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## Discipline in the Wisconsin Legislature A History of Reprimand, Censure, Suspension, and Expulsion

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## Introduction

The power of the Wisconsin State Legislature to discipline members derives from article IV, section 8, of the Wisconsin Constitution, which provides that “[e]ach house may . . . punish for contempt and disorderly behavior, and with the concurrence of two-thirds of all members elected, expel a member.”<sup>1</sup> Nearly identical language can be found in the U.S. Constitution.<sup>2</sup> Additionally, like the U.S. Constitution, the Wisconsin Constitution provides no explicit or certain grounds for when a member may be disciplined or expelled other than for “contempt and disorderly behavior.” Neither the Wisconsin Statutes nor case law clarifies what conduct may be subject to legislative discipline. Instead, each house determines for itself what member actions deserve punishment, the type and manner of punishment, and what legislative proceedings or investigations, if any, are required to determine whether a member has engaged in punishable conduct. The power to discipline senators and representatives of the Assembly for actions that are not otherwise punishable by law is a power of the Senate and the Assembly alone.

Given that both houses of the legislature are organized by political party and that there have been periods of intense partisan conflict throughout Wisconsin’s history, it would seem that the majority party would use the disciplinary powers granted under

### Historical list of members disciplined by the Wisconsin Legislature

Legislator	House	Year	Party	Cause	Action
Alexander W. McGregor	Assembly	1838	Democrat	Bribery, extortion, and corruption	Censure
James R. Vineyard	Senate	1842	Democrat	Homicide	Expulsion
William Chappell	Senate	1858	Democrat	Bribery, witness tampering, obstruction of legislative process	Censure
Barney A. Eaton	Senate	1905	Republican	Unbecoming conduct, failure to clear charges of bribery	Censure
Frank Raguse	Senate	1917	Socialist	Refusal to withdraw “disloyal” floor statements	Expulsion
7 Senators	Senate	1941	Progressive/ Republican	Refusal to vote for a bill, walkout during call of the roll	Censure
Jeff Wood	Assembly	2010	Republican/ Independent	Unbecoming conduct	Censure

1. [Wis. Const. art. IV, § 8.](#)

2. U.S. Const. art. I, § 5, cl. 2: “Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and with the Concurrence of two thirds, expel a Member.” In his *Commentaries on the Constitution of the United States*, (Boston: Hilliard, Gray and Company, 1833), Joseph Storey noted that “[w]hat must be the disorderly behaviour, which the house may punish, and what punishment, other than expulsion, may be inflicted, do not appear to have been settled by any authoritative adjudication of either house of congress.” (Sec. 836).

article IV, section 8, against the minority party, especially when partisan competition is fierce. But the historical record does not demonstrate this. In fact, the legislature has rarely punished its members, regardless of political party affiliation. As this paper documents, there have been only seven successful disciplinary actions in all of Wisconsin's history—five in the Senate and two in the Assembly. And only twice have members been expelled: Councilman James R. Vineyard for the murder of another member of the 1842 territorial legislature and Senator Frank Raguse for treasonous words spoken on the senate floor in debate during World War I in 1917. As a body, the legislature uses its disciplinary powers against members with moderation and restraint.

This paper draws on original source materials in historical archives and materials housed at the Legislative Reference Bureau Library to document and provide an account of the disciplinary actions against legislators since Wisconsin's territorial days. The paper identifies the kinds of punishment the legislature typically imposes on its members and the reasons why members are punished. The paper also describes the procedures used to discipline members and the role of the judicial branch in controlling the legislature's disciplinary powers. As will be seen, very few legislators have been disciplined in Wisconsin's history. Of those who were disciplined, all were disciplined not just for their conduct, however untoward or ill-advised, but also for the effects of their conduct on the honor and integrity of the legislature. In this way, the legislature's power to discipline its members, a power derived from the constitution, is best understood as a way of protecting the institution within Wisconsin's separation of powers system of government. The ability to discipline its members makes the legislature stronger and better.

## The varieties of legislative discipline

Article IV, section 8, of the Wisconsin Constitution gives the legislature the power to expel its members with a two-thirds majority vote. In this way, the severest of penalties requires an affirmative vote of an extraordinary majority of each house. The Assembly and Senate may also punish their members for contempt and disorderly behavior. Since there is no supermajority requirement for punishing contempt or disorderly behavior, legislative discipline for these actions requires only a majority vote of members present, assuming a quorum exists. As with the expulsion of members, the constitution provides no clear or explicit grounds for disciplining a member. Each house of the legislature alone determines the permissible boundaries of conduct subject to expulsion and discipline.

The most common form of legislative discipline is censure or reprimand. Through these actions, a house expresses and acts on its collective judgment regarding inappropriate behavior or conduct of legislators. This is accomplished by investigation of the alleged actions and adoption of a resolution censuring or reprimanding the member by name. Censured behaviors or conduct can include criminal behavior, violation of legisla-

tive rules, or conduct that undermines or calls into question the integrity of a legislative body. In other words, a member may be censured or reprimanded for behavior inside or outside the institution and for criminal or noncriminal behavior. The focus is on whether the member has discredited the institution. For example, when the Senate censured Senator Barney A. Eaton in 1905, he was said to have “cast odium upon the name of the Wisconsin state senate.”<sup>3</sup> Similarly, the censure resolution directed at Representative Jeff Wood in 2010, for repeated violations of Wisconsin’s drunken driving laws, proclaimed that he had “brought disrepute on the Wisconsin state assembly by damaging the institution’s integrity with the public.”<sup>4</sup> It is the legislature that is harmed by the member’s conduct.

In Wisconsin, there is no practical difference between a censure and a reprimand. For example, a 1941 senate resolution directed against seven senators who refused to cast a vote for a bill and walked out of the chamber proclaimed that the senate president was “authorized and directed to administer to said Senators a censure and reprimand for their conduct.”<sup>5</sup> In the resolution’s charge to the senate president, no distinction was intended or identified between the two kinds of discipline. In contrast, in other legislative bodies, such as the U.S. House of Representatives, censure is considered a more serious sanction than a reprimand. According to the Congressional Research Service, “a ‘censure’ resolution will generally involve a verbal admonition, such as a reading of the resolution, to be administered by the Speaker of the House to the Member at the bar of the House. In the case of a ‘reprimand,’ however, the resolution is merely adopted by a vote of the House with the Member ‘standing in his place,’ or is merely implemented by adoption of the committee’s report.”<sup>6</sup> In both instances, in Congress, the aim of the resolution is to call out and discipline the member for the shame the member has brought to the institution. Wisconsin conflates the two disciplinary actions into one.

Another punishment that could be used by the legislature is to impose a monetary fine on members for their contempt or disorderly behaviors. In Wisconsin, there is no record of either the Assembly or Senate imposing a fine or forfeiture on a member for contempt or disorderly behavior. One possible reason for this is that it was generally accepted during the nineteenth century that state legislatures did not have the power to exact a pecuniary punishment on members. Luther Cushing, the Massachusetts jurist, noted in 1856 that, based on the precedent and practices of the British House of Commons, “legislative assemblies are not authorized to impose a fine by way of punishment.”<sup>7</sup>

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3. 1905 Wis. SR 29.

4. 2009 Wis. ARs 3 to 17.

5. 1941 Wis. SR 35.

6. Jack Maskell, “Expulsion, Censure, Reprimand, and Fine: Legislative Discipline in the House of Representatives,” *Congressional Research Service*, No. 7-5700 (June 27, 2016).

7. Luther Cushing, *Elements of the Law and Practice of Legislative Assemblies*, (Boston: Little, Brown and Company, 1856), 266.

His summation of the state of law in the United States at that time was contemporaneous with Wisconsin's ratification of its constitution in 1848.<sup>8</sup>

Nonetheless, the Wisconsin Senate in the last decade has given itself the power to impose fines on members in rare instances. During the turmoil surrounding the enactment of 2011 Wisconsin Act 10, when all senators from the Democratic Party fled the state in the late winter of 2011,<sup>9</sup> the Senate responded by adopting 2011 Senate Resolution 3, which amended the senate rules to permit the imposition of a \$100 fine on a senator for each day the senator is absent without leave for more than two consecutive days. This fine was to be paid from the member's personal funds.<sup>10</sup> If members did not pay the fine from their personal funds, the fine was to be taken from their office accounts and reimbursements for travel and other expenses. To date, a fine has neither been imposed nor paid under that senate rule.

Another type of legislative discipline is suspension, in which a member is forced to take a leave of absence and is prohibited from taking part in any legislative business, including floor sessions. There has been one suspension vote in all of Wisconsin's history. On April 25, 1905, the Senate voted 26 to 2 to suspend Senator Barney A. Eaton, who was indicted on bribery charges in Milwaukee.<sup>11</sup> Even though the Senate suspended Senator Eaton in this instance, there are legal problems with suspending legislators. For one thing, a suspended member is prohibited from voting, and it is a generally accepted parliamentary practice that a legislative body cannot prevent a member from voting. Indeed, Wisconsin assembly and senate rules explicitly provide for this right.<sup>12</sup> In addition, a district whose senator or representative is prohibited from voting loses its representation in the legislature without the opportunity to elect a replacement for the legislator as would ordinarily occur with a vacancy. In fact, in 1915, the attorney general issued an advisory opinion calling into question the right of a legislative body to suspend a member, observing that "if the member who represents a certain district is suspended from exercising any of the functions of a member then the people of that district are not represented . . . it is different when the member is expelled."<sup>13</sup> For these reasons, suspension of a member is a form of legislative discipline that does not occur and that few advocate.

The most serious form of punishment that the legislature may impose under article

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8. The U.S. Supreme Court, however, may have held a different view with respect to Congress's power under art. I, § 5, cl. 2, of the U.S. Constitution. In *Kilbourn v. Thompson*, 103 U.S. 168, 189 (1880), the court referred in *dicta* to Congress's power to punish "by fine or imprisonment." Also, see *Mason's Manual of Legislative Procedure* (Denver, NCSL, 2010), Sec. 561-7: "When a member is absent during the session, and a sufficient excuse is not rendered, those present may . . . inflict such censure or pecuniary penalty as may be deemed just."

9. The senators fled Wisconsin on February 17, 2011, and returned on March 12, 2011. An account of this incident is provided in Jason Stein and Patrick Marley, *More Than They Bargained For: Scott Walker, Unions, and the Fight For Wisconsin*, (Madison: University of Wisconsin Press, 2013).

10. Senate Rule 13n.

11. 1905 Wis. SR 32.

12. Assembly Rule 77; Senate Rule 73 (1).

13. 4 Wis. Op. Att'y Gen. 84 (1915).

IV, section 8, is expulsion. As mentioned, there have been only two members expelled in Wisconsin's history—one for killing another member, and the other for treasonous words spoken in debate that the senator refused to retract. The sole constitutional requirement is that an expulsion requires a two-thirds vote of all members. There is no requirement that the punished conduct be criminal or that it occur during the legislative session or in the capitol itself. There is also no explicit bar that prevents a house of the legislature from expelling a member for conduct occurring before the member even became a member of the legislature. In every way, the expulsion power is an expansive one.

One of the difficulties in identifying limits to the legislature's expulsion power is that there is no Wisconsin case law dealing directly with the question. Neither of the two expulsions in 1842 or 1917 was challenged in court and, even if either had been, it is unclear if the matter would have even been justiciable. In 1856, Luther Cushing was of the opinion that "when a member is expelled, no other court can reverse the doings of the assembly, and reinstate such member in his place."<sup>14</sup> Moreover, 40 years later, in *In re Chapman*, the U.S. Supreme Court noted the broad authority of Congress to expel members for behavior occurring at any time if the conduct "is inconsistent with the trust and duty of a member."<sup>15</sup> Although neither observation is dispositive, both of these comments provide context for understanding the nineteenth century jurisprudential view of the power of a legislative body to punish members through expulsion and for understanding the original intent of article IV, section 8, of the constitution. Acting within its constitutional jurisdiction, the legislature is not answerable to other institutions for its disciplinary actions against members, meaning that a legislature's expulsion action is not reviewable by the courts.

