# STATE OF WISCONSIN

# Senate Journal

# Seventy-Ninth Session

WEDNESDAY, October 29, 1969.

8:01 o'clock P.M.

The senate met.

The senate was called to order by the president.

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

Senators Busby, Chilsen, Cirilli, Devitt, Dorman, Draheim, Heinzen, Hollander, Johnson, Kendziorski, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Lotto, Lourigan, McParland, Meunier, Parys, Rasmusen, Risser, Roseleip, Schreiber, Schuele, Soik, Swan, Terry, Thompson and Whittow—31.

Absent-None.

Upon motion of Senator Keppler the senate recessed for 15 minutes.

#### RECESS

4:00 P.M.

President pro tempore in the chair.

## INTRODUCTION OF AMENDMENTS

Senate amendment 1 to senate substitute amendment 1 to Senate Bill 61 offered by Senator Cirilli.

Senate amendment 1 to Assembly Bill 379 offered by Senator Busby.

Senate amendment 2 to Assembly Bill 379 offered by Senator Busby.

Senate amendment 3 to Assembly Bill 379 offered by Senator Busby.

Senate amendment 4 to Assembly Bill 379 offered by Senator Busby.

Senate amendment 1 to Senate Joint Resolution 23 offered by Senator Risser.

#### INTRODUCTION OF RESOLUTIONS

### Senate Resolution 27

Requesting an opinion of the attorney general as to the constitutionality of Senate Joint Resolution 53.

Resolved by the senate, That the attorney general is requested to render an opinion to the senate at an early date with respect to the question of whether or not the sanction against Father James Groppi pronounced in Senate Joint Resolution 53, i.e., barring him from the state capitol and the capitol grounds, may be deemed feasible in the light of sections 1 and 4, article I, Wis. Const. and other pertinent constitutional provisions, including federal constitutional provisions which appear germane.

By Senators Schuele and Roseleip. Read and adopted.

#### Senate Joint Resolution 98

A joint resolution relating to commencing civil suit for damages caused to the assembly chambers on September 29, 1969.

By Senators Knutson, Johnson, Keppler, LaFave, Cirilli, Schuele and Roseleip; co-sponsored by Assemblyman Radcliffe.

Read.

Senator Schreiber raised the point of order the resolution was not a privileged resolution.

The chair took the matter under advisement.

# Senate Joint Resolution 99

A joint resolution relating to a study by the legislative council of the means available for meeting the shortage of teachers of the handicapped.

By Senator Schreiber.

Read.

Referred to joint committee on Finance.

#### INTRODUCTION OF BILLS

## Senate Bill 729

Relating to investment of trust funds by the investment board.

By Senator Parys, by request of City of Milwaukee.

Read first time.

To committee on Labor, Taxation, Insurance and Banking.

#### Senate Bill 730

Relating to temporary nonresident fishing licenses.

By Senators Schuele, Cirilli, Krueger, Whittow, LaFave, Swan and Johnson, by request of Sherwin Glazer.

Read first time.

To committee on Natural Resources.

#### Senate Bill 731

Relating to medical care coverages in insurance policies for mentally retarded or physically handicapped children.

By Senator Schreiber.

Read first time.

To committee on Labor, Taxation, Insurance and Banking.

#### Senate Bill 732

Relating to waiting periods for workmen's compensation for occupational deafness.

By Senator Schreiber, by request of Gordon Brubaker and Local 3205 of District 32 of United Steelworkers of America.

Read first time.

To committee on Labor, Taxation, Insurance and Banking.

#### Senate Bill 733

Relating to appropriations for the department of veterans affairs.

By Senators LaFave, Busby, Kendziorski, Cirilli and Roseleip; co-sponsored by Assemblyman Conradt.

Read first time.

To committee on Governmental and Veterans' Affairs.

## Senate Bill 734

Relating to collateral and discount loans.

By Senator LaFave.

Read first time.

To committee on Labor, Taxation, Insurance and Banking.

# REPORT OF COMMITTEE OF CONFERENCE ON ASSEMBLY BILL 188

The members of the committee of Conference on Assembly Bill 188 report and recommend:

- 1. That the senate recede from its position on senate amendment 1, adopt senate amendment 2 and concur in the bill, as amended.
  - 2. That the assembly concur in senate amendment 2.

