

Research Bulletin No. 1
December 1963



THE SPECIAL SESSION

IN THE WISCONSIN LEGISLATURE

WISCONSIN

*Legislative
Reference
Bureau*

FORMERLY: WISCONSIN
LEGISLATIVE REFERENCE
LIBRARY

State Capitol
Madison 2, Wisconsin

53702

THE SPECIAL SESSION IN THE WISCONSIN LEGISLATURE

TABLE OF CONTENTS

	Page
Introduction	1
Why a special session	1
Constitutional basis	1
The Governor's call	1
When special session may be called	3
Time limitations on special sessions	3
Organizing the Legislature for a special session	4
Reimbursement of members and staff	6
The political composition of the Legislature	7
The Governor's message	8
Procedures in a special session	8
Evasion of the rules	14
Limitation on number of proposals introduced	15
Main business of a special session	17
Scope of Legislature's authority	17
Germaneness of proposals	18
Items with which a special session may or may not deal	19
Confirming appointments of the Governor	19
Joint resolutions amending Constitution	20
Expressing opinions of the Legislature	20
Investigating committees	20
Petitions	21
Proposals on which germaneness was questioned	21
Germaneness questioned in second house	21
Vetoes	21
Adjournment	22
Attorney General's opinions on special sessions	22

PLEASE NOTE:

The Wisconsin Legislative Reference Library has changed its name.

Beginning August 1, 1963, Chapter 149, Laws of 1963, renames us "Legislative Reference Bureau". We are no longer under the Free Library Commission, but an independent agency in the legislative branch of Wisconsin state government, under the policy direction of the Joint Committee on Legislative Organization. Our services will remain the same.

With the change in name, we have changed our method of numbering the reports issued by this agency. The Informational Bulletin Series (IB) was closed off with number 230; the Research Bulletin Series (RB) was closed off with number 141 (No. 139 was not used).

Our new numbers will begin with the last two digits of the current year (for 1963 we use 63), and number each series consecutively through a single year. Thus, the first new Research Bulletin will be numbered RB-63-1, the second, RB-63-2, etc.

THE SPECIAL SESSION IN THE WISCONSIN LEGISLATURE*

INTRODUCTION

As the name suggests, a "special session" is something out of the ordinary, held infrequently, and probably somewhat different in its purposes and procedures from the "general session". In fact, in Wisconsin special sessions have been very infrequent--only 3 have been held in the last 20 years and for one of these (1962) there is some question as to whether it was indeed a special session or merely another adjourned segment of the regular session. For these reasons the time seems auspicious to bring together in one convenient pamphlet all that can be learned from the records of past special sessions with regard to the procedural and organizational matters relating to such special sessions.

WHY A SPECIAL SESSION

During the 35 years between 1848 and 1883 in which the Legislature met annually there were but 3 special sessions, 2 of them during the early years of the Civil War. In this period the scope of government and the pace of living created few emergency situations which necessitated prompt solution. After the biennial sessions were instituted and life took on a quickened pace, situations occasionally arose which appeared to warrant prompt action, and thus the special session developed. All items which suggest a special session are not equally critical, and each suggestion that a special session might be called provokes a series of items for consideration, some more vital than others. Generally speaking, a special session results from one or more items which are considered so important that real and substantial hardships will result from the failure to act promptly. When the special session concept was discussed by the Constitutional Convention of 1848, it was agreed that the Governor should be able to call the Legislature into "extraordinary session" in an emergency or when the public interest should demand it.

CONSTITUTIONAL BASIS

The special session is based on 2 constitutional provisions, one authorizing the Governor to call special sessions, and the other limiting the powers of the Legislature while in special session. Article V, Section 4, provides in part that the Governor "...shall have power to convene the legislature on extraordinary occasions...". Article IV, Section 11, provides that "The legislature shall meet at the seat of government at such time as shall be provided by law, once in two years, and no oftener, unless convened by the governor in special session, and when so convened no business shall be transacted except as shall be necessary to accomplish the special purposes for which it was convened."

The crux of the special session is the last clause which sets the substantive limits of the session.

THE GOVERNOR'S CALL

The first step in the evolution of a special session is the issuance of the proclamation by the Governor setting forth the day, the hour and the purposes of

* This is a revised and extended edition of the 1958 study by Mr. M. G. Toepel, Chief of the Wisconsin Legislative Reference Library, of "The Anatomy of the Special Session of the Wisconsin Legislature". The revision, which brings the study up to date through December 4, 1963, was prepared by Mr. H. R. Theobald, Acting Chief of the Wisconsin Legislative Reference Bureau.

the session. This document sets the guidelines for the session, but it does not give the Governor the power to dictate the details of the legislation he desires. It permits him only to name the subjects, which he desires to have considered, in as much detail as he chooses.

The Governor may and has amended the call either before or during the special session or may issue a new call for the same time adding new subjects. In 1933 Governor Schmedeman amended the call 4 times after the Legislature met. Although the Legislature met pursuant to the Governor's call of September 11, 1937, on October 7 he submitted not one but 2 supplementary proclamations.

