



# STATE OF WISCONSIN

# Senate Journal

## Ninety–Ninth Regular Session

12:32 P.M.

TUESDAY, February 16, 2010

The Senate met.

The Senate was called to order by President Risser.

### CALL OF ROLL

The roll was called, disclosing the presence of a quorum.

Pursuant to Senate Rule 15, the official attendance for session was:

Senators Carpenter, Coggs, Cowles, Darling, Decker, Ellis, Erpenbach, S. Fitzgerald, Grothman, Hansen, Harsdorf, Holperin, Hopper, Jauch, Kanavas, Kapanke, Kedzie, Kreitlow, A. Lasee, Lassa, Lazich, Lehman, Leibham, Miller, Olsen, Plale, Risser, Robson, Schultz, Sullivan, Taylor, Vinehout and Wirch – 33.

Absent – None.

Absent with leave – None.

The Senate stood for a moment of silent meditation.

The Senate remained standing and Senator Leibham led the Senate in the pledge of allegiance to the flag of the United States of America.

### CHIEF CLERK'S ENTRIES

#### AMENDMENTS OFFERED

Senate amendment 2 to **Senate Bill 380** offered by Senator Taylor.

Senate amendment 3 to **Senate Bill 392** offered by Senator Erpenbach.

Senate amendment 1 to **Senate Bill 406** offered by Senator Grothman.

Senate amendment 1 to **Senate Bill 507** offered by Senator Erpenbach.

#### BILLS PRESENTED TO THE GOVERNOR

The Chief Clerk records:

**Senate Bill 57**

**Senate Bill 262**

**Senate Bill 413**

Presented to the Governor on 2–16–2010.

The Chief Clerk makes the following entries dated **Monday, February 15, 2010**.

#### AMENDMENTS OFFERED

Senate amendment 2 to **Senate Bill 227** offered by Senator Jauch.

Senate amendment 3 to **Senate Bill 227** offered by Senator Jauch.

Senate amendment 1 to **Senate Bill 473** offered by Senator Risser.

### INTRODUCTION, FIRST READING, AND REFERENCE OF PROPOSALS

Read first time and referred:

#### **Senate Joint Resolution 61**

Relating to: prohibiting partial vetoes of parts of bill sections (first consideration).

By Senators Risser, Holperin, Kreitlow, Miller and Robson; cosponsored by Representatives Hebl, Parisi, Staskunas, Townsend, Berceau, Sinicki, Black, Roys, Jorgensen, A. Williams, Smith, Zepnick and Hraychuck.

To committee on **Ethics Reform and Government Operations**.

#### **Senate Bill 537**

Relating to: the issuance of temporary alcohol beverages licenses to nonprofit organizations authorizing the sale of beer or wine at fund–raising events.

By Senators Robson, Taylor and Grothman; cosponsored by Representatives Benedict, Sinicki, A. Williams and Gottlieb.

To committee on **Transportation, Tourism, Forestry, and Natural Resources**.

#### **Senate Bill 538**

Relating to: requiring nursing homes to notify residents of certain alleged violations and providing a penalty.

By Senators Carpenter, Erpenbach, Kreitlow, Lehman, Darling, Wirch, Taylor and Coggs; cosponsored by Representatives Krusick, Cullen, Pasch, Hraychuck, Pope–Roberts, Petrowski, Black, Berceau, Grigsby, Staskunas, Mason and A. Williams, by request of Wisconsin Board on Aging and Long Term Care, Coalition of Wisconsin Aging Groups, Disability Rights Wisconsin, AARP Wisconsin, Legal Aid Society Wisconsin.

To committee on **Public Health, Senior Issues, Long–Term Care, and Job Creation**.

#### **Senate Bill 539**

Relating to: tax incentives for job creation.

By Senators Leibham, Hopper, Lazich, Kanavas, Darling, Schultz, Olsen, A. Lasee, Kedzie and Kreitlow; cosponsored by Representatives Knodl, Newcomer, Vos, Davis, Ziegelbauer, Suder, Petersen, Pridemore, Petrowski, Kestell, Townsend,

Kerkman, Zipperer, Brooks, Spanbauer, A. Ott, Gunderson, Bies and LeMahieu.