ARTHUR CIRILLI.

Senator.

MYRON LOTTO.

Senator.

CARL W. THOMPSON.

Senator.

JACK D. STEINHILBER,

Assemblyman.

STANLEY YORK.

Assemblyman.

CLETUS VANDERPERREN,

Assemblyman.

#### Read.

Upon motion of Senator Cirilli, with unanimous consent, the report was considered at this time.

The report was adopted.

Ordered immediately messaged to the assembly.

President in the chair.

#### PETITIONS AND COMMUNICATIONS

#### Senate Petition 556

A petition by ten citizens of the 32nd District opposing the Stamp Assembly Bill 692.

By Senator Knutson.

To committee on Labor, Taxation, Insurance and Banking.

#### Senate Petition 557

A petition by 28 constituents of the 5th Senatorial District expressing support of Senate Bill 346.

By Senator Schuele.

To committee on Education.

# State of Wisconsin Claims Board

October 23, 1969.

Mr. William P. Nugent Senate Chief Clerk State Capitol Madison, Wisconsin 53702

# Dear Mr. Nugent:

The State Claims Board is submitting this report to you in accordance with the provisions of Section 16.007 of the statutes covering claims heard by it.

The amounts recommended for payment under \$500 on claims included in this report have, therefore, under the provisions of the statutes, been paid directly by the Board. The Board will prepare the bills covering the claims over \$500 recommended for payment and submit them to the Joint Finance Committee for legislative introduction. This report is for the information of the Legislature.

The Claims Board will appreciate your acceptance of this report and the spreading of it upon the Journal to inform

the members of the Legislature as to the nature of the type of claims which come before the Board for its consideration.

# Sincerely,

DONALD STERLINSKE, Secretary.

# BEFORE THE CLAIMS BOARD OF WISCONSIN

Hearings were held at Madison, Wisconsin on September 24, 1969 and September 25, 1969 upon the following claims:

Name of Claimant Amount	of Claim
1. Richard Yoast	8.50
2. Daniel Boilini	25.00
3. William A. Ott	25.75
4. Mrs. Patricia Wensauer	39.40
5. Jeffrey Neumann	40.00
6. Hamre Feed Service, Ltd	2,115.49
7. David C. Schultz	43.47
8. Irene Melicher	113.00
9. John F. Buckley	604.00
10. Verona Kowalski	1,190.65
11. City of Monona	1,509.88
12. Arvid E. Saline	4.75
13. Robert W. Smelcer	<b>423.00</b>
14. G. F. Wilmot	3,800.00
15. William Schuck	131.00
16. Clyde C. Culbertson	970.80
17. City of Whitewater	1,523.82
18. City of Oshkosh	27,886.89
19. Jerry Lee Hohlt	19,600.00
20. Louis Skibinski	250.79

#### THE BOARD FINDS

1. Richard Yoast claims \$8.50, the cost of replacing broken eye glass frames. The claimant is a house fellow in the University of Wisconsin dorms and was acting as a chaperone at a party for dorm residents and members of a High School Equivalency Program housed in the University dorms. While so engaged, the claimant attempted to

stop a fight which had broken out between the two groups at which time his eye glasses were knocked to the floor and were broken. There is no showing of negligence on the part of state employes which contributed to the claimant's loss nor is the claim one which, upon equitable principles, the state should assume and pay.

