

THE YEAR OF THE OSTRICH IN 2006, WISCONSIN BURIED ITS HEAD

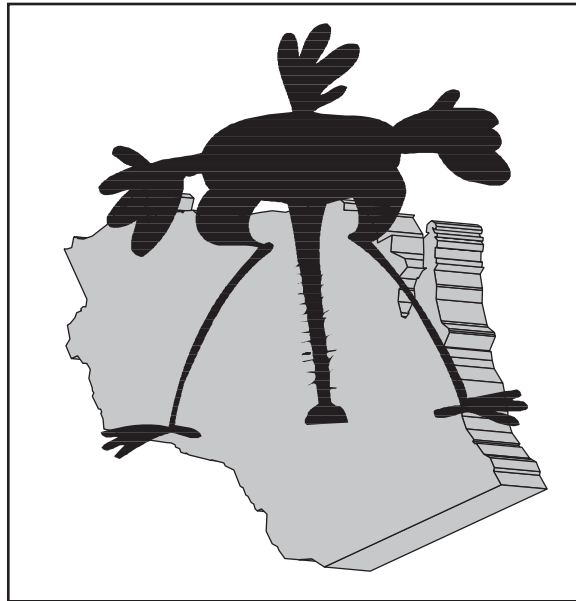
CHARLES J. SYKES

There was no shortage of crises or warnings in 2006.

Wisconsin's business climate was downgraded; the level of taxation remained choking; the gap between white and black and high and low achieving schools widened; the state's litigation crisis drew national attention; politicians and the media ignored the state's massive deficit; and in Milwaukee, a Special Olympian was murdered at a bus stop, a good Samaritan was killed trying to stop a burglary, and an 11-year-old was gang raped.

Instead of reacting with urgency or concerted action, the state's leaders reacted with a mixture of inaction or, in some cases, outright denial. Many of the most pressing issues were simply ignored.

In Milwaukee, civic leaders saved their indignation for critics who tried to sound the alarm about the city's crime wave: in Madison, tort reform legislation was vetoed; a crucial seat on the Wisconsin Supreme Court was left uncontested; despite alarming test scores, public education stayed the course; and the legislature not only killed the Taxpayer Protection Amendment, but by year's end politicians



were already jockeying for which tax to raise next.

So it went in the Year of the Ostrich.

Crime

In Milwaukee, the year began with reports of another mob beating, a man named Samuel McClain. Said one witness: "It looked like they were having a block party," her sister told the *Journal Sentinel*. "They sounded like

they were having a good time."¹ Unlike Charlie Young Jr., who had been beaten to death three years earlier, McClain survived. Others were not so fortunate.

A bloody Memorial Day weekend that saw 28 shootings and four deaths highlighted the level of street violence in the city.

Although the murder rate has gone down somewhat, the *Milwaukee Journal Sentinel* found that in the city around 600 people a year are shot and, because of advanced emergency medicine, survive. The paper said that Froedtert Hospital expected to treat 34% more gunshot victims in 2006, while Children's

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Hospital of Wisconsin was expecting a 38% increase.² Nationwide, violent crime rose just 3.7% in the first six months of 2006; in Milwaukee there was a 36% increase in reports of robberies during the first six months; and a 32% jump in reports of aggravated assaults.³

By year's end, the eruption of violence in Milwaukee was getting national media attention. *Time* magazine wrote:

It's as if Milwaukee, Wis., had reverted to a state of lethal chaos. A Special Olympian is killed for his wallet as he waits for a bus. An 11-year-old girl is gang-raped by as many as 19 men. A woman is strangled; her body found burning in a city-owned garbage cart. Twenty-eight people are shot, four fatally, over a holiday weekend.⁴

Other cities responded forcefully to the prospect of a violent summer. In Chicago, for instance, police in battle dress set up roadside safety checks, and used dog searches and high-tech license plate readers to establish a high-profile presence in high-crime neighborhood at the start of the summer.

In Milwaukee, officials deployed the former bookmobile as a "community substation."⁵

The mayor also announced several "safe and sound" initiatives to get youths off the streets. Reported the *Journal Sentinel*:

Those include his summer jobs program, which this year will offer 712 slots in a variety of city agencies and private businesses; *distributing a guide to community events; and handing out free tickets to Milwaukee Brewers baseball games, donated by the ball club.* (Emphasis added.)