To committee on **Public Health, Senior Issues, Long-Term Care, and Job Creation.**

**REPORT OF COMMITTEES**

The joint committee on **Finance** reports and recommends:

**Senate Bill 408**

Relating to: the exception to the assessment of withdrawal taxes and fees against a landowner who transfers ownership of managed forest land for siting a public safety communications tower.

Adoption of Senate Amendment 1.

Ayes, 16 – Senators Miller, Hansen, Taylor, Lehman, Robson, Lassa, Darling and Olsen. Representatives Pocan, Colon, Mason, Shilling, Sherman, Grigsby, Vos and Montgomery.

Noes, 0 – None.

Introduction and adoption of Senate Amendment 2.

Ayes, 16 – Senators Miller, Hansen, Taylor, Lehman, Robson, Lassa, Darling and Olsen. Representatives Pocan, Colon, Mason, Shilling, Sherman, Grigsby, Vos and Montgomery.

Noes, 0 – None.

Passage as amended.

Ayes, 16 – Senators Miller, Hansen, Taylor, Lehman, Robson, Lassa, Darling and Olsen. Representatives Pocan, Colon, Mason, Shilling, Sherman, Grigsby, Vos and Montgomery.

Noes, 0 – None.

**Senate Bill 439**

Relating to: adopting Internal Revenue Code provisions related to individual retirement accounts and adopting provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 for state income and franchise tax purposes.

Adoption of Senate Amendment 1.

Ayes, 16 – Senators Miller, Hansen, Taylor, Lehman, Robson, Lassa, Darling and Olsen. Representatives Pocan, Colon, Mason, Shilling, Sherman, Grigsby, Vos and Montgomery.

Noes, 0 – None.

Adoption of Senate Amendment 2.

Ayes, 16 – Senators Miller, Hansen, Taylor, Lehman, Robson, Lassa, Darling and Olsen. Representatives Pocan, Colon, Mason, Shilling, Sherman, Grigsby, Vos and Montgomery.

Noes, 0 – None.

Introduction of Senate Amendment 3.

Ayes, 16 – Senators Miller, Hansen, Taylor, Lehman, Robson, Lassa, Darling and Olsen. Representatives Pocan, Colon, Mason, Shilling, Sherman, Grigsby, Vos and Montgomery.

Noes, 0 – None.

Adoption of Senate Amendment 3.

Ayes, 16 – Senators Miller, Hansen, Taylor, Lehman, Robson, Lassa, Darling and Olsen. Representatives Pocan, Colon, Mason, Shilling, Sherman, Grigsby, Vos and Montgomery.

Noes, 0 – None.

Passage as amended.

Ayes, 15 – Senators Miller, Hansen, Taylor, Lehman, Robson, Lassa, Darling and Olsen. Representatives Pocan, Mason, Shilling, Sherman, Grigsby, Vos and Montgomery. Noes, 1 – Representative Colon.

**Senate Bill 484**

Relating to: the BadgerCare Plus Basic Plan, Benchmark Plan benefits, and making an appropriation.

Adoption of Senate Amendment 1.

Ayes, 16 – Senators Miller, Hansen, Taylor, Lehman, Robson, Lassa, Darling and Olsen. Representatives Pocan, Colon, Mason, Shilling, Sherman, Grigsby, Vos and Montgomery.

Noes, 0 – None.

Passage as amended.

Ayes, 12 – Senators Miller, Hansen, Taylor, Lehman, Robson and Lassa. Representatives Pocan, Colon, Mason, Shilling, Sherman and Grigsby.

Noes, 4 – Senators Darling and Olsen. Representatives Vos and Montgomery.

*MARK MILLER*  
Senate Chairperson

The joint survey committee on **Tax Exemptions** reports and recommends:

**Senate Bill 439**

Relating to: adopting Internal Revenue Code provisions related to individual retirement accounts and adopting provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 for state income and franchise tax purposes.

Adoption of report.

Ayes, 9 – Senators Erpenbach, Decker and Ellis; Representatives Hubler, Cullen and Zipperer; Ms. Dunn; DOR Secretary Ervin; Special Assistant to the Attorney General St. John.