- 2. Daniel Boilini claims \$25.00 for the loss of a radio taken from his dorm room during the period December 23 to January 5, 1968-69. The theft of the radio evidently occurred as a result of the claimant's room being opened for cleaning during the Christmas holidays. The loss of the claimant's property was caused by negligence of employes of the University in leaving the room open and unattended without the knowledge of the claimant and the claim is, therefore, one which the state should assume and pay in the sum of \$25.00.
- 3. William A. Ott claims \$25.75 for damages to his automobile while the vehicle was parked in the University of Wisconsin Hospitals parking lot. It appears that the damage was caused by negligence of employes of the state and the claim is one, therefore, which the state should assume and pay in the sum of \$25.75.
- 4. Mrs. Patricia Wensauer claims \$39.40 for damage to her automobile while parked in the University of Wisconsin Hospitals parking lot on April 3, 1969. Damages were apparently caused by negligence of employes of the state of Wisconsin and the claim is one which the state should, in good conscience, assume and pay.
- 5. Jeffrey Neumann claims \$40.00 for loss of personal property removed from his dorm room at the University of Wisconsin during the period December 22 to January 2, 1968-69. The property of the claimant was taken while his room was open for cleaning purposes during the Christmas holidays. Since the loss was the result of negligence of employes of the state in leaving the room unattended without the knowledge of the claimant, the claim is one which the state should in good conscience as sume and pay in the amount of \$32.00, which the Board determines to be the fair value of the property lost.

6. Hamre Feed Service, Ltd. claims \$2,115.49 damages upon the failure of employes of the University of Wisconsin to fulfill an alleged oral agreement for the purchase of a truck from the claimant to be used on the University of Wisconsin Experimental Farm at Arlington, Wisconsin. Claimant alleges that a price of \$3,300.00 had been agreed upon between claimant and a state employe, and that the sale was not consummated as agreed.

The claimant had engaged in numerous business transactions with the University of Wisconsin Experimental Farm and knew or should have known that the employe with whom it dealt in this matter was not authorized to enter into agreements for the purchase of vehicles for use by the state of Wisconsin. The form of purchase order given the claimant by the state indicated that further authorizations were required and in this instance such further authorization was denied.

In view of the fact that the claimant subsequently sold the vehicle to another buyer for the approximate price which it had asked from the state of Wisconsin, and due to the fact the lease payments which are the basis of the damages claimed were to be made to a firm related to Hamre Feed Service, Ltd., the claim is not one which upon equitable principles the state should assume and pay.

- 7. David C. Schultz claims \$43.47 for medical costs incurred in treatment of injury sustained when he came in contact with poison ivy while engaged in outdoor training conducted by the Wisconsin National Guard of which he is a member. While there is no showing of negligence on the part of employes of the state of Wisconsin, the claim is one which, upon equitable principles, the state should assume and pay in the sum of \$43.47.
- 8. Irene Melicher claims \$113.00 for medical costs incurred as a result of a fall in the offices of the Department of Taxation, State Office Building, Milwaukee. The claimant apparently fell as a result of tripping over the leg of a chair with resulting injuries to her person. There is no showing of any defect of the chair which would have occasioned such an accident and the claim is therefore not one which the state should assume and pay.

9. John F. Buckley, executor of the estate of John P. Buckley, deceased, claims \$604.00 for overpayment to the state of Wisconsin of estate tax at the time of closing the probate in the named estate. The error resulted from the inclusion in the final account of certain monies which had been erroneously deposited in the personnel account of the deceased rather than in a trust account. Such monies should have been properly deposited in a trust account for another estate.

Due to the lapse of time the probate court no longer has jurisdiction to correct this error even though the monies involved have been returned by the executor to the proper account. Since the error was not due to the fault of the executor (the claimant herein), the claim is one which the state should upon equitable principles assume and pay.

- 10. Mrs. Verona Kowalski claims \$1,190.65 for damage to her automobile apparently caused by escapees from the Flambeau State Camp. Such camp is not a security institution and there is no showing of negligence on the part of state employes with respect to the absconding of the boys in question. Further, while the boys are normally regarded as wards of the state, the state cannot be responsible for their actions while on escape and the claim is therefore not one which the state should assume and pay.
- 11. City of Monona claims \$1,509.88 for state aid for the Village of Monona Water Safety Patrol. Sec. 30.79, Wis. Stats., provides for state aid to municipalities for the maintenance of water safety patrols and requires that the municipality file for such aid on or before December 1 in the year for which aids are claimed. Due to personnel difficulties within the Monona city government, application for aids was not made until January of 1969 for the 1968 water safety patrol operation. Due to the fact that the late filing is found to be excusable on the part of the Village of Monona the claim is one which the state should assume and pay in the sum of \$1,509.88, upon equitable principles.
- 12. Arvid E. Saline claims \$4.75 for damage to wearing apparel caused when the claimant sat on a newly painted park bench in Peninsula State Park. There is no showing of negligence on the part of employes of the state and the

claim is not one which the state should, upon equitable principles, assume and pay.