An expulsion represents a lawful removal of an incumbent legislator from office by a house of the legislature. Once a legislator is removed from office, a vacancy is created and a special election may be required to fill the vacant seat.<sup>16</sup> Interestingly, there is no prohibition against an expelled member, unless convicted of a felony, seeking office for a seat in the Assembly or Senate in the next legislature.

## The process to discipline a member

The Wisconsin Constitution neither requires a trial or conviction for the expulsion of a legislator, nor sets out a set of procedures a legislative body must use to investigate contempt or disorderly behavior. In fact, early in Wisconsin's statehood, the Wisconsin Supreme Court, without explicitly mentioning article IV, section 8, of the constitution, made this point clear:

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14. *Id.*, at 258.

15. 166 U.S. 661, 669–70 (1897).

16. Wis. Stat. §§ 8.50 and 17.03 (3).

It is competent for the legislature to investigate the alleged bribery of any of its members or of members of a previous legislature, and it may compel the attendance of witnesses and inflict punishment upon them for contempt. There is no appellate or supervisory jurisdiction over legislative proceedings in such matters. When the legislature has power to institute an investigation the manner of conducting it rests in its discretion.<sup>17</sup>

That said, both the Assembly and Senate have used procedures to guarantee the fundamental fairness of their disciplinary processes and to afford accused members a right to present evidence and rebut the evidence offered against them.

The Assembly has adopted in its rules a process to discipline members, while the Senate has not. Under the assembly process, which is found in Assembly Rule 21,<sup>18</sup> a resolution to reprimand, censure, or expel a member is referred to a special committee on ethics and standards of conduct, convened for the sole purpose of holding a hearing on the resolution and issuing a report of its recommendations to the Assembly. The committee is composed of three majority party members and three minority party members; in this way, any recommendation to discipline a member will have a bipartisan majority.

Under the rules, the committee must hold its hearing as soon as possible and allow reasonable time “to ascertain the facts of the controversy, to furnish a copy of the detailed written charges to the officer or member cited, and to permit that person to prepare a proper defense.”<sup>19</sup> The member may have counsel and may present evidence and cross-examine witnesses.<sup>20</sup> These protections ensure the fundamental fairness of the proceeding and afford the accused member certain due process rights.<sup>21</sup> The member is informed of the charges against the member and who has made them, the conduct that resulted in the charges is specifically identified, and the member is guaranteed the right to counsel and to present at the hearing evidence and all witnesses. The most recent, and possibly only, resolution reported to a committee on ethics and standards of conduct was a 2009 censure resolution directed at Representative Jeffrey Wood.<sup>22</sup>

While the Senate does not have a formal process in its rules, it has a long-standing practice of appointing special committees to investigate disorderly conduct by senators and to recommend disciplinary actions. The 1858 resolution dealing with Senator William

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17. In re Falvey and Kilbourn v. Massey, 7 Wis. 630 (1859). Also, see *Mason's Manual of Legislative Procedure* (Denver: NCSL, 2000), Sec. 563.

18. Assembly Rule 21 was adopted through 1989 Assembly Resolution 27.

19. Assembly Rule 21 (2).

20. Assembly Rule 21 (3).

21. There is no Wisconsin case law requiring that members of the legislature disciplined pursuant to art. IV, § 8, of the constitution be afforded due process. The prevailing view is that legislative discipline of members is not subject to due process review. See, for example, *United States v. Brewster*, 408 U.S. 501 (1971); *Whitener v. McWatters*, 112 F.3d 740 (4th Cir. 1997); *Berry v. Crawford*, 990 N.E.2d 410 (Indiana, 2013); and *Rangel v. Boehner*, 20 F. Supp. 3d 148 (US Dist. Ct. for D.C., 2013). However, there could be instances in which legislative discipline could affect a property interest and thus require due process. See *Gerald v. Louisiana State Senate*, 408 So. 2d 426 (1981).

22. 2009 Wis. AR 14.



Chappell for alleged bribery authorized the appointment of a special committee to investigate the charges.<sup>23</sup> A 1905 resolution created a committee to investigate bribery charges against Senator Barney A. Eaton.<sup>24</sup> And a 1917 resolution created a special committee to prepare an expulsion resolution against Senator Frank Raguse.<sup>25</sup> In contrast, the 1842 expulsion of Councilman James R. Vineyard for murdering a fellow member and the 1941 censure resolution against the seven senators who refused to vote for a bill and left the senate floor did not use special committees to investigate the charges, perhaps for the reason that all members themselves witnessed his conduct.

Thus, both the Assembly and Senate have appointed special committees to investigate the disorderly behavior of members who have brought disrepute to the legislature. In almost all of these instances, investigations were conducted, evidence was gathered, witnesses were interviewed, and committee recommendations were presented to the full house. Although the constitution does not require the legislature to investigate in any certain way the misconduct of members, both houses have taken steps in their rules or practices to ensure that all disciplinary actions against members are based on fact, investigation, and deliberation. Perhaps for this reason there is no reported case law on the legislature's power to discipline members in Wisconsin.

## A history of disciplinary actions in the Wisconsin Legislature

### **Representative Alexander W. McGregor**

The first case of disciplinary action taken against a legislative member arose from an incident that occurred during the second session of the First Legislative Assembly of Wisconsin Territory in the winter of 1837–38. Democrat Alexander W. McGregor, a member of the House of Representatives from Dubuque County, was accused of accepting a bribe in return for presenting a petition for a ferry franchise across the Mississippi River at Davenport.<sup>26</sup> Petitions for projects on public improvement,<sup>27</sup> like the establishment of a ferry, featured among introduced legislative proposals in the Assembly during this session.<sup>28</sup> Petitions for ferry privileges tended to be competitive because the right to establish and

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23. 1858 Wis. SR 97.

24. 1905 Wis. SR 29.

25. 1917 Wis. SR 18.

26. *Journal of the House of Representatives of the Legislative Assembly of Wisconsin*, (Wisconsin: Charles C. Sholes, 1837).

27. At the time, public improvement projects also included authorization for constructing dams and building territorial roads.

28. A number of petitions for ferry privileges, typically referred to in acts as “the exclusive right of ferriage,” were enacted, see *Laws of the Wisconsin Territory: Acts of the Legislature of Wisconsin, 1837/1838*, (Wisconsin: Atwood & Rublee, 1867), 220–3; for example, 1838 Territorial Act No. 41, entitled “AN ACT to authorize Thomas P. Burnett and Alexander McGregor to establish a ferry across the Mississippi,” authorized Burnett and McGregor to run a ferry between Prairie du Chien and Coule des Sioux for the term of ten years. Other examples include 1838 Territorial Act No. 42, entitled “AN ACT to authorize H. F. Janes to keep a ferry,” and 1838 Territorial Act No. 43, entitled “AN ACT to authorize William Walker and Joseph H. D. Street to keep a ferry.”

maintain a ferry was not only exclusive to the individual or company for a specified term, usually a period of ten years after enactment, but also lucrative. Ferry privileges were central to Wisconsin's very first incident of disciplinary action taken against Territorial Representative Alexander W. McGregor.<sup>29</sup>

According to John Wilson, the man who brought the accusations against the representative in early December 1837, McGregor had asked Wilson "to use [his] influence to procure [McGregor's] election" and in return McGregor "would exert himself to procure" the grant of ferry privileges from the legislature.<sup>30</sup> According to Wilson's affidavit, he had originally promised to pay McGregor \$100 if his efforts proved successful,<sup>31</sup> however, McGregor had felt that the amount "was not enough," so Wilson agreed to pay \$300 for fear of losing to a rival petition and signed a note for that amount.<sup>32</sup> McGregor argued that Wilson had collected about \$300 on behalf of McGregor from a man named W. H. Eades, and McGregor allowed Wilson to retain the amount for a time because "[Wilson] was out of money."<sup>33</sup> According to McGregor, Wilson was to pay McGregor for that loaned amount, which had originated from an obligation Eades agreed to pay to McGregor.<sup>34</sup> Because Eades could not be located to testify as a witness before the investigating committee,<sup>35</sup> the committee recommended that "the decisive action of the house be stayed" to give McGregor time to produce Eades.<sup>36</sup> In agreement with the conclusion of the committee report, the house passed a resolution stating that "further consideration of the charges . . . be postponed"<sup>37</sup> until the next session, which convened six months later in June.<sup>38</sup>

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29. For a complete narrative of the events, see John C. Parish, "[The Bribery of Alexander W. McGregor](#)," *Iowa Journal of History and Politics*, vol. III, edited by Benjamin F. Shambaugh, (Iowa: Iowa State Historical Society, 1905), 384–98; Ruth A. Gallaher, "[Guilty or Not Guilty](#)," *The Palimpsest*, vol. 19, no. 2, art. 3 (1938), 50–61.

30. The Affidavit of John Wilson made before a Justice of the Peace on December 2, 1837, published in the *Journal of the House of Representatives of the Legislative Assembly of Wisconsin*, 249–51.

31. *Journal of the House of Representatives of the Legislative Assembly of Wisconsin*, 249–51. When adjusted for inflation, \$100 in 1838 is the equivalent in purchasing power to around \$2,800 in 2020.

32. [Appendix No. 9, "Evidence Taken by the Committee Appointed to Investigate the Truth of Charges Made against A. W. McGregor"](#), published in the *Journal of the House of Representatives of the Legislative Assembly of Wisconsin*, 412–28. When adjusted for inflation, \$300 in 1838 is the equivalent in purchasing power to around \$8,300 in 2019. The rival petition was offered by a company that included McGregor's brother.

33. [Appendix No. 7](#), Alexander W. McGregor's Statement to the House of Representatives (dated January 15, 1838), published in the *Journal of the House of Representatives of the Legislative Assembly of Wisconsin*, 399–404.

34. The *Affidavit of W. H. Eades*, which testifies as much in writing. Eades' affidavit accompanies McGregor's statement to the committee, which is published in the *Journal of the House of Representatives of the Legislative Assembly of Wisconsin*, 402.

35. The "select committee" was appointed on December 4, 1837, and consisted of Representatives Charles C. Sholes of Brown County, P. H. Engle of Dubuque County, and W. B. Sheldon of Milwaukee County. The committee was tasked with investigating "the truth of statements made by a certain John Wilson, calculated to injure the reputation and destroy the standing of an honourable member of this house," *Journal of the House of Representatives of the Legislative Assembly of Wisconsin*, 133.

36. *Journal of the House of Representatives of the Legislative Assembly of Wisconsin*, 330.

37. *Journal of the House of Representatives of the Legislative Assembly of Wisconsin*, 335. The vote to adopt the resolution was 20–3.

38. *Journal of the House of Representatives of the Legislative Assembly of Wisconsin*, 335. The next session of the legislature of the Wisconsin Territory was a special session, which convened at Burlington on June 11, 1838, and adjourned June 25, 1838.

