



# LEGISLATIVE REFERENCE BUREAU

## Rewriting the Rules: Senator David Berger Looks Back on His Legislative Career

Jillian Slaight, PHD

legislative analyst



© 2021 Wisconsin Legislative Reference Bureau  
One East Main Street, Suite 200, Madison, Wisconsin 53703  
<http://legis.wisconsin.gov/lrb> • 608-504-5801

This work is licensed under the Creative Commons Attribution 4.0 International License.  
To view a copy of this license, visit <http://creativecommons.org/licenses/by/4.0/> or send a letter to  
Creative Commons, PO Box 1866, Mountain View, CA 94042, USA.

## Introduction

On November 14, 2019, LRB attorney Mike Duchek and LRB analyst Jillian Slaight interviewed Senator David “Dave” Berger as part of the Legislative Reference Bureau’s oral history project. This project collects and preserves legislators’ stories and insights—especially those not recorded elsewhere.

David Berger was born in Milwaukee on October 27, 1946. He graduated from the University of Wisconsin in 1969 and earned his master’s degree in political science from Marquette in 1970. Berger was elected to the Wisconsin State Assembly the same year and served in the 1971 and 1973 legislative sessions. In 1974, he was elected to the Wisconsin State Senate, serving through the 1981 session and chairing the Joint Committee for Review of Administrative Rules (JCRAR) from 1975 to 1982.

In his interview at the LRB offices in Madison, Senator Berger answered various questions about his time in office, focusing on his role in reforming legislative oversight of administrative rules in the 1970s. This publication summarizes his interview and highlights anecdotes about his time in office.

## Background

Berger’s political identification stemmed partly from his family background. His grandparents’ hardships during the Great Depression, as well as their religious identity as Catholics, shaped their political views as Democrats:

My grandma’s expression was, “I don’t know how anyone who lived through the Depression could be anything but a Democrat.” That was that. And then, of course, John Kennedy’s election cinched it because he was a Catholic. . . . At my grandma’s house, you’d go in, and there’d be a picture of Jesus and then a picture of John Kennedy.

He became “hooked” on politics as an undergraduate student at UW–Madison in the mid-to-late 1960s. Although protests over Vietnam embroiled the campus, Berger said he was more interested in studying than taking to the streets. But the declared chemistry major quickly found that his elective coursework in political science “got [his] juices flowing.” Professor J. Austin Ranney planted the seeds of Berger’s political career by suggesting that he apply for a page position in the state capitol—which he promptly did, serving during the 1967 legislative session.

Soon, Berger was also enrolled in graduate studies in political science at Marquette University. By then, he had become a close observer of the legislative process—and a fierce critic of his own state representative:

I was able to observe him as a messenger. So, I’m there in session and in committee. And you watch the guy and you realize . . . He wasn’t a doer. He wasn’t a contributor. He was

just there to follow [Representative and Majority Leader] Paul Alfonsi. . . . There was no independent arc in him in terms of getting things done.

Berger complained about his state representative so much that one of his professors issued an ultimatum: “Just run or shut up.” He chose to run.

## Running for office

“I stuck my toe in the water,” Berger explains, “and had a short course in what to do to get on the ballot and get organized.” Representative Mark Lipscomb Jr., a Democrat serving the Assembly’s Milwaukee–1 District, proved to be an invaluable mentor who “took [Berger] under his wing” and advised him on how to run a campaign.

Berger’s greatest obstacle was name recognition, which he lacked entirely: “I was a complete unknown. Nobody knew Dave Berger—‘Who’s that?’” There was one key exception: to parishioners of Saint Margaret Mary, “I was always the kid who served mass for Father [Raymond] Vint.” Although elections were “dirt cheap” in 1970, television and radio advertisements in Milwaukee were prohibitively expensive. Accordingly, Berger invested time and energy into going door-to-door in Milwaukee’s Eighteenth Assembly District, which included Brown Deer, River Hills, and part of Bayside. As Berger recalled, the interactions he had with people during his campaign helped him to “get a feel for the pulse of the district” and to interact with his eventual constituents. He noted that his photographic memory allowed him to remember these interactions and bring them up later on, which established him as a “buddy” to his constituents.