- 13. Robert W. Smelcer claims \$423.00 to reimburse him for monies stolen from his place of business, which monies were in his care as a result of the sale of hunting licenses for the state of Wisconsin. There is no reason to regard the sum collected for the sale of hunting licenses by a business as any different from any other property on the premises. It is the claimant's responsibility to provide protection for such amounts and any loss cannot be attributed to action by the state. The claim is therefore not one which the state should assume and pay.
- 14. G. F. Wilmot claims \$3,800.00 upon the failure of the state of Wisconsin well inspector to inspect a partially completed well to determine whether such well would conform to Wisconsin requirements. The claimant became involved in litigation with respect to payment for the partially completed well and claims that had the well been inspected by the state of Wisconsin he would have prevailed in that law suit.

It is the function of well inspectors employed by the state of Wisconsin to inspect completed wells and determine their compliance with the state drilling code. It is not the function of such individuals to inspect partially completed wells in order to provide evidence in litigation The claim is therefore not one which the state should assume and pay.

15. William Schuck claims \$131.00 for property taken from his dormitory room at Stout State University during the Christmas vacation period 1968-69. During this period the claimant's room was opened by University personnel to permit access by construction men working in that area. Claimant received no notice of the fact that his room would be opened and University personnel failed to take proper precautions to protect claimant's property. Since the loss resulted from negligence of employes of the state of Wisconsin, the claim is one which the state should assume and pay in the sum of \$100.00 which is found to be the fair value of the property lost.

- 16. Clyde C. Culbertson claims \$970.80 for medical costs incurred as a result of injuries to his person caused by a slip and fall on a wheel chair ramp at an exit of Dempsey Hall at the Wisconsin State University at Oshkosh. It appears that the location of the ramp and the fact that other exits were blocked resulted in a hazard that claimant was unable to avoid and the claim is one which the state should, upon equitable principles, assume and pay in the sum of \$970.80.
- 17. City of Whitewater claims \$1,523.82 as costs incurred in providing police protection on the Wisconsin State University Campus—Whitewater during a civil disturbance caused by individuals in the "Upward-bound Program" during the period July 25–26, 1968. The costs included overtime payment to City of Whitewater police officers, payments to the city of Janesville and Beloit for police officers furnished by those municipalities, payment to the Waukesha County Sheriff's office for sheriff's deputies furnished and costs of feeding these personnel assisting in the suppression of the disturbance.

The assistance was requested of the city of Whitewater by authorities of the Wisconsin State University for the protection of students and state property and the claim is one which the state should, in good conscience, assume and pay.

18. City of Oshkosh claims \$27,886.89 as reimbursement for costs incurred during November and December of 1968 in suppressing a civil disturbance on the campus of Wisconsin State University—Oshkosh. The city of Oshkosh found it necessary to request police assistance from neighboring communities in order to control the disturbance on the campus following a request for police assistance by officials of the University.

In view of the fact that the state has a duty to provide protection for students at the University as well as for the protection of state property, the claim is one which the state should, upon equitable principles, assume and pay.

19. Jerry Lee Hohlt claims \$19,600.00 as damages as a result of his incarceration in the Reformatory at Green

Bay for a period of approximately four years. On April 5, 1963 the claimant was sentenced to three 5-year terms in the State Reformatory at Green Bay by the county court, Fond du Lac County on the following charges: first, for illegal entry with intent to steal; second and third, for forgery. The illegal entry charge was based upon his entry into his father's home and the check forging charges based upon his endorsing checks made out to him by another. These checks had been stolen from his father's home previously without claimant's knowledge. At the time of the sentencing the claimant was a young man 19 years of age and his plea of guilty to each of the above charges was subsequently found not to have been intelligently made.