In the first supplementary proclamation the Governor not only indicated the purposes of the call, but suggested the ground rules which, in his opinion, would enable the Legislature to accomplish its task in a short time. Although the Legislature adopted his procedural suggestions, there is no requirement that this be done, and most proclamations are devoid of such suggestions. (See 7 OAG 49, 23 OAG 66 for discussions of the call)

In the 18 special sessions since 1905 the number of items in the call varied from one in 1916, 1926 and 1948 to 27 in 1937. An analysis of the items in the call is as follows:

<u>Year</u>	<u>No. of items</u>	<u>Major purposes</u>
1905	11	Railroad regulation and primary election law.
1912	10	River Falls catastrophe.
1916	1	Absentee voting by soldiers.
1918 (1st)	19	War economy.
(2nd)	2	Reserve officers training facilities.
1919	6	Soldiers rehabilitation funds.
1920	25	Cost of living, medical education, educational standards.
1922	5	Income tax administration.
1926	1	Indemnities for TB cattle.
1928 (1st)	7	Appropriations for state colleges and public welfare.
(2nd)	2	Appropriations for charitable and penal institutions.
1931	17	Unemployment, apportionment.
1933	5	Prohibition repeal.
1st Supplementary Call	2	Operation of banks.
2nd Supplementary Call	5	Miscellaneous.
3rd Supplementary Call	1	Banks.
4th Supplementary Call	3	Finances.
1937	9	Emergency relief.
1st Supplementary Call	9	Agricultural Authority and Department of Commerce.
2nd Supplementary Call	9	Government reorganization.
1946	3	Rent control, veterans' housing, state salaries.
1948	1	Veterans' housing.
1958	4	Unemployment compensation, relief residency, urban renewal.
1962	2	Legislative and congressional apportionment.

NOTE that in 1962, Governor Nelson called a special session of the Legislature for 11 a.m. of June 18. But after the call was issued, and before the

special session convened, petitions circulated among the members of the 1961 Legislature pursuant to 1961 Jt. Res. 147,A., received the requisite number of signatures to convene the Legislature at 11 a.m. of June 18 in regular session. In the Assembly the Speaker ruled that the Legislature was in regular session and could not, therefore, be called into special session. In the Senate, the President pro tem. ruled that the Legislature was concurrently in regular and in special session. Thus, the status of the 1962 June-July session is unclear, but it is here included in order to make this compilation as complete as possible.

In 37 OAG 374-7 (1948) the Attorney General answered several questions regarding the manner of notifying the Legislature of the special session. The Attorney General said the Constitution and Wisconsin Statutes are silent on how the Legislature is called and what notice of the call is to be given. He held that notification may be given in person, by mail, telegraph or telephone, and that failure to notify due to absence or inaccessibility would not affect the validity of the call.

WHEN SPECIAL SESSION MAY BE CALLED

During the first 114 years of Wisconsin's existence as a state--from 1848 until 1962--all special sessions have been called after the Legislature had adjourned sine die. The 1961 Legislature initiated the practice (1961 Jt. Res. 147,A.,) since adopted also by the 1963 Legislature (1963 Jt. Res. 87,S. and 115,A.) of adjourning to a date specific, subject to the proviso that the Legislature could reconvene at an earlier date on the petition of a majority of the members of each house.

Thus, when Governor Nelson recalled the 1961 Legislature into special session in June 1962, this was done during a period when the Legislature was--because it had not adjourned sine die--technically in session although not physically present in the Capitol. In anticipation of this problem, the Governor had asked for an Attorney General's opinion on his power to call a special session while the Legislature stands adjourned for an extended period of time, though not adjourned sine die. In 51 OAG 1, 4 (1962) the Attorney General held: "...it seems to me that in the interim period above-mentioned our legislature is not 'in session', and that, such being the case, there is nothing to prohibit the governor from exercising his constitutional power to call the legislature into special session during such interim period."

The Attorney General's opinion, as already stated, was issued in anticipation of a need for the calling of a special session (it was dated January 10, 1962). When the Legislature actually did return on June 18, 1962, both in special session in response to the Governor's proclamation, and in general session by virtue of its own petition under 1961 Jt. Res. 147,A., Senate President pro tem. Frank E. Panzer ruled, in reply to a point of order by Senators Stalbaum and Thompson, "that the legislature was in a regular session and a special session, but that the regular session had precedent over a special session." Senate Journal 6/19/62, p. 15; see also p. 12, p. 54 and p. 108.

TIME LIMITATIONS ON SPECIAL SESSIONS

There is no time limitation on the special session unless one is imposed by the Legislature itself as was done in 1937. Nor is there any time limit between the date of the proclamation and the date of convening. The following table illustrates the time sequence in the special sessions since 1905.

Year	Proclamation	Date of Convening	Days Between Proclamation and Convening	Date of Adjournment	Length of Session		
					Calendar Days	Meeting Days	
1905	11/21	12/4 3 p.m.	13	12/19	16	12S	14A
1912	3/18	4/30 3 p.m.	43	5/6	7	6S	6A
1916	10/3	10/10 2 p.m.	7	10/11	2	2S	2A
1918(1st)	1/14)	2/19 2 p.m.	36)	3/9	19	14S	14A
	2/1)		18)				
(2nd)	9/18	9/24 2 p.m.	6	9/25	2	2S	2A
1919	8/28	9/4 2 p.m.	7	9/8	5	4S	3A
1920	5/19	5/25 2 p.m.	6	6/4	11	7S	7A
1922	3/14	3/22 10 a.m.	8	3/28	7	4S	4A
1926	4/9	4/15 10 a.m.	6	4/16	2	2S	2A
1928(1st)	1/11	1/24 11 a.m.	13	2/4	12	9S	8A
(2nd)	2/27	3/6 11 a.m.	9	3/13	8	6S	6A
1931	11/16	11/24 10 a.m.	8	2/5	74	48S	42A
1933	12/2	12/11 10 a.m.	9	2/3	55	30S	35A
1937	9/11	9/15 10 a.m.	4	10/16	32	23S	23A
1946	7/25	7/29 10 a.m.	4	7/30	2	2S	2A
1948	7/10	7/19 10 a.m.	9	7/20	2	2S	2A
1958	6/7	6/11 2 p.m.	4	6/13	3	3S	3A
1962	6/15	6/18 11 a.m.	3	7/31	43	21S	21A