During this interval between sessions, McGregor resigned his seat.<sup>39</sup> Despite his resignation, the House adopted the following resolution:

*Whereas*, Alexander W. McGregor, late a member of this House, from the county of Dubuque, was arraigned before the bar of this House, on the affidavit of John Wilson, charging him with having taken a bribe in his official character of legislator; and whereas, the said McGregor plead innocence of said charge, and occupied much of the time of this House in introducing testimony to that effect, none of which was satisfactory; and whereas, the House postponed a decision upon this case till this session, that the said McGregor might have ample time to make his defence, and to prove his innocence; and whereas, pending the resolution offered by the committee selected to investigate said charge, said McGregor has resigned his seat in this House: Therefore,

*Resolved*, That, in the opinion of this House, the said Alexander W. McGregor stands charged before this House and the people of this Territory, of the offences of receiving a bribe, extortion, and corruption, and is unworthy and undeserving of its confidence.<sup>40</sup>

In the opinion of the Territorial House of Representatives, McGregor was guilty of “receiving a bribe, extortion, and corruption” and was therefore “unworthy and undeserving of [the House’s] confidence.”<sup>41</sup> While disciplinary action against McGregor concluded with a vote for censure,<sup>42</sup> John Wilson ended up receiving the exclusive right of ferriage at Davenport across the Mississippi River.<sup>43</sup>

The next case represents the first of two expulsions of a legislative member in Wisconsin’s history, and the inciting incident for this first case has been characterized as “a tragedy the most terrible of any”<sup>44</sup> and “Wisconsin’s saddest tragedy.”<sup>45</sup>

### **Councilman James R. Vineyard**

On February 11, 1842, a passionate disagreement emerged between James R. Vineyard and Charles Cotesworth Pinckney Arndt at a session of the Territorial Council of Wisconsin<sup>46</sup> over the confirmation of Governor Doty’s nomination of Enos S. Baker for sher-

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39. McGregor’s resignation, which he sent by letter to Governor Dodge and dated February 3, was recorded in the Executive Journal for the Territory of Wisconsin as February 14, see John Porter Bloom (ed.), *The Territorial Papers of the United States*, vol. 27, (Washington D.C.: U.S. Government Printing Office, 1969), 151.

40. *Special Session of the Journal of the House of Representatives of the Legislative Assembly of Wisconsin*, (Wisconsin: Charles C. Sholes, Printer, 1838), 43–44

41. The “preamble and resolution concerning the conduct of Alexander W. McGregor” was adopted on June 20, 1838.

42. *Special Session of the Journal of the House of Representatives of the Legislative Assembly of Wisconsin*, 43–44.

43. 1838 Territorial Act No. 76, entitled “AN ACT to Establish a Ferry across the Mississippi River, in this territory,” published in the *Laws of the Wisconsin Territory: Acts of the Legislature of Wisconsin, 1837/1838*, 439–40. The bill for this act originated as a proposal in the Council, *Journal of the Council of the First Legislative Assembly of Wisconsin*, (Cincinnati, OH: R. P. Brooks & Co., 1838), 48.

44. Deborah Beaumont Martin, *The History of Brown County, Wisconsin: Past and Present*, vol. 1, (Illinois: S. J. Clarke Publishing Company, 1913), 160.

45. M. M. Quaife, “Wisconsin’s Saddest Tragedy,” *The Wisconsin Magazine of History*, vol. 5, no. 3 (Wisconsin: Wisconsin Historical Society, 1922), 264–83.

46. The Council is considered to be the Senate of the territorial legislature.

iff of Grant County.<sup>47</sup> Arndt, a councilman elected to represent Brown County, opposed the nomination, while Vineyard, a councilman elected to represent Grant County, favored it. During the course of the two men's increasingly heated debate, Arndt stated that Vineyard had given "the highest testimonials as to the character of the nominee."<sup>48</sup> Vineyard replied that Arndt's statement was false and that Arndt was "a damned liar."<sup>49</sup> Both men rose from their chairs, berating one another, and caused quite the commotion on the floor. Vineyard threatened to throw his inkstand "at the damned rascal's head" if Arndt did not shut his mouth.<sup>50</sup> Both men had to be physically separated, and shortly after that exchange the council president adjourned.<sup>51</sup>

After adjournment, Arndt confronted Vineyard and demanded to know if Vineyard "meant to impute falsehood." Upon Vineyard's confirmation that he had, Arndt struck Vineyard across the face. Immediately afterwards, Vineyard produced a pistol and shot Arndt in the chest. Within minutes, Arndt died.<sup>52</sup> Less than an hour later, Vineyard surrendered himself to the sheriff.

The very next day, the Territorial Council met in special session to formally announce the death of Arndt, express their sorrow, and deliver testimony to Arndt's worth. After these comments, the council unanimously adopted the following resolution:

*Resolved*, That the death of the Hon. C. C. P. Arndt, late a member of the Council, which occurred *by violence* in this hall on the 11th inst., has given a most painful shock to the sensibilities of the members of this body, and is deeply deplored as a public calamity.

*Resolved*, That the President of the Council be directed to convey to the widow of the deceased, our warmest sympathies, for the sudden bereavement with which she and her family have been visited.

*Resolved*, That a committee of four members of the Council be appointed; to make appropriate arrangements for the funeral obsequies of the deceased, and that in testimony of their respect and esteem, the members of this body will go into mourning for thirty days by wearing crape on the left arm.

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47. On January 25, 1842, the Territorial Council received Governor Doty's nomination letter for Enos S. Baker; on February 5, the Council rejected the nomination; and on February 7, the motion to reconsider the rejection vote was laid on the table; *Journal of the Council of the Legislative Assembly of Wisconsin*, (Platteville, WI: Alonzo Platt, 1842), 201, 271, 274. See also *The Green Bay Republican*, "A Heart-Rending Duty Devolves Upon Us This Week," February 19, 1842, 1.

48. Henry Colin Campbell, *Wisconsin in Three Centuries, 1634-1905*, Vol. 2, (New York: The Publishing Society of New York, 1906), 307.

49. *Madison Express*, "Examination of James R. Vineyard," February 19, 1842, 3.

50. Testimony of Ebenezer Brigham, Ebenezer Childs, James Collins, Charles J. Learned, Christopher Latham Sholes, and John H. Tweedy in the "William R. Smith Papers," Wisconsin Historical Society. At the request of the officer in charge at the coroner's inquest held on February 11, 1843, on the death of Arndt, Smith took notes of the testimony of the witnesses.

51. Quaipe, *Wisconsin's Saddest Tragedy*, 266.

52. Arndt's vest that he had worn on the day he was murdered is housed at the Wisconsin Historical Society; see Wisconsin Historical Society, "Vest Worn by Charles C. P. Arndt When He Was Shot on the Floor of the Wisconsin Territorial Legislature, 1842," [Museum object #1963.300](#).

*Resolved*, That the Sergeant-at-Arms be directed to convey the body of the deceased to his friends, at the expense of the Legislative Assembly.<sup>53</sup>

A similar proceeding occurred in the Territorial House of Representatives, and a similar resolution was adopted.<sup>54</sup> Then, both houses concluded their proceedings early that morning to attend Arndt's funeral.

Meanwhile, over the very same weekend, Vineyard sent to the council a communication from jail tendering his resignation as a member of the body.<sup>55</sup> When the council met on the following Monday, Vineyard's message was returned immediately to him without being read by the council. Instead, a resolution expelling Vineyard was offered. The resolution reads:

*Whereas*, The practice, hitherto unknown and unsuspected, of entering the Legislative Halls of our Territory with deadly weapons concealed about the person, has been within a few days introduced under circumstances justly calculated to arouse the deep indignation of the citizens of our common country, and to disgrace the character of this Legislative Assembly:

*And whereas*, James R. Vineyard, a member of the Council, did, on Friday the 11th instant, immediately after the adjournment, and in the presence of all the members and officers of this body, inflict a mortal wound upon the Hon. Charles C. P. Arndt, late a Representative on this floor from the county of Brown, by discharging a pistol, which was concealed about his person, of which wound the said Hon. C. C. P. Arndt immediately expired:

*And whereas*, It is becoming this Council in a manner appropriate to the occasion, to express to the world the feelings of horror and indignation with which was witnessed the perpetration—it is believed, without justifiable cause—of this most wanton outrage against the life of our fellow member, the peace of society, the purity of our public councils, and the laws of God and man:

*And whereas*, By this foul deed, so disgraceful to the place and the occasion, the said James R. Vineyard has shown himself unworthy to be a member of this honorable body; therefore,

*Resolved*, That James R. Vineyard, a member of the Council from the county of Grant, be and hereby is expelled; and the seat, lately occupied by him, declared vacant.<sup>56</sup>

The resolution characterizes Vineyard's murder of Arndt as a "most wanton outrage" and a "foul deed so disgraceful to the place and the occasion." The resolution's language

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53. *Journal of the Council of the Legislative Assembly of Wisconsin*, 307–8.

54. *Journal of the House of Representatives, Second Session of the Third Legislative Assembly of Wisconsin*, (Green Bay, WI: C. Latham Sholes, 1842), 355–7.

55. *Journal of the Council of the Legislative Assembly of Wisconsin*, 311.

56. *Journal of the Council of the Legislative Assembly of Wisconsin*, 312–3.

also specified that the concealment of deadly weapons disgraced “the character of this Legislative Assembly.” The council did not adopt Vineyard’s expulsion resolution all at once. Senator Moses M. Strong requested a division of the question, “explaining that he was willing to vote for the preamble but not for the resolution.”<sup>57</sup> With the question so divided, the council passed the preamble unanimously and adopted the resolution by a vote of 10 to 1.<sup>58</sup> In the opinion of the Territorial Council, Vineyard was “unworthy to be a member of this honorable body.” Thus Vineyard was expelled, leaving vacant the seat he had occupied. According to reports, Vineyard’s “prompt” expulsion “without even allowing his resignation to be read” reflected “much credit upon the moral independence” of the council.<sup>59</sup>

Returning to Vineyard, he was indicted for manslaughter by the U.S. District Court for Dane County on May 13, 1842, and arraigned the next day.<sup>60</sup> Throughout the next year, Vineyard would be in and out of the Dane County Court until his lawyer, Moses M. Strong, successfully argued for changing the venue of the trial to Green County, where Vineyard faced less prejudice.<sup>61</sup> After a myriad of judicial delays, including the change of venue, Vineyard’s trial finally took place in October 1843. A jury acquitted Vineyard of the charges of manslaughter on the grounds that he “acted in self-defense.”<sup>62</sup> In an address before the State Historical Society nearly thirty years after these events, Moses M. Strong made the following statement about the trial: “The testimony of the other witnesses was substantially the same, all agreeing that the deceased was the assaulting party, and that Vineyard was defending himself against the assault, although by means of weapons of death, which the occasion by no means demanded.”<sup>63</sup>

In 1846, Vineyard served as an elected member of Wisconsin’s first constitutional convention.<sup>64</sup> Three years later, in 1849, voters elected Vineyard to represent them in the Assembly.<sup>65</sup> A year later, Vineyard moved to California and rose to prominence serving

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57. Quaife, *Wisconsin’s Saddest Tragedy*, 271. Senator Moses M. Strong, who had already taken the role of Vineyard’s counsel, voted in the negative. For more information on Moses M. Strong, see John R. Berryman, *History of the Bench and Bar of Wisconsin*, (Chicago, IL: H.C. Cooper Jr., 1898), 224–27.

58. *Journal of the Council of the Legislative Assembly of Wisconsin*, 313.

59. *Southport Telegraph*, “Expulsion of James R. Vineyard,” February 22, 1842, 2.

60. *Wisconsin Enquirer*, “Case of James R. Vineyard,” March 19, 1842, 2; *Wisconsin Enquirer*, “District Court-Dane County,” May 14, 1842, 3.

61. *Racine Advocate*, “Case of James R. Vineyard,” June 14, 1843, 2; *Wisconsin Enquirer*, “The Murderer, Vineyard,” October 13, 1842, 2.

62. Reuben Gold Thwaites (ed.), *Collections of the State Historical Society*, Vol XV, (Madison, WI: Democrat Printing Company, State Printer, 1900), 379; Green Bay Republican, “James R. Vineyard, the Murderer of Hon. Chas. C. P. Arndt is Acquitted!!!” October 31, 1843, 3.

63. Moses M. Strong, *Territorial Legislation in Wisconsin, Annual Address Before the State Historical Society of Wisconsin, Thursday Evening, February 4th, 1870*, (Madison, WI: Atwood & Culver, 1870), 27–8.