Granted, leaving a positive impression while knocking on doors often required steering clear of controversial issues:

A dirty little secret is when you are going door-to-door, you try not to talk about a lot of things, because you’re bound to end up having a lovefest until you get to an issue—and then all of a sudden, “Boom!” The train just goes off the rails. So the idea is: introduce yourself, get to know people, give them a spiel, give them a piece of lit, and then kind of move on.

Beyond going door-to-door, Berger relied heavily on volunteers, many of whom were recruited from the Saint Margaret Mary parish. To minimize mailing costs, volunteers delivered campaign literature and bumper stickers in person:

My district actually had rural postal delivery in the northern chunk of it, which meant they all had mailboxes on the street. So you could get two people volunteering and go along and distribute the lit. The best time was Sunday morning, early. You’d stick [the literature] in with the [*Milwaukee Journal*] Sunday morning paper.

Later, the campaign followed up with postcards that featured a photograph of Berger

shaking hands with a constituent through a screen door. (The constituent featured during this first campaign was Agnes Holmes, Berger recalled, relying on his photographic memory decades later.)

Berger won election in November 1970 on the heels of his twenty-fourth birthday. By a vote of 12,098 to 7,982, he unseated incumbent Republican Ervin Schneeberg. Across the state, voters elected a wave of Democratic representatives—67 in the assembly—as well as Democratic Governor Patrick Lucey. The “Lucey Landslide,” as it was commonly called, marked a significant shift in power: “The Democrats had been out of power for so long they didn’t know half of the nice furniture that existed in the other leaders’ offices.”<sup>1</sup>

## Early experiences in the legislature

Having served as a page, Berger enjoyed one “modest edge” over other freshmen legislators: “I knew where the bathrooms were.” However, awareness of his relative inexperience sunk in fast:

You get there and realize that you’re a freshman, and it means you have no seniority and know nothing.

Speaker Bob Huber “[treated] everybody respectfully”—even the freshmen—but did not hesitate to put members in their place:

He had this ability to give you what I would call “The Look.” If you were trying to get his attention one more time, and it was kind of annoying him . . . you’d get this look that said, “Sit down. You’ve used up your time.”

In Berger’s view, certain members of the caucus expected freshmen members to just “go along” with their more senior colleagues. But he and others pushed back against this expectation:

We—a lot of us in my class—were people who weren’t just going to sit there and say, “Wait a minute, you have to wait until you’ve been here at least three years before you make a speech.” Most of us—not just me, most of us—were more interested in being active and doing things and introducing legislation and speaking up.

Berger did exactly that when the “J. C. Penney Bill” came up before the assembly in 1972. The bill attempted to establish forgiveness for usury law violations relating to charge accounts at stores like J. C. Penney. When it came to the assembly, Representative Edward Nager of Madison recruited Berger and a handful of other freshmen to “[tie] up the assembly . . . in a quasi-filibuster.” With the support of Governor Lucey, the freshmen

---

1. See “Political composition of the Wisconsin Legislature since 1885” in Legislative Reference Bureau, *The State of Wisconsin Blue Book 2019–2020* (Madison, WI: Legislative Reference Bureau), 491–92.

successfully amended the bill, prompting the Republican-controlled senate to return to concur in the assembly amendments before the legislative session ended. By Berger's account, this successful demonstration of freshman clout "energized" him.<sup>2</sup>

Berger learned that he enjoyed the spotlight and devised ways to draw attention to policies and proposals he supported. During his first session in office, his efforts centered on probate laws:

In my first election campaign, I ran into an awful lot of people—believe it or not—who wanted to talk to me about probate in Wisconsin. Because under the law, you had to hire a lawyer and get a ruling from a judge just to dispose of [joint property].

Berger introduced 1971 Assembly Bill 1449, which created an informal process for administration of estates, and submitted numerous citizen petitions in support of the bill. Nevertheless, it failed to gain traction. Learning from this failure, Berger recognized that he needed more proof of constituent support for the measure. He launched a state-wide petition drive with the goal of amassing more signatures than his colleagues in the assembly could possibly ignore. On January 18, 1973, he and Representative Jim Wahner formally submitted Assembly Petition 1, which consisted of 300,000 signatures in support of probate reform.

Of course they were all on these little 8x11 gray paper boxes. At the very first day of session, we have in the orders of business "Introduction of Petitions." So I introduced the petitions and I had the messengers rather dramatically carry one box at a time and stack them up in front of the clerk's desk in the assembly. . . . It was just to make a dramatic effect, [and the point] that it just wasn't some guy in Milwaukee who thinks it's a great idea; it's people from all over the state of Wisconsin.