ORGANIZING THE LEGISLATURE FOR A SPECIAL SESSION*

The Senate is called to order by the Lieutenant Governor. Traditionally the Chief Clerk called the Assembly to order, but in 1937 after the Assembly had amended Rule 1 by Res. 48,A. to extend the term from "one session" to "the term for which he was elected to the Assembly", the Speaker elected at the regular session called the Assembly to order.** In 1946 and 1948, however, the Assembly reverted to the practice of having the Chief Clerk preside at the opening session. In 1958, the record shows "The speaker, Mr. Marotz, in the chair," but then continues that "Arthur L. May, chief clerk of the 1957 regular session, called the assembly to order." In 1962 the question did not arise because the Assembly assembled under 1961 Jt. Res. 147,A.

Both houses then proceed with the election of officers. For many years it was customary to elect all officers although, as we have pointed out, there was a question of whether or not the Speaker should be elected--and in the 1958 Special Session he was not elected anew. This issue was settled by Chap. 324, Laws of 1959, which created the office of Speaker pro tem. and provided that both Speaker and Speaker pro tem. are elected to their respective offices "to hold office for the term for which elected" (Sec. 13.097).

For the other officers--Chief Clerks and Sergeants at Arms--an election was still held in the 1958 Special Session (Res. 1,A.). This was done by the adoption of simple resolutions, adopted by each house, choosing the same officers who served for the regular session. They were then sworn into office as the officers of the 1958 Special Session.

Chap. 17, Laws of 1959, however, put the Chief Clerks and Sergeants at Arms of

* This procedure was not followed in 1962 when the Legislature was simultaneously in regular and in special session.

** Under Sec. 13.097 (1) this seems the preferable method.

both houses on a 2-year salary, creating the presumption that these officers also hold their office for the full 2-year term and thus do not have to be re-elected for a special session. This has now been clarified by the new rules adopted in the 1963 Regular Session and in both houses Rules 6 and 7 provide for the Chief Clerks and Sergeants at Arms, respectively, that each "shall hold his office for the full term of the Legislature (2 years)".

Under the current status of the laws of Wisconsin, and the rules of the Wisconsin Legislature, it appears that the Senate President pro tem. is now the only legislative officer who has to be elected anew at the beginning of a special session, because Senate Rule 2 continues to state that the President pro tem. is chosen only "for the Session".

Each house then notifies the other house that it is organized, makes provision for members of the resident clergy to open the daily sessions, and adopts its rules and joint rules. Both houses on occasion also adopted resolutions relating to seating, stationery and supplies. Finally they adopt a joint resolution to create a committee to wait on the Governor and inform him that both houses are organized.

In each session since 1905 committee organization has been provided for, but many of the sessions were so short that it is obvious that no committee hearings were held. In 1937 the Committee of the Whole appears to have been used extensively.

The following compilation indicates the provisions for standing committees made during the special sessions.

<u>Year</u>	<u>Senate</u>	<u>Assembly</u>
1905	Standing committees were created by resolution (see S.J., p.8).	Speaker announced same committees as in regular session (see A.J., p.10)
1912	Res. 1,S. held over same committees as in regular session.	Res. 1,A. held over same committees as in regular session.
1916	Res. 1,S. provided that no standing committees be appointed.	Res. 1,A. provided that no standing committees be appointed.
1918(1st)	Res. 1,S. held over same committees as in regular session.	Res. 1,A. held over same committees as in regular session.
(2nd)	Res. 1,S. held over same committees as in 1st special session.	Res. 1,A. held over same committees as in 1st special session.
1919	Res. 1,S. held over same committees as in regular session.	Res. 1,A. held over same committees as in regular session.
1920	Res. 1,S. held over same committees as in regular session.	Res. 1,A. held over same committees as in regular session.
1922	Same	Same
1926	Same	Same
1928(1st)	Same	Same
(2nd)	Same	Same
1931	Same	Same

<u>Year</u>	<u>Senate</u>	<u>Assembly</u>
1933	Same	Res. 2,A. provided that all bills go to Committee of Whole and no bulletin of hearings.
1937	Same	No Assembly resolution, but Jt. Res. 1,S. set the pattern.
1946	Same	Same
1948	Same	Res. 1,A. held over same committees as in regular session.
1958	Same	Same
1962	No action (1961 Jt. Res. 147,A.)	No action (1961 Jt. Res. 147,A.)

Within the limits established by the special rules, the mechanics of the special session are the same as a regular session. Bills, joint resolutions and amendments thereto are printed. A journal is kept. The acts are printed and the session laws are issued either as a separate volume or as part of the regular session volume.

Some of the same problems have arisen in connection with the publication of these records as have occurred in connection with the publication of the records of the adjourned sessions of recent years. The journals and session laws of some of the special sessions are so small that they tend to get lost. Some process of alerting the user to the existence of such volumes or of tying them into the volumes relating thereto in either the prior or subsequent regular session might facilitate their preservation.

REIMBURSEMENT OF MEMBERS AND STAFF FOR SPECIAL SESSION

Members of the Wisconsin Legislature receive a monthly salary throughout their terms of office, whether in session or not. Thus, a special session does not affect the amount of salary paid to legislators.