64. Horace Addison Tenney and David Atwood, *Fathers of Wisconsin Containing Sketches of the Lives and Career of the Members of the Constitutional Conventions of 1846 and 1847–8*, (Madison, WI: David Atwood, 1880), 178.

65. *Blue Book of the State of Wisconsin*, (Madison, WI: Democrat Printing Company, 1885), 166.

as a legislator in the state Assembly and the state Senate.<sup>66</sup> Vineyard died in California in 1863.<sup>67</sup>

The next member is the first to be disciplined by the Wisconsin Senate.

### **Senator William Chappell**

On June 3, 1856, President Franklin Pierce signed a land grant bill giving Wisconsin nearly two million acres, which were to be used for the construction of two railway lines.<sup>68</sup> Additionally, the state legislature was in charge of the disposal of the federal grant,<sup>69</sup> giving the La Crosse and Milwaukee Railroad Company the northwest part of the land grant five months later amid rumors of corruption and bribery.<sup>70</sup> In fact, the La Crosse and Milwaukee Railroad Company had spent more than \$820,000<sup>71</sup> in railroad bonds to bribe 67 percent of the members of the 1856 Wisconsin Legislature,<sup>72</sup> as well two U.S. congressmen, a state supreme court justice, the governor, the lieutenant governor, the state bank comptroller, the private secretary of the governor, three officers in the Assembly, and three newspaper editors.<sup>73</sup> Even as contemporaneous reports of corruption circulated during the passage of the land grant bill,<sup>74</sup> a legislative land grant investigation did not begin until over 15 months after the bribery had occurred.<sup>75</sup>

Against this backdrop, the 1858 legislative session started in mid-January and, less than a month later, so too did the legislative investigation into corruption and bribery of the legislature of 1856. On March 18, a resolution was introduced in the Senate calling

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66. Vineyard served as a representative in the Assembly for the 1855 legislative session and as a senator in the Senate for the 1861 and 1863 legislative sessions.

67. *Los Angeles News*, "Obituary-Vineyard," September 7, 1863; *Petaluma Argus*, "Col. J. R. Vineyard," September 16, 1863, 1; Winfield J. Davis, *History of Political Conventions in California, 1849-1892*, (Sacramento, CA: California State Library, 1893), 659; Wisconsin Historical Society, "Biographical Sketch of James Vineyard," in the *Proceedings of the Wisconsin Historical Society at Its Sixty-eighth Annual Meeting*, Vol. 68 (October 21, 1920), 55.

68. Chapter XLIII, An Act Granting Public Lands to the State of Wisconsin to Aid in the Construction of Railroads in Said State, Section 1, Public Acts of the 34th Congress, Sess. I, June 3, 1856.

69. *Id.*

70. [Ch. 122, Laws of 1856](#).

71. The total amount of \$800,000 in 1856 is equivalent in purchasing power to about \$24,346,165 in 2020 when adjusted for inflation.

72. The subsequent investigation uncovered that 13 of the 25 senators (52 percent) and 59 of the 82 assemblymen (72 percent) had received stocks and bonds in amounts ranging from \$5,000 to \$25,000. Thus, 72 out of 107 legislators (67 percent) had accepted the bribery.

73. *Report of the Joint Select Committee, Appointed to Investigate into Alleged Frauds and Corruption in the Disposition of the Land Grant by the Legislature of 1856, and for Other Purposes*, (Madison: Calkins & Webb and Atwood & Rublee, 1858); see also John M. Bernd, "The La Crosse and Milwaukee Railroad Land Grant, 1856," *Wisconsin Magazine of History*, Vol. 3, No. 2 (December 1946), 141-53; Fred L. Holmes, *Badger Saints and Sinners*, (Eau Claire: E.M. Hale and Company, 1939); Harper's Weekly, "Cartoon: Political Market," June 12, 1858.

74. *The Daily State Journal*, "Wisconsin Legislature-Extra Session," October 1, 1856, 2. According to Rep. Knowlton, "Men were bragging about the streets that they had bought up a majority in both branches, and would buy up a two-thirds vote, if necessary to [a]ffect their aims." Knowlton added, "These men not only claimed that they had bought their bill as a majority but had even fixed the price of members. *Those of moderate influence and abilities were valued at \$2,000 cash in paid stock; those esteemed of more consequence were rate higher-from \$5,000 to \$2,500 each.*" The italics are original to this newspaper report.

75. *The Daily State Journal*, "The Land Grant Investigation," January 22, 1858, 2.

for an investigation of Senator William Chappell's<sup>76</sup> actions related to the "purloining of a bill" during the 1857 legislative session, attempting to prevent witnesses from testifying against him during the 1858 legislative session, and receiving a bribe during the 1856 legislative session.<sup>77</sup> Chappell represented the 14th Senatorial District, which included parts of Jefferson County. The very next day, a substitute resolution with nearly the same substance as the original, was passed, the text of which reads:

*Resolved*, That the select committee appointed to investigate charges against the Hon. William Chappell, Senator from the 14th Senatorial District, be, and they are hereby instructed to enquire whether a bill, which had been passed by the Senate at the session of the Legislature in 1857, was wrongfully abstracted or purloined, and withheld from the files or possession of the Assembly, during said session, and if so, whether said Chappell, was in any way or manner connected with such transaction or not.

And, also, whether said Chappell, has been guilty of bribery or offering to bribe any witness, or person to prevent him from appearing and testifying before any committee of investigation, during the present session of this Legislature.

And, further, whether he as a member of the Assembly in 1856, did or not, for any purpose connected with his official acts or duty, receive a bribe from any source whatever, and report fully all the facts connected with the subject matter of inquiring under this resolution.<sup>78</sup>

As the substitute resolution makes clear, the select committee was to investigate Chappell's actions—in chronological order—as a representative during the 1856 legislature for bribery in connection with the land grant, as a representative during the 1857 legislature for obstruction of legislation, and as a senator during the 1858 legislature for bribing or tampering with witnesses.

On April 28, the select committee appointed to investigate the conduct of Chappell made its report.<sup>79</sup> According to the witness testimony of Amasa Cobb,<sup>80</sup> who was a member of the Senate and represented the 15th Senatorial District during the 1855 and 1856 legislative sessions, Chappell tried to persuade Cobb to vote for the land grant bill by

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76. William Chappell, a Democrat, represented the 14th senatorial district in 1858, which included parts of Jefferson County; Chappell served in the assembly in 1856 (Jefferson 2) and 1857 (Jefferson 3).

77. [1858 Senate Resolution No. 97](#) in the *1858 Journal of the Senate of Wisconsin*, Vol. I, (Madison, WI: Atwood & Rublee, 1858), 746. The resolution read: "*Resolved*, That the select committee appointed to investigate charges against the Hon. William Chappell, Senator from the 14th District, be, and they are hereby instructed to enquire whether the said Chappell had any thing to do with the purloining of a bill, which passed the Senate, and which was taken from the desk of the clerk of the Assembly during the session of 1857. Also, whether the said Chappell has been guilty of offering a bribe or bribes to prevent a witness or witnesses from testifying before the Joint Committee of Investigation, against him during the present session of the Legislature, and further, whether the said Chappell received a bribe or bribes during the session of the Legislature of 1856."

78. *1858 Journal of the Senate of Wisconsin*, Vol. I, 774. The original 1858 Senate Resolution No. 97 was substituted and that substitute resolution was adopted.

79. *Daily State Journal*, "Report of the Chappell Investigation—Bribery and Corruption Proved," April 28, 1858, 2.

80. Cobb became known as "Honest Cobb" for his refusal of the stocks or bonds bribe from representatives of the La Crosse & Milwaukee Railroad Company; see Albert Watkins, "Honest Amasa Cobb," *Wisconsin Magazine of History*, Vol. 5, No. 2, (December 1921), 208–11.



stating that “he (Chappell) would make \$20,000 out of it, or by it, and told Cobb that he could fare the same.”<sup>81</sup> Chappell had also told La Rue P. Anderson and Martin Stuefer, witnesses for the investigation committee, that he had received the payment in bonds “for his services in the Legislature.”<sup>82</sup> Likewise, the investigative report on the 1856 land grant listed Chappell, who was at the time an assemblyman representing parts of Jefferson County, among the 59 assemblymen listed who had accepted bribes and one of only eight who had received \$10,000 in stocks and bonds from the La Crosse and Milwaukee Railroad Company.<sup>83</sup> During his testimony, a representative from the railroad company, Charles E. Jenkins, stated that Chappell would not have received such a sum if the representative had voted against the bill.<sup>84</sup>

As to the charges of Chappell’s actions during the 1857 legislative session, the former senator from the 14th Senatorial District, S. W. Barnes, whom Chappell had directly succeeded, testified that a bill was “wrongfully abstracted or purloined, and withheld from the files or possession of the assembly.”<sup>85</sup> Barnes had requested to examine the bill from the clerk of the Assembly and never returned it, keeping it in his desk until after the legislature adjourned and then destroying it. The committee noted that Chappell was “in some degree culpably ‘connected to the transaction’” because he “must have known from all circumstances that Barnes was withholding the bill.”<sup>86</sup>

The final charge that the committee investigated was whether Chappell bribed or offered to bribe witnesses to prevent them from appearing and testifying before any committee of investigation during the 1858 legislative session. Two witnesses brought forth testimony that, according to the committee, substantiated the charge. One of the witnesses, La Rue P. Anderson attested that Chappell offered him \$500 to leave the state and not appear before the investigation committee.<sup>87</sup> In addition, at another meeting, Anderson stated that Chappell offered to withdraw a lawsuit between the two men and then handed a roll of paper to Anderson that turned out to be \$2,000 of stock in the Watertown and Madison Railroad Company.<sup>88</sup> The other key witness, Martin Stuefer, testified that Chappell tried to persuade Stuefer to change his testimony before the investigative committee

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81. *1858 Journal of the Senate of Wisconsin, Vol. II*, (Madison, WI: Atwood & Rublee, 1858), 1223.

82. *1858 Journal of the Senate of Wisconsin, Vol. II*, 1223.

83. *Report of the Joint Select Committee, Appointed to Investigate into Alleged Frauds and Corruption in the Disposition of the Land Grant by the Legislature of 1856, and for Other Purposes*, 6.

84. *1858 Journal of the Senate of Wisconsin, Vol. II*, 1223.

85. *1858 Journal of the Senate of Wisconsin, Vol. II*, 1210. The bill “provided that the city of Watertown should be required to pay into the county treasury ten dollars for every license granted in said city, and which reduced the number of supervisors in said city from six to four.”

86. *1858 Journal of the Senate of Wisconsin, Vol. II*, 1211. Chappell replies to this charge in the same volume on page 1354, concluding that he was “willing to leave [the charge] with the Senate to say, if [he] should be suspected of wrong in this connection.”

87. *1858 Journal of the Senate of Wisconsin, Vol. II*, 1211.

88. *1858 Journal of the Senate of Wisconsin, Vol. II*, 1217.

by writing down the exact language that Stuefer was to use.<sup>89</sup> Furthermore, Chappell offered to assign Stuefer's wife an interest in a mortgage.<sup>90</sup>

Based on the information provided by these witnesses, the committee was "reluctantly forced to the conclusion that [Chappell's] actions have been such as to warrant [the committee] in believing that he has been guilty of offering to bribe a witness to keep him from testifying against him."<sup>91</sup> At the end of the investigative report, the committee offered the following resolution:

**Resolution No. 114, S.:**

*Whereas*, It appears from the evidences of the witnesses testifying before the select committee appointed by the Senate of Wisconsin, to investigate charges against the Hon. William Chappell, Senator from the 14th Senatorial District, that he is guilty of the specification contained in the resolution of instruction to said committee; therefore

*Resolved*, That the said William Chappell be, and he is hereby expelled from his seat in the Senate.<sup>92</sup>

The resolution concluded that the committee found Chappell "guilty of the specifications contained in the resolution of instruction" and that Chappell "be . . . expelled from his seat in the Senate."