Noes, 0 – None.

**Senate Bill 452**

Relating to: a sales and use tax exemption for food sold by child welfare facilities.

Adoption of report.

Ayes, 9 – Senators Erpenbach, Decker and Ellis; Representatives Hubler, Cullen and Zipperer; Ms. Dunn; DOR Secretary Ervin; Special Assistant to the Attorney General St. John.

Noes, 0 – None.

*JON ERPENBACH*  
Senate Chairperson

**PETITIONS AND COMMUNICATIONS**

**State of Wisconsin  
Office of the Secretary of State**

February 16, 2010

The Honorable, the Legislature:

<u>Bill Number</u>	<u>Act Number</u>	<u>Publication Date</u>
<b>Senate Bill 191</b>	..... Act 113	.... February 25, 2010
<b>Senate Bill 242</b>	..... Act 115	.... February 25, 2010
<b>Senate Bill 284</b>	..... Act 116	.... February 25, 2010
<b>Senate Bill 182</b>	..... Act 120	.... February 25, 2010
<b>Senate Bill 498</b>	..... Act 121	.... February 25, 2010
<b>Senate Bill 137</b>	..... Act 122	.... February 25, 2010

<u>Joint Resolution</u>	<u>Enrolled Number</u>	<u>Publication Date</u>
<b>SJR 11</b>	27	February 22, 2010 August 3, 2010 September 7, 2010 October 5, 2010

Sincerely,  
*DOUGLAS LA FOLLETTE*  
Secretary of State

Pursuant to Senate Rule [17 \(5\)](#), Senator Jauch added as a coauthor of **Senate Bill 484**.

Pursuant to Senate Rule [17 \(5\)](#), Senator Miller added as a cosponsor of **Assembly Bill 419**.

Pursuant to Senate Rule [17 \(5\)](#), Senator Lassa added as a cosponsor of **Assembly Bill 575**.

Pursuant to Senate Rule [17 \(5\)](#), Senator Lassa added as a coauthor of **Senate Bill 396**.

Pursuant to Senate Rule [17 \(5\)](#), Senator Harsdorf added as a coauthor of **Senate Bill 439**.

Pursuant to Senate Rule [17 \(5\)](#), Senator Kedzie added as a coauthor of **Senate Bill 439**.

Pursuant to Senate Rule [17 \(5\)](#), Senator Hansen added as a coauthor of **Senate Bill 439**.

Pursuant to Senate Rule [17 \(5\)](#), Senator Vinehout added as a coauthor of **Senate Bill 399**.

Pursuant to Senate Rule [17 \(5\)](#), Representative Suder added as a cosponsor of **Senate Bill 214**.

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## REFERRALS AND RECEIPT OF COMMITTEE REPORTS CONCERNING PROPOSED ADMINISTRATIVE RULES

### **Senate Clearinghouse Rule 09–101**

Relating to procedure and practice for corrections hearings before the division.

Submitted by Division of Hearings and Appeals.

Report received from Agency, February 11, 2010.

Referred to committee on **Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing**, February 16, 2010.

### **Senate Clearinghouse Rule 09–111**

Relating to grants to municipalities and organizations for regional tourist information centers created under [2009 Wisconsin Act 28](#).

Submitted by Department of Tourism.

Report received from Agency, February 12, 2010.

Referred to committee on **Transportation, Tourism, Forestry, and Natural Resources**, February 16, 2010.

### **Senate Clearinghouse Rule 09–117**

Relating to waiver of school hours.

Submitted by Department of Public Instruction.

Report received from Agency, February 12, 2010.

Referred to committee on **Education**, February 16, 2010.

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## MESSAGES FROM THE ASSEMBLY

By Patrick E. Fuller, chief clerk.

Mr. President:

I am directed to inform you that the Assembly has concurred in:

### **Senate Joint Resolution 58**

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### **Assembly Bill 411**

Relating to: the prohibition against making, reproducing, or possessing a nude depiction of a person without the person's consent and the sex offender registry.

Senator Decker, with unanimous consent, asked that the Senate recede from its position on Senate amendment 1 to **Assembly Bill 411**.