Both houses passed the related proposal, 1973 Assembly Bill 225, which was enacted as Chapter 39, Laws of 1973.

Berger invested considerable time and effort to ensure the success of bills like this one. Perhaps unsurprisingly, he discovered that legislating while having a "side job" would be difficult, if not impossible, for him:

By the 1970s, we were in session longer and longer and longer. In fact, it was [October] when we passed the state budget. . . . As someone who [was] originally working up to teaching, which was where I was originally headed, there are no opportunities. So you have to become more devoted to [the job of legislating].

Berger thus became one of a "new breed" of full-time legislators, as one journalist called them.<sup>3</sup>

---

2. The bill was enacted and became [Chapter 308, Laws of 1971](#).

3. Arthur Srb, "Senator works fulltime," Associated Press, n.d.

## Running for senate

Redistricting played an unpredictable role in Berger's decision to run for the senate. When the districts were redrawn in 1972,<sup>4</sup> Berger realized that much of the Fifth Senate District overlapped with the assembly district he already represented: "I had already represented more than half of the people of the new Fifth Senate District." If he had remained in the Fourth Senate district, Berger surmised, he would not have run for the senate.

The newly created Fifth Senate district, Berger explained, was comprised of "working-class" men and women and their families: World War II veterans, teachers, police officers, firefighters, and union workers in factories producing cans for beer and soda. Going door-to-door, he learned that his prospective constituents were concerned above all with "tax costs" and "family life."

Berger won the primary by a 5,000-vote margin and ran unopposed in the 1974 general election: "It was easier than I thought it was going to be."<sup>5</sup> In part, events beyond his control helped secure this victory. Months earlier, Watergate had come to a head with the resignation of Richard Nixon in August 1974. Many Democrats ran unopposed as an indirect effect of the scandal and its fallout at both national and state levels: "[The Republican Party] just didn't even bother to put up candidates." As Berger recalled, Watergate did not necessary shape daily life in the Wisconsin Capitol, but it had a "spin-off effect" in placing the state Republican Party in "disarray."

## Contrasting house cultures

Berger immediately noticed differences between the two houses upon joining the senate. "The assembly was much more raucous," he recalled, adding that there were "just too many people." By contrast, senators "liked to believe we were much more civil and civilized than the assembly, which was 'the lower house.'"

But that sense of pride did not stop Berger from remaining involved in the affairs of the "lower house." In fact, Berger broke from tradition by regularly appearing on the assembly floor during debate over legislation he authored or supported: "I couldn't resist sticking my nose in and making sure people were toeing the line." He described this strategy as "hardball" intended to dissuade other legislators from making decisions they would later come to regret:

If they screwed around with something [important to me], they knew that in the senate, I'd bushwhack them on something.

---

4. Redistricting occurred under [Chapter 304, Laws of 1971](#). See Michael Keane, "Redistricting in Wisconsin," Legislative Reference Bureau (April 1, 2016), 12.

5 Berger won a total of 7,975 votes against primary opponent Walter G. Heiden, who won 2,243. "Vote for State Senators by District" in H. Rupert Theobald and Patricia V. Robbins, eds., *The State of Wisconsin 1975 Blue Book* (Madison, WI: Legislative Reference Bureau), 803.

For many legislators, his presence was intimidating:

I have a strong memory of one incident where there was a bill—I think it was the one on the two-family dwelling code. Well, I was over in the assembly working on it, and Tommy Thompson was leader at the time, and he really hated the bill. So he was railing, and all of a sudden he said, “And I know you see Senator Berger over there, and I know you’re all afraid of him, but stand up to him one time!” . . . I looked up and could see [Speaker Ed Jackamonis] doing this, [motioning for me to] get off the floor, get out of [Thompson’s] line of sight.

When Berger could not personally “[keep] an eye on things,” his staff members would stand in for him: “The nickname for my staff was ‘the prairie dogs’ because they would pop up everywhere.”