On May 4, the Senate took up the investigation committee's resolution to expel Chappell, but the Senate's consideration of said resolution spilled over into the next day and lasted well into the late afternoon. While on the floor, the resolution underwent a number of amendments that addressed the three charges discussed in the committee report and greatly increased the amount of text. The amended resolution read:

**Resolution No. 114, S. (amended version):<sup>93</sup>**

*Whereas*, It appears from the evidences of the witnesses testifying before the select committee appointed by the Senate of Wisconsin, to investigate charges against the Hon. William Chappell, Senator from the 14th Senatorial District, that he is guilty of some of the specification contained in the resolution of instruction to said committee; therefore

*Resolved*, That it is the opinion of this Senate that a bill which had been passed by the Senate at the Legislature in 1857, was wrongfully abstracted and withheld from the possession of the Assembly during its session, and that the said Chappell was in some degree guilty of complicity with such transaction.

*Resolved*, That it is the opinion of this Senate that the said Chappell is guilty of having offered to bribe La Rue P. Anderson to prevent him from appearing and testifying

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89. 1858 *Journal of the Senate of Wisconsin*, Vol. II, 1217.

90. 1858 *Journal of the Senate of Wisconsin*, Vol. II, 1217.

91. 1858 *Journal of the Senate of Wisconsin*, Vol. II, 1217.

92. 1858 *Journal of the Senate of Wisconsin*, Vol. II, 1224.

93. 1858 *Journal of the Senate of Wisconsin*, Vol. II, 1369–70.

during the present session of the Legislature, before the joint committee appointed by this Legislature to investigate alleged frauds and corruption in the disposal of the lands granted to this State to aid in the construction of railroads; That the said Chappell is also guilty of having used improper influences to induce Martin Stuefer, a witness, testifying before this committee appointed to investigate charges against him to alter or modify his testimony.

*Resolved*, That it is the opinion of this Senate that the said Chappell did accept and receive from the La Crosse and Milwaukee railroad company a large amount of the bonds of said company as a consideration for his official vote, or for his aid and influence while a member of the Assembly of this State in 1856, in procuring the passage by the Legislature of a bill conferring upon said company a portion of the lands granted by Congress to this State to aid in the construction of railroads.

*Resolved*, That it is the opinion of this Senate that William Chappell has, by his attempts to suppress legislative action by bribery and unwarrantable tampering with witnesses, violated his privileges as a member thereof, and is guilty of a contempt of the Senate, and that for this and for his action in relation to the land grant, we deem him unworthy longer to hold a seat in this Senate.

The Senate did not adopt the full resolution right away. A division of the question was called and allowed, so each of the five clauses of the amended resolution was considered and adopted separately. On abstracting and withholding of a senate bill in 1857, the senate voted 17 to 10 that Chappell was guilty.<sup>94</sup> On offering to bribe La Rue P. Anderson to prevent him from testifying before a joint committee investigating fraud and corruption in connection with the land grant, the Senate voted 16 to 11 that Chappell was guilty.<sup>95</sup> On trying to induce Martin Stuefer to change his testimony, the Senate voted 22 to 5 that Chappell was guilty.<sup>96</sup> On accepting railroad bonds as a consideration for his official vote, the Senate voted 23 to 5 that Chappell was guilty.<sup>97</sup> On the resolution's last clause, the Senate once again divided the question after several failed attempts to amend its language.<sup>98</sup>

For the first part of the resolution's final clause, which concerned Chappell's attempts to suppress legislative action and violate his privileges as a member, the Senate voted 18 to 10 that Chappell was guilty of contempt of the Senate.<sup>99</sup> For the second part of the resolution's final clause, which concerned Chappell's "worthiness" to hold onto his seat, the Senate voted 17 to 11 that he was unworthy.<sup>100</sup> Finally, the Senate voted 18 to 9 on the question of adoption of the preamble to the resolution and each of the resolution's

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94. 1858 *Journal of the Senate of Wisconsin*, Vol. II, 1371.

95. 1858 *Journal of the Senate of Wisconsin*, Vol. II, 1372.

96. 1858 *Journal of the Senate of Wisconsin*, Vol. II, 1372.

97. 1858 *Journal of the Senate of Wisconsin*, Vol. II, 1374.

98. 1858 *Journal of the Senate of Wisconsin*, Vol. II, 1374–77.

99. 1858 *Journal of the Senate of Wisconsin*, Vol. II, 1377.

100. 1858 *Journal of the Senate of Wisconsin*, Vol. II, 1378.

clauses, as a whole as amended.<sup>101</sup> Thus, while the Senate deemed Chappell unworthy of his seat in the Senate, it stopped short by two votes of the necessary concurrence of two-thirds of all the members elected for expulsion—Chappell retained his senate seat.<sup>102</sup>

A few days after the Senate's vote to censure Chappell, his constituents in his hometown of Watertown called a mass meeting on May 8 to discuss Chappell's conduct and ultimate censure in the Senate. According to the news report, Chappell's constituents were "both astonished and disgusted at his retaining his seat in a body the members of which, by a large majority, have pronounced him guilty of corruption and bribery, and unworthy to associate with them."<sup>103</sup> At this meeting, Chappell's constituents in Watertown unanimously adopted a resolution requesting that Chappell resign his seat in the Senate and expelling him from the Democratic party of the city of Watertown.<sup>104</sup> Chappell refused to resign. Similarly, the common council of Watertown, a majority of whom were Chappell's "political friends," requested his resignation by a vote of 7 to 5.<sup>105</sup> Chappell once again refused.

Chappell served out the second year of his two-year term as senator during the 1859 legislative session, in which the Democrats had regained control of the Senate. On March 19, 1859, the Senate considered a resolution on the "deportment and conduct" of Chappell during the 1859 legislative session.<sup>106</sup> The resolution originally concluded that Chappell's deportment and conduct met the Senate's "entire approbation and approval." However, the resolution was substituted for a resolution that rescinded Chappell's 1858 censure. The substitute resolution reads:

*Resolved*, That the resolutions of the Senate, numbered 114, adopted on the 5th day of May, 1858, censuring the Hon. William Chappell, Senator from the 14th Senatorial District, and declaring that for the several reasons therein set forth, he was deemed by a majority unworthy longer to hold a seat therein, and be and the same are hereby rescinded.

The resolution was adopted without a call of the ayes and noes.<sup>107</sup> Chappell did not run for reelection and disappeared from Wisconsin politics, returning to private life as a Watertown businessman.

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101. *1858 Journal of the Senate of Wisconsin, Vol. II*, 1378.

102. For the 1858 legislative session, there were 30 members elected to the Senate. Expulsion required the concurrence of two-thirds of all the members elected, or 20 members. The Senate's final vote on the question of the adoption of the resolution as a whole as amended was 18 to 9, two votes shy of the two-thirds mark.

103. *The Daily State Journal*, "Indignation Meeting at Watertown—Chappell's Constituents Request Him to Resign," May 11, 1858, 2.

104. *Indignation Meeting at Watertown—Chappell's Constituents Request Him to Resign*, 2.

105. *Fayetteville Observer*, "A Plucky Senator," June 17, 1858, 1.

106. *1859 Journal of the Senate of the State of Wisconsin*, (Madison, WI: James Ross, State Printer-Patriot Office, 1859), 795. The resolution's text reads: "*Resolved*, That the deportment and conduct of Hon. William Chappell, Senator from the 14th District, during the present session of the legislature meets with our entire approbation and approval."

107. *1859 Journal of the Senate of the State of Wisconsin*, 795; see *Daily State Journal*, "Proceedings Relative to Sen. Chappell," March 19, 1859, 3, and *Watertown Democrat*, "Doing Justice to Sen. Chappell," March 24, 1859, 2.

The next case of legislative discipline once again involves charges of bribery, but with a quite different outcome.

### **Senator Barney A. Eaton**

In January 1904, Senator Barney A. Eaton, representing the Seventh Senate District, which comprises parts of Milwaukee, was indicted by a grand jury on three separate counts of bribery.<sup>108</sup> Although Eaton was in the Senate, the first indictment charged Eaton with accepting \$25 for his influence against a bill to regulate the practice of barbering when it was before the Assembly in February 1901;<sup>109</sup> the second, with soliciting \$100 for his influence against the 1901 barber's license bill; and the third and final indictment, with soliciting \$75 for his influence against the same bill when it was before the Assembly in 1903.<sup>110</sup> All three of Eaton's monetary agreements were with Albert Stark, owner of the Plankinton House Barber Shop in Milwaukee. Senator Eaton and Stark had been working together since the 1899 legislative session to oppose whatever barber's license bill that was introduced. Despite the efforts of Eaton and his allies, a barber's license bill passed during the 1903 legislative session.<sup>111</sup>

Senator Eaton was not the only public official charged in connection to the barbering bill. Fifty-eight indictments were returned by the grand jury against a number of Milwaukee city and county public officials.<sup>112</sup> Unlike these public officials, Eaton avoided a trial for over a year after the indictments were handed down by claiming legislative privilege.<sup>113</sup> Finally, Eaton was brought to trial on the second of his three indictments in the Milwaukee County Circuit Court in March 1905.<sup>114</sup> His other two indictments were still pending during trial.

At trial, Eaton acknowledged that he received the money in connection with the barbering bill, but testified that "it was used solely to defray expenses incidental to his work" in his campaign against the measure.<sup>115</sup> Eaton testified that "the most important work of the legislature is determined in saloons and wine rooms."<sup>116</sup> Owing to these admissions, a jury

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108. *The Racine Journal Times*, "State Senator in the Toils," January 30, 1904, 4.

109. The bill in question was 1901 No. 195, A. In 1897, Minnesota became the first state to pass legislation that set education, training, licensing, and sanitary practice requirements for barbers to protect the public from disease such as impetigo, ringworm and barber's itch; see David Fellman, "A Case Study in Administrative Law—The Regulation of Barbers," *Washington University Law Review*, Vol. 26, Iss. 2, (January 1941), 213–42. After Minnesota's success, bills on that subject were introduced in Wisconsin.

110. The bill in question was 1903 No. 104, S.

111. Similar to the 1901 bill, 1903 No. 104, S., was enacted in May of that same year as [Ch. 191, Laws of Wisconsin 1903](#).

112. *The Cedar Rapids Gazette*, "Fifty-Eight Indictments Returned Against Milwaukee Boodlers," February 1, 1904, 10.

113. *Vernon County Observer*, "Eaton Waives Privilege—State Senator Ready to Go to Trial for Bribery," February 22, 1905, 6; *Vernon County Observer*, "Eaton to Take Seat in Senate—Alleged Bribe Taker Comes to Perform Legislative Duties," March 8, 1905, 3.

114. *La Crosse Tribune*, "Eaton to Have A Chance to Clear His Record Next Monday," March 9, 1905, 4. According to this article, the delay in trial was due to the Milwaukee district attorney's office was "too busy at that time to attend to it."

115. *Daily News-Democrat*, "Not Guilty," March 9, 1906, 2.

116. *The La Crosse Tribune*, "Senate to Probe It—Investigation of Charges to be Made against Alleged Briber, Barney Eaton," April 6, 1905, 1.

acquitted Eaton of the charges contained in the second indictment on the ground that the money was used “in suppers, cigars, and other civilities” for his colleagues and not retained by him.<sup>117</sup> Shortly after this verdict, Eaton returned to the Senate, and the other two indictments were adjourned until after the legislative session due to his legislative privilege.