The Senate recedes from its position.

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## SECOND READING AND AMENDMENTS OF SENATE JOINT RESOLUTIONS AND SENATE BILLS

### **Senate Bill 127**

Relating to: notification to the state and certain public agencies regarding a medical malpractice claim and limits on liability.

Read a second time.

The question was: Adoption of Senate substitute amendment 1 to **Senate Bill 127**?

Adopted.

Ordered to a third reading.

Senator Hansen, with unanimous consent, asked that the bill be considered for final action at this time.

### **Senate Bill 127**

Read a third time.

The ayes and noes were demanded and the vote was: ayes, 26; noes, 7; absent or not voting, 0; as follows:

Ayes – Senators Carpenter, Coggs, Cowles, Decker, Ellis, Erpenbach, S. Fitzgerald, Grothman, Hansen, Harsdorf, Holperin, Jauch, Kapanke, Kreitlow, Lassa, Lehman, Miller, Olsen, Plale, Risser, Robson, Schultz, Sullivan, Taylor, Vinehout and Wirch – 26.

Noes – Senators Darling, Hopper, Kanavas, Kedzie, A. Lasee, Lazich and Leibham – 7.

Absent or not voting – None.

Passed.

### **Senate Bill 268**

Relating to: the location of facilities in which rendering, animal food processing, or grease processing is conducted.

Read a second time.

The question was: Adoption of Senate amendment 1 to **Senate Bill 268**?

Adopted.

Ordered to a third reading.

Senator Decker, with unanimous consent, asked that the bill be considered for final action at this time.

### **Senate Bill 268**

Read a third time and passed.

**Senate Bill 293**

Relating to: directing the governor to annually proclaim March 25 as Medal of Honor Day.

Read a second time.

Ordered to a third reading.

Senator Decker, with unanimous consent, asked that the bill be considered for final action at this time.

**Senate Bill 293**

Read a third time and passed.

**Senate Bill 348**

Relating to: declarations creating marina condominiums and technical corrections to the laws governing marina condominiums.

Read a second time.

Ordered to a third reading.

Senator Decker, with unanimous consent, asked that the bill be considered for final action at this time.

**Senate Bill 348**

Read a third time and passed.

**Senate Bill 396**

Relating to: fishing and trolling in boats with electric motors.

Read a second time.

Ordered to a third reading.

Senator Decker, with unanimous consent, asked that the bill be considered for final action at this time.

**Senate Bill 396**

Read a third time and passed.

**Senate Bill 403**

Relating to: authorizing the release of certain personal identifying information collected by the Department of Regulation and Licensing.

Read a second time.

The question was: Adoption of Senate amendment 1 to **Senate Bill 403**?

Adopted.

Ordered to a third reading.

Senator Decker, with unanimous consent, asked that the bill be considered for final action at this time.

**Senate Bill 403**

Read a third time and passed.

**Senate Bill 410**

Relating to: designating and marking a portion of I 43 in the city of Milwaukee as the Jeannetta Simpson–Robinson Memorial Highway.

Read a second time.

The question was: Adoption of Senate amendment 1 to **Senate Bill 410**?

Adopted.

Ordered to a third reading.

Senator Decker, with unanimous consent, asked that the bill be considered for final action at this time.

**Senate Bill 410**

Read a third time.

The ayes and noes were demanded and the vote was: ayes, 32; noes, 1; absent or not voting, 0; as follows:

Ayes – Senators Carpenter, Coggs, Cowles, Darling, Decker, Ellis, Erpenbach, S. Fitzgerald, Hansen, Harsdorf, Holperin, Hopper, Jauch, Kanavas, Kapanke, Kedzie, Kreitlow, A. Lasee, Lassa, Lazich, Lehman, Leibham, Miller, Olsen, Plale, Risser, Robson, Schultz, Sullivan, Taylor, Vinehout and Wirch – 32.

Noes – Senator Grothman – 1.

Absent or not voting – None.

Passed.