## Friendship in the legislature

In January 1971, Berger met Representative Ed Jackamonis of Waukesha, his neighbor on the assembly floor. The two legislators became “extremely good friends” and frequent collaborators. Later, they also became roommates, along with fellow legislators Marlin Schneider and Jim Rutkowski. Berger fondly recalled how he and Jackamonis—who shared the same work ethic—regularly returned to the capitol to answer constituent calls after enjoying the \$2.95 roast beef dinner special at Crandall’s, just off the Capitol Square at 116 South Hamilton. Over those dinners, Berger and Jackamonis would “bounce ideas off of each other.” One such idea—to designate the dairy cow as Wisconsin’s state domestic animal—came to fruition during the 1971 legislative session. Somehow, Jackamonis shepherded the bill through passage despite the fact that neither he nor the drafting attorney involved knew anything about cows:

Governor Lucey . . . decides to hold a big ceremony, a signing of the bill to designate the dairy cow as the state domestic animal, at the Ag barn. . . . As we’re leaving the capitol to go to the ceremony—here’s two urban legislators involved in this bill—Peter Dykman, who was the draftsman for the bill, comes up ahead and says, “It’s probably too late to really tell you this, but we made up the Latin for dairy cow in the bill.” The bill read “*Bovus domesticus*,” okay? So they bring in the cows, and the one cow that’s going to be the cow of the year, they put this [big] tarp over the cow that said “*Bovus domesticus*” on it, right? And Ed and I are going, “The jig’s up! Some ag professor’s going to go, ‘*Hey that’s wrong!*’”

In retrospect, Berger said, it was “one of the big boo-boos.”<sup>6</sup>

Over time, this friendship led others to perceive Berger and Jackamonis as a powerful political bloc, especially when Jackamonis became Speaker.

---

6. The bill was enacted as [Chapter 167, Laws of 1971](#). The correct scientific name for the dairy cow is *Bos taurus*.



Well, I had moved to the senate by the time [Ed] became Speaker. And I understood the relationship of the saints in heaven, because my telephone started ringing like crazy with assembly members calling me, saying that Ed had won the speakership, calling me to [say] “You gotta tell Ed that I’m really a nice guy!” . . . “Tell Ed [I’ll] cooperate, I’ll be a good guy.”

Although Berger ignored those requests, he acknowledged helping Jackamonis solve problems within the assembly. In one instance, Jackamonis recruited Berger to intervene when a breakaway group of Democrats threatened to derail important legislation:

There were certain times when I actually would get called upon to come over to the assembly and kind of lean in on a couple of my reps to let them know that I was unhappy with them screwing with Ed . . . and [make] sure that they voted right.

Jackamonis returned the favor by ensuring that the assembly passed legislation Berger wanted passed. Berger cited the example of in-person voter registration, a proposal he introduced as part of 1975 Senate Bill 234. As Berger recalled, the bill had passed in the senate but faced Republican opposition in the assembly from minority leader John Shabaz, who “thought he had enough votes to kill it.” But Jackamonis outmaneuvered Shabaz in the final hour. As Berger recalled, Representative Mike Ferrall, a Democrat from Racine, had been in the hospital and was not expected to return for the floor vote on the bill. But Ferrall secretly returned to the capitol, and Jackamonis “stashed him” in his office until it was time to vote on the bill: “When the vote was called for, Jim Wahner wheeled Ferrall out on to the floor so he could vote ‘yes.’” The bill passed and went to the governor. “The rest was history,” Berger said, “and two hundred thousand people registered in [1976] in the presidential election.” Looking back, Berger cited the bill as one of his proudest accomplishments.<sup>7</sup>

At times, Jackamonis and Berger’s friendship rankled other members of the Democratic caucus. In one instance, senate Democrats discussed a bill that some expected would be passed in the assembly:

I said, “It’ll never come up. I’ve talked to Ed. It’s dead.” And Monroe Swan blurted out, “Oh, that’s what it’s always about. It’s King Edward and the Prince of Wales!”

## Administrative rules

By the 1960s, legislators increasingly complained that executive rules had eclipsed statutory laws. As Speaker Robert Haase put it in 1964, “[T]he set of administrative rules is a bigger set of books than the statute books.” The rapid growth of rules had upset the bal-

---

7. The bill was enacted as [Chapter 85, Laws of 1975](#).

ance of power between the legislative and executive branches, Haase and others argued.<sup>8</sup> In response, legislators proposed new oversight mechanisms, some of which, once enacted, made JCRAR more active than ever in reviewing rules.<sup>9</sup> As created under chapter 221, laws of 1955, the committee was to play an advisory role only, reviewing rules and making recommendations to agencies. But Berger helped to solidify a more substantial oversight role for the committee during his tenure as chair and came to embody the committee's rising stature. As he put it, JCRAR became his "fiefdom."