In 1921 when the salary was \$500 for the session the issue was raised as to whether 5 members who were elected to fill vacancies after the regular session was over were entitled to any compensation. In 10 OAG 243-5 the Attorney General held that Section 21 of Article IV of the Constitution as then worded expressly prohibited any payment.

Section 20.530 (1) (f) of the Wisconsin Statutes, as amended by Chapter 225 of the Laws of 1963, relating to the expenses of legislators establishing a temporary residence in Madison, grants "\$15, for each day of actual attendance at a session of the legislature, for expenses incurred for food and lodging during each regular session not to exceed 110 days and during each special session not to exceed 20 days. Such allowances shall be paid within one week after each calendar month; and shall be paid, upon the filing with such director (of the Bureau of Finance), the chief clerk's affidavit stating the number of actual days in attendance for all members of his house."

A letter from the Attorney General to the Commissioner of Administration, under the date of 10/15/63, held that the new expense allowance of \$15 per day does apply to the 1963 Legislature but that, since both houses had already been in regular session beyond the 110-day limit, the per diem would not be payable for a

continuation of the regular session. Thus, the \$15 per day expense allowance is payable for the first time in the special session beginning December 10, 1963. Pay eligibility will, in accordance with Sec. 20.530 (1) (f), be limited to 20 days and, as the Attorney General pointed out in his 10/15/63 letter, days of "skeleton session" will be counted in this number.

The 10¢ a mile rate for one trip to and from the Capitol applies "for each special or regular session" under Sec. 20.530 (1) (b), but the weekly mileage applies only to the regular session (see 20.530 (1) (g)). Thus, during a special session legislators are reimbursed for one round trip only.

Section 20.530 (3) (c) grants the Chief Clerks \$30 per day for any special session in addition to their interim salaries of \$150 per month, and 20.530 (4) (c) grants the Sergeants at Arms \$25 per day in addition to their interim salaries of \$125 per month.

The provisions relating to legislative staff do not appear to contain any restriction as to their employment for a special session as opposed to a regular session.

In 1928 the Attorney General held that a member was not entitled to travel expense for a special session unless he actually made the trip for the purpose of attending the session. (17 OAG p. 111-2; see also 7 OAG 116-8)

In 1928 the Attorney General held that the appropriation for clerical services at the end of the session under what was then Sec. 20.01 (9) of the statutes could be used at the end of the special session as well as the regular session. (17 OAG p. 170-1)

In 1922 the Superintendent of Public Property asked the Attorney General if the members who received a copy of the statutes, session laws, Blue Book and journals in 1921 were entitled to another copy by reason of the 1922 special session and the Attorney General said no. (11 OAG 235-7)

In 1905 the Assembly by rule provided for 17 employes and listed their positions, and the Senate provided for 12 which were also listed.

THE POLITICAL COMPOSITION OF THE LEGISLATURE

Although the political complexion of the State Legislature does not change drastically between a regular and special session, almost always there is some change due to unfilled vacancies caused by death or resignation. As many as 5 vacancies in the Assembly have existed when a special session was called. It would probably be well if the Chief Clerks would supplement the original roll call with a statement that the following seats are vacant due to death or resignation.

The following table shows the name and party of the Governor and the political composition of the 2 houses at the time the session began, noting the vacancies.

Year	Governor	Senate					Assembly						
		P	R	D	SD	Soc	R	D	SD	P	Soc		
1905	R. M. LaFollette(R)	--	27	4	1	--	(1)	85	11	4	--	--	
1912	F. E. McGovern(R)	--	27	4	2	--		59	29	12	--	--	
1916	E. L. Philipp(R)	--	18	11	1	--	(2)	57	28	8	1	--	(3)
1918(1st)	E. L. Philipp(R)	--	24	6	--	3	(4)	78	14	8	--	--	
(2nd)	E. L. Philipp (R)	--	24	6	--	3		78	14	8	--	--	
1919	E. L. Philipp(R)	--	27	2	--	4		78	5	--	--	16	(5)
1920	E. L. Philipp(R)	--	27	2	--	4		77	5	--	--	16	(6)
1922	John J. Blaine(R)	--	27	2	--	4		88	2	--	--	6	(7)
1926	John J. Blaine(R)	--	30	--	--	3	(8)	88	1	--	--	7	(9)
1928(1st)	F. R. Zimmerman(R)	--	31	--	--	2		87	3	--	--	8	(10)
(2nd)	F. R. Zimmerman(R)	--	31	--	--	2		88	3	--	--	8	(11)
1931	P. F. La Follette(R)	--	30	1	--	2		88	2	--	--	9	(11)
1933	A. G. Schmedeman(D)	12	12	8	--	1		14	59	--	23	3	(12)
1937	P. F. La Follette(P)	16	8	9	--	--		20	31	--	46	2	(13)
1946	W. S. Goodland(R)	4	21	6	--	--	(14)	71	18	--	6	--	(15)
1948	Oscar Rennebohm(R)	1	27	5	--	--		84	11	--	--	--	(16)
1958	Vernon W. Thomson(R)	--	22	10	--	--	(17)	65	32	--	--	--	(18)
1962	Gaylord A. Nelson(D)	--	20	9	--	--	(19)	55	44	--	--	--	(20)

- (1) Only 32 members.
(2) 3 Republicans no longer in Senate.
(3) 5 Republicans and 1 Democrat not in special session.
(4) One Socialist ousted and one Republican elected before special session.
(5) One Republican no longer in Senate.
(6) 2 Republicans died, one of whom was listed in (5).
(7) 3 Republicans resigned and one Republican died.
(8) One Republican died or resigned.
(9) 4 Republicans died or resigned.
(10) 2 Republicans died or resigned.
(11) One Republican died or resigned. One vacancy filled by a Republican.
(12) One unknown.
(13) One Republican died.
(14) One Progressive and one Republican died or resigned.
(15) 4 Republicans and one Democrat died or resigned.
(16) 4 Republicans died or resigned and one seat was vacant in regular session.
(17) One Republican died.
(18) One Democrat and one Republican resigned; one Republican died.
(19) 4 Democrats resigned.
(20) One Democrat resigned.