**Senate Bill 419**

Relating to: requiring the Department of Agriculture, Trade and Consumer Protection to establish standards for products sold as honey, prohibiting the labeling as Wisconsin certified honey of a product that has not been determined to meet the standards, prohibiting the labeling as honey of a product that does not meet the standards, and requiring the exercise of rule-making authority.

Read a second time.

Senator Decker, with unanimous consent, asked that **Assembly Bill 575** be withdrawn from the committee on **Agriculture and Higher Education** and taken up at this time.

**Assembly Bill 575**

Relating to: requiring the Department of Agriculture, Trade and Consumer Protection to establish standards for products sold as honey, prohibiting the labeling as Wisconsin certified honey of a product that has not been determined to meet the standards, prohibiting the labeling as honey of a product that does not meet the standards, and requiring the exercise of rule-making authority.

Read a second time.

Ordered to a third reading.

Senator Decker, with unanimous consent, asked that the bill be considered for final action at this time.

**Assembly Bill 575**

Read a third time and concurred in.

Senator Decker, with unanimous consent, asked that **Senate Bill 419** be laid on the table.

**Senate Bill 427**

Relating to: expanding the types of governmental units that may participate in a joint local governmental self-insured health insurance plan.

Read a second time.

Ordered to a third reading.

Senator Decker, with unanimous consent, asked that the bill be considered for final action at this time.

**Senate Bill 427**

Read a third time and passed.

**Senate Bill 455**

Relating to: the wholesale distribution of prescription drugs.

Read a second time.

Senate amendment 1 to **Senate Bill 455** offered by Senators Robson and Sullivan.

The question was: Adoption of Senate amendment 1 to **Senate Bill 455**?

Adopted.

Ordered to a third reading.

Senator Decker, with unanimous consent, asked that the bill be considered for final action at this time.

**Senate Bill 455**

Read a third time and passed.

**SECOND READING AND AMENDMENTS OF  
ASSEMBLY JOINT RESOLUTIONS AND  
ASSEMBLY BILLS**

**Assembly Bill 57**

Relating to: permitting a mother to breast-feed in any public or private location where she is otherwise authorized to be.

Read a second time.

Ordered to a third reading.

Senator Decker, with unanimous consent, asked that the bill be considered for final action at this time.

**Assembly Bill 57**

Read a third time and concurred in.

**Assembly Bill 186**

Relating to: salvinorin A and providing a penalty.

Read a second time.

Ordered to a third reading.

Senator Decker, with unanimous consent, asked that the bill be considered for final action at this time.

**Assembly Bill 186**

Read a third time and concurred in.

**Assembly Bill 419**

Relating to: rape shield provisions in civil proceedings, discovery and inspection of victims and witnesses, and victims rights.

Read a second time.

Ordered to a third reading.

Senator Decker, with unanimous consent, asked that the bill be considered for final action at this time.

**Assembly Bill 419**

Read a third time and concurred in.

**Assembly Bill 591**

Relating to: authorizing certain optometrists to dispense contact lenses that deliver a therapeutic pharmaceutical agent.

Read a second time.

Ordered to a third reading.

Senator Decker, with unanimous consent, asked that the bill be considered for final action at this time.

**Assembly Bill 591**

Read a third time and concurred in.

**MOTIONS MAY BE OFFERED**

Senator Decker, with unanimous consent, asked that **Senate Bill 439** be withdrawn from the committee on **Senate Organization** and taken up at this time.

**Senate Bill 439**

Relating to: adopting Internal Revenue Code provisions related to individual retirement accounts and adopting provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 for state income and franchise tax purposes.

Read a second time.

The question was: Adoption of Senate amendment 1 to **Senate Bill 439**?

Adopted.

The question was: Adoption of Senate amendment 2 to **Senate Bill 439**?

Adopted.

The question was: Adoption of Senate amendment 3 to **Senate Bill 439**?

Adopted.

Ordered to a third reading.

Senator Decker, with unanimous consent, asked that the bill be considered for final action at this time.

**Senate Bill 439**

Read a third time.

