

JOURNAL OF THE SENATE [March 3, 1971]

STATE OF WISCONSIN

Senate Journal

Eightieth Session

WEDNESDAY, March 3, 1971.

9:30 o'clock A.M.

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

The prayer was offered by Father Robert Bier, Pastor of Saint John the Baptist Catholic Church of Johnsburg, Wisconsin.

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

Senators Bidwell, Busby, Chilsen, Cirilli, Devitt, Dorman, Frank, Heinzen, Hollander, Johnson, Kendziorski, Keppler, Knowles, Knutson, LaFave, Lorge, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Peloquin, Risser, Roseleip, Schuele, Soik, Steinhilber, Swan, Thompson and Whittow—31.

Absent with leave—Senator Krueger—1.

AMENDMENTS OFFERED

Senate amendment 1 to Senate Bill 47 by Senator Knutson.

Senate amendment 2 to Senate Bill 138 by Senator Heinzen.

Senate amendment 1 to Senate Bill 191 by Senator Lotto.

Senate amendment 1 to Assembly Bill 13 by Senator Risser.

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BILLS INTRODUCED

Read first time and referred:

Senate Bill 241

Relating to actions affecting marriage.

By Senators Cirilli, Dorman and Risser; co-sponsored by Representatives Wilcox, Brown and Conta, by request of the Directors, Family Law Section, State Bar of Wisconsin.

To committee on Judiciary.

Senate Bill 242

Relating to sales tax exemption for food and beverage sales by vending machines.

By Senators Johnson, Chilsen, Lorge, Roseleip, Devitt and Keppler.

To joint Survey committee on Tax Exemptions.

Senate Bill 243

Relating to penalty for residential picketing.

By Senators Soik, Devitt and Whittow.

To committee on Judiciary.

PETITIONS AND COMMUNICATIONS

Senate Petition 21

A petition by 23 citizens of the 31st Senate District in opposition to any form of public aid to private and religious schools, direct or indirect.

By Senator Johnson.

Read and referred to committee on Education.

Senate Petition 22

A petition by 10 citizens of the 31st Senate District opposing any form of public aid to private and religious schools, direct or indirect.

By Senator Johnson.

Read and referred to committee on Education.

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Senate Petition 23

A petition by 26 citizens of the 31st Senate District opposing any form of public aid to private and religious schools, direct or indirect.

By Senator Johnson.

Read and referred to committee on Education.

Senate Petition 24

A petition by 17 citizens of the 31st Senate District in opposition to direct or indirect tax support for private or parochial schools as proposed in Senate Bill 138.

By Senator Johnson.

Read and referred to committee on Education.

Senate Petition 25

A petition by 21 residents of the 33rd Senatorial District urging support of aid to parents of children in Private and Parochial Schools.

By Senator Murphy.

Read and referred to committee on Education.

Senate Petition 26

A petition signed by 350 people of the 27th Senatorial District opposing Senate Bill 138.

By Senator Bidwell.

Read and referred to committee on Education.

Senate Petition 27

A petition by 25 citizens of the 31st Senate District in opposition to direct or indirect tax support for private or parochial schools as proposed in Senate Bill 138.

By Senator Johnson.

Read and referred to committee on Education.

Senate Petition 28

A petition signed by 56 residents of the 18th Senatorial District opposing Senate Bill 138.

By Senator Hollander.

Read and referred to committee on Education.

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EXECUTIVE COMMUNICATIONS

To the Honorable, the Senate:

Pursuant to the provisions of the statutes governing, I have nominated and with the advice and consent of the senate do appoint Burton Zien, of Milwaukee, as an employer member of the Board of Vocational, Technical and Adult Education, to serve for the remainder of the unexpired term ending May 1, 1975.

Respectfully submitted,

PATRICK J. LUCEY,
Governor.

Read and referred to committee on Education.

MOTIONS UNDER JOINT RULE 26

The State of Wisconsin * * * Citation by the Legislature
Know you by these presents:

Whereas, the people of the greater Watertown area have given their financial and public support to a new medical care facility; and

Whereas, these fine people had the foresight and determination to make this facility the finest total progressive care facility in the state; and

Whereas, the hospital administrator, board of directors and other citizens have spent countless unpaid hours making this dream a reality; now, therefore,

The Members of the Wisconsin Legislature, on the motion of Senator McKenna and Representatives Luckhardt and Wackett, under Joint Rule 26, commend the citizens of the greater Watertown area for hard work, creative planning and public spirit in creating the Watertown Memorial Hospital.