In September, after the gang rape and the shooting of a 22-year-old man Special Olympian during a robbery, Mayor Tom Barrett insisted that the rise in violence did not constitute a "crisis."

"I would not call it a crisis because we're going to deal with it," the mayor said, providing a creative gloss on the word, but no specific plans.⁶

In late November, the police chief reacted to the rising number of shootings (apparently

unabated by the free baseball tickets) by announcing that the department was considering whether to "stop sending officers to certain low-priority calls"—the opposite of what New York mayor Rudy Giuliani had done when he embraced the so-called "Broken Windows" theory of crime fighting.⁷

Community leaders did, however, arouse themselves to react angrily when Congressman James Sensenbrenner (R-Wisconsin) was quoted as saying that Milwaukee was becoming the "murder capital" of the nation. In a front-page article headlined "Civic leaders rebuke Sensenbrenner,"⁸ the president of the Greater Milwaukee Committee, the CEO of VISIT Milwaukee, and the president of Spirit of Milwaukee all lined up to chastise Sensenbrenner. "To digress into this kind of name-calling is distressing," said Dean Amhaus, president of Spirit of Milwaukee, a group that seeks to promote the city. The president of the Greater Milwaukee Committee said: "Certainly the congressman's comments could have a very chilling effect on what we're trying to do to build our region." And Doug Neilson, of VISIT Milwaukee sniffed that:

It doesn't help our economic development efforts to bring tourists and businesses to the region when we have negative and untrue statements being made by public officials.

But one searches in vain for any previous comments by these worthies about the violence itself. Like most of Milwaukee's "leadership," they had been silent about the rising tide of shootings, beatings, and killings in the central city. There were no front page stories about "Civic Leaders Outraged by Killings."

Taxes

The bad news on taxes was not new, but the consequences for the state's economy were starkly outlined in several studies. Wisconsin remained solidly in the top ten states in state/local burden, with state taxpayers paying 10 percent more than the national average in local taxes.⁹

In October, the Tax Foundation released its annual State Business Tax Climate Index,¹⁰ which placed Wisconsin near the bottom of virtually every category. Overall, the state ranked 38th in the nation, down one spot from the year before. The state was ranked 42nd for its individual income tax (8th worst), 32nd for its corporate tax, and 30th for property taxes.

In January, the Wisconsin Taxpayers Alliance released a report saying that the state has lost \$4.72 billion in household net worth and \$454.8 million over a five-year period as a result of higher-income residents fleeing the state.¹¹

"These figures are not trivial," said Alliance President Todd A. Berry, "for lost assets can cease to be held in and loaned by Wisconsin banks. They can result in the sale of stock in Wisconsin firms to non-resident investors, less in-state investment capital available for new ventures here, and reduced support for Badger State charities."

Numbers released by Competitive Wisconsin illustrated even more dramatically how Wisconsin lagged behind the rest of the Midwest.¹²

In 2005, the group noted, there were 55 announcements of new manufacturing plants in Illinois; there were 72 in Michigan; 35 in Minnesota; and 34 in Iowa.

In Wisconsin, there were . . . five.

In 2005, there were 75 announcements by companies that they were expanding their manufacturing operations in Illinois; 180 expansions announced in Michigan; 36 in Minnesota; and 64 in Iowa.

In Wisconsin? Six. It actually gets worse. When announcements of other business investments and expansions are also included, Illinois saw 510 announcements of business

expansion; Michigan 505; Minnesota 176; Iowa 135; and Wisconsin . . . a mere 15.

What's wrong with this picture?

Start with high taxes. Add in a heavy-handed regulatory climate; a lawsuit-happy legal climate; a lack of skilled workers; failed urban school systems; Milwaukee's high crime rate; a welfare state mentality; and a dysfunctional political system, and you have all the ingredients of economic decline.

The news that one of the state's largest software companies, RedPrairie, was thinking of moving out of state should have served as a wakeup call. Instead, officials reached for the snooze alarm.

Early in the year the legislature killed the Taxpayer Protection Amendment. At year's end, newly empowered Democrats debated whether to raise vehicle registration fees, gas taxes, sales taxes, and cigarette taxes, while lifting the cap on teacher salaries.

Litigation

The response to the litigation crisis was no

better.