THE GOVERNOR'S MESSAGE

Invariably the Wisconsin Governors have, at the outset of a special session, transmitted or delivered a message elaborating on the items in the call. A Governor may submit other messages and this has been done. While most messages set forth the objectives of the session, the Governor has on occasion sought to suggest to the Legislature what procedures might be used to best carry out the objectives.

PROCEDURES IN A SPECIAL SESSION

Unless the Legislature or either house amend their rules or adopt special rules, the regular rules apply. The desire to expedite the session, however, has resulted in rules streamlining the procedures or restricting the introduction of measures.

In 1928 by Res. 3,S., and Res. 4,A., the Senate and Assembly adopted essentially the same restrictive rule. The Assembly version was as follows:

"Resolved by the assembly, That the rules of the assembly in force at the regular session of 1927 be and are hereby adopted as the rules of the assembly at this session except that all provisions requiring the lapse of any time or delay in any action or other matter are suspended, and that no notice of hearings before committees shall be required."

An effort in 1928 to adopt Jt. Res. 7,S., which would have streamlined committee procedures by creating joint committees to hold hearings failed to pass the Senate.

After convening on January 24 the Assembly approved on January 26 and the Senate concurred in on January 27, Jt. Res. 18,A., which stated:

"Whereas, the time of the legislature is wasted by the consideration of resolutions that are of little, if any, importance. Therefore, be it

"Resolved by the assembly, the senate concurring, That no resolution be hereafter received or considered by either house, other than resolutions relating to conduct of legislative business, and adjournment, memorial resolutions on the death of members and former members and resolutions relating to the special purposes for which the legislature is convened."

The Senate put this same proposal in as Jt. Res. No. 1,S., at the beginning in the second special session of 1928, but the Assembly nonconcurred in it. However, Jt. Res. 4,A., of the same import was adopted and concurred in.

The very next day, however, on January 27, the Assembly adopted a joint resolution relating to a study of unemployment conditions and a joint resolution commending Al Smith for his splendid record as Governor of New York and both resolutions were concurred in. (1st S.S. 1928, A.J., pp. 70-2) Similarly on January 31 a joint resolution authorizing the Board of Control to grant an easement to the City of Waukesha was adopted and subsequently concurred in.

In 1937 the ground rules under which the special session was to operate received a great deal of attention. At the outset Jt. Res. 1,S., was adopted after 8 amendments, one amendment to an amendment, and one substitute amendment were introduced in the Senate and one amendment was introduced in the Assembly. As finally approved, Jt. Res. 1,S., read as follows:

"Relating to rules governing the senate and assembly in the 1937 special session.

"Whereas, It is in the public interest that the work of this session be expedited; therefore, be it

"Resolved by the senate, the assembly concurring, That during the special session of 1937

"(1) The rules of each house and the joint rules in force during the regular session of 1937 are hereby adopted except as they are changed by the special rules hereinafter provided;

"(2) No memorials to congress shall be considered in either house;

"(3) No resolutions shall be considered excepting necessary procedural resolutions;

"(4) No bills shall be introduced after September 22nd of the 1937 special session, excepting by the Joint Committee on Finance, or the Committee on Judiciary of either house, except bills on subjects included in subsequent additions to the Governor's call after September 14, which bills must be introduced not later than 5 days after the publication of such additions to the call;

"(5) Beginning September 20 the legislature shall convene not later than 10:30 A.M. on Monday of each week and not later than 10:00 A.M. on Tuesday, Wednesday, Thursday and Friday of each week;

"(6) During the special session of 1937 all measures introduced shall have a single joint hearing before the appropriate committees from each house within 48 hours after such reference. Each measure shall be reported back to the house of introduction not less than two days after the hearing, bearing the recommendations of the joint committees that shall sit at the joint hearings;

"(7) During the special session of 1937 no motion to lay over a bill for more than one calendar day at a time shall be entertained in either house. In the assembly a motion to reconsider the laying over a bill shall be taken up immediately;"

On October 4, 1937 in his message to the Legislature the Governor said (S.S. 1937, S.J., pp. 72-3):

"Let me further emphasize that if the legislature would put in eight hours a day, six days a week for the next two weeks, you would have more actual time to discuss, deliberate and act upon these matters than you put in during two months of the regular session ...

"I specifically recommend that your rules be amended in the following particulars:

"Special Rule Number I. That the senate and assembly shall meet on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday not later than ten o'clock in the morning and shall remain in session at least eight hours each of these days during the special session of 1937.

"Special Rule Number II. That the special session of the 1937 session of the legislature shall adjourn sine die at 12 o'clock noon, October 16.

