

STATE OF WISCONSIN

# Senate Journal

## Eightieth Session

---

FRIDAY, February 25, 1972.

9:00 o'clock A.M.

The senate met.

The senate was called to order by the president pro tempore of the senate.

Prayer was offered by Senator Heinzen.

The roll was called and the following senators answered to their names:

Senators Bidwell, Busby, Chilsen, Devitt, Dorman, Frank, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Roseleip, Schuele, Soik, Steinhilber, Swan and Thompson—27.

Absent—Senators Lipscomb, Peloquin, Risser and Whitow—4.

Absent with leave—Senators Cirilli and Kendziorski—2.

---

### AMENDMENTS OFFERED

Senate substitute amendment 1 to Senate Bill 781 by Senator Chilsen.

Senate amendment 1 to Senate Bill 785 by Senator Steinhilber.

Senate amendment 1 to Senate Bill 902 by Senator LaFave.

INTRODUCTION OF RESOLUTIONS

**Senate Joint Resolution 117**

Granting the YMCW Youth in Government Committee the use of the senate and assembly chambers and related legislative facilities on April 14 and 15, 1972.

By Senators Keppler and Risser; co-sponsored by Representatives Earl and Froehlich.

Read and adopted.

Ordered immediately messaged.

---

BILLS INTRODUCED

Read first time and referred:

**Senate Bill 922**

Relating to sport trolling for a fee on outlying waters and providing a penalty.

By Senator Martin; co-sponsored by Representatives Swoboda and Boeckmann, by request of Gerald Haegeie.

To committee on Natural Resources.

---

PETITIONS AND COMMUNICATIONS

**Senate Petition 254**

A petition by 282 citizens of the City of Milwaukee in support of Assembly Bill 273.

Introduced by Senator Lipscomb.

Read and referred to committee on Commerce, Labor, Taxation, Insurance and Banking.

**Senate Petition 255**

A petition signed by 10,000 citizens of the State of Wisconsin requesting that holders of existing Class B Malt Beverage Licenses be granted an Intoxicating Liquor License.

Introduced by Senator McKenna.

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

## JOURNAL OF THE SENATE [February 25, 1972]

The Honorable, the Senate  
State Capitol  
Madison, Wisconsin 53702

Dear Senators:

You have asked my opinion on the constitutionality of 1971 Senate Bill 481, which prohibits the State Bar of Wisconsin from promulgating a minimum fee schedule for attorneys. The bill proposes to create sec. 133.01 (4) and, in effect, declares the promulgation of this fee schedule a restraint of trade. Under sec. 133.01 (3), criminal penalties attach for violation of the prohibited practices.

Specifically you ask whether the bill would be constitutional in respect to:

(1) State and federal due process, assuming the fee schedule to be recommended rather than mandatory.

(2) Freedom of speech under the 1st and 14th Amendment of the U. S. Constitution.

(3) The usurpation of the inherent judicial power to regulate the practice of law.

### State and Federal Due Process

Apparently the question in this respect relates to the necessity for clear and explicit legislation, particularly in cases involving penal statutes.

In *State v. Woodington* (1966), 31 Wis. 2d 151, 181, 142 N.W. 2d 810. The court stated:

“\* \* \* Is the statute read as a whole so indefinite and vague that an ordinary person could not be cognizant of and alerted to the type of conduct either active or passive, that is prohibited by the statute?”

It would appear from the provisions of the bill that no undue ambiguity exists. Only the term “minimum fee schedule,” provides any basis for discussion. It would be possible to contend that the absence of any clarification as to whether the fee schedule is mandatory or merely recommended creates a fatal ambiguity. It would have to be assumed, however, that the legislature was aware of the fact that the materials currently published by the State Bar designate the fee schedule as a “Customary Minimum Fee Guide” and a “Minimum Fee Schedule,” and the further

## JOURNAL OF THE SENATE [February 25, 1972]

fact that there never has been a mandatory schedule in Wisconsin.

Consequently, it would be difficult to contend that any problems of interpretation would be encountered, particularly by the State Bar of Wisconsin, the only subject of proposed sec. 133.01 (4).

### Freedom of Speech

Free speech, as any other constitutional right, is clearly not absolute. *Vogt Inc. v. Int'l Brotherhood of Teamsters* ( ), ---- U.S. ---- 77 S.Ct. 1166, ---- L.ed. ----. The attempted purpose of Senate Bill 481 is to prohibit the promulgation of a fee schedule on the basis that it results in a restraint of trade as prohibited by sec. 133.01 (1). That an association can, by the use of non-mandatory suggested fee schedules, violate the antitrust laws has been affirmed by the Supreme Court in *U.S. v. National Association of Real Estate Boards* (1950), 339 U.S. 485, 70 S.Ct. 711, ---- L.ed. ----.