Nationally, *The Wall Street Journal* continued to call attention to Wisconsin's tort nightmare with headlines like: "Eat Paint. Get Rich."¹³

The column quoted a dissenting member of the state Supreme Court saying the court's ruling in a famous case involving lead paint meant that:

[T]he defendants . . . can be held liable for a product they may or may not have produced, which may or may not have caused the plaintiff's injuries, based on conduct that may have occurred over 100 years ago when some of the defendants were not even part of the relevant market.

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Another dissenting justice wrote that the case “created a remedy for lead paint poisoning so sweeping and draconian that it will be nearly impossible for paint companies to defend themselves or, frankly, for plaintiffs to lose.”

That case and others led the U.S. Chamber’s Institute for Legal Reform (ILR) to downgrade Wisconsin’s legal climate six spots to number 23 in their annual rankings. The group noted that in just two years, the state had plunged 13 spots in the rankings.

“Wisconsin’s legal system is headed in the wrong direction,” said Tom Donahue, president and CEO of the U.S. Chamber of Commerce.

The state supreme court has made several bad rulings in the last year which have been devastating to business including one that allows lawsuits against entire industries when a plaintiff can’t prove which company’s products allegedly injured them.

The best thing Wisconsin can do to attract business is to have a fair legal system.

The independent Wisconsin Economic Development Association (WEDA) also tried to sound the alarm, issuing a report titled: “The Growing Threat to Economic Development: Wisconsin’s Immediate and Critical Need for Legal Reform.”¹⁴ The WEDA report noted that in addition to the low rating by the Chamber, Wisconsin’s legal climate was ranked 30th by the Pacific Research Institute, in a study commissioned by the National Association of Manufacturers:

Additionally, The Wisconsin Supreme Court was singled out for a “Dishonorable Mention” award in a 2005 “Judicial Hellholes” ranking of the worst courts in the United States. Based on four “bad” decisions which will, “place the state at risk, creating a potential access to health-care crisis and making businesses think twice about investment in that state” (American Tort Reform Foundation, 2005).

Despite the urgency of the warnings, one of the swing justices responsible for the new

direction of the Supreme Court (the court now tilts 4-3 liberal) was reelected unopposed to a 10-year term last spring. Prospects for a reversal on the court appear dim as one of the court’s three remaining conservatives is retiring this year.

With the exception of a bill reinstating the cap on medical malpractice awards, virtually every attempt at tort reform was vetoed by Governor Doyle.

Education

Once again, in 2006, Wisconsin had one of the nation’s worst racial achievement gaps in the country. A new study from the Wisconsin Policy Research Institute found that the achievement gap between high and low performing public school districts was also widening. In 2003-04, for example, 86.4 percent of students in the top-performing districts scored proficient or advanced on state tests. Only 60.7 percent of students achieved at this level in the low-performing districts. In 1996-97 students in low-performing districts were 13.7 percent below the state average; by 2003-04 that had dropped to 17.3 percent below the state average.¹⁵

Much of the problem centered on Milwaukee’s troubled public school system. In April, a study by the Manhattan Institute found that MPS had a graduation rate of only 45%. Of the 100 largest districts in the country, Milwaukee ranked an abysmal 95th, behind cities like Philadelphia (with a graduation rate of 58%); Chicago (50%); and even New Orleans (63%).¹⁶

The usual suspects attacked the methodology of the studies and the University of Wisconsin announced plans for a more “holistic” admissions policy, a way of increasing minority representation without addressing the racial learning gap in the K-12 system. After a bitter and protracted fight, the cap on the number of students who could participate in Milwaukee’s school choice program was lifted, but the teacher’s union and educational bureaucracy appear set against any broader educational reforms.

Last spring, a new study gave MPS a dismal grade of D-minus for improving student achievement, noting the ingrained culture of complacency in the district.

MPS has seen only small, incremental gains in student achievement over the last several years. More problematic, however, is that many people in the district see these marginal improvements as acceptable. . . . A sense of urgency to raise student achievement is not apparent throughout the organization. The board, administration and staff appear fairly complacent."

The report found that "MPS staff indicated that most were proud of the gains . . ." even though test scores indicated they were minimal.