"Special Rule Number III. That all bills relating to any amendment of the original call for the 1937 special session of the legislature shall be introduced by the joint committee on finance with a recommendation for passage or indefinite postponement and shall be referred by the presiding officer of each house to the next calendar day following their introduction and recommendation by the said joint committee on finance. All measures relating to amendments of the original call of the 1937 special session shall not be referred to any other committee than the joint committee on finance, and any hearings on such measures shall be before the committee of the whole

of the respective houses. All substitute amendments to measures relating to additions to the call for the special session of 1937 shall be treated as amendments. Any legislation affecting the amendments to the original call for the special session of 1937 that shall pass in either house shall be messaged immediately to the other house for its consideration."

Jt. Res. 5,S., incorporating these provisions was introduced October 4 and concurred in October 6, 1937. There was formal objection to the rigidity of this proposal from both the Governor's political opponents and proponents but it was approved.

When the proposal reached the Senate for adoption Senator Callan rose to a point of inquiry as to whether it required a 2/3 vote and Lieutenant Governor Gunderson handed down the following opinion (S.S. 1937, S.J., p. 94):

"The question of whether a majority or a 2/3 vote is necessary to adopt Jt. Res. No. 5,S. has given me a great deal of trouble for the last two days. I have hunted for precedents and have consulted personally with authorities in whom I have great confidence.

"The chief of the legislative reference library has been very kind and submitted to me a written opinion holding that a bare majority is all that is necessary for the adoption of this resolution. My prejudices incline me to this view as I am thoroughly convinced that the governor's present legislative program would be very beneficial to the state if put into effect.

"But it seems impossible for me to ignore the plain words of joint rule No. 15 that requires a 2/3 vote to rescind, amend or suspend a standing rule and I must so hold."

In 1937 by Jt. Res. 1,S., introduced September 15 the Legislature adopted the rules of each house and the joint rules in effect during the regular session of 1937 except as they were changed by the special rules listed thereafter. This joint resolution adopted 32 to 1 and concurred in 87 to 6 as amended. The Senate then concurred in the amendment 20 to 9 and it was adopted.

On October 4 Jt. Res. 5,S., was introduced seeking to amend the special rules then in effect. On October 6 Senator Callan rose to a point of inquiry to ascertain whether a 2/3 vote was required to adopt the resolution. The President of the Senate, as quoted above, ruled that a 2/3 vote was required under Joint Rule No. 15, which covered the rescinding, amending or suspension of a standing rule. This joint resolution was adopted 27 to 4 and concurred in 61 to 21.

The distinction between the vote necessary for Jt. Res. 1,S. and 5,S. was that by Jt. Res. 1,S., the Legislature adopted its rules for the session while by Jt. Res. 5,S., it amended the rules then in effect.

The provision of Jt. Res. 5,S., relating to the 8-hour working day haunted the Legislature throughout the session because they could not adjourn until 6 p.m. At first the presiding officer ruled that the special rule to work 8 hours did not affect the constitutional right to adjourn (S.S. 1937, S.J., p. 111) but later he ruled that the special rule applied and that the Senate could not adjourn until 6 p.m. (S.S. 1937, S.J., p. 126) Having apparently completed their work for the day prior to 6 p.m. on October 9, "Senator Coakley asked unanimous consent that the senate be informal until 5:59 o'clock this afternoon." When Senator Kannenberg

objected, Senator Risser moved that the Senate be informal until 5:59 of that evening and at 6:00 o'clock should adjourn, and this motion prevailed. At 5:59 o'clock p.m. the President took the chair. At 6:00 o'clock p.m. Senator Duel moved that the Senate adjourn. The motion prevailed and the Senate adjourned until 10:00 o'clock next Monday morning.

At the special session of 1946 the ground rules were established by Jt. Res. 1,S., which provided as follows:

"Relating to rules governing the senate and assembly in the 1946 special session.

"Whereas, It is in the public interest that the work of this session be expedited; therefore, be it

"Resolved by the senate, the assembly concurring, That during the special session of 1946 -

"(1) The rules of each house and the joint rules in force during the regular session of 1945 are hereby adopted except as they are changed by the special rules hereafter provided.

"(2) No memorials to congress shall be considered in either house.

"(3) No resolutions shall be considered excepting necessary procedural resolutions.

"(4) During the special session of 1946 all measures introduced shall have a single joint hearing before the appropriate committees from each house. Each measure shall be reported back to the house of introduction within two days of the hearing bearing the recommendation of the joint committees that shall sit at the joint hearing.

"(5) No notice of hearings before committees shall be required other than posting on the legislative bulletin boards, and no bulletin of committee hearings shall be published.

"(6) During the special session of 1946 no motion to lay over a bill for more than one calendar day at a time shall be entertained in either house. In the assembly a motion to reconsider the laying over a bill shall be taken up immediately."

This joint resolution required only a majority vote but was adopted 31-0 and concurred in 90-1.

An identical measure was adopted as Jt. Res. 1,S. at the beginning of the 1948 Special Session. It was adopted 20 to 12 by the Senate and concurred in without a record vote.

In the 1958 Special Session, the Legislature by Jt. Res. 1,A., adopted the rules of the 1957 General Session with such modifications as set out in the joint resolution. The joint resolution was adopted in the Assembly without roll call vote; the Senate concurred 29 to 1. It is of particular interest to note that for the special session Joint Rule 26, relating to certificates of congratulations or condolence, was specifically suspended.

"Relating to the rules governing the assembly and senate in the 1958 special session.

"WHEREAS, it is in the public interest that the work of this session be expetited; therefore, be it

"Resolved by the assembly, the senate concurring, That during the special session of 1958

"(1) The rules of each house and the joint rules except joint rule 26 in force during the regular session of 1957 are hereby adopted except as they are changed by the special rules hereinafter provided.

"(2) No memorials to congress shall be considered in either house.