Without consideration of the issues next discussed in this opinion, i.e., the balance of legislative and judicial powers, it would not be difficult to conclude that the regulation of antitrust activities in the manner attempted would be proper. Recommended price lists and rates have been uniformly stricken down as price fixing and violative of the provisions of sec. 1 and 2 of the Sherman Act. Section 133.01, Wis. Stats., has been held to be a re-enactment of those provisions, cf. *Reese v. Associated Hospital Service* (1970), 45 Wis. 2d 526, 532, 173 N.W. 2d 661.

### Legislative and Judicial Powers

Under Senate Bill 481, the legislature would be declaring the minimum fee schedule of the State Bar a restraint of trade as prohibited by sec. 133.01.

Suggested or non-mandatory fee schedules have been held to be in violation of the antitrust laws, *U.S. v. National Association of Real Estate Boards* (1950), 339 U.S. 485, 70 S.Ct. 711 ---- L.ed. ----. In that case the court found a non-mandatory schedule of rates published by the Washington (D.C.) Real Estate Board to be price fixing and therefore per se "an unreasonable restraint of trade." The

## JOURNAL OF THE SENATE [February 25, 1972]

dissenting opinion in the Real Estate Board case indicated that there would be no substantial difference between the rate schedules of real estate brokers and those of a "lawyer, doctor, a carpenter or a plumber." 339 U.S. at p. 496.

Notwithstanding the possible restraints of trade involved, a State can, by law, authorize a practice or procedure which otherwise might be held to violate our antitrust laws. In *Reese v. Associated Hospital Service* (1970), 45 Wis. 2d 526, 532. The Wisconsin Supreme Court held that, "the rule of reason" is to be applied to restraints of trade and only those restraints held to be "unreasonable" are covered by the antitrust statute sec. 133.01.

The *Reese* court further stated that if the legislature specifically authorized a practice, whether in restraint of trade or not, it would be held by the court to be "reasonable" and therefore not in violation of our State antitrust laws.

Wisconsin case law makes it quite clear that, pursuant to Art. VII, secs. 2 and 3 of the Wisconsin Constitution, the Supreme Court has the right to regulate the practice of law. In *re Cannon* (1932), 206 Wis. 374, 240 N.W. 441; *Integration of Bar Case* (1943), 244 Wis. 8, 11 N.W. 2d 607; *Lathrop v. Donahue* (1960), 10 Wis. 2d 230, 102 N.W. 2d 404, affirmed 367 U.S. 820.

The issue then is whether the court, in exercising its right to regulate the practice of law, has authorized the State Bar minimum fee schedule and, if so, whether the legislature has the subsequent right to prohibit its use on antitrust grounds.

The minimum fee schedule was not created at the direction of the Supreme Court, it was promulgated by the Board of Governors of the State Bar. The State Bar was, however, created by the Supreme Court and designated as a public agency. See *Lathrop v. Donahue, supra*, at p. 243. In addition, the Supreme Court has recognized and referred to the minimum fee schedule, cf. *Touchett v. E. Z. Paint Corp.* (1961), 14 Wis. 2d 479, 486, *Conway v. Sauk County* (1963), 19 Wis. 2d 559, 604, 120 N.W. 2d 671, and *State ex rel. Baken v. County Court* (1965), 29 Wis. 2d 1, 17, 138 N.W. 2d 162. An appendix to the *Lathrop* case also favorably discusses the minimum fee schedule. However, it is not clear whether that appendix is part of the court's decision.

JOURNAL OF THE SENATE [February 25, 1972]

Your third question asks whether the legislature's attempt to prohibit the minimum fee schedule represents, in regard to the constitutionality of the attempt, "an effort by the legislature to usurp inherent judicial powers to regulate the practice of law."

The usual criteria by which the constitutionality of a statute is evaluated are not available in this unique situation involving the Supreme Court's right to regulate the practice of law. The difficulty arises because the Supreme Court has held that not all legislative incursions into the practice of law are improper. In the *Integration of Bar Case* (1943), 244 Wis. 8, the court stated at p. 50:

"It is quite obvious from a study of the history of the bar and the consideration of judicial decisions that the line of demarcation between the legislative field and the judicial field in matters relating to the bar is not a straight line or even a fixed one. \* \* \*"

In *State ex rel. Reynolds v. Dinger* (1961), 14 Wis. 2d 193, the court was faced by an administrative rule, REB 5.04, which purported to authorize, to a limited degree, authorize, to a limited degree, real estate brokers to give legal advice or services. At p. 206 the *Dinger* court found that the Rule did involve the practice of law, and that although the court could declare the Rule void it would not do so because of its salutatory effect and the fact that it did not exceed previously tolerated activities. In other words, the court exercised a discretionary right in respect to matters involving legislative incursion into the judicial province. This of course would not be true in cases involving traditional constitutional issues. Furthermore, at times, the Supreme Court has recognized the legislature's right to declare, in the form of legislation, the legislative position in respect to the general welfare. In the *Integration of Bar Case, supra*, at p. 51, the court, in passing on a legislative attempt to integrate the Bar stated:

"\* \* \* In the promotion of the general welfare the legislature may prescribe required qualifications, but its acts are always subject to review by the court for the purpose of ascertaining whether they embarrass the administration of justice or invade the proper exercise of the judicial function."