Read and adopted.

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The State of Wisconsin * * * Citation by the Legislature
Know you by these presents:

Whereas, Charles C. Benson, newspaperman, soldier, confidant of many, died at his home in Milwaukee at the age of 90; and

Whereas, Charles C. Benson, father of former state senator Taylor Benson and beloved husband of Marguerite R. Benson, senior first lady of the Democratic Party of Wisconsin, spent considerable time as a visitor to this legislature winning the friendship and respect of senators and state representatives of both political parties; now, therefore,

The members of the Wisconsin senate, on the motion of Senators McKenna and Kendzierski offer their condolences to his wife and family, and remind them to take heart in his own epithet, "I don't have an enemy in the world; I've outlived every one of the bastards."

MOTIONS

By request of Senator Hollander, with unanimous consent, **Senate Bill 93** was withdrawn from the joint committee on Finance and referred to the calendar.

Senator Hollander asked unanimous consent that **Senate Joint Resolution 9** be withdrawn from the joint committee on Finance and referred to the calendar.

Senator Risser objected.

Senator Hollander moved that **Senate Joint Resolution 9** be withdrawn from the joint committee on Finance and referred to the calendar.

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.

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

Present—Senators Bidwell, Busby, Chilsen, Cirilli, Devitt, Dorman, Frank, Heinzen, Hollander, Johnson, Kendziorski, Keppler, Knowles, Knutson, LaFave, Lorge, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Peloquin, Risser, Roseleip, Schuele, Soik, Steinhilber, Swan, Thompson and Whit-tow—31.

Absent with leave—Senator Krueger—1.

By request of Senator Keppler, with unanimous consent, the senate stood informal.

9:55 A.M.

The senate reconvened.

10:00 A.M.

Senator Risser raised the point of order that because Senate Joint Resolution 9 being tabled by a joint committee that neither house could withdraw the joint resolution.

The chair ruled the point of order not well taken.

Senator Knowles requested the current question.
Senator Risser objected.

Senator Knowles moved the current question.

Senator Risser moved that the motion to put the current question be tabled.

The ayes and noes were demanded and the vote was: ayes, 12; noes, 19; absent or not voting, 1; as follows:

Ayes—Senators Dorman, Frank, Kendziorski, Lourigan, McKenna, Martin, Parys, Peloquin, Risser, Schuele, Thompson and Whittow—12.

Noes—Senators Bidwell, Busby, Chilsen, Cirilli, Devitt, Heinzen, Hollander, Johnson, Keppler, Knowles, Knutson, LaFave, Lorge, Lotto, Murphy, Roseleip, Soik, Steinhilber and Swan—19.

Absent or not voting—Senator Krueger—1.

So the motion failed.

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By request of Senator Risser, with unanimous consent, Senate Joint Resolution 9 was withdrawn from the joint committee on Finance and taken up at this time.

The president pro tempore in the chair.

10:35 A.M.

The question on which the call of the senate was placed having been resolved the call was raised.

Senate Joint Resolution 9

A joint resolution calling for a budget policy whereby the revenue portion of the budget be determined prior to and comprise the limits of the dollar authorization of the appropriation portion.

Senator Whittow moved rejection.

The president of the senate in the chair.

10:50 A.M.

The ayes and noes were demanded and the vote was: ayes, 13; noes, 18; absent or not voting, 1; as follows:

Ayes—Senators Dorman, Frank, Heinzen, Kendziorski, Lourigan, McKenna, Martin, Parys, Peloquin, Risser, Schuele, Thompson and Whittow—13.

Noes—Senators Bidwell, Busby, Chilsen, Cirilli, Devitt, Hollander, Johnson, Keppler, Knowles, Knutson, LaFave, Lorge, Lotto, Murphy, Roseleip, Soik, Steinhilber and Swan—18.

Absent or not voting—Senator Krueger—1.

So the motion did not prevail.

Senate amendment 1 to Senate Joint Resolution 9 adopted.

Senate amendment 2 offered by Senator Whittow.

Senator Swan moved rejection of senate amendment 2.

Senator Thompson raised the point of order that senate amendment 2 was not germane.

The chair took the point of order under advisement.

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Senator Kendziorski in the chair.