"(3) No resolutions shall be considered excepting necessary procedural resolutions.

"(4) During the special session of 1958 all measures shall have a single joint hearing before the appropriate committees from each house. Each measure shall be reported back to the house of introduction within 2 days of the hearing bearing the recommendation of the joint committee that shall sit at the joint hearing.

"(5) No notice of hearings before committees shall be required other than posting on the legislative bulletin boards, and no bulletin of committee hearings shall be published.

"(6) During the special session of 1958 no motion to lay over a bill for more than one calendar day at a time shall be entertained in either house. In the assembly a motion to reconsider shall be taken up immediately.

"(7) During the special session of 1958 except as otherwise provided by the constitution or statutes, all actions may be taken by majority vote."

In the session which began June 18, 1962, both officers and rules were considered as holding over from the regular session. Governor Gaylord A. Nelson had called a special session on legislative and congressional apportionment to begin at 11 a.m. on that date. However, the 1961 Legislature was technically still in session when the call was issued, though adjourned under the provisions of 1961 Jt. Res. 147, A., to return for one hour on January 9, 1963, unless recalled earlier by the presiding officers of the 2 houses on the petition of the majority of the members of each house. Both houses utilized this procedure to call themselves back into session for 10:30 a.m. of June 18, 1963. The record shows that both houses did in fact convene at 11 a.m. on that date.

In the Assembly, the session was opened on 6/18/62 by a reading of the petition under 1961 Jt. Res. 147, A., followed by a reading of the proclamation by the Governor. Mr. Haase then "raised the point of order that the Governor's call for a Special Session within a regular session was not a legal call". Assembly Journal 6/18/62, p. 3. Speaker David Blanchard took the point of order under advisement, and ruled later in the same day (p. 6):

"On June 18, 1962 the gentleman from Marinette raised the point of order that the Governor could not legally call the legislature back into session because the legislature was actually in session under Joint Resolution No. 147, A.

"At 11 a.m. on the 18th of June when the assembly was convened, the speaker announced that a majority of both houses of the legislature having

petitioned for the reassembling of the legislature at 11 a.m. on June 18, 1962, the legislature had reconvened under the terms of Joint Resolution No. 147, A. The chief clerk then read the Governor's proclamation calling the legislature into special session. The gentleman from Marinette then raised the point of order that the proclamation was of no effect because the legislature was actually in session.

"The chair rules that at the time the point of order was raised, the legislature was already in session, and the point of order is now moot and the legislature is now in regular session."

In the Senate, the record makes it clear that the proclamation by the Governor was received prior to the petition under 1961 Jt. Res. 147, A. President pro tem. Frank E. Panzer ruled (S.J. 6/19/62, p. 14-15) that the Legislature was concurrently in special and in general session:

"On June 18, 1962 the senator from the 21st raised the point of order that as of 1:40 p.m. on June 18, 1962 the legislature was in special session by the reading of the Governor's Proclamation. The president pro tempore deferred ruling on the point of order.

"The events leading up to the point of order involved here are without precedent in the history of this state. To rule hurriedly in this instance might have a grave effect upon subsequent events in the legislature.

"The record speaks for itself. The legislature assembled at the call of the governor, and subsequent thereto the senate reconvened itself in regular session in accordance with the procedures set forth in Joint Resolution No. 147, A. Thus the legislature is in session both by reason of a call by the Governor and by its own action. This is entirely plausible. In 1960 the California legislature held regular annual budget sessions and special sessions as a result of a call of the Governor at the same time.

"The legislature has the alternative of operating as a special session or as an extension of the regular session. It is the opinion of the chair that the legislature is properly assembled under the provisions of Jt. Res. No. 147, A., but that in order to assure that proper records may be kept by the chief clerks, the chair gratuitously recommends that the legislature adopt a joint resolution adjourning the special session so that it is quite clear that they are operating under a single authority."

For neither house is there any record that the 1962 Special Session--as opposed to the concurrent extension of the 1961 Regular Session--was ever adjourned.

EVASION OF THE RULES

During the 1937 special session 2 efforts were made to evade the rule prohibiting all but necessary procedural resolutions.

On October 6 Senator Cashman submitted a motion in writing to the effect that the Department of Agriculture and Markets be requested to provide to each member of the Senate a copy of the department's recent order on the matter of Bang's disease test regulation covering the transfer of cattle. The motion was adopted and the Chief Clerk sent the request.

On October 7 Senator Cashman offered a joint resolution memorializing the President of the U.S. and Congress to keep the U.S. out of foreign wars, alliances

and controversies. The President of the Senate held that the joint resolution was not admissible under the special joint rules governing the special session. Then Senator Kannenberg asked unanimous consent that the Chief Clerk be instructed to transmit a letter to the U.S. President and Secretary of State expressing the opinions contained in the joint resolution. There was objection. The Senator then moved that the Chief Clerk do as directed. Senator Bolens then raised the point of order that the motion was not in order as it was an evasion of the joint rules in that it sought by indirection to accomplish that which had been prohibited by the joint rules. The President of the Senate held the point of order well taken.

LIMITATION ON THE NUMBER OF PROPOSALS INTRODUCED AT A SPECIAL SESSION

There is no limitation on the number of proposals which may be introduced or approved at a special session so long as they meet the requirement of being germane to the call or are unrestricted by the call; however, the rules adopted for the special session may limit the right to introduce measures to specified committees or unanimous consent.