JOURNAL OF THE SENATE [February 25, 1972]

In respect to the legislature's attempt to integrate the bar the court indicated, at p. 52, it welcomed this statement on the general welfare.

"While the legislature has no constitutional power to compel the court to act or, if it acts, to act in a particular way in the discharge of the judicial function, it may nevertheless *with propriety, and in the exercise of its power and the discharge of its duty*, declare itself upon questions relating to the general welfare which includes the integration of the bar. *The court*, as has been exemplified during the entire history of the state, *will respect such declarations and, as already indicated, adopt them so far as they do not embarrass the court or impair its constitutional functions.*" (Emphasis Supplied)

The implication of these statements is that legislative declarations are viewed as an aspect of comity between two governmental branches and will further be respected and accepted except in cases of direct conflict. It would thus appear that the legislative pronouncement, in the form of Senate Bill 481, would not, as such, be an usurpation of the judicial function. Rather it would be a legislative statement on the general welfare to be evaluated by the Supreme Court in terms of the judicial powers and the necessary balance between the need to legislate on the general welfare and the court's responsibility to regulate the practice of law.

A number of cases, such as *Touchet Conway, Baken and Lathrop, supra*, indicate that the Supreme Court does view the subject of attorneys fees as clearly within its province in regulating the practice of law. Consequently, it would be my opinion that although Senate Bill 481 is not unconstitutional on its face and would be recognized and considered by the Supreme Court as a proper legislative declaration on the public welfare, the Supreme Court could very likely, in exercising its discretion, declare that matter concerning a minimum fee schedule rest solely within the judicial power to regulate the practice of law.

Sincerely yours,

ROBERT W. WARREN,  
Attorney General.

**JOURNAL OF THE SENATE [February 25, 1972]**

**MESSAGE FROM THE ASSEMBLY**

By Thomas P. Fox, chief clerk.

Mr. President:

I am directed to inform you that the assembly has adopted and asks concurrence in:

**Motion Under Joint Rule 26:**

A joint certificate of Congratulations by Representative Gary Johnson; co-sponsored by Senator Swan for Alan Dale on his election as head of the School Boards Association.

Passed and asks concurrence in:

**Assembly Bill 649 and  
Assembly Bill 797.**

---

**MESSAGE FROM THE ASSEMBLY CONSIDERED**

**Motion Under Joint Rule 26:**

A joint certificate of Congratulations by Representative Gary Johnson; co-sponsored by Senator Swan for Alan Dale on his election as head of the School Boards Association.

Read and concurred in.

**Assembly Bill 649**

Relating to parental sponsors for driver licenses for minors.

By Representatives Luckhardt, Mielke, Miller and Duren.

Read first time and referred to committee on Transportation.

**Assembly Bill 797**

Relating to leave for qualified inmates for certain specified purposes.

By Representatives Czerwinski and LaFave; co-sponsored by Senator Devitt.

Read first time and referred to committee on Health and Social Services.

MOTION UNDER JOINT RULE 26

The State of Wisconsin \* \* \* Citation by the Legislature

Know you by these presents:

Whereas, on President Nixon's historic journey to China rest the hope of Wisconsin, and, indeed, the entire republic for an end to 20 years of open hostility; and

Whereas, as the first American president ever to visit China, Mr. Nixon has taken a great stride forward toward ushering in an era of peace in the hope of resolving to an early settlement the Inochina war; and

Whereas, world peace is now a possibility as a result of this, the most significant peace thrust ever conceived and executed by a leader of the American people; and

Whereas, the president's face-to-face meetings with China Premier Chou En-lai and party Chief Mao Tse-tung may well mark the opening of a new chapter in more meaningful Sino-American relations; now, therefore,

The Members of the Wisconsin Legislature, on the motion of Senators Lorge and Soik, under Joint Rule 26, resoundingly applaud and firmly support President Nixon and the members of his entourage in their worthy journey to China to pave the way to a lasting peace; and, be it further

Resolved, That properly attested copies of this certificate be immediately forwarded to the President of the United States, to the secretary of the United States senate, and the clerk of the house of representatives of the United States, respectively, and to each member of the congressional delegation from Wisconsin.

Read and adopted.

---

SELECT LIST #3

Senator Johnson moved reconsideration of the vote by which Senate Bill 898 was passed.

Senator Lorge asked unanimous consent that Senator Risser be granted a leave of absence.

Senator Dorman objected.

JOURNAL OF THE SENATE [February 25, 1972]

Senator Dorman moved a

CALL OF THE SENATE

Which motion was supported.

The sergeant-at-arms was directed to close the doors and the clerk to call the roll.

The roll was called and the following senators answered to their names:

Senators Bidwell, Busby, Chilsen, Devitt, Dorman, Frank, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Peloquin, Roseleip, Schuele, Soik, Steinhilber, Swan and Thompson—28.

Absent—Senators Lipscomb, Risser and Whittow—3.

Absent with leave—Senators Cirilli and Kendziorski—2.

**Senate Bill 715**

Relating to the right to die with dignity.