Eaton’s “wine room legislation” remarks, coupled with his acquittal, riled legislators at the capitol. Not only did media reports give the impression that Eaton confessed to corrupt behavior on the stand, but also his corrupt behavior more or less implicated a majority of his colleagues in both the Senate and the Assembly. In response, the Senate adopted Res. No. 29, S., which provided for the investigation of Eaton’s bribery charge.<sup>118</sup> According to the resolution’s text, Eaton’s testimony “impugn[ed] the honor and integrity of his fellow senators, and did further cast odium upon the name of the Wisconsin state senate.”<sup>119</sup> The resolution in full read:

**Res. No. 29, S.:**

*Whereas*, Senator Barney A. Eaton was brought to trial on the 17th day of March, 1905, by the circuit court for Milwaukee county on an indictment for accepting a bribe of one hundred dollars as charged in said indictment, and

*Whereas*, Certain testimony was thereupon offered by said Barney A. Eaton in his own defense, which said testimony tended to charge the state senate with improper legislative methods, extracts of which [testimony] are attached to this resolution and made a part thereof, and

*Whereas*, From his said testimony, hereto attached, it appears to be undisputed that the said Barney A. Eaton did accept one hundred dollars for the purpose of influencing members of the legislature to vote against a bill named in the indictment and then pending before the Wisconsin legislature, and

*Whereas*, Notwithstanding said testimony the jury in said action rendered a verdict of “not guilty” of the offense so charged in said indictment, and

*Whereas*, In his testimony in said case the said Senator Barney A. Eaton did further upon said trial impugn the honor and integrity of his fellow senators, and did further cast odium upon the name of the Wisconsin state senate by his sworn statement of legislative methods of said body, and

*Whereas*, Two other separate indictments against said Senator Barney A. Eaton are now pending in the said circuit court of Milwaukee county on the charges of accepting and of soliciting a bribe, as mention therein, during the years 1901 and 1903, and while he, the said Senator Barney A. Eaton, was a member of the state senate, and

*Whereas*, The district attorney of said county has announced that he will proceed

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117. *The Racine Journal Times*, “Sen. Eaton Not Guilty—Jury Acquits Him of Bribery Charge after Four Hours of Deliberation,” March 24, 1905, 7; *Bureau County Tribune*, “Wisconsin Senators Suspend a Member,” April 28, 1905, 3.

118. On April 11, 1905, Res. No. 29, S., was referred to the Senate Committee on Judiciary, who quickly returned a report and recommendation within one week; *1905 Senate Journal, Vol. 1*, (Madison, WI: Democrat Printing Co., 1905), 720.

119. *1905 Senate Journal, Vol. 1*, 813.

without delay to an immediate trial upon the indictments pending and has further given assurances that said trials can commence on or about the 10th of April, 1905, and

*Whereas*, It is now understood that the said Senator Barney A. Eaton will insist upon his legislative exemption from certain criminal proceedings during the present session of the legislature, and

*Whereas*, Said Senator Barney A. Eaton has presented himself and taken his seat in the senate with the announced intention of participating in the deliberations of this body; now, therefore,

*Resolved by the senate of the state of Wisconsin*, That the said Barney A. Eaton be requested to ask for a leave of absence until the said indictments against him shall be disposed of and until the state senate shall have had opportunity to take such action as it may deem advisable in reference to his testimony, hereto attached, and as to such other matters as may be properly brought before the senate in connection therewith; and further

*Resolved*, That providing the said Senator Barney A. Eaton refuses to immediately ask for said leave of absence as hereinbefore set forth, proceedings be begun in the senate, without delay, to investigate the said charges of bribery and corrupt acts against him and to take such action in the premises as may be necessary and proper under section 8, article IV of the constitution of the state of Wisconsin; and further

*Resolved*, That a committee composed of five members of the senate be appointed by the president thereof to prepare charges against said Senator Barney A. Eaton, and that said committee is hereby invested with plenary powers to perform and discharge the duties by this resolution enjoined, and in the exercise of the plenary power aforesaid, among other things, may send for and compel the attendance of persons before them and the production of papers and documents for use as evidence; and further

*Resolved*, That said committee shall also have power to administer to persons brought or appearing before them as witnesses all necessary oaths and shall with all reasonable dispatch discharge the duty hereby imposed and report to the legislature the facts found and the testimony taken by them.

Friends of Eaton promised that if the Senate attempted “an investigation of the testimony and acts” of Senator Eaton, “there will be such sensations as have never before been sprung in the history of the state.”<sup>120</sup> The scandals hinted at in the promise were most prominently associated “with the Superior grain inspection bill” and “the anti-cigarette bill” passed during the 1901 legislative session.<sup>121</sup> Despite these threats, a week later, the Senate Committee on Judiciary reported their fact findings in the Eaton case using his own trial testimony.<sup>122</sup> Along with the report, the committee recommended that the following questions be submitted to a vote in the Senate:

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120. Robert E. Knoff, “If Eaton Case is Pushed Sensation Will Come, Is Threat,” *The La Crosse Tribune*, April 19, 1905, 8.

121. Knoff, *If Eaton Case is Pushed Sensation Will Come, Is Threat*, 8.

122. On April 11, 1905, by special order, Res. No. 29, S., was referred to the committee on Judiciary, with a requirement that a report be made by them within one week; *1905 Senate Journal*, Vol. 1, 720.

### **Res. No. 29, S.-Questions Submitted to a Vote of the Senate:**

1. Is Senator Barney A. Eaton guilty of contempt of this senate, by reason of the facts reported by the Judiciary committee?
2. Senator Barney A. Eaton being found guilty of contempt, shall he be expelled?
3. Senator Barney A. Eaton being found guilty of contempt, shall he be suspended?
4. If suspended, for how long?
5. Senator Barney A. Eaton being found guilty of contempt, shall he be censured?

On April 25, these questions were adopted and submitted to a vote one by one. On the first question, by a vote of 26 to 2, the Senate found Eaton guilty of contempt by reason of the committee's reported facts.<sup>123</sup> While the Senate did not have the two-thirds majority required to expel Eaton, the Senate voted to suspend him until January 1, 1906, by a vote of 23 to 5 through the passage of [Resolution No. 32, S.](#)<sup>124</sup>

Eaton did not fight his suspension and retired from public life in 1906.<sup>125</sup>

### **Senator Frank Raguse**

On April 26, 1917, Senator Frank Raguse, who represented the Eighth Senate District in Milwaukee, became the second member of the Wisconsin Legislature to be expelled, for his refusal to retract "unpatriotic remarks" that he had made during a debate over a joint resolution<sup>126</sup> providing for the publication of President Wilson's message that preceded the declaration of war against Germany.<sup>127</sup> Two days earlier in a speech on the floor during that debate, Raguse had accused the McKinley administration of having plotted the sinking of the battleship USS Maine in 1898 in order to bring about the Spanish-American War.<sup>128</sup> Furthermore, Raguse stated that "patriotism can be created only in two ways: you must either destroy people; or, second, you must destroy property."<sup>129</sup>

Not long after Raguse's statements, Senator Timothy Burke<sup>130</sup> called upon Raguse to retract his remarks and if he did not, Burke would "move to expel" Raguse from the

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123. *1905 Senate Journal*, Vol. 1, 863; five senators were absent or not voting.

124. *1905 Senate Journal*, Vol. 1, 863. By a vote of 16 to 11 (with six senators "absent or not voting"), Eaton was not expelled because the required number of senators was not two-thirds (or at least 22 senators). Res. No. 32, S., reads: "Whereas, Senator Barney A. Eaton, having been suspended from the state senate, but no time having been fixed for the termination of such suspension; therefore, be it Resolved, That said Barney A. Eaton be and he hereby is suspended from the senate of the state of Wisconsin until January 1, 1906," *1905 Senate Journal*, Vol. 1, 863-4.

125. *Janesville Daily Gazette*, "State Senate to See Change—Many of the Prominent Members Will Drop Out after This Coming Fall Election," August 11, 1906, 1.

126. 1917 Jt. Res. No. 53, S., relating to the printing and distribution to the people of the state of Wisconsin of the president's address and the resolution of the congress declaring a state of war with Germany; *1917 Senate Journal*, (Madison, WI: Democrat Printing Co., 1917), 567.

127. *The Monmouth Inquirer*, "Socialist Refuses to Retract Remarks before Wisconsin Legislature," May 3, 1917, 2; *1917 Senate Journal*, (Madison, WI: Democrat Printing Co., 1917), 597-99.

128. President William McKinley served as the nation's 25th president from March 4, 1897, to September 14, 1901, succumbing to his wounds after being shot eight days earlier.

129. R. B. Pixley, *Wisconsin in the World War*, (Milwaukee, WI: The Wisconsin War History Company, 1919), 59.

130. Senator Timothy Burke represented Brown County, specifically the Green Bay area from 1909 to 1924.



Senate “for expressions and words that border on disloyalty.”<sup>131</sup> In response, Raguse stated that he “did not mean to create any act of disloyalty or anything of that kind,” and instead “used those terms” because he had “read them several times in the newspaper” and “simply repeated those statements,” adding that “if it is [Burke’s] wish that I retract my statements, then I shall do so.”<sup>132</sup>

Unsatisfied by Raguse’s apology, Burke introduced Res. No. 18, S., which concerned the retraction by Senator Frank Raguse of certain remarks made in the open Senate, or in the event of his failure to do so, providing for expulsion from said body.

**Res. No. 18, S.**<sup>133</sup>:

*Whereas*, at the evening session of the Wisconsin state senate on the twenty-fourth day of April, 1917, Senator Frank Raguse, a senator from the eighth senatorial district of Wisconsin, made certain remarks from written memoranda then before him, some of which are quoted in the journal of the state senate of Wisconsin as of that day, and some of which were not made matters of record to the following effect:

“I would like to inquire from the senator from the fourth, what he meant the other day when this resolution (referring to joint resolution 53, S., providing for the printing and distribution of the message of President Wilson, urging a declaration of war against Germany) was being discussed when he said that he would spend a million dollars for patriotism. Did he mean that he would blow up another Maine? As I understand it, the Maine was blown up from the inside for the purpose of creating so-called patriotism. It seems that patriotism can only be created in two ways—by the destruction of property or the destruction of lives. I had a brother in the Spanish-American war that came back with fever and I remember that after the war the president (meaning William McKinley, then president of the United States) was walking up and down on velvet carpets in his palace, surrounded by silks and satins, while some poor fellow who lost his leg in that war was out in the woods cutting down a tree to make himself a wooden leg. It is no wonder that you do not have any patriotism. It seems even the blowing up of the Lusitania did not even make the people patriotic. How can a man have any patriotism when he has not got any land, for I claim that unless a man owns land he has not got any country, and I am one of them who don’t own no land. Eighty-five percent of the people in this country have got no land and what we ought to do to make patriotism is to find some way to get them some land. You never can do it by passing resolutions like this.”

And that during said incident other remarks of like tenor and character were made by the said senator in reply to interrogatories addressed to him by the senator from the second and the senator from the thirty-first; and

*Whereas*, the said senator from the eighth district stated at the close of said incident:

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131. *1917 Senate Journal*, (Madison, WI: Democrat Printing Co., 1917), 567.

132. *1917 Senate Journal*, 567.

133. *1917 Senate Journal*, 597.

“If it is your wish that I retract my statement, I shall do so.” Thereupon the twenty-sixth day of April, at two o’clock p. m. the entire membership of the said senate met in the senate parlor in informal caucus and presented to the said senator from the eighth district a form of written retraction, a copy of which is hereto attached, marked “Exhibit A,” and made part hereof, and requested him to sign the same in retraction, satisfaction and reparation of the affront to the senate of Wisconsin, the people of the state, the federal government and the citizens of the United States; and

*Whereas*, the said senator from the eighth, Frank Raguse, thereupon willfully and deliberately persisted in the *contumacious* conduct which had characterized the statements made by him in the open senate as aforesaid, and stated that because of his affiliations; to-wit, with the Socialist party, he was not at liberty to sign said statement, but presented and offered to sign a certain other statement, which was in effect a practical repetition in part of some of the said statements and wholly unsatisfactory to said senators as a retraction or apology.

