

VOLUME 32

Opinion No. 2

CONSTITUTIONAL LAW; Legislature; Extraordinary Session, consideration of bills of regular session—CONSTITUTIONAL LAW; Legislature; Introduction of printed bills—LEGISLATURE; Bills; numbering, necessity of—LEGISLATURE; Bills; printing—

LEGISLATURE: Extraordinary Session; consideration of bills introduced in regular session—Article V, Sections 19, 20, 21, 22, 23, 24, 25, 27, 32, 33, and 40. Montana Constitution.

- HELD:** 1. Bills pending at final adjournment of regular legislative session must be re-introduced at extraordinary session.
 2. Legislature meeting in extraordinary session may consider bills previously printed during regular session and said bills may retain same number assigned to them during regular session.

March 3, 1967

Honorable Tim Babcock
 Governor of Montana
 State Capitol
 Helena, Montana

Dear Governor Babcock:

You request my opinion on the following questions:

1. In the event an extraordinary session of the legislature is called, to begin immediately upon the final adjournment of the regular session of the Fortieth Legislative Assembly, must bills pending at the time of adjournment of the regular session be re-introduced in the extraordinary session?
2. Must said bills be handled in exactly the same way as bills introduced at a regular session with respect to introduction, numbering, printing, etc.?

You indicate that you are not concerned with the effect the rules of the legislature might have upon these questions. Therefore, this opinion will deal only with the Constitutional problems raised by your inquiry.

Essentially, your first question asks if an extraordinary session of the legislature is a new session or merely a continuation of the regular session. While this question has never been judicially determined in Montana, the courts of those states with constitutional provisions similar to ours have held that a special or extraordinary session is a new session of the legislature and not a continuation of the regular session. See, e.g., **People v. Rice**, 135 N.Y. 473, 31 N.E. 921 (1892); **State ex rel. Robinson v. Fluent**, 30 Wash. 2d 194, 191 P. 2d 241 (1948); **State ex rel. Jones v. Atterbury**, 300 S.W. 2d 806 (Mo. 1957). I agree with that analysis and therefore conclude that an extraordinary session of the Montana legislature, whenever called, is a new session and is not a continuation of the regular session. A legislative session which has adjourned *sine die* has lost its power to act and all

matters pending before that body expire with its adjournment. See Opinions No. 10 and 12 of the 1965-66 Opinions of the Attorney General of the State of Washington.

Since an extraordinary session is a new session, any bills passed by such a session must be introduced (or "re-introduced") in that session, and pass both houses during that session. A bill which had passed one house in regular session and the other house in extraordinary session would not be valid.

The provisions of the Montana Constitution dealing with the enactment of laws are set forth in Article V and include:

Sec. 19. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

Sec. 20. The enacting clause of every law shall be as follows: "Be it enacted by the Legislative Assembly of the State of Montana."

Sec. 21. No bill for the appropriation of money, except for the expenses of the government, shall be introduced within ten days of the close of the session, except by unanimous consent of the house in which it is sought to be introduced.

Sec. 22. No bill shall be considered or become a law unless referred to a committee, returned therefrom, and printed for the use of the members.

Sec. 23. No bill, except general appropriation bills, and bills for the codification and general revision of the laws, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

Sec. 24. No bill shall become a law except by a vote of a majority of all the members present in each house, nor unless on its final passage the vote be taken by ayes and noes, and the names of those voting be entered on the journal.

Sec. 25. No law shall be revised or amended, or the provisions thereof extended by reference to its title only, but so much thereof as is revised, amended or extended shall be re-enacted and published at length.

Sec. 27. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislative assembly immediately after their titles have been publicly read, and the fact of signing shall be at once entered upon the journal.

Sec. 32. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in the case of other bills.

Sec. 33. The general appropriation bills shall embrace nothing but appropriations for the ordinary expenses of the legislative, executive and judicial departments of the state, interest on the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

Sec. 40. Every order, resolution or vote, in which the concurrence of both houses may be necessary, except on the question of adjournment, or relating solely to the transaction of the business of the two houses, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, be repassed by two-thirds of both houses, as prescribed in the case of a bill.

Any enactment of an extraordinary session of our legislature, to be valid, must comply with the sections above quoted.

Your second question contemplates the possibility of avoiding the cost of reprinting those measures on which the regular session failed to act in the regular session but will wish to consider during extraordinary session by re-introducing said bills in the house where they originated and providing that they retain the same number.

Article V, Section 11 provides in part that, "each house shall have power to determine the rules of its proceedings . . ." The Montana Constitution, unlike the Federal Constitution is not a grant but rather a limitation on legislative power and our legislature may adopt any law or rules of proceedings not prohibited by the constitution. See, e.g., **Plath v. Hi-Ball Contractors, Inc.**, 139 Mont. 263, 362 P. 2d 1021 (1961); **Graham v. Board of Examiners**, 116 Mont. 584, 155 P. 2d 956 (1945). No provision of our constitution requires bills to be numbered at all so I see no constitutional restriction to assigning bills introduced at a special session numbers which do not begin with 1 and progress arithmetically from there.

Article V, Section 22, already cited, provides:

Sec. 22. No bill shall be considered or become a law unless referred to a committee, returned therefrom, and printed for the use of the members.

This provision is identical with Article V, Section 20 of the Colorado Constitution. In **In re Interrogatories from House of Representatives**, 245 P. 2d 853 (Colo. 1953), that state's Supreme Court held that the printed report of the statute revision commission of that state, which contained the work of the commission in revising the state statutes, could be enacted into law without reprinting. The court state, at 254 P. 2d 854:

"The sole purpose of printing, as the term is used in the consideration of a bill, is for the use and information of the individual legislator. Each member of the Legislature having been provided with a full and complete printed report, it then becomes, not a question of what was in the report or the commission's authority in connection therewith, but with the full knowledge, what did the legislature intend to do with the report, which is answered by the action of the majority of the members of the Senate voting in favor of the passage of the bill approving and adopting the report as the law."

Our Constitution "must be construed in the light of . . . the object sought to be attained . . ." **Hinz v. Musselshell County**, 82 Mont. 502, 267 Pac. 1113 (1928). "[c]onstitutional construction should not lead to absurd results if a reasonable construction will avoid it," and "The Constitution must receive a broad and liberal interpretation consistent with the purpose of the framers and people adopting it." State ex rel. **Ronish v. School District No. 1**, 136 Mont. 453, 348 P. 2d 797 (1959).

It is not uncommon legislative practice to print unusually lengthy bills before introduction and even before the session has commenced. Witness Senate Bill 20, passed this session.

If the purpose of printing a bill is to provide each member with a copy and thus afford him an opportunity to inform himself of its contents, as I am sure it is, that purpose will be adequately served by adoption of the procedure suggested above.

Apparently, the 1921 extraordinary session of the Montana legislature, which was also convened immediately after the close of the regular session, did not adopt this procedure but assigned bills new numbers and, presumably, had them reprinted. Of course, the legislature may choose to follow this precedent and they are certainly free to do so. However, it is my opinion that an extraordinary session of the legislative assembly may constitutionally adopt rules providing that bills introduced in said session may retain the same number they carried in the regular session. In all other respects, such as introduction, reference to committees, etc., bills handled by an extraordinary session must be treated in full compliance with the constitutional provisions outlined above.

Very truly yours,

FORREST H. ANDERSON
Attorney General

FHA:DAG:vw