For his part, Berger viewed rule making as "a constructive way of filling out the statutes." Each individual legislator cannot be "a super expert on absolutely everything," he explained. Why have "132 people . . . parse out what the R factor should be for insulation in ceilings," when agency experts understand the minutiae of the dwelling code? Nevertheless, he championed increased legislative oversight over the agency rule-making process.

As chair of JCRAR, Berger took agencies to task for rules that seemed purposeless or outright illogical. He shared a story about one such rule, which Representative Peter Bear, a Democratic colleague from Madison, brought to his attention. Bear introduced Berger to a couple who had been denied an adoption on the grounds that they were "obese."<sup>10</sup> Sympathizing with the couple, Berger scheduled a hearing on the rule, promulgated by the Department of Health and Human Services:

A lot of publicity had gotten out about the rule. So we opened the hearing, and in walks Tiny Krueger. . . . Tiny was a circus fat man and one of the most respected and revered members of the legislature, I would say. Well, in comes Senator Krueger, and . . . he raked the agency over the coals: "They're not obese! I'm obese! And I've adopted two children!" And he's going on like that. The room is dead quiet after Tiny's comments. I called Don Percy, who was secretary, up to testify. I said, "Got anything to say?" And he goes, "It's done! It's gone! The rule's over."

As Berger recalled, there was some resistance from agency leaders to JCRAR's expanding role in the rules process:

Tony Earl was DNR secretary, and he came over to my office, and he said, "You just ordered the department to draft these rules for classification of trout streams! You just want to interfere . . ." And I said, "No, Tony. The requirement that we wanted, [that] you come up with these classifications, is for *your* benefit." And I explained to him [that] the logic is not to punish the DNR; the logic is to create a logical system so people in the state can understand why this stream gets refreshed and why this one doesn't.

---

8. "State Rules to be Probed," *Milwaukee Journal*, March 31, 1964. Cited from the original in Mike Duchek, "Wisconsin Administrative Law Project: Overview" [draft publication], Legislative Reference Bureau (2019), 14.

9. See, for example, Chapter 162, Laws of 1973.

10. Press accounts place these events around January 1979. See "Fat Couple's Adoption Application Withdrawn," *Janesville Gazette*, October 15, 1980.

Eventually, agency heads recognized the value of the committee's recommendations and preemptively solicited feedback on certain rules. But rather than review or recommend rules on a case-by-case basis, Berger sought to pass legislation that would establish a more durable mechanism for the legislature to review all administrative rules before they went into effect. Then-Representative Tommy Thompson also sought to strengthen legislative oversight, but the two disagreed on tactics and became engaged in a "grudge match." Thompson would shepherd bills through the assembly with a note requiring "prior approval" from the legislature for related rules. In the senate, Berger would amend any such bill to remove the requirement, preferring to establish an entirely new oversight process rather than require committee approval on a piecemeal basis. As a result, Thompson's bills would fall into "limbo," meaning that the two houses would have to hold a conference committee. Berger and Thompson remained locked in a stalemate as "two personalities that were dead set on their way."

Eventually, Berger invited Thompson to join forces to support a unified oversight process:

I finally, then, sat down with Tommy, and I said, "Look. Your amendment is never going to pass the senate. Period. I've got the senate support. You only have a mixed support here. Accept this process." . . . He finally married into it.

The process they devised was eventually introduced as a conference amendment to 1977 Senate Bill 199, a narrow bill relating to the examining board of architects and engineers. The amendment provided for universal review procedures under Wis. Stat. ch. 227 rather than piecemeal review of rules on a case-by-case basis. Although Governor Martin Schreiber vetoed the bill, Thompson and Berger kept trying.<sup>11</sup> Their process was reintroduced the subsequent session as part of the budget bill, 1979 Senate Bill 79. Like his predecessor, Governor Dreyfus vetoed these provisions. "Changes in the administrative rule making process," he reasoned, "should not be tacked on to individual and unrelated bills." Moreover, Governor Dreyfus expressed "grave concern about delegating to a few the power that constitutionally belongs to the many," i.e., the power to invalidate rules.<sup>12</sup>

By then, however, JCRAR had garnered "a lot of respect within the legislature." Berger anticipated that a veto override could succeed based on legislators' appreciation for the appropriate balance of power between the three branches of government:

When the veto came up in the senate, the administration was putting huge pressure on the Republicans to vote to sustain. I had all the Democrats. . . . But they couldn't crack

---

11. Governor Schreiber described introducing the oversight process within a conference amendment as "adding War and Peace as a footnote to a short story." Governor Schreiber veto message for 1977 SB 199, May 26, 1978.