*Whereas*, the members of the senate thereupon called his attention to the fact that this was not a party but a personal matter and requested him to state whether or not he made the statements above quoted at the direction of his party, he replied that he did not. Thereupon, on motion, the presiding officer of said informal meeting; to-wit, Henry Huber, senator from the twenty-sixth district of Wisconsin, appointed the Honorable Timothy Burke, president pro-tem. of the senate, Honorable A. H. Wilkinson, Honorable William M. Bray, Honorable Chas. M. Mulberger, and Honorable Roy P. Wilcox, a committee to draft suitable resolutions looking to the formal retraction of said statements by said Senator Raguse or to his expulsion from the Wisconsin senate. Now, therefore, be it

*Resolved, by the senate*, that the sergeant-at-arms forthwith conduct said senator, Frank Raguse, before the bar of this senate and that he be directed to sign and file forthwith an apology set forth in “Exhibit A” as aforesaid.

*Resolved further*, that in the event that the said senator, Frank Raguse, fail or neglect to sign and file said retraction in accordance with this resolution, there is hereby appointed a committee consisting of Honorable Timothy Burke, president pro-tem. of the senate, Honorable A. H. Wilkinson, Honorable William M. Bray, Honorable Chas. M. Mulberger, and Honorable Roy P. Wilcox, who are hereby authorized and directed forthwith to prepare and present to this body a resolution for the expulsion of said senator, Frank Raguse, from membership in the state senate of Wisconsin.

#### **“Exhibit A”**

In view of the fact that certain remarks I made in the Wisconsin senate on April 24th, 1917, which if construed in their literal sense, would convey the idea that I am disloyal to the United States of America and the state of Wisconsin, I take this means of explaining my attitude in reference to that situation and to remove any doubt as to my loyalty as an American citizen. I, therefore, declare that I claim to be an American citizen and renew my allegiance to the United States of America and the state of Wisconsin and

I also declare that I am fully in accord with the government of the United States and the state of Wisconsin and in all respects recognize its authority, as required by both the state and the nation. I further retract any and all references that I have made to the memory of the lamented William McKinley, the martyred president of the United States. I retract all statements made by me in the Wisconsin state senate on the evening of April 24th, 1917, without any qualification, mental reservation or secret evasion of mind, which savored of disloyalty, and I fully apologize to the Wisconsin senate and to the people of the state of Wisconsin for any remarks that I made on that occasion, which, either directly or indirectly savored of disloyalty.

I further consent that this declaration be spread upon the minutes of the Wisconsin senate, to be incorporated in the proceedings of the journal of that body.

Res. No. 18, S., was adopted by a vote of 30 to 3. On April 26 at 2 p.m., the entire membership of the Senate met informally in the senate parlor and requested that Raguse sign Exhibit A. However, when Senator Raguse was brought before the bar of the Senate, he refused. Thus, the special committee that was called together by the previous resolution presented Res. No. 19, S., which is printed below:

**Res. No. 19, S.<sup>134</sup>:**

*Whereas*, The senate on the twenty-sixth day of April, 1917, passed senate resolution No. 18, S.; and

*Whereas*, In accordance therewith Senator Frank Raguse was brought before the bar of said senate for the purposes therein specified, and

*Whereas*, He then and there in open session of the senate, contumaciously and willfully refused to comply with the provisions of said resolution No. 18, S., by failing and refusing to sign or file the retraction and apology therein contained;

*Now, Therefore*, it is found and adjudged by the senate that the said Senator Frank Raguse is guilty of contempt, disorderly behavior, and conduct unbecoming a senator of Wisconsin; within the provisions of section 8, of article 4, of the Wisconsin constitution; and

*Be it further resolved*, That he is hereby expelled from membership in the senate of Wisconsin.

*Resolved further*, That the sergeant-at-arms forthwith serve upon the said Frank Raguse and the Secretary of State a certified copy of this resolution and file proof of service thereof with the chief clerk of the senate.

Once again, the punishment meted out by the legislature had more to do with preserving the honor and integrity of the institution than it did with actually disciplining Raguse for his deeds.

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134. 1917 Senate Journal, 604.

Thus, the Senate expelled Raguse by a vote of 30 to 3,<sup>135</sup> becoming the second and last Wisconsin legislator to be expelled.

### **Seven Senators—Busby, Cashman, Connors, Greenquist, Hampel, Nelson, and Risser**

In March 1941, a joint resolution passed both houses to create a special joint committee tasked with investigating “alleged subversive and un-American activities of certain groups of employers engaged in the manufacture of defense materials.”<sup>136</sup> According to news reports, the primary purpose of the resolution was “to break the strike at the Allis-Chalmers plant in Milwaukee.”<sup>137</sup> At this time, the Allis-Chalmers Company manufactured industrial and agricultural machinery and operated several major plants in cities like Milwaukee and Chicago.<sup>138</sup> During both world wars, the company focused on government contracts, producing engines and other machinery for naval ships, aircrafts, and military vehicles.<sup>139</sup>

The chairman of this special joint committee, Senator Bernhard Gettleman, charged that “Communists were in control of the CIO Automobile Workers union on strike at the Allis-Chalmers plant.”<sup>140</sup> In late March 1941, Wisconsin’s “Little Dies” committee yielded to a newly appointed federal defense mediation board, although the committee continued to hold executive sessions throughout March to early June of 1941.<sup>141</sup> In a public statement issued in April, the committee declared that it had “obtained evidence of Communist affiliations” on the part of two officers—Harold Christoffel, president of the Allis-Chalmers union, and Joseph Schneider, chairman of the union’s elections committee.<sup>142</sup>

Meanwhile, the joint resolution that created the special joint committee did not appropriate any money, so the Senate attempted to rectify this by passing 1941 No. 481, S., a bill “to create an interim committee to investigate subversive and un-American activities and making an appropriation.”<sup>143</sup> The bill was designed to extend the life of the “Little Dies” committee. When this bill was up for consideration on the floor in late May,

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135. 1917 *Senate Journal*, 604.

136. 1941 Jt. Res. No. 42, A.; *The Capital Times*, “Name 7 to ‘Little Dies’ Committee—Three Senators, Four Assemblymen to Probe Un-American Activities,” March 7, 1941, 1.

137. Aldric Revell, “State Politics—Little Dies Committee Political Megaphone Might Hurt Labor,” *The Capital Times*, March 13, 1941, 4.

138. For more information on the Allis-Chalmers Company, see Walter F. Peterson, *An Industrial Heritage: Allis-Chalmers Corporation*, (Milwaukee, WI: Milwaukee County Historical Society, 1976).

139. The Allis-Chalmers plant in Wisconsin manufactured turbine engines for navy destroyers.

140. *The Rhinelander Daily News*, “Gettleman Says Reds in Control,” March 19, 1941, 1.

141. *The La Crosse Tribune*, “‘Little Dies’ Committee to Yield to Mediation Board in A-C Dispute,” March 21, 1941, 2.

142. *The Capital Times*, “Little Dies Group Says Probe Shows Two Allis Leaders Communistic—Christoffel, Schneider are Cited; Mrs. Christoffel Also Mentioned,” April 10, 1941, 1 and 8.

143. In 1938, the House Committee on Un-American Activities was created to investigate alleged disloyalty and subversive activities on the part of private citizens, public employees, and organizations suspected of having fascist or communist ties. Chaired by Representative Martin Dies Jr. of Texas, it became known as the “Dies Committee.” In the years after, the Dies Committee inspired similar committees in several states to investigate similar practices at the state-level and became known as “Little Dies Committees.”

seven senators—Allen J. Busby (Prog/Rep), John E. Cashman (Prog/Rep), J. Connors (Prog), Kenneth Greenquist (Prog), George Hampel (Prog), Phillip Nelson (Rep), and Fred Risser (Prog)—walked out of the senate chamber in protest of the bill. The senators had walked out because “they had not read the bill and the bill had not been printed.”<sup>144</sup> In response to the senators’ walkout, the Senate introduced the following resolution:

**Res. No. 35, S.**<sup>145</sup>:

*Whereas*, In the session of the senate on the afternoon of May 27, 1941, during the consideration of Bill No. 481, S., the following Senators, namely, Busby, Cashman, Connors, Greenquist, Hampel, Nelson, and Risser, violated the rules of the senate, the Wisconsin statutes, and the constitution of the state of Wisconsin in the following respects:

1. By refusing to vote on said bill during the roll call thereon; and
2. By leaving the senate chamber without consent during the time the roll call was in progress on said bill.

*Be it resolved*,

1. That the said senators, namely, Busby, Cashman, Connors, Greenquist, Hampel, Nelson, and Risser, be and they hereby are adjudged guilty of contempt of the senate; and
2. That the President of the senate be and he hereby is authorized and directed to administer to said Senators a censure and reprimand for their conduct.

The Senate found the seven senators guilty of “contempt,” adopting Res. No. 35, S., by a vote of 19 to 11.<sup>146</sup> After the vote, Lieutenant Governor Walter S. Goodland read from a prepared statement that was directed at the seven senators. The lieutenant governor stated that the senators’ conduct was “in open and direct violation of the Senate rules and State statutes and a deliberative defiance of Senate authority” and that he “cannot too strongly condemn [the senators’] discourtesy to the Senate.”<sup>147</sup>

A week or so later, the appropriation bill, which had instigated the censure and reprimand of seven senators, died in the Assembly.<sup>148</sup> In addition, the investigative activities of the “Little Dies” committee ended when the legislature adjourned in June 1941, without reading the committee’s final report or extending the life of the committee.<sup>149</sup>

### **Representative Jeff Wood**

After nearly seven decades since the last case of disciplinary action was taken against a legislative member, and over 170 years since a Wisconsin assembly member was disci-

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144. *The Capital Times*, “Progressives Reprimanded for ‘Walkout,’” May 29, 1941, 1 and 4.

145. *1941 Senate Journal*, Vol. 2, (Madison, WI: Democrat Printing Co., 1941), 2242; see also 2030–1, 2036–7, and 2052–9.

146. *1941 Senate Journal*, Vol. 2, 2244. Two senators were “absent or not voting.” See also Aldric Revell, “Progressives Reprimanded for ‘Walkout’—Stand at Seats as Goodland ‘Punishes’ Them for Contempt,” *The Capital Times*, May 29, 1941, 1 and 4.

147. *1941 Senate Journal*, Vol. 2, 2245.

148. *The Capital Times*, “U. Building Program, State Pension, Unified Bar Measures Lost—1,400 Bills Introduced During Session; Estimate 400 Will Become Law; Solons Quit Sine Die at Noon,” June 6, 1941, 4.

149. *Leader-Telegram*, “‘Little Dies’ Probe in Wisconsin Ended,” June 7, 1941, 1.

plined, the final case involved Jeff Wood, a Republican-turned-Independent assembly member who represented the 67th Assembly District from 2003 to 2010.

On December 18, 2008, Wood was arrested on suspicion of operating a motor vehicle while intoxicated and for marijuana possession. According to reports, a state trooper investigating reports of an erratic driver on Interstate 90 found an intoxicated Wood urinating on the side of the interstate in Columbia County.<sup>150</sup> Wood, whose blood alcohol content was nearly twice the legal limit, had also hit a highway sign and a snowbank before being arrested.<sup>151</sup> This was Wood's third conviction for drunken driving; the first and second convictions occurred nearly two decades earlier in 1991 and 1992.