11:45 A.M.

By request of Senator Soik, with unanimous consent, Senate Bill 95 was withdrawn from the committee on Governmental and Veterans' Affairs and returned to the author.

By request of Senator Soik, with unanimous consent, Senate Bill 97 was withdrawn from the joint Survey committee on Tax Exemptions and returned to the author.

By request of Senator Soik, with unanimous consent, Senate Bill 209 was withdrawn from the joint committee on Finance and referred to the joint Survey committee on Tax Exemptions.

By request of Senator Knutson, with unanimous consent, senate substitute amendment 1 to Senate Bill 1 was returned to the author.

RULING OF THE CHAIR

On Thursday, February 11th, Senator Risser raised the point of order that Senate Resolution 6, requesting an opinion of the Attorney General, was not privileged. The Chair took the point of order under advisement.

The chair has been unable to find a senate precedent directly in point, either in the collection of legislative precedents, or in the annotated editions of the SENATE MANUAL published in 1953 (Senate Rule 75) and 1961 (Senate Rule 69).

Senate Rule 69 reads as follows:

"Any motion or resolution relating to the organization or procedure of the senate, or to any of its officers, members or committees, shall be privileged and need not lie over for consideration."

Because the chair is unable to find any direct precedent, the chair reviewed the senate resolutions requesting Attorney General's opinions in the 1969 session for guidance.

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1969 SR 6 read and adopted
1969 SR 7 read and referred to calendar
1969 SR 8 read and referred to calendar
1969 SR 9 read and referred to calendar
1969 SR 12 read and adopted
1969 SR 13 read and adopted
1969 SR 17 read and adopted
1969 SR 19 read and adopted
1969 SR 20 read and adopted
1969 SR 23 read and referred to committee
1969 SR 25 read and adopted
1969 SR 27 read and adopted
1969 SR 30 read and referred to calendar to follow questioned bill
1969 SR 33 read and adopted
1969 SR 36 read and adopted
1969 SR 38 read and adopted

The three 1969 senate resolutions referred directly to calendar were all offered by the senate committee on Judiciary, and were so referred by the presiding officer without a motion from the floor. The 1969 senate resolution referred to a committee (SR 23) was so referred on the motion of a senator. The resolution had been offered by Senator Risser; the motion to refer the resolution to the senate committee on Health and Social Services was made by Senator Cirilli, the chairman of that committee. The 1969 senate resolution placed on the calendar following the senate consideration of the bill to which it pertained (SR 30), relating to the constitutionality of 1969 (SB 143) was so placed on the motion of the resolution's sponsor, Senator Soik.

Based on the experience of the 1969 session, it appears to be the prevailing senate practice to treat resolutions requesting an opinion from the Attorney General as privileged in the sense that they are immediately considered upon their being read. However, inasmuch as Senate Rule 69 merely states that such proposals "need not lie over", it is proper to place such resolutions on the next calendar if it is the consensus of the senate that, in the case of a specific resolution, the members should be given adequate time to familiarize themselves with the content of the proposal.

Martin J. Schreiber
Lieutenant Governor
President of the Senate

March 3, 1971.

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Senate Resolution 6

Relating to the recruitment of strikebreakers.

Read and adopted.

CALENDAR OF FRIDAY, FEBRUARY 25TH

Senate Bill 35

Relating to annexation of town islands.

Senator Soik moved that the vote by which senate amendment 2 failed rejection be reconsidered.

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, Cirilli, Devitt, Dorman, Frank, Heinzen, Hollander, Johnson, Kendziorski, Keppler, Knowles, Knutson, LaFave, Lorge, Lotto, Lourigan, McKenna, Martin, Murphy, Parys, Peloquin, Risser, Roseleip, Schuele, Soik, Steinhilber, Swan, Thompson and Whittow—31.

Absent with leave—Senator Krueger—1.

The ayes and noes were demanded and the vote was: ayes, 19; noes, 12; absent or not voting, 1; as follows:

Ayes—Senators Busby, Chilsen, Cirilli, Dorman, Frank, Heinzen, Hollander, Kendziorski, Keppler, Knowles, Lotto, McKenna, Martin, Parys, Risser, Schuele, Soik, Steinhilber and Whittow—19.

Noes—Senators Bidwell, Devitt, Johnson, Knutson, LaFave, Lorge, Lourigan, Murphy, Peloquin, Roseleip, Swan and Thompson—12.