12. Veto message, Governor Lee Sherman Dreyfus, September 6, 1979. Rupert H. Theobald Legislative Library.

[Everett] “Cy” Bidwell. He was adamant that he was going to vote to override, and he was a senior Republican legislator. . . . [Bidwell’s] attitude was “It’s us, the legislature, against the administration. . . . We have to have our proper respect and control, and it’s a separate branch of government.” That cracked the rest of the Republican caucus because they didn’t want to be voting to sustain a veto which, philosophically, they didn’t believe in. So when the vote came, we overrode the veto 30–3 in the senate.

Berger remembers the veto override as an oddly “grave” moment. From his vantage point, legislators did not necessarily relish this show of power against the executive branch.<sup>13</sup> In the assembly, Thompson successfully led the charge to override the veto, and the new process for universal review of administrative rules by the legislature became law. The procedure, which came to be referred to as the “Berger-Thompson” process, required that proposed rules be reviewed by a standing committee in each house. If either committee raised an objection, JCRAR could either nonconcur in the objection or concur in the objection. In the latter case, the agency could not immediately promulgate the proposed rule. This objection process was similar to the process already in place for suspending existing rules. However, it required legislative review—and the opportunity for an objection—*before* promulgation rather than after.

As chair of JCRAR and tasked with carrying out this new process, Berger sought to establish a “collaborative” relationship with agencies, rather than an “adversarial” one. From his vantage point, Berger explained that legislative oversight of rules never descended into “obstructionist warfare” between legislators and agency heads. Moreover, most JCRAR meetings were “totally bipartisan” and produced unanimous votes. Berger reasoned that his fellow committee members recognized that “99 percent of the rule making is totally benign,” existing “to fulfill some legislative mandate.” Accordingly, bills relating to JCRAR often sailed through both houses of the legislature.

Although relatively uncontroversial within the legislature, the legislative oversight mechanisms faced their share of legal challenges in years to come. Still, Berger was confident that the courts would eventually affirm the authority of the legislature to oversee rules:

I always really believed that we had the authority. The attorneys general who rendered opinions—from Warren and La Follette and a couple others in there—always said it’s not constitutional. I often believe that if you’re delegating an authority to an agency, that [watching] that delegation has got to be constitutional.

The state supreme court ultimately ruled on the legislature’s authority to suspend rules in 1992.<sup>14</sup> By then, Tommy Thompson had become governor and reversed his views on legislative oversight of the rule-making process. As Berger joked:

---

13. The budget was enacted as [Chapter 34, Laws of 1979](#).

14. *Martinez v. DILHR*, 165 Wis. 2d 687, 478 N.W.2d 582 (1992).

He was very proud of it until he got to be governor, and then he completely forgot he had any involvement in it!

## Staffing

In his first session in office (1971–72), Berger shared one office, one typewriter, and one secretary with three other legislators: Democrats Jim Rutkowski, Dick Pabst, and Jerry Kleczka. All four relied on Joan Knudson to type out all their correspondence on her IBM Selectric typewriter. To Berger, Knudson’s placement in their office was “pure luck” and “a godsend.” Although Knudson was also new to the capitol in 1971, she proved indispensable: “Without Joan Knudson, I would have probably been toast, because she really knew how to manage an office.” Later, as staffing increased, Knudson worked only for Berger and Pabst. When Berger won election to the senate, he retained Knudson and hired additional staff members. Those new staff were treated to the following warning upon their arrival:

Look. There’s one thing that you have to be aware of: if you in any way upset Joan, you’re fired, because she’s more important to me than all of you.