It is conceded by the claimant that his claim does not fall within the requirements of sec. 285.05, Wis. Stats., "Compensation for Innocent Convicts" in that he did not serve the term for which sentenced and has not attempted to prove his innocence beyond a reasonable doubt. The claimant rests his claim on equitable principles as set forth in sec. 16.00 (7).

In view of the age of the claimant at the time of sentencing, the harshness of the sentence, the failure of the court to provide adequate protection for the rights of the accused, and the time served by the claimant in the Reformatory, it is the recommendation of the Board that the state, in good conscience, should compensate the claimant in the sum of \$10,000.00.

20. Louis Skibinski claims \$250.79 as damages to his property caused by water drainage from state-owned lands. Land adjacent to the Skibinski property was purchased by the state of Wisconsin in conjunction with a highway project. Subsequent site clearance operations resulted in drainage of water on to the claimant's property. The damage occurred at a time when rainfall was unusually heavy and does not appear to have been caused by any negligence on the part of state employes in conjunction with the site clearance. Further, unless an adjoining landowner deliberately collects water and drains it on to his neighbor's property, there is no liability for the runoff of water from one property onto another. The claim is therefore not one which the state should assume and pay.

## THE COMMISSION CONCLUDES:

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

Richard Yoast Hamre Feed Service Irene Melicher Mrs. Verona Kowalski Arvid E. Saline Robert W. Smelcer G. F. Wilmot Louis Skibinski

2. That payment to the following claimants in the following amounts is justified under provisions of section 15.94, Wis. Stats.:

Daniel Boilini	25.00
William A. Ott	
Mrs. Patricia Wensauer	39.40
Jeffrey Neumann	32.00
David C. Schultz	43.47
John F. Buckley	604.00
City of Monona	1,509.88
William Schuck	100.00
Clyde C. Culbertson	970.80
City of Whitewater	1,523.82
City of Oshkosh	<b>27,886.89</b>
Jerry Lee Hohlt	10,000.00

Dated at Madison, Wisconsin this 20th day of October, 1969.

> WALTER G. HOLLANDER, Chairman, Senate Committee on Finance.

> BYRON WACKETT. Chairman, Assembly Committee on Finance.

DONALD J. STERLINSKE, Representative of Commissioner of Administration.

RICHARD R. MALMGREN. Representative of Governor. DAVID G. McMILLAN. Representative of Attorney General.

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#### MESSAGE FROM THE ASSEMBLY

By Wilmer H. Struebing, 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 Commendation by Assemblymen Helgeson, Bolle and Wilger, co-sponsored by Senator Meunier for Herbert A. VanderBloemen on his retirement.

#### ASSEMBLY MESSAGE CONSIDERED

Joint Rule 26 motion read and concurred in.

### FURTHER MESSAGE FROM THE ASSEMBLY

By Wilmer H. Struebing, chief clerk.

## Mr. President:

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

Assembly Bill	161,	Assembly Bill 960,
Assembly Bill	844,	Assembly Bill 1006,
Assembly Bill	898,	Assembly Bill 1018,
Assembly Bill	914,	Assembly Bill 1086 and
Assembly Bill	929,	Assembly Bill 1132.
Assembly Bill	955,	•

#### Concurred in:

Senate Bill 68,	Senate Bill 193,
Senate Bill 109,	Senate Bill 194,
Senate Bill 180,	Senate Bill 233 and
Senate Bill 191,	Senate Bill 239.

# Amended and concurred in as amended:

Senate Bill 155

#### Nonconcurred in:

Senate Bill 131

#### MESSAGE FROM THE ASSEMBLY CONSIDERED

# Assembly Bill 161

Relating to exemptions of insurance companies from personal property taxes.

Read first time.

To committee on Labor, Taxation, Insurance and Banking.

# Assembly Bill 844

Relating to a penalty for letting livestock run at large on a highway.

Read first time.

To committee on Agriculture.

# Assembly Bill 898

Relating to corroborating evidence of cruel and inhuman treatment.

Read first time.

To committee on Judiciary.

# Assembly Bill 914

Relating to personal property tax statements for property sold at auction.

Read first time.

To committee on Labor, Taxation, Insurance and Banking.

# Assembly Bill 929

Relating to the imposition of interest on delinquent real estate tax instalments.