Less than one year later, on September 23, 2009, Wood was arrested on Interstate 39 near Wausau in Portage County on suspicion of driving while intoxicated. According to reports, officers at the scene of the arrest stated that Wood had no alcohol in his system, but they found Wood's prescription for an anxiety medication called Lorazepam.<sup>152</sup> Officers found that the Lorazepam container, which was filled two days before Wood's arrest and had originally contained 45 pills, had only seven pills left at the time Wood was taken into custody.<sup>153</sup> Wood had told officers that he had taken six tablets of Lorazepam, twice the prescribed daily amount, as well as two doses of an over-the-counter cold medication.<sup>154</sup> The toxicology test found no alcohol in Wood's system. After Wood's second arrest in nine months, Representative Steve Nass introduced a resolution to expel Wood.<sup>155</sup> Nass stated that he moved forward with the resolution because Wood refused to resign.<sup>156</sup> Nass's expulsion resolution saw little movement until Wood was arrested for a fifth time less than a month later.

On October 21, 2009, Wood was arrested in Monroe County on suspicion of operating a motor vehicle while intoxicated, as well as bail jumping for violating his Columbia County bond from his December drunken driving arrest.<sup>157</sup> Wood had been seen "driving erratically and jumping a curb."<sup>158</sup> According to media reports, prescription medications had been the cause of Wood's impaired driving.<sup>159</sup> In a statement on his latest arrest, Wood stated that he would not seek reelection to the Assembly, adding that he regretted

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150. Andrew Down, "State GOP Says Wood Should Resign," *The Leader-Telegram*, September 25, 2009.

151. Down, *State GOP Says Wood Should Resign*.

152. Jason Stein, "State Rep. Jeff Wood Arrested Again on Suspicion of Driving While Intoxicated," *Wisconsin State Journal*, September 24, 2009.

153. Chris Baylor, "911 Tapes Released from Jeff Wood Arrest," *WEAU 13 News*, September 25, 2009.

154. Baylor, *911 Tapes Released from Jeff Wood Arrest*.

155. *2009 Assembly Journal*, 455; *The Leader-Telegram*, "Resolution to Expel Wisconsin Assemblyman to be Introduced," October 14, 2009.

156. *Resolution to Expel Wisconsin Assemblyman to be Introduced*; see also *2009 Assembly Resolution 14*; *2009 Assembly Journal*, 455.

157. *La Crosse Tribune*, "Wisconsin State Rep Arrested in Tomah," October 22, 2009; Jason Stein, "State Rep. Jeff Wood Arrested Again for OWI," *Wisconsin State Journal*, October 22, 2009.

158. Jesse Garza, "Assembly's Jeff Wood Arrested Again for OWI," *Milwaukee Journal Sentinel*, October 21, 2009.

159. Dan Lea, "Rep. Wood Arrested Again for Intoxicated Driving," *Wisconsin Radio Network*, October 22, 2009; *Arlington Cardinal News*, "DUI Dashcam Video of Wisconsin Representative Jeffrey Wood Traffic Stop," October 29, 2009.

“any disgrace” that he “may have brought on the Wisconsin State Legislature.”<sup>160</sup> His statement did not address calls for his resignation.

Pursuant to Assembly Rule 21, a special committee was created on October 27 to consider potential disciplinary measures against Wood and make recommendations to the Assembly. Members appointed by Speaker Mike Sheridan to the special committee were Representatives Mary Hubler, Tony Staskunas, Gary Hebl, Mark Gundrum, Rich Zipperer, and Joan Ballweg. On March 23, the special committee offered two substitute amendments, one on reprimand and the other on expulsion; however, the committee deadlocked 3–3 and reported Assembly Resolution 14 without recommendation.<sup>161</sup> Thus the special committee made no recommendation to the full Assembly on disciplinary action for Wood.<sup>162</sup> In a statement from the chairperson of the special committee, Representative Mary Hubler stated, “[c]onduct that occurred prior to the election of a member of the Assembly should not be considered in the expulsion, censure, or reprimand of a member.”<sup>163</sup>

In the early morning hours of April 21, the Democrat-controlled assembly chamber took up the resolution on Wood’s expulsion. However, instead of expulsion, a substitute resolution was pushed through that censured Wood.<sup>164</sup> The substitute resolution reads:

***Resolved by the assembly, That:***

Whereas, article IV, section 8, of the Wisconsin Constitution provides that each house may punish for contempt and disorderly behavior, and with the concurrence of two-thirds of all the members elected, expel a member; and

Whereas, Assembly Rule 43 (3) provides that any resolution to reprimand, censure, or expel a member of the assembly shall identify the charges against the member cited and shall be referred to the committee on ethics and standards of conduct for review; and

Whereas, the Wisconsin state assembly has adopted Assembly Rule 21, providing for the appointment of a special committee on ethics and standards of conduct to consider any resolution to reprimand, censure, or expel a member of the assembly for the purpose of holding one or more public hearings on the resolution and to make a recommendation for action on the resolution; and

Whereas, under Assembly Rule 21 (2), a duty of the special committee is to ascertain the facts of the controversy, which are summarized below; and

Whereas, Jeffrey Wood currently serves as the representative to the assembly from the 67th Assembly District for the term of the 2009-2010 legislative session; and

Whereas, on December 12, 2008, Representative Wood was arrested for operating

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160. Zac Schultz, “UPDATE: Plea Hearing Set for Former Wisconsin Lawmaker,” *NBC 15*, October 23, 2009.

161. [Assembly Substitute Amendment 2 to 2009 Assembly Resolution 14](#) (reprimanded Wood) and [Assembly Substitute Amendment 3 to 2009 Assembly Resolution 14](#) (expelled Wood); 2009 *Assembly Journal*, 762.

162. 2009 *Assembly Journal*, 829.

163. 2009 *Assembly Journal*, 832.

164. [Assembly Substitute Amendment 6 to 2009 Assembly Resolution 14](#); 2009 *Assembly Journal*, 930; Megan Peterson, “Assembly Votes to Censure Rep. Jeff Wood,” *WEAU News*, April 21, 2010.

while intoxicated in Columbia County, which could result in his third, fourth, or fifth offense under Wisconsin law; and

Whereas, law enforcement and eye witness accounts regarding Representative Wood's driving on December 12, 2008, indicate that his driving was erratic and dangerous; and

Whereas, Representative Wood was charged with operating a motor vehicle while under the influence of an intoxicant (third offense), operating a motor vehicle with a prohibited alcohol concentration (PAC) (third offense), possession of tetrahydrocannabinols (THC), and possession of drug paraphernalia as a result of his arrest on December 12, 2008; and

Whereas, as a condition of release relating to the case resulting from his December 12, 2008, arrest, Representative Wood was ordered by the court to maintain absolute sobriety at all times; and

Whereas, on December 1, 2009, a motion to suppress evidence of THC and drug paraphernalia from Representative Wood's December 12, 2008, arrest was denied by the circuit court; and

Whereas, on April 19, 2010, Representative Wood plead no contest to, and the court found Representative Wood guilty of, operating a motor vehicle while under the influence of an intoxicant (third offense) and possession of drug paraphernalia; the court dismissed the charges of operating a motor vehicle with a PAC (third offense) and of possession of THC; and Representative Wood was sentenced to 45 days in jail and fined more than \$1,600; and

Whereas, on September 23, 2009, Representative Wood was arrested for operating while under the influence in Marathon County, which could result in his fourth or fifth offense under Wisconsin law; and

Whereas, law enforcement and eye witness accounts regarding Representative Wood's driving on September 23, 2009, indicate that his driving was erratic and dangerous; and

Whereas, Representative Wood was charged with operating while under the influence of a controlled substance and inattentive driving as a result of his arrest on September 23, 2009; and

Whereas, as a condition of release relating to the case resulting from his September 23, 2009, arrest, Representative Wood was ordered by the court to take no controlled substances without a prescription and, if prescribed, to take controlled substances only in doses as prescribed; and

Whereas, on October 21, 2009, Representative Wood was arrested for operating a motor vehicle while impaired in Monroe County, which could result in his fourth or fifth offense under Wisconsin law; and

Whereas, law enforcement and eye witness accounts regarding Representative Wood's driving on October 21, 2009, indicate that his driving was erratic and dangerous; and



Whereas, Representative Wood was charged with operating while under the influence of an intoxicant or other drug and misdemeanor bail jumping as a result of his arrest on October 21, 2009; and

Whereas, based on the facts of this controversy, the special committee on ethics and standards of conduct makes the following charges against Representative Wood:

First, the conduct cited above by Representative Wood since his election to the assembly for the 2009–2010 legislative term jeopardized his life and the lives of innocent citizens, does not reflect the norms of behavior expected of a member of the assembly and, therefore, has brought disrepute on the Wisconsin state assembly by damaging the institution's integrity with the public; and

Second, while it is recognized that addiction is a serious health problem, any attempts by Representative Wood to deal with his addiction were not successful in preventing the dangerous incidents cited in this resolution; and

Whereas, the special committee, following a public hearing on this resolution, is directed by Assembly Rule 21 (5) to make a recommendation for action on the resolution; now, therefore, be it

Resolved by the assembly, That Representative Jeffrey Wood is hereby censured by the Wisconsin state assembly, in accordance with article IV, section 8, of the Wisconsin Constitution and Assembly Rule 21.

According to the resolution, Wood “jeopardized his life and the lives of innocent citizens,” which did “not reflect the norms of behavior expected of a member of the assembly.” Additionally, Wood’s behavior “brought disrepute on the Wisconsin state assembly” and damaged “the institution’s integrity with the public.” The Assembly voted 73 to 24 to censure Wood.

Wood did not run for reelection. For charges related to his December 2008 arrest, Wood was sentenced to 45 days in jail and fined more than \$1,600;<sup>165</sup> for charges related to his September 2009 arrest, Wood was sentenced to 60 days in jail; for charges related to his October 2009 arrest, Wood was sentenced to nine months in jail and three years’ probation.<sup>166</sup>

## Conclusion

The power of each house of the legislature to discipline its members was contained in the original 1848 constitution and has remained unchanged since statehood. A legislative body could not function without the ability to discipline its members. Legislators are subject to the criminal law, and their criminal actions can be addressed through the courts. But there are other behaviors that, while not criminal, cast the legislature in a bad light

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165. Patrick Marley, “State Rep. Wood Convicted of 3rd OWI Charge,” *Milwaukee Journal Sentinel*, April 19, 2010.

166. Zac Shultz, “Plea Hearing Set for Former Wisconsin Lawmaker,” *NBC 15-WMTV*, January 13, 2011.

and call into question its integrity as a representative body. A legislature must be able to protect the institution within a separation of powers system. Indecorous behavior, contemptuous conduct, and other actions denigrating the office of a representative or senator damage and reflect poorly on the institution, in particular when it must interact with and check other branches of government. The legislature needs to put its own house in order to successfully and effectively govern with the other branches of government. Article IV, section 8, of the Wisconsin Constitution ensures that the legislature can protect itself.

This paper has chronicled the disciplinary actions of each house of the legislature since Wisconsin's territorial days. Members have been censured, reprimanded, suspended, and expelled not just because of the inappropriateness or even criminality of their behavior, but also because of the effects of their behavior on the institution. Their actions have affected the integrity of the legislature. Each and every time, disciplinary actions against members have proceeded with the most important protections of due process and civility, with charges clearly stated, and with members able to present evidence and defend themselves.

Wisconsin is fortunate in the high caliber and quality of the men and women who have served in its legislature. Of the thousands of legislators who have held office in the Senate or the Assembly since Wisconsin's territorial days, only seven individuals have been disciplined by the full Senate or Assembly and only two were expelled. Wisconsin is not just rightly renowned as a "laboratory of democracy," to use Justice Brandeis's apt description, it can also boast of a state legislature filled with men and women of exceptional character. In fact, a key reason for why there is such little case law or academic commentary on the Wisconsin Legislature's power to discipline its members is that there are very few instances when the legislature was required to use its article IV, section 8, powers. Few, if any, states can boast of such a record. ■