Read a second time.

By request of Senator Soik, with unanimous consent, senate substitute amendment 1 was considered for action at this time.

Senate substitute amendment 1 adopted.

The question was: Indefinite postponement of **Senate Bill 715?**

The ayes and noes were demanded and the vote was: ayes, 12; noes, 16; absent or not voting, 5; as follows:

Ayes—Senators Bidwell, Devitt, Frank, Knutson, Krueger, Lorge, Lotto, Lourigan, McKenna, Martin, Peloquin and Schuele—12.

Noes—Senators Busby, Chilsen, Dorman, Heinzen, Hollander, Johnson, Keppler, Knowles, LaFave, Murphy, Parys, Roseleip, Soik, Steinhilber, Swan and Thompson—16.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb, Risser and Whittow—5.

So the bill was not indefinitely postponed.

JOURNAL OF THE SENATE [February 25, 1972]

Senator Hollander in the chair.

9:50 A.M.

The question was: Shall **Senate Bill 715** be ordered to a third reading?

The ayes and noes were demanded and the vote was: ayes, 10; noes, 19; absent or not voting, 4; as follows:

**Ayes**—Senators Chilsen, Heinzen, Johnson, Keppler, Knowles, LaFave, Murphy, Soik, Steinhilber and Swan—10.

**Noes**—Senators Bidwell, Busby, Devitt, Dorman, Frank, Hollander, Knutson, Krueger, Lorge, Lotto, Lourigan, McKenna, Martin, Parys, Peloquin, Risser, Roseleip, Schuele and Thompson—19.

**Absent or not voting**—Senators Cirilli, Kendziorski, Lipscomb and Whittow—4.

So the bill was not ordered to a third reading.

---

LEAVE OF ABSENCE

By request of Senator Peloquin, with unanimous consent, he was granted a leave of absence until 12:00 noon.

**Assembly Bill 518**

Relating to incorporation of mutual savings and loans associations and capital stock savings and loan associations and granting rule-making authority.

Read a second time.

The question was: Adoption of senate amendment 1 to **Assembly Bill 518**?

Senate amendment 1 adopted.

The question was: Shall **Assembly Bill 518** be ordered to a third reading?

Senator Bidwell moved a

CALL OF THE SENATE

Which motion was supported.

2703

JOURNAL OF THE SENATE [February 25, 1972]

The sergeant-at-arms was directed to close the doors and the clerk to call the roll.

The roll was called and the following senators answered to their names:

Senators Bidwell, Busby, Chilsen, Devitt, Dorman, Frank, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Risser, Roseleip, Schuele, Soik, Steinhilber, Swan and Thompson—28.

Absent—Senators Lipscomb and Whittow—2.

Absent with leave—Senators Cirilli, Kendziorski and Peloquin—3.

Senator Lorge asked unanimous consent that the call be raised on **Assembly Bill 518**.

Senator Bidwell objected.

Senator Lorge moved that the call on **Assembly Bill 518** be raised.

The ayes and noes were required and the vote was: ayes, 23; noes, 5; absent or not voting, 5; as follows:

Ayes—Senators Busby, Devitt, Dorman, Frank, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Lotto, McKenna, Murphy, Parys, Roseleip, Schuele, Soik, Steinhilber, Swan and Thompson—23.

Noes—Senators Bidwell, Chilsen, Lourigan, Martin and Risser—5.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb, Peloquin and Whittow—5.

The motion prevailed.

Ordered to a third reading.

By request of Senator Keppler, with unanimous consent, the bill was considered for final action at this time.

**Assembly Bill 518**

Read a third time.

The ayes and noes were required and the vote was: ayes, 27; noes, 1; absent or not voting, 5; as follows:

Ayes—Senators Bidwell, Busby, Devitt, Dorman, Frank,

JOURNAL OF THE SENATE [February 25, 1972]

Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Risser, Roseleip, Schuele, Soik, Steinhilber, Swan and Thompson—27.

Noes—Senator Chilsen—1.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb, Peloquin and Whittow—5.

So the bill was concurred in as amended.

Ordered immediately messaged.

President pro tempore of the senate in the chair.

10:25 A.M.

President of the senate in the chair.

10:30 A.M.

Senator Risser asked unanimous consent that the call on Senate Bill 898 be raised.

Senator Parys objected.

Senator Risser moved that the call on Senate Bill 898 be raised.

The ayes and noes were required and the vote was: ayes, 14; noes, 15; absent or not voting, 4; as follows:

Ayes—Senators Chilsen, Dorman, Keppler, Knowles, Krueger, McKenna, Murphy, Peloquin, Risser, Schuele, Soik, Steinhilber, Swan and Thompson—14.

Noes—Senators Bidwell, Busby, Devitt, Frank, Heinzen, Hollander, Johnson, Knutson, LaFave, Lorge, Lotto, Lourigan, Martin, Parys and Roseleip—15.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb and Whittow—4.

The motion did not prevail.

Senator LaFave asked unanimous consent that Senate Bill 325 be withdrawn from committee on Education and considered for action at this time.