What qualities made Knudson so important to Berger? She was “cheerful, even-tempered, and even-mannered,” and “could take shorthand as fast as I could talk.” Equally important, she knew when and how to discreetly discourage the legislator from doing or saying tactless or “goofy” things:

If I was dictating a letter that was less than tactful, she would manage to type it up—but always, somehow, the paper had been a little crooked in the typewriter. So when it was there for me to sign, I’d have to think if I was actually going to send it. . . . Basically she would get me off that ledge where I was really mad at something or somebody.

After Berger became chair of JCRAR, he hired other staff members upon whom he frequently relied, including Doug Johnson and Terrence “T. J.” Hankerson.

## Constituents

Constituents usually contacted Berger by telephone, which was the most direct technology at that time. “The whole electronic world we’re in now didn’t exist,” Berger reflected: “There was just the landline, and that was it.” His habit was to return calls after dinner:

After I got back after dinner, I’d return all constituent calls very faithfully. My rule was that no constituent contact was ever done without me actually having some involvement in it. . . . I’d call them and talk with them about whatever there was interest in. Ninety-nine

percent of the time, it had to do with something like, “The department of transportation never sent me the title for my car.” It was some problem like that. . . . Well, you knew that they just had lost or misplaced it. But you’d help them out, get the information, and then you’d call [someone at DOT] and say “This constituent has this problem.”

Unsurprisingly, constituents expressed disagreement with Berger on certain issues. He related one instance in which he pretended to share a constituent’s position in favor of prayer in public schools simply to illustrate his own position against it:

It was a long day. . . . I just decided I’d agree with him about it. I said, “Yeah, you know, I think that’s a great idea. Prayer in public schools is long overdue; it’s really important.” Then I dropped this into the conversation: “And the fact that the school week is five days is a perfect way to have the kids say a decade of the rosary every day.” Now, I knew the guy—from our conversation—was not a Roman Catholic, okay? You could smell the rubber on the road. . . . I said, “Well, the majority of the population of the Fifth District is Roman Catholic, and I’m Roman Catholic and believe that it should be Catholic prayer.” I didn’t disagree with him about prayer in schools. But that wasn’t what he wanted. He didn’t want Catholic prayer in schools. He wanted *his* version.

To Berger, the conversation was a “teaching moment” that demonstrated the implications of “[having] the government take sides” without knowing which side the government would take. Although he identified as “a pro-life Catholic boy from Milwaukee,” Berger had come to believe that state government should not “take sides” in certain issues. Abortion was one such issue:

[It] was an evolution for me in terms of not legislating everything. Some of it is deeply moral, personal, and difficult. It shouldn’t be 33 old people making a decision for you.

This position—as well as his position on access to birth control—put him in hot water with the pastor of his church, Father Vint. But few issues were as controversial as school prayer or abortion. In fact, many issues that consumed much of Berger’s time in the legislature barely registered with his constituents. As he put it, “There are certain things in the legislative world that sort of float above the average person’s interest.”

## Civics

After he was first elected, Berger came across a survey released by the League of Women Voters that suggested civics education in Wisconsin was lacking. The results angered him, and he resolved to do something about it. Berger devised a plan to visit schools in his district, and decided to hone in on the sixth grade, the final year of most elementary schools, since high school students were “already too jaded.” The program he planned concerned the basic functions of government:

I visited every grade school in my district every year to talk to the sixth graders about government, whether they were parochial schools or public schools. . . . They all got a nice little booklet called “Government Is a Trust,” and it has a picture of me with President Carter and a picture of me with Walter Mondale. . . . It was about what state governments did.

When Berger entered sixth-grade classrooms, he greeted students warmly and received enthusiastic greetings in return. This response energized Berger—and to his surprise, his classroom visits produced a “secret weapon” in subsequent elections:

What would happen is that when I was out in the district in neighborhoods, kids would recognize me, and I’d be going door-to-door for whatever, [and] I’d have half the neighborhood in tow, hanging out with me as I went house to house. And I’d knock on a door and say, “Oh, thanks for putting the sign in the window, I really appreciate that,” and they’d say, “We like you and all that, but Sally here, she insisted we put it in the window.”

Berger even drafted bills for his pint-sized constituents:

One day I got an inquiry from the students at Maple Tree School about safety and school bus crossings and school buses. [Ultimately,] I drafted a bill for them—and the kids did all the lobbying and work—for those weird mirrors on the front of school buses so the drivers can see. That was the Maple Tree School kids’ idea that translated into a law in the state of Wisconsin.

