

Risser v. Klauser

207 Wis.2d 177, N.W.2d (1997)

This case began and ended in the Wisconsin Supreme Court; the Court took original action rather than sitting (as it normally does) as an appellate court. Its 4-3 decision served to define further the veto power of the governor and, in the process, the constitutional separation of powers between the executive and legislative branches. The majority opinion, written by Chief Justice Shirley S. Abrahamson, stopped an attempt by the governor to expand his authority to veto pieces of the state budget. The dissent, led by Justice N. Patrick Crooks, would have allowed it.

A 1930 amendment to the Wisconsin Constitution gave the governor what is popularly referred to as a "partial" or "write-in" veto power. This permits the governor to approve, "in whole or in part," appropriation bills (bills that involve expenditures or set aside public funds for a particular purpose). The scope of this power has been in dispute ever since.

This was the eighth in a series of cases going back to 1935 that have attempted to set boundaries for the exercise of the veto power. The prior cases established that:

- the portion of the bill remaining must be complete, workable and related to the original bill;
- the veto can only be exercised on a bill that contains an appropriation; however, it can be used to alter any part of such a bill, not just the appropriation amount;
- words and digits can be struck from the bill but not individual letters within a word;
- a smaller number can be written in for one that is struck so long as it relates to an appropriation.

In this case, the plaintiffs—primarily several Democratic state legislators—sought to stop the Republican governor and his administration secretary from lowering a revenue bonding limit in a transportation appropriation bill. The governor's authority to lower the appropriation was not in dispute; however, the bill also contained a monetary limit for the revenue bonds the state planned to issue to raise the funds for the actual appropriation, a limit which the governor also attempted to alter.

The Court majority rejected the governor's argument that the veto power extended to all dollar amounts in an appropriation bill, rather than just those figures relating to the actual appropriation, or, in the alternative, that the bonding limit figure was actually an appropriation figure. Chief Justice Abrahamson wrote that "the dangers of the Governor's approach are obvious" because:

At the core of our tripartite system of government is the principle that the power of each branch must know limits. Wisconsin governors have perhaps more extensive power to alter legislation than do other state governors. But a governor's power to craft legislation necessarily must have constitutional limits. A write-in veto power which extends far beyond the reduction of appropriation amounts intrudes too far into the constitutional grant of legislative power vested in the Senate and the Assembly. The court felt that well-defined limits on the veto power are particularly appropriate so that both the executive and legislative branches of government can define their actions accordingly without the constant intercession of the judicial branch to resolve disputes.

The dissenting side would have held that the governor could alter any dollar amount in an appropriation bill, particularly where—as the dissent believed to be the case here—the various amounts are "inseparably connected" to the actual appropriation.

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