Senator Heinzen objected.

JOURNAL OF THE SENATE [February 25, 1972]

Senator LaFave moved that **Senate Bill 325** be withdrawn from committee on Education and considered for action at this time.

Senator Risser moved a

CALL OF THE SENATE

Which motion was supported.

The sergeant-at-arms was directed to close the doors and the clerk to call the roll.

The roll was called and the following senators answered to their names:

Senators Bidwell, Busby, Chilsen, Devitt, Dorman, Frank, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Peloquin, Risser, Roseleip, Schuele, Soik, Steinhilber, Swan and Thompson—29.

Absent—Senators Lipscomb and Whittow—2.

Absent with leave—Senators Cirilli and Kendziorski—2.

Senator Keppler moved that the call on **Senate Bill 325** be raised.

Senator Risser asked unanimous consent that Senators Whittow and Lipscomb be granted a leave of absence for the balance of the day's session.

Senator Devitt objected.

Senator Risser moved that Senators Whittow and Lipscomb be granted a leave of absence for the balance of the day's session and raised the point of order that this motion was the question before the senate.

The chair ruled that pursuant to senate rule 84 (5) the motion to raise a call takes precedence.

The question was: Shall the call on **Senate Bill 325** be raised?

The ayes and noes were required and the vote was: ayes, 23; noes, 6; absent or not voting, 4; as follows:

Ayes—Senators Busby, Chilsen, Devitt, Dorman, Hollander, Keppler, Knowles, Knutson, Krueger, Lorge, Lotto,

JOURNAL OF THE SENATE [February 25, 1972]

Lourigan, McKenna, Martin, Murphy, Parys, Peloquin, Risser, Roseleip, Schuele, Soik, Steinhilber and Swan—23.

Noes—Senators Bidwell, Frank, Heinzen, Johnson, LaFave and Thompson—6.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb and Whittow—4.

The motion prevailed.

The question was: Shall **Senate Bill 325** be withdrawn from committee on Education and considered for action at this time?

The ayes and noes were required and the vote was: ayes, 26; noes, 3; absent or not voting, 4; as follows:

Ayes—Senators Bidwell, Busby, Chilsen, Devitt, Dorman, Frank, Hollander, Johnson, Keppler, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, McKenna, Murphy, Parys, Peloquin, Risser, Roseleip, Schuele, Soik, Steinhilber, Swan and Thompson—26.

Noes—Senators Heinzen, Knowles and Martin—3.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb and Whittow—4.

The motion prevailed.

**Senate Bill 325**

Relating to nonresident admission quotas at public institutions of higher education.

Read a second time.

By request of Senator Hollander, with unanimous consent, **Senate Bill 325** was referred to joint committee on Finance.

By request of Senator Hollander, with unanimous consent, **Senate Bill 325** was withdrawn from the joint committee on Finance and considered for action at this time.

The question was: Adoption of senate amendment 1 to senate substitute amendment 1 to **Senate Bill 325**?

Senate amendment 1 to senate substitute amendment 1 adopted.

The question was: Adoption of senate substitute amendment 1 to **Senate Bill 325**?

JOURNAL OF THE SENATE [February 25, 1972]

Senator Heinzen raised the point of order that senate substitute amendment 1 was not in proper form.

The chair ruled the point of order not well taken.

Senator Heinzen moved rejection of the substitute amendment.

Senator McKenna in the chair.

11:20 A.M.

President of the senate in the chair.

11:30 A.M.

---

LEAVE OF ABSENCE

By request of Senator Peloquin, with unanimous consent, he was granted a leave of absence until 2:00 P.M.

Senator Hollander in the chair.

12:05 P.M.

The question was: Rejection of senate substitute amendment 1 to Senate Bill 325?

The ayes and noes were demanded and the vote was: ayes, 15; noes, 14; absent or not voting, 5; as follows:

Ayes—Senators Busby, Chilsen, Devitt, Dorman, Frank, Heinzen, Hollander, Knowles, Krueger, McKenna, Martin, Risser, Soik, Thompson and Mr. President—15.

Noes—Senators Bidwell, Johnson, Keppler, Knutson, LaFave, Lorge, Lotto, Lourigan, Murphy, Parys, Roseleip, Schuele, Steinhilber and Swan—15.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb, Peloquin and Whittow—5.

The motion prevailed.

President of the senate in the chair.

12:20 P.M.

**JOURNAL OF THE SENATE [February 25, 1972]**

Senator Heinzen moved indefinite postponement of Senate Bill 325.

The ayes and noes were demanded and the vote was: ayes, 13; noes, 15; absent or not voting, 5; as follows:

Ayes—Senators Busby, Chilsen, Dorman, Frank, Heinzen, Hollander, Knowles, Krueger, McKenna, Martin, Risser, Soik and Thompson—13.

Noes—Senators Bidwell, Devitt, Johnson, Keppler, Knutson, LaFave, Lorge, Lotto, Lourigan, Murphy, Parys, Roseleip, Schuele, Steinhilber and Swan—15.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb, Peloquin and Whittow—5.