Absent or not voting—Senator Krueger—1.

So the motion prevailed and the vote by which senate amendment 2 failed rejection was reconsidered.

The question on which the call of the senate was placed being decided the call was lifted.

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The ayes and noes were demanded and the vote was: ayes, 19; noes, 12; absent or not voting, 1; as follows:

Ayes—Senators Busby, Chilsen, Cirilli, Dorman, Frank, Heinzen, Hollander, Kendziorski, Keppler, Knowles, Lotto, McKenna, Martin, Parys, Risser, Schuele, Soik, Steinhilber and Whittow—19.

Noes—Senators Bidwell, Devitt, Johnson, K n u t s o n , LaFave, Lorge, Lourigan, M u r p h y , Peloquin, Roseleip, Swan and Thompson—12.

Absent or not voting—Senator Krueger—1.

So senate amendment 2 to Senate Bill 35 was rejected.

Senator Hollander moved rejection of senate amendment 3.

Senate amendment 3 rejected.

Senator Risser moved rejection of senate amendment 4.
Senate amendment 4 rejected.

Senator Hollander moved rejection of senate amendment 5.

President pro tempore in the chair.

12:10 P.M.

Senator LaFave moved that the senate adjourn to 9:30 A.M., Thursday, March 4.

By request of Senator Keppler the senate stood informal for 3 minutes.

12:20 P.M.

By request of Senator Peloquin the senate returned to the 4th order of business.

BILLS INTRODUCED

Read first time and referred:

Senate Bill 244

Relating to corporate farming.

By Senators Peloquin, Thompson, Chilsen and Heinzen; co-sponsored by Representative Hephner.

To committee on Agriculture.

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Senate Bill 245

Relating to increasing state aid to K-12 integrated aid districts, raising limits on aidable net operating costs and making an appropriation.

By Senators Hollander, Roseleip and Lotto; co-sponsored by Representatives LaFave, Tregoning and T. G. Thompson.
To committee on Education.

By request of Senator Busby the senate returned to the 5th order of business.

COMMITTEE REPORT

The committee on Judiciary reports and recommends for introduction:

Senate Resolution 8

A senate resolution requesting an opinion of the attorney general as to the effect of 1971 Senate Bill 130 on the constitution and certain statutes.

Ayes, 5; Noes, 0.

Read and referred to the calendar.

Senate Bill 246

An act relating to certificates accompanying land plats.

By request of Mr. Floyd Loken, Eau Claire.

Ayes, 5; Noes, 0.

Read first time and referred to committee on Judiciary.

And further recommends:

Senate Joint Resolution 17

Requesting congress to enact federal legislation imposing a penalty on persons who cross state lines in an attempt to avoid payment of alimony and support.

Adoption of senate amendment 1; Ayes, 5; Noes, 0 and adoption; Ayes, 5; Noes, 0.

Senate Bill 41

Relating to elimination of the "dead man's statute".

Indefinite postponement; Ayes, 5; Noes, 0.

Senate Bill 44

Relating to fees of guardians, conservators and testamentary trustees.

Passage; Ayes, 5; Noes, 0.

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Senate Bill 121

Relating to a revision of the laws of trusts, powers of appointment, and interests in property.

Passage; Ayes, 5; Noes, 0.

Senate Bill 122

Relating to creation of the office of the commissioner of citizen redress and providing an appropriation.

Passage; Ayes, 3; Noes, 2.

Senate Bill 139

Relating to substitution of judges in small claims actions.

Passage; Ayes, 5; Noes, 0.

Senate Bill 141

Relating to undertaking required on appeal to supreme court.

Passage; Ayes, 5; Noes, 0.

Senate Bill 160

Relating to permitting minors to give consent for medical treatment.

Passage; Ayes, 4; Noes, 1.

Senate Bill 168

Relating to judicial branch agencies and committees.

Passage; Ayes, 5; Noes, 0.

Senate Bill 179

Relating to privileged communications to doctors.

Indefinite postponement; Ayes, 5; Noes, 0.

Senate Bill 180

Relating to defining the rights of inhabitants of the state inducted or serving in the military forces of the United States.

Passage; Ayes, 4; Noes, 1.

Senate Bill 183

Relating to the granting of priority for claims in probate and receivership for pension, welfare and vacation benefits.

Passage; Ayes, 5; Noes, 0.