As Berger recalled, Governor Lucey acknowledged the students’ role by signing the bill at their school.<sup>15</sup>

## Collegiality and cooperation

State politics in the 1970s was rarely acrimonious, Berger explained. He described the state senate, in particular, as a collegial place:

Generally, there was a collegiality. . . . In the state senate, especially, somebody would come up to me and say, “I just saw you and Everett Bidwell fighting with each other or arguing on the senate floor, and I thought you were going to kill each other! And the next thing you know, you’re at the Lorraine Hotel having a Manhattan.” [You] left it inside the doors. . . . You could compartmentalize enough that you could manage to have a great discourse with people, but then when it came to an issue, just fight to death over something, almost, depending on the issue.

Despite a few “disagreeable personalities,” most legislators enjoyed each other’s company. Moreover, legislators from across the aisle rarely imagined the divide separating

---

15. 1975 Senate Bill 118 was enacted into law as [Chapter 8, Laws of 1975](#).

them to be insurmountable. In Berger's view, differences between Democrats and Republicans in the 1970s boiled down to methodology rather than ideology, and there was less "labeling" than there would be decades later.

The big fights between Democrats and Republicans tended [to concern] agriculture stuff, more or less. And that is Farm Bureau versus farmers' unions. . . . You'd have [Senator] Harvey Dueholm, who was a legend in his own rite, arguing with Laurence Day over how the [agriculture] bill—something in there would've been structured. It was more that kind of minutiae [or] local mix rather than worrying about "Oh, the Republican way is *this* way, and the Democratic way is *this* way."

## Life after the legislature

After leaving the senate in 1981, Berger lobbied for MCI Communications, the long-distance telephone company. He believed that his experience as a legislator lent him a unique advantage:

I had a different appreciation for legis-speak and legislators, and how things go. We'd be at a meeting in Springfield, and we'd leave the meeting, and everybody would go, "Senator [So-and-so] is all set, it's great!" And I'd say, "No. That isn't what he said. He didn't say 'yes.' He didn't say 'no,' but he didn't say 'yes.' He said things in between, and you've gotta learn to read in between the lines.

Understanding the legislative process helped him operate effectively as a lobbyist until his retirement in the early 2010s. These days, he explains, "I do what I like to do," which often includes activities relating to his Scottish heritage. He does charity work through the Saint Andrew's Society of Milwaukee and helps plan the annual Milwaukee Highland Games. He also frequently travels to Scotland: "I love Scotland more than any place else on earth."

As an active member of the Saint Andrew's Society, Berger began lobbying to create a State of Wisconsin tartan in 2005. Each color incorporated into the tartan cloth would represent important aspects of the state's history and natural resources, such as green for its pine forests and blue for the Great Lakes. During that legislative session, the bill passed through the assembly, but died when the senate adjourned. The measure was reintroduced by Representative Thomas Lothian as 2007 Assembly Bill 212. Once again, it passed through the assembly but looked as if it would die in the senate:

The chairman of the [senate] committee who would get the bill is Fred Risser. And I said, "Fred, at least could you give us a hearing or something? I know it's late, but maybe you could pop it through," so it would have one more step in the other house, so it would look better. . . . Well, that was like on a Thursday. On Monday morning, my phone rings, and



this person says, “Is this Senator Berger?” Well, nobody calls me that. “Yes?” “Could you be here tomorrow for—” So I zoom up to do a quick two-minute presentation at Fred’s committee in the morning, and they voted it out of committee.

The bill went on to pass the senate and become law as 2007 Wisconsin Act 217. Today, Berger noted, tour guides at the capitol wear neckties with the state tartan.

## Conclusion

The passage of 2007 Assembly Bill 212 represented a victory lap for Berger, merging his personal interests and political career. He credited this outcome to Senator Risser, who went to bat for the bill on the basis of their relationship as former colleagues: “That’s collegiality. Normally that wouldn’t have happened at all, except that Fred and I have a history.” Capping this success was the celebration of Scottish heritage that took place on the occasion of the bill signing:

Then we showed up at the capitol all kilted up with pipers for Jim Doyle to sign the bill, which was kind of fun.

The kilted pipers revived the kind of showmanship for which Berger was known during the 1970s and early 1980s. And in this way, the enactment of 2007 Wisconsin Act 217, which depended on both collegiality and political performance, exemplified how David Berger viewed his career in the legislature. ■