With the exception of the special session called for June 18, 1962, all Wisconsin Legislatures had adjourned sine die before a Governor called a special session. Thus the problem, "can the Legislature in special session advance the status of a bill (the physical bill, not the proposal introduced under a new number) still pending before the current (though adjourned to a date specific) general session?", has never arisen. The 1961 Legislature, meeting simultaneously in adjourned session and special session during June and July of 1962, only took action on such pieces of legislation as had been introduced after June 18, 1962, the date on which the special session convened. Some of the proposals introduced during the special-adjourned session were identical to the proposals considered earlier in the general session and returned to author or adversely disposed of: but, they were reintroduced after the June 18, 1962 date, and they were assigned a new number (though continuing in the sequence of the 1961 regular session) before any legislative action was taken. Only one measure was enacted into law (1961 Bill 816, S.) and this law, because of the special nature of the concurrent special-adjourned session, was assigned a session law number (Chap. 689, Laws 1961) continuing in the sequence of the 1961 regular session.

The table on the following page indicates the proposals introduced and laws enacted in the special sessions since 1905.

Year	Bills introduced	Laws enacted	JR amending Constitution introduced	JR amending Constitution adopted	Other JR introduced	Other JR concurred in	Resolutions introduced	Resolutions adopted
1905	24	17	--	--	15	12	26	25
1912	41	22	--	--	7	5	7	7
1916	2	2	--	--	8	8	4	4
1918								
1st	27	16	--	--	22	15	28	23
2nd	2	2	--	--	6	5	9	9
1919	7	7	--	--	4	3	6	6
1920	46	32	1	--	9	6	22	22
1922	10	4	--	--	7	7	12	12
1926	1	1	--	--	8	7	12	12
1928								
1st	20	5	--	--	35	23	23	22
2nd	13	2	--	--	9	5	17	15
1931	99	31	3	--	90	74	83	62
1933	45	25	1	--	159	108	53	42
1937	28	15	--	--	18	6	23	21
1946	2	2	--	--	6	6	14	14
1948	--	--	1	1	4	4	11	11
1958	3	3	--	--	7	7	13	13
1962*	15	1	8	1	19	15	6	6

* All legislation introduced in the session beginning June 18, 1962, was numbered in the regular sequence of the general session, but all bills were germane to the call of the special session.

THE MAIN BUSINESS OF THE SPECIAL SESSION

The basic concept of the special session is that it is called for the specific purposes outlined in the Governor's call which lays out in some detail the substantive limitations on the proposals initiated. The Legislature by its own ground rules may further limit the activities of the session.

Basically the call affects the activities of the session in the following ways:

1. It spells out the objectives of the legislation which the session may consider.
2. It leaves to the Legislature the means of accomplishing these objectives including the procedural changes desired to expedite action.
3. It permits the Legislature to propose without restrictions joint resolutions and resolutions except joint resolutions amending the Constitution unless the latter are provided for in the call.

Scope of Legislature's authority during special session. Two important discussions of this concept of the scope of the Legislature's authority may be cited. The first is a 1922 opinion of the Attorney General which provided:

"Although call for special session of legislature specifies in minute detail laws which the governor wishes enacted, legislature has power under Sec. 11, Art. IV, Constitution, to enact any law designed to accomplish the objects of legislation suggested in the call." 11 OAG 249

This was further elaborated in 1933 when Lieutenant Governor Thomas J. O'Malley ruled that in a special session the Legislature may only act upon such matters as are specifically included in the Governor's call, but that it may act on them in any manner it sees fit. Senator Mueller had risen to the point of order that a bill was not germane to the Governor's call for the special session.

"On December 19, 1933, the Lieutenant Governor ruled that (S.S. 1933, S.J. p. 77):

"The point of order made against introduction of Bill No. 3, S., is not well taken.

"Section 11 of Article IV of the Constitution prescribes what business may be brought before the legislature when convened in a special session. This section provides that when the legislature has been convened by the Governor in special session 'no business shall be transacted except as shall be necessary to accomplish the special purposes for which it was convened.'

"No less than 26 other states have clauses in their constitutions which are substantially the same as the clause in our Section 11 of Article IV. How these clauses have been construed is discussed in a very complete manner in an article by M. T. Van Hecke on 'Legislative Power at Special Sessions' which was published in the Cornell Law Quarterly in 1924, Vol. 9, pages 447 to 462. From this article it appears that there has been a considerable variety of opinion in the decisions of Supreme Courts in various states upon this point. The general doctrine, however, is clear, namely, that the legislature may deal only with the subjects included in the Governor's call, but may deal with them in any manner that it sees fit, and not merely in the manner suggested by the Governor.

"I believe there is no question as to the germaneness of Section 1 of Bill No. 3, S.

"Section 2 is as follows:

"Section 2. A new section is added to the statutes to read: 139.015 REFUNDS. (1) Every brewer within or without the state who pays the tax required by section 139.01 shall be entitled to a refund of such portion of the tax so paid by him as equals ten cents per barrel, provided that sixty-six and two-thirds per cent or more of the grain used in the manufacture of the fermented malt beverage upon which such tax was paid consists of barley produced in Wisconsin or malt made from barley produced in Wisconsin.

"The third subject in the Governor's call is as follows:

"(3) To provide for a tax on fermented malt beverages regardless of alcoholic content from the effective date of the repeal of the 18th Amendment to the United States Constitution, equal to the tax heretofore imposed on fermented malt beverages containing 3.2% of alcohol by weight.

"While Section 2 of Bill No. 3, S., does not deal with the matter of a tax in the manner suggested by the Governor it does deal with a subject specifically included in the Governor's call and I therefore hold that the bill is germane