The report, compiled by the Council of Great City Schools, singled out the district's decentralization for criticism. "Decentralization," the report says, "has rendered the central office instructional unit (in MPS) irrelevant to the process of raising student achievement."¹⁷ In response, school officials declared that a "sea-

change" was underway in the district, but that seemed to largely involve re-centralizing power—in effect backtracking on the last wave of "reforms" that failed to turn around the troubled district.

The state deficit

Four years after a gubernatorial election that had turned on the handling of a massive state budget deficit, Governor Doyle and much of the state media celebrated the elimination of that deficit. Doyle made the "balanced budget," a centerpiece of his reelection campaign, and his claim was repeatedly cited in newspaper endorsements of his reelection. In a July 1 release, Doyle's office boasted that "upon tak-

ing office (he) balanced a \$3.2 billion budget deficit . . . Since then he has managed three consecutive years of surpluses."¹⁸

Doyle's campaign Web site declared that "Governor Doyle . . . solved the worst fiscal crisis in our state's history, balancing a \$3.2 billion deficit. . ." The claims were seldom challenged by the state's media. The *Journal Sentinel* editorialists were especially credulous: "Inheriting a \$3.2 billion deficit from previous GOP governors and legislatures, [Doyle] balanced the budget and, eventually, restored state funding to public schools to two-thirds. . ."¹⁹

But in December, after the state's Comprehensive Annual Financial Report was issued, the Wisconsin Taxpayers Alliance pointed out that the financial statements show the State of Wisconsin closed its 2005-06 fiscal year with a \$2.15 billion general fund deficit. That deficit was \$8.3 million more than in 2004-05 and \$231 million more than in 2003-04.²⁰

Doyle's administration had assiduously covered up the scope of the

problem.

On August 14, David Schmiedicke, Doyle's state Budget Director, issued a widely publicized report projecting a 5 percent growth in state tax collections that would effectively wipe out the deficit in the coming budget. As the *Milwaukee Journal Sentinel* later noted, "The Doyle campaign then used that report to defend the governor's budgets since taking office in January 2003."

The language of Schmiedicke's memo is striking. He pooh-poohs the notion of the structural deficit and then declares its disappearance. It's worth quoting:

The State of Wisconsin closed its 2005-06 fiscal year with a \$2.15 billion general fund deficit. That deficit was \$8.3 million more than in 2004-05 and \$231 million more than in 2003-04.

According to the non-partisan Legislative Fiscal Bureau, the state has “advanced commitments” of about \$1.5 billion going into the 2007-2009 budget period.

That means, with no changes, the state will need about \$1.5 billion to meet the cost of already enacted tax cuts (e.g., 100 percent exemption from state income taxes for Social Security income) and required appropriation increases (e.g., financial aid to University of Wisconsin students). This number is sometimes misleadingly referred to as a “structural deficit.”

It is not a deficit; rather it is an estimate of the amount either base general fund revenue will fall or expenditures will rise without accounting for revenue growth and assuming no cuts to the budget are made.

Over the past 20 years, revenues have grown at an average rate of approximately 5 percent a year. Assuming only average growth—and without having to cut anything from the budget—the state will see revenue growth of about \$1.9 billion. *That more than covers the so-called “structural deficit.”*²¹

Even at the time, some Capitol insiders saw it for what it was: Republican State Senator Scott Fitzgerald issued a statement saying that the memo “is not a fiscal document, it’s a political one,” and accurately predicted that the state would continue to face a budget shortfall.

No matter how much he manipulates the numbers or how hard he tries to hide them, Jim Doyle can’t run from reality—we will be starting the next budget with a deficit.²²

But three months after the Schmiedicke memo—and less than two weeks after Doyle won a second term—the same department admitted that the 5 percent growth rate was unrealistic and dropped its growth projections to 3.6 percent in the budget’s first year and 4 percent in the second year, thus opening what the administration now admitted was a \$1.6 billion hole.²³

The rosy-scenario did not survive Doyle’s reelection by even a month. The deficit that had been declared solved suddenly reappeared.

Like the issues of education, litigation, taxation, and crime, the deficit had not gone away. It had simply been ignored.

Notes

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16. Sarah Carr, “Milwaukee near bottom for graduation rates,” *The Milwaukee Journal Sentinel*, April 20, 2006.
17. Alan J. Borsuk, “Report sparking MPS to act,” *The Milwaukee Journal Sentinel*, January 2, 2007.

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