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Wisconsin Election Is Referendum on Governor

By [MONICA DAVEY](#)

MEQUON, Wis. — Until a few weeks ago, this state's election on Tuesday for a justice of the Wisconsin Supreme Court was widely expected to be dull and predictable.

But fights over the agenda of Wisconsin's newly powerful Republicans, including cuts to collective bargaining rights, have turned this quiet judicial match into a bitter, expensive, highly personal and politicized battle, inflamed with advertising dollars expected to reach into the millions from outside liberal and conservative groups, including the [Tea Party Express](#).

The race has turned into a referendum on Wisconsin's new Republican governor, [Scott Walker](#), his [collective bargaining bill](#), and, more broadly, the Republican politicians who now control the Capitol.

"This has really become a proxy battle for the governor's positions and much less a fight about the court itself," said Charles H. Franklin, a political scientist at the [University of Wisconsin](#), Madison.

The candidates, who raced through a series of frenzied last-minute appeals to voters, including a stop at the Milwaukee Brewers' home opener on Monday, were not particularly well known before the election.

The battle is over the seat now held by [David T. Prosser](#), a justice for 12 years who some consider to be part of a 4-to-3 conservative-leaning majority bloc on the court. His opponent is [JoAnne Kloppenburg](#), an assistant attorney general. Though the election is technically a nonpartisan affair, voters are seeing each candidate as a way to advance their own agendas.

“The notion that’s been conveyed is that a vote for Prosser is a vote for Walker,” Professor Franklin said.

A victory by Ms. Kloppenburg could alter Wisconsin’s political landscape by possibly shifting the court as it considers legal issues surrounding the collective bargaining bill. It would send a signal about voter unrest to state senators, both Republicans and Democrats, who have been the targets of recall efforts since the collective bargaining cuts were passed by the Republican-controlled Legislature last month.

The election is drawing national attention ([Sarah Palin](#), in a Twitter message, gave her support to Justice Prosser on Friday), in part because it offers an early gauge of public reaction to the shift last November, when Republicans swept into state legislatures and governorships in Wisconsin and elsewhere and began pressing for changes to bargaining rights for labor unions.

On the bruising campaign trail here, both candidates have insisted that they would pursue a nonpartisan, impartial approach to every case while accusing each other of likely doing the exact opposite.

Ms. Kloppenburg regularly points to a release issued months ago by a campaign aide to Justice Prosser (since disavowed by the justice) suggesting that he would complement the new political leadership in Madison. Campaign ads from outside groups have denounced Justice Prosser, who was once a Republican speaker of the State Assembly, as a “rubber stamp” for Governor Walker.

For his part, Justice Prosser contends that Ms. Kloppenburg has become the darling of union leaders, protesters and others who opposed Mr. Walker’s collective bargaining cuts. He said he saw protest signs in Madison that read: “Stop the Bill; Vote Kloppenburg.”

“I feel like the victim of a drive-by shooting,” Justice Prosser, 68, said in an interview in which he described his record on the court as moderate. “Here I am, I’m walking along, I should win this race going away. But I mean, not if people aren’t thinking about what they’re doing.”

In a **primary election** on Feb. 15, Mr. Prosser won 55 percent of the vote, compared with 25 percent for Ms. Kloppenburger. The balance went to two other candidates.

But that was before much was known about Mr. Walker’s “budget repair bill” — he announced it on Feb. 11 — to solve the state’s budget deficit, in part by cutting collective bargaining rights and benefits for public workers.

Nothing about this race has been low key of late. Although the candidates have agreed to accept public financing (which means they can each spend only \$300,000 on Tuesday’s election and must skip fundraising), outside groups have spent more on local television and radio ads.

Last week, a former Democratic governor, Patrick J. Lucey, who had served as Mr. Prosser’s honorary campaign co-chairman, announced that he was **dropping his endorsement** and supporting Ms. Kloppenburger.

And not long ago, Justice Prosser had to publicly acknowledge a conversation with other justices in which he referred to the chief justice, Shirley S. Abrahamson, whom some view as part of the liberal minority, with a vulgarity. (He apologized.)

Critics of Ms. Kloppenburger, 57, who like Mr. Prosser received her law degree from the University of Wisconsin, have been fierce. They have suggested she is unqualified for the job (she has never been a judge and has been turned down for earlier such posts she sought).

They contend that her years as an assistant attorney general for the state were mainly spent handling mundane matters like violations of state rules about dock sizes. (Not so, she says.) Mostly, though, they say she has explicitly fashioned herself as a liberal — a notion that she vehemently denies, repeatedly

promising at campaign events to stand for independence and impartiality.

“She has hitched her wagon to the partisan star by deliberately fostering the idea that she will work against everything that Scott Walker proposes, especially when it comes to the budget repair bill,” Michael J. Gableman, another of the justices, said during a testy campaign event on Friday at which he spoke in support of Justice Prosser, who could not attend.

Neither candidate has publicly expressed views about Governor Walker’s cuts to collective bargaining rights. But many voters are filling in the blanks.

Justice Prosser served as a Republican in the State Legislature for years. He has acknowledged that he and Mr. Walker, also a former legislator, voted alike on many issues.

But after Justice Prosser was appointed to the State Supreme Court by [Tommy G. Thompson](#), the former Republican governor, he said he had put partisanship aside, and considered himself a “judicial conservative” with a middle-of-the-road record.

“Literally the number of times that I spoke with Scott Walker after I left the Legislature is not more than the fingers on one hand,” Justice Prosser said. (Mr. Walker has said he will vote for Justice Prosser, though he has not appeared on the campaign trail on his behalf.)

Ms. Kloppenburg said Justice Prosser was the one who had injected so much partisanship into the picture. “You can take the man out of the Legislature,” she said, in a reference, her campaign said, to a comment Mr. Prosser had once made, “but you can’t take the Legislature out of the man.”



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