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Assembly Bill 42

Relating to the limitation of commencement of actions to establish paternity.

Concurrence; Ayes, 4; Noes, 1.

Assembly Bill 52

Relating to establishing procedural requirements for plaintiff offers of civil suit settlement.

Concurrence; Ayes, 4; Noes, 1.

Assembly Bill 57

Relating to revamping methods of assigning substitute circuit and county judges.

Concurrence; Ayes, 4; Noes, 1.

ALLEN J. BUSBY,
Chairman.

Senate Resolution 8

Requesting an opinion of the attorney general as to the effect of 1971 Senate Bill 130 on the constitution and certain statutes.

Resolved by the senate, That the attorney general is requested to render an opinion to the senate at an early date as to the constitutionality of 1971 Senate Bill 130. In addition to questions as to basic constitutionality, both federal and state, the attorney general is respectfully requested to address the question as to the effect passage of said 1971 Senate Bill 130 would have on Wisconsin criminal laws dealing with fornication and adultery, namely, ss. 944.15 and 944.16, stats.

By request of Senator Parys the senate returned to the 8th order of business.

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:

Motions Under Joint Rule 26:

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A Joint Certificate of Congratulations by Representative R. M. Thompson; co-sponsored by Senator Bidwell to Miss Nancy Goeres, Wisconsin's Junior Miss.

A Joint Certificate of Congratulations by the Entire Membership of the Assembly; co-sponsored by Senator Parys to Marquette University's Basketball Team and its selection to play in the NCAA tournament on March, 1971.

A Joint Certificate of Condolence by Representatives Jones and McDougal; co-sponsored by Senator LaFave for the family of Benjamin H. Diercks on his death.

A Joint Certificate of Condolence by the Entire Membership of the Assembly; co-sponsored by Senator Roseleip to Vera Stordock in the loss of her husband, Col. Gilman H. Stordock.

MESSAGE FROM THE ASSEMBLY CONSIDERED

By request of Senator Lorge the entire senate was made a co-author of the Certificate of Condolence to Mrs. Stordock.

The foregoing certificates were read and concurred in en masse.

Senator Keppler moved that the senate adjourn until Thursday, March 4, at 9:30 A.M.

12:35 P.M.

INTRODUCTION OF GUESTS

Senator LaFave introduced Mrs. Don Hassenfuss of Marinette, Wisconsin.

Senator Johnson introduced Mrs. Alice Ridge, Professor, Wisconsin State U. at Eau Claire, representing P.O.P.S., Protect Our Public Schools, Eau Claire, Wisconsin.

Senator Lorge introduced his aunt Catherine Melnholtz, of Johnsburg, Wisconsin, who accompanied Father Robert Bier of St. John the Baptist Catholic Church of Johnsburg.

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Senator Martin introduced Mrs. Lillian Martin of White-
law, Wisconsin.

Senator Devitt introduced the Greendale Intermediate
7th Grade with Mr. Gooding, Mrs. Schwartz and Mrs.
Evans of Greendale, Wisconsin.

Senator Roseleip introduced Mr. Edwin Roell, Darlington,
Wisconsin; Mr. Don Swigart, Gratiot, Wisconsin and Mr.
Charles K. Davis, Gratiot, Wisconsin.

Senator Knowles introduced Mr. and Mrs. Vincent Randall
and Annette of Baldwin, Wisconsin.

Senator Steinhilber introduced a group of students from
Lourdes High School, Oshkosh, Wisconsin, with instructors
Thomas Baun and David Ludke, to observe both senate and
assembly proceedings.

Senator LaFave introduced Mr. Glen Hamilton, Mr. Jack
Kerski, Mrs. H. Zahorik, Mrs. E. Kalm, Mrs. M. Grawey
and Mrs. William Walker, all of Marinette, Wisconsin.

CHIEF CLERK'S CORRECTION

Suggested by Legislative Reference Bureau.

Senate Bill 199

On page 2, line 6, change "if" to "of".

Senate Bill 207

On page 3, line 19, delete "(a)" and substitute "(b)".

On page 6, line 1, reinstate the stricken "a suitable man-
ner on the county records".

On page 12, line 19, delete the 2nd "and" and substitute
"an".

Senate Bill 226

On page 7, line 20, substitute "it" for "is".

Senate Bill 230

On page 3, line 6, substitute "eligibility" for "elegibility".