Read first time.

To committee on Labor, Taxation, Insurance and Banking.

# Assembly Bill 955

Relating to an increase in the reportable accident damage minimum.

Read first time.

To committee on Transportation.

# Assembly Bill 960

Relating to weights and measures.

Read first time.

To committee on Agriculture.

#### Assembly Bill 1006

Relating to agricultural marketing orders.

Read first time.

To committee on Agriculture.

# Assembly Bill 1018

Relating to the licensing of physicians who intend to become U. S. citizens.

Read first time.

To committee on Health and Social Services.

# Assembly Bill 1086

Relating to the statutory implementation of changes made by chapters 75 and 327, laws of 1967 (the executive branch reorganization acts), in constitutional offices, departments and independent agencies.

Read first time.

To committee on Governmental and Veterans' Affairs.

#### Assembly Bill 1132

Granting authority to school boards to lower tax levies voted at annual meetings of the electors in their school districts.

Read first time.

To committee on Education.

#### Senate Bill 155

Relating to failure to file income or franchise tax returns, and providing penalties.

Read.

Referred to calendar.

#### MOTIONS

#### Senate Bill 522

Upon request of Senator Hollander, with unanimous consent, the point of order made on July 16th, page 1368 of the journal, was withdrawn.

#### Senate Bill 54

Upon motion of Senator Hollander, with unanimous consent, the bill was withdrawn from the joint committee on Finance and referred to committee on Judiciary.

#### Senate Bill 72

Upon motion of Senator Hollander, with unanimous consent, the bill was withdrawn from the joint committee on Finance and referred to committee on Judiciary.

#### Senate Bill 392

Upon motion of Senator Busby, with unanimous consent, the bill was recalled from the joint committee on Finance and returned to the author.

Senator Keppler asked unanimous consent that Assembly Bill 24 be made a special order of business at 10:02 A.M. on Thursday, October 30th; Senate Bill 592 at 10:03 A.M. on Thursday, October 30th; Senate Bill 598 at 10:02 A.M., Friday, October 31st; and Senate Bill 625 at 10:03 A.M., Friday, October 31st.

Senator Risser objected.

Upon motion of Senator Schuele the senate recessed for five minutes.

#### RECESS

4:50 P.M.

President pro tempore in the chair.

Senator Keppler moved the bills mentioned in his unanimous consent request be made special orders at the times designated.

Upon motion of Senator Terry, with unanimous consent, the senate returned to the 5th order of business.

#### COMMITTEE REPORT

The committee on Agriculture reports and recommends:

The appointment by the Governor of Edwin E. Bryant, of Stoughton, as a member of the Exposition Council, to succeed Robert A. McCabe, Madison, to serve for a term ending July 1, 1975.

Confirmation; Ayes, 5; Noes, 0.

The appointment by the Governor of Werner J. Schaefer, of Milwaukee, as a member of the Exposition Council, to serve for a term ending July 1, 1975.

Confirmation; Ayes, 5; Noes, 0.

WALTER E. TERRY, Chairman.

Read and referred to the calendar.

Upon motion of Senator Keppler the senate adjourned until 10:01 A.M. Thursday, October 30th.

#### INTRODUCTION OF GUESTS

Senator Krueger introduced 75 pupils of the seventh grade, their teacher, Mrs. Fijalkiewicz, and other leaders, Mrs. Christie, Mr. Binder, Mrs. Gosar, and Mrs. Westby, all from Greenwood, Wis.

Senator Swan introduced Illinois Senator Bidwell, from River Forest, Illinois. Senator Bidwell was escorted to the podium by Senators Swan and Devitt and spoke briefly to the senate.

Senator Swan introduced Mr. Byron Chrissis of Lake Geneva.

Senator Draheim introduced Mrs. Howard Weiss and Mrs. Karver Puestow, of Madison, who were accompanied by Mrs. Wm. Draheim.

Senator Roseleip introduced Mr. and Mrs. Calvin Miller, and their children, Gary and Rhonda, from Muscoda.

Senator Johnson introduced Mr. Donald Iaksteat, of Eau Claire.