The motion did not prevail.

Senator Risser asked unanimous consent that Assembly Bill 1057 be made a special order of business at 9:00 A.M., Wednesday, March 1.

Senator Knutson objected.

By request of Senator Keppler, with unanimous consent, the call of the senate was raised.

Upon motion of Senator Keppler the senate recessed until 2:00 P.M.

12:30 P.M.

---

RECESS

2:00 P.M.

The senate was called to order by the clerk of the senate.

By request of Senator Keppler, with unanimous consent, Senator Dorman was selected as presiding officer.

Senator Risser called the chair's attention to the reconsideration motion on Senate Bill 898.

Senator Busby moved a

**CALL OF THE SENATE**

Which motion was supported.

2709

JOURNAL OF THE SENATE [February 25, 1972]

The sergeant-at-arms was directed to close the doors and the clerk to call the roll.

The roll was called and the following senators answered to their names:

Senators Bidwell, Busby, Chilsen, Devitt, Dorman, Hollander, Johnson, Keppler, Knowles, Knutson, LaFave, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Peloquin, Risser, Schuele, Steinhilber and Swan—22.

Absent—Senators Frank, Heinzen, Krueger, Lipscomb, Lorge, Roseleip, Soik, Thompson and Whittow—9.

Absent with leave—Senators Cirilli and Kendziorski—2.

**Senate Bill 325**

The question was: Shall the bill be ordered to a third reading?

The ayes and noes were demanded and the vote was: ayes, 12; noes, 17; absent or not voting, 4; as follows:

Ayes—Senators Bidwell, Johnson, Keppler, Knutson, LaFave, Lotto, Lourigan, Murphy, Parys, Roseleip, Schuele and Swan—12.

Noes—Senators Busby, Chilsen, Devitt, Dorman, Frank, Heinzen, Hollander, Knowles, Krueger, Lorge, McKenna, Martin, Peloquin, Risser, Soik, Steinhilber and Thompson—17.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb and Whittow—4.

So the bill was not ordered to a third reading.

Senator Risser moved that the call of the senate be raised.

The ayes and noes were required and the vote was: ayes, 15; noes, 14; absent or not voting, 4; as follows:

Ayes—Senators Chilsen, Dorman, Keppler, Knowles, Krueger, Lotto, McKenna, Murphy, Peloquin, Risser, Schuele, Soik, Steinhilber, Swan and Thompson—15.

Noes—Senators Bidwell, Busby, Devitt, Frank, Heinzen, Hollander, Johnson, Knutson, LaFave, Lorge, Lourigan, Martin, Parys and Roseleip—14.

JOURNAL OF THE SENATE [February 25, 1972]

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb and Whittow—4.

The motion prevailed.

Senator Martin asked unanimous consent that the motion for reconsideration of **Senate Bill 898** be made a special order of business at 9:00 A.M., Tuesday, February 29.

Senator Risser objected.

Senator Martin moved that the motion for reconsideration of **Senate Bill 898** be made a special order of business at 9:00 A.M., Tuesday, February 29.

The ayes and noes were demanded and the vote was: ayes, 14; noes, 15; absent or not voting, 4; as follows:

Ayes—Senators Bidwell, Busby, Devitt, Frank, Heinzen, Hollander, Johnson, Knutson, LaFave, Lorge, Lourigan, Martin, Parys, and Roseleip—14.

Noes—Senators Chilsen, Dorman, Keppler, Knowles, Krueger, Lotto, McKenna, Murphy, Peloquin, Risser, Schuele, Soik, Steinhilber, Swan and Thompson—15.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb and Whittow—4.

The motion did not prevail.

Senator Devitt moved a

CALL OF THE SENATE

on **Senate Bill 898**

Which motion was supported.

The sergeant-at-arms was directed to close the doors and the clerk to call the roll.

The roll was called and the following senators answered to their names:

Senators Bidwell, Busby, Chilsen, Devitt, Dorman, Frank, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Peloquin, Risser, Roseleip, Schuele, Soik, Steinhilber, Swan and Thompson—29.

Absent—Senators Lipscomb and Whittow—2.

JOURNAL OF THE SENATE [February 25, 1972]

Absent with leave—Senators Cirilli and Kendziorski—2.

Senator Risser moved that the call of the senate be raised.

Senator Roseleip moved that the senate stand adjourned.

The ayes and noes were demanded and the vote was: ayes, 10; noes, 19; absent or not voting, 4; as follows:

Ayes—Senators Bidwell, Chilsen, Frank, LaFave, Lorge, Lourigan, McKenna, Martin, Roseleip and Soik—10.

Noes—Senators Busby, Devitt, Dorman, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger, Lotto, Murphy, Parys, Peloquin, Risser, Schuele, Steinhilber, Swan and Thompson—19.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb and Whittow—4.

The motion did not prevail.

The question was: Shall the call of the senate be raised?