The ayes and noes were required and the vote was: ayes, 33; noes, 0; absent or not voting, 0; as follows:

Ayes – Senators Carpenter, Coggs, Cowles, Darling, Decker, Ellis, Erpenbach, S. Fitzgerald, Grothman, Hansen, Harsdorf, Holperin, Hopper, Jauch, Kanavas, Kapanke, Kedzie, Kreitlow, A. Lasee, Lassa, Lazich, Lehman, Leibham, Miller, Olsen, Plale, Risser, Robson, Schultz, Sullivan, Taylor, Vinehout and Wirch – 33.

Noes – None.

Absent or not voting – None.

Passed.

Senator Decker, with unanimous consent, asked that all action be immediately messaged to the Assembly:

**Senate Bill 127**  
**Senate Bill 268**  
**Senate Bill 293**

**Senate Bill 348**  
**Senate Bill 396**  
**Senate Bill 403**  
**Senate Bill 410**  
**Senate Bill 427**  
**Senate Bill 439**  
**Senate Bill 455**  
**Assembly Bill 57**  
**Assembly Bill 186**  
**Assembly Bill 411**  
**Assembly Bill 419**  
**Assembly Bill 575**  
**Assembly Bill 591**

Messaged.

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## **ANNOUNCEMENTS, ADJOURNMENT HONORS, AND REMARKS UNDER SPECIAL PRIVILEGE**

Senator Wirch, with unanimous consent, asked that when the Senate adjourn, it do so in memory of Lindsey Wasley Lewis, who used to intern in his office several years ago. Ms. Wasley Lewis recently died of liver cancer at 25 years of age. The Senator gives his condolences to her husband and family.

Senator Lehman, with unanimous consent, asked that when the Senate adjourn, it do so in memory of Leonard F. Hand, who passed away February 5th, at age 60. Lenny was a long-time union activist at UAW Local 553 Racine Steel/Belle City Malleable, and for AFSCME Local 67 City of Racine, where he served as steward, secretary, vice president and president. A past president of Racine's AFL-CIO labor council, Lenny received the James Arena Award in 2009 from the Racine County Democratic Party, in recognition of his work on behalf of the party's democratic principles. In 2008, Lenny and his wife, Janice, were recognized as "Mr. and Mrs. Solidarity" for their long-time union activism. We will miss Lenny.

Senator Lehman, with unanimous consent, asked that when the Senate adjourn, it do so in honor of the Senate Scholars, who are high school students who served us here today as pages, and who have committed themselves to learning about Wisconsin State Government this week.

Senator Robson, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Jim Caldwell, a son of

Beloit and head coach of the Super Bowl 44 contenders, the Indianapolis Colts. Jim was born on January 16, 1955 in Beloit, and graduated from Beloit Memorial High School in 1973. He was an all-state player on the 1972 undefeated Purple Knights football team. He was a starting guard on the Purple Knights basketball team that won the 1972 State Championship, and he was a top sprinter on the track team. He played defensive back for the Iowa Hawkeyes and graduated from that university in 1977. He worked his way up through the coaching ranks from college football to the NFL. He joined the Indiana Colts in 2001 as the quarterbacks coach. He was named head coach on January 13, 2009. He is the first rookie head coach in NFL history to win his first 14 games, and he is the fifth in league history to take his team to the Super Bowl as a rookie. His parents, Willie and Mary Caldwell, still live in Beloit. Beloit is extremely proud of their native son.

Senator Harsdorf, with unanimous consent, asked that when the Senate adjourn, it do so in honor of her son, Ryan Bailey, for passing his driver's test on his first try last week.

Senator Lazich, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Alician Dudek, a speed skater from Hales Corners, who is competing at the Olympic Games in Vancouver. On Saturday, she finished 2nd in 500m heat, and will be in the quarter finals on Wednesday, February 17th, and will participate in the 3000 meter relay on February 24th.

Senator Vinehout, with unanimous consent, asked that when the Senate adjourn, it do so in honor of her husband Doug Kane, who turned 70 this past weekend.

Senator Cogg, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Charles "Butch" Walton, son of Jeanetta Simpson-Robinson, who is carrying on the legacy of "love-in-action."

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## **ADJOURNMENT**

Senator Decker, with unanimous consent, asked that the Senate adjourn until Thursday, February 18, 2010.

1:35 P.M.

Adjourned.