREAS, it is important that a complete record of Florida history be compiled for future generations, including acts of racial prejudice¹³⁰

Even though there was now a solid factual basis for granting relief to the claimants, many conservative members of the House were still under pressure from their constituents to strike the appropriations measures. While seventy-one members voted for the bill, including the House leadership, there were forty nay votes.¹³¹ When the bill reached the Senate, an amendment striking the appropriations was again proposed, and it again failed.¹³²

One amendment proposed in the Senate would have permitted white survivors of the violence at Rosewood to receive compensation and to qualify for scholarships from the Rosewood Family Scholarship Fund.¹³³ Another amendment proposed a disclaimer by the state and its agents, providing that "[t]his act may not be construed as an admission of liability on the part of the state for itself or any entity, agency, or subdivision of the state."¹³⁴ The Senate vote was 26 to 14 in favor of the bill.¹³⁵

129. *Id.* at 998-99 (amendment 3).

130. *Id.* at 999 (amendment 4) (emphasis added).

131. *Id.* at 999.

132. FLA. S. JOUR. 932 (Reg. Sess. 1994) (amendment 1).

133. *Id.* (amendment 2).

134. *Id.* (amendment 3).

135. *Id.* at 932.

E. Governor Chiles Signs

House Bill 591 was presented to Governor Lawton Chiles on April 27, 1994.¹³⁶ He approved the bill on May 4, 1994¹³⁷ at a special bill-signing ceremony conducted in the former Senate Chamber of the Old Capitol.¹³⁸ Seven survivors of the Rosewood incident and about two dozen family members were present at the signing.¹³⁹ The Governor stated that the racial violence at Rosewood had "cast a 'shadow of shame' on Florida for seven decades."¹⁴⁰ He praised the Rosewood survivors for their willingness to come forward, stating that

[n]ow because of the strength and commitment of these survivors and their families, the long silence has finally been broken and the shadow has been lifted Instead of being forgotten, because of their testimony, the Rosewood story is known across our state and across our nation. This legislation assures that the tragedy of Rosewood will never be forgotten by the generations to come.¹⁴¹

VI. CONCLUSION

The Rosewood bill passed, but the controversy surrounding it continues. Survivors were disgruntled because they felt the State was not living up to its promises. Survivors believed that House Bill 591 provided for twenty-five scholarships of \$4000 each (a total of \$100,000), and were concerned when the Legislature set aside only \$60,000 for the scholarships. Legislators, including Representative Al Lawson, who sponsored House Bill 591, explain that the survivors misunderstood the law.¹⁴² The twenty-five scholarships are for tuition and fees at state post-secondary schools. However, the tuition at these schools does not exceed \$2300 per year, so \$100,000 is more than is necessary to comply with the bill.¹⁴³

136. FINAL LEGISLATIVE BILL INFORMATION, *supra* note 72, at 255, CS for HB 591.

137. *Id.*

138. Bill Cotterell, *State Lifts Rosewood "Shadow of Shame,"* TALLAHASSEE DEMOCRAT, May 5, 1994, at B1 (sponsors of the bill had wanted Governor Chiles to sign the bill in Levy County where Rosewood is identified by a road marker, but some of the survivors were too uncomfortable with the idea of returning to Rosewood).

139. The members of the group were wearing red and white. Arnett Doctor, a Rosewood descendant and spokesman for the group, explained that the white represented Rosewood's innocence, while the red signified the blood that was spilled there. Tim Nickens, *Rosewood Bill Signed Into Law by Governor,* MIAMI HERALD, May 5, 1994, at B5.

140. *Id.*

141. *Id.*

142. Cory Lancaster, *Survivors Say Florida Broke Pledge,* ST. PETERSBURG TIMES, June 26, 1994, at D9 ("We're not taking any money away. We only really needed \$60,000. . . .").

143. *Id.*

Aside from the issues involved in implementing the bill, there are still the unanswered questions which were raised during the floor debates on the bill. The most important of these questions would appear to be whether the passage of this bill is likely to open the floodgates for other similar claims. House Bill 591 is thought to be the first compensatory measure for African-Americans who suffered violence at the hands of white mobs.¹⁴⁴ Whether the bill will simply raise awareness of America's history of mob violence or will rekindle the national movement for slavery-era reparations remains to be seen.¹⁴⁵

Although backers of House Bill 591 steadfastly claim that the Rosewood incident was unique and will not set a legislative precedent for reparations, other groups, including officials with the national reparation movement, indicate otherwise. Florida's NAACP branch reports that it has already received several inquiries from persons who believe that they have experienced violence similar to that suffered by the Rosewood victims.¹⁴⁶ The fact that one of Florida's largest and most prestigious law firms was willing to litigate the claim pro bono tends to belie the assertion that the Rosewood incident was unique. What better way for a law firm to establish itself as an expert in the reparations field, than by taking on a case such as the Rosewood claim and allowing the substantial news media coverage to serve as firm advertising?