The ayes and noes were demanded and the vote was: ayes, 15; noes, 14; absent or not voting, 4; as follows:

Ayes—Senators Chilsen, Dorman, Keppler, Knowles, Krueger, Lotto, McKenna, Murphy, Peloquin, Risser, Schuele, Soik, Steinhilber, Swan and Thompson—15.

Noes—Senators Bidwell, Busby, Devitt, Frank, Heinzen, Hollander, Johnson, Knutson, LaFave, Lorge, Lourigan, Martin, Parys and Roseleip—14.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb and Whittow—4.

The motion prevailed.

Senator LaFave moved that the senate adjourn until 10:00 A.M. Tuesday, February 29.

The ayes and noes were demanded and the vote was: ayes, 7; noes, 22; absent or not voting, 4; as follows:

Ayes—Senators Bidwell, Busby, Frank, LaFave, Lourigan, Martin and Roseleip—7.

Noes—Senators Chilsen, Devitt, Dorman, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger,

**JOURNAL OF THE SENATE [February 25, 1972]**

**Lorge, Lotto, McKenna, Murphy, Parys, Peloquin, Risser, Schuele, Soik, Steinhilber, Swan and Thompson—22.**

**Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb and Whittow—4.**

**The motion did not prevail.**

**Senator Devitt asked unanimous consent for a 10 minute recess.**

**Senator Risser objected.**

**By request of Senator Keppler, with unanimous consent, the senate recessed for 15 minutes.**

**3:05 P.M.**

---

**RECESS**

**3:20 P.M.**

**The senate reconvened.**

**Senator Devitt moved a**

**CALL OF THE SENATE**

**On Senate Bill 898**

**Which motion was supported.**

**The sergeant-at-arms was directed to close the doors and the clerk to call the roll.**

**The roll was called and the following senators answered to their names:**

**Senators Bidwell, Busby, Chilsen, Devitt, Dorman, Frank, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Peloquin, Risser, Roseleip, Schuele, Soik, Steinhilber, Swan and Thompson—29.**

**Absent—Senators Lipscomb and Whittow—2.**

**Absent with leave—Senators Cirilli and Kendziorski—2.**

**Assembly Bill 1427**

**Relating to county institutions.**

**JOURNAL OF THE SENATE [February 25, 1972]**

**Read a second time.**

**Ordered to a third reading.**

**By request of Senator Johnson, with unanimous consent, the bill was considered for final action at this time.**

**Assembly Bill 1427**

**Read a third time and concurred in.**

**Ordered immediately messaged.**

**Senator Parys asked unanimous consent that Assembly Bill 1057 be withdrawn from committee on Commerce, Labor, Taxation, Insurance and Banking and made a special order of business at 10:00 A.M. Wednesday, March 1.**

**Senator LaFave objected.**

**Senator Parys moved that Assembly Bill 1057 be withdrawn from committee on Commerce, Labor, Taxation, Insurance and Banking and made a special order of business at 10:00 A.M. Wednesday, March 1.**

**Senator LaFave moved a**

**CALL OF THE SENATE**

**Which motion was supported.**

**The sergeant-at-arms was directed to close the doors and the clerk to call the roll.**

**The roll was called and the following senators answered to their names:**

**Senators Bidwell, Busby, Chilsen, Devitt, Dorman, Frank, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Peloquin, Risser, Roseleip, Schuele, Soik, Steinhilber, Swan and Thompson—29.**

**Absent—Senators Lipscomb and Whittow—2.**

**Absent with leave—Senators Cirilli and Kendziorski—2.**

**President pro tempore of the senate in the chair.**

**3:30 P.M.**

## JOURNAL OF THE SENATE [February 25, 1972]

Senator Lorge raised the point of order that pursuant to Senate Resolution 13, Assembly Bill 1057 could not be withdrawn from committee since a public hearing had been posted.

The chair took the point of order under advisement.

Senator Lorge asked unanimous consent that the senate stand informal for 10 minutes.

Senator McKenna objected.

### **Assembly Bill 74**

Relating to the elimination of certain property tax exemptions for banks and trust companies.

Read a second time.

By request of Senator Lourigan, with unanimous consent, he was made a co-sponsor of Assembly Bill 74.

Ordered to a third reading.

By request of Senator Johnson, with unanimous consent, the bill was considered for final action at this time.

### **Assembly Bill 74**

Read a third time.

Senator Bidwell raised the point of order that the bill was a banking bill and therefore required a two-thirds vote.

The chair took the point of order under advisement.

---

## RULING OF THE CHAIR

As it relates to Assembly Bill 1057, the chair ruled that the bill can be withdrawn from committee only after the first published public hearing has been held. Therefore the point of order was well taken pursuant to Senate Resolution 13.

As it relates to Assembly Bill 74 the chair ruled that the bill was not a banking bill and did not require a two-thirds majority vote, and therefore the point of order raised was not well taken.

**JOURNAL OF THE SENATE [February 25, 1972]**

**The question was: Shall Assembly Bill 74 pass?**

The ayes and noes were required and the vote was: ayes, 29; noes, 0; absent or not voting, 4; as follows:

**Ayes**—Senators Bidwell, Busby, Chilsen, Devitt, Dorman, Frank, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Peloquin, Risser, Roseleip, Schuele, Soik, Steinhilber, Swan and Thompson—29.