All skepticism aside, it is true that the Rosewood claim was surrounded by some unusual factors. The Rosewood incident spanned a week of violence which state officials were aware of and had an opportunity to curtail, but failed to take any action. As has been pointed out by supporters of the Rosewood claim bill, most other lynchings in that period occurred so quickly that state officials would not have had time to respond.¹⁴⁷ Moreover, there were actual survivors of the Rosewood incident seeking compensation, a factor likely to be rare, given that such racially motivated incidents occurred chiefly during the early twentieth century.¹⁴⁸

144. Bee News Services, *Florida Oks Reparations for White Mob's Victims*, SACRAMENTO BEE, Apr. 9, 1994, at A1; Sharon Egiebor, *New Focus on Old Racial Wounds; Florida Plan to Pay for Black Town's Destruction in 1923 Draws Wide Interest*, DALLAS MORNING NEWS, Apr. 19, 1994, at A1.

145. Egiebor, *supra* note 144.

146. *Id.*

147. Indigo, *Rosewood Justice Due: It Is Proper for the State to Admit It Failed to Protect Citizens of Rosewood From Violence and to Compensate Survivors for Their Losses*, ORLANDO SENTINEL, Apr. 2, 1994, at A16.

148. *But cf.* STATE'S PREHEARING MEMORANDUM, *supra* note 5, at 17, 19 (suggesting that claims arising from lynchings which occurred in the years after the Rosewood incident are likely to be better documented).

The question of precedent extends beyond the compensation of other African-Americans for white mob violence. Some point out that if a state such as Florida deems it appropriate to compensate victims of violence such as the Rosewood survivors, then it should be appropriate for states such as California to compensate victims of mob violence there.¹⁴⁹ Although the Rodney King jury verdict resulted in racial violence, the dynamics differed greatly from those at Rosewood, and it remains to be seen whether there are sufficient parallels for California to follow Florida's lead in compensating mob victims. Others cite groups such as Native Americans, who were removed from Florida altogether and arguably suffered even greater atrocities over a longer period than did the Rosewood victims.¹⁵⁰

Although it cannot be predicted whether other Florida groups will succeed in using the Rosewood claim bill to further their own claims, it seems inevitable that many will try. House Bill 591 was the focus of a tremendous amount of news media attention, and it has undoubtedly raised much interest among other victims of racial violence. Any future claims must obviously be reviewed on an ad hoc basis, but the success of House Bill 591 may prove to be strongly persuasive for those seeking compensation for injuries caused by racial violence.

While it can be argued that the primary reason for the success of House Bill 591 was the Governor's need for support for his health care bill, it cannot be presumed that political compromises will not prevail again in furtherance of future compensation bills.

House Bill 591 is not legal precedent. The Legislature is not bound by the passage of this bill when, and if, it deals with other similar claims. This point was made by Special Master Hixson in his final report to the Legislature wherein he cited *Kirklands v. Town of Bradley* for the proposition that "the act of one legislature cannot bind a future legislature."¹⁵¹ However, although not of precedential value, House Bill 591 is arguably a persuasive piece of legislation for future claimants bringing similar claims.

Although some would minimize the persuasive value of House Bill 591 by pointing to the general reluctance of legislators to introduce special legislation, combined with the effect of the statute of limita-

149. Warren Michaels, *Compensation Sets Dangerous Precedent*, ATLANTA J. & CONST., Apr. 7, 1994, at K4.

150. *Other Losses*, ORLANDO SENTINEL, Apr. 10, 1994, at G2. A likely counter argument to such claims would be that unlike the Native Americans who were removed from Florida, the victims of Rosewood were citizens of the United States and the State of Florida, and thus were entitled to government protection from lawless activity.

151. H.R. SPECIAL MASTER'S FINAL REP., *supra* note 12, at 9; *Kirklands v. Town of Bradley*, 139 So. 144 (Fla. 1932).

tions,¹⁵² it must be kept in mind that many Floridians did not expect this bill to become law. By passing House Bill 591, the Legislature has shown that it will not be bound by the statute of limitations where equitable considerations (or hard-ball politics) are at stake.¹⁵³

152. Indigo, *supra* note 147.

153. State officials approved early payments of \$50,000 to each of four survivors whose ages ranged from 79 to 86 years, out of concern that those individuals might not live long enough to receive their checks in 1995. *Rosewood Survivors Receive First Payments*, LEGAL INTELLIGENCER, Sept. 23, 1994, at 4. Those four individuals received the \$100,000 balance of their payments on Jan. 5, 1995, when the State released checks totalling \$900,000 to nine survivors of the incident at Rosewood. *Checks Ready for Rosewood Survivors*, GAINESVILLE SUN, Jan. 6, 1995, at 4B.