**Noes**—None.

**Absent or not voting**—Senators Cirilli, Kendziorski, Lipscomb and Whittow—4.

So the bill was concurred in.

President of the senate in the chair.

**4:00 P.M.**

By request of Senator Hollander, with unanimous consent, **Senate Bill 778** was withdrawn from the joint committee on Finance and considered for action at this time.

**Senate Bill 778**

Relating to salaries of and benefits for district attorneys.  
Read a second time.

The question was: Adoption of senate substitute amendment 1 to **Senate Bill 778**?

Senator Bidwell moved rejection.

Senator Parys moved indefinite postponement of **Senate Bill 778**.

Upon motion of Senator Keppler, with unanimous consent, the senate returned to the ninth order of business.

Senator Johnson asked for 5 seconds so that his reconsideration motion on **Senate Bill 898** would lay over until Tuesday.

The chair ruled the motion out of order as there already was a motion for reconsideration already pending under call.

JOURNAL OF THE SENATE [February 25, 1972]

Senator Johnson appealed the ruling of the chair.

Senator Risser moved a

CALL OF THE SENATE

Which motion was supported.

The sergeant-at-arms was directed to close the doors and the clerk to call the roll.

The roll was called and the following senators answered to their names:

Senators Bidwell, Busby, Chilsen, Devitt, Dorman, Frank, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Peloquin, Risser, Roseleip, Schuele, Soik, Steinhilber, Swan and Thompson—29.

Absent—Senators Lipscomb and Whittow—2.

Absent with leave—Senators Cirilli and Kendziorski—2.

Senator Dorman asked unanimous consent that Senators Whittow and Lipscomb be granted a leave of absence for the balance of the day's session.

Senator Keppler objected.

Senator Dorman moved that Senators Lipscomb and Whittow be granted a leave of absence.

The ayes and noes were demanded and the vote was: ayes, 7; noes, 22; absent or not voting, 4; as follows:

Ayes—Senators Chilsen, Dorman, McKenna, Peloquin, Risser, Schuele and Thompson—7.

Noes—Senators Bidwell, Busby, Devitt, Frank, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, Martin, Murphy, Parys, Roseleip, Soik, Steinhilber and Swan—22.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb and Whittow—4.

The motion did not prevail.

The chair recessed the senate for 10 minutes.

4:50 P.M.

The senate stood informal under call.

5:00 P.M.

The senate reconvened.

The chair put the question to the senate: Shall the motion for reconsideration of the vote by which **Senate Bill 898** was passed be laid over until Tuesday?

The ayes and noes were demanded and the vote was: ayes, 18; noes, 11; absent or not voting, 4; as follows:

Ayes—Senators Bidwell, Busby, Devitt, Frank, Heinzen, Hollander, Johnson, Keppler, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, Martin, Parys, Roseleip and Schuele—18.

Noes—Senators Chilsen, Dorman, Knowles, McKenna, Murphy, Peloquin, Risser, Soik, Steinhilber, Swan and Thompson—11.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb and Whittow—4.

So the motion for reconsideration of **Senate Bill 898** was laid over until Tuesday, February 29.

By request of Senator Keppler, with unanimous consent, the senate's order to return Senators Whittow and Lipscomb to the senate chambers was rescinded.

Senator Frank asked unanimous consent for a leave of absence for Wednesday, March 1.

Senator Keppler objected.

---

#### AMENDMENTS OFFERED

Senate substitute amendment 5 to **Senate Bill 244** by Senator McKenna.

By request of Senator Keppler, with unanimous consent, the senate adjourned in honor of the birthday of Senator Knowles.

## JOURNAL OF THE SENATE [February 25, 1972]

Senator Keppler moved that the senate adjourn until 10 A.M. Tuesday, February 29.

Senator Risser moved a call of the senate.

Senator Knowles raised the point of order that a call of the senate could not be made to adjourn the senate while the senate was under call.

The chair ruled the point of order well taken.

The ayes and noes were demanded and the vote was: ayes, 26; noes, 3; absent or not voting, 4; as follows:

Ayes—Senators Bidwell, Busby, Chilsen, Devitt, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Peloquin, Roseleip, Schuele, Soik, Steinhilber, Swan and Thompson—26.

Noes—Senators Dorman, Frank and Risser—3.

Absent or not voting—Senators Cirilli, Kendziorski, Lipscomb and Whittow—4.

The motion prevailed.

5:30 P.M.

---

### INTRODUCTION OF GUESTS

Senator Knowles introduced Ed Helmar and Lorraine Huppert of Prescott.

Senator Devitt introduced Mr. and Mrs. Donald Carr and their son Christopher of Route 2, Burlington, Wisconsin.

Senators Murphy and Devitt introduced Mr. Lloyd Dousmann, chairman of the Waukesha County Board, who is also chairman of the Wisconsin County Boards Association of Ottawa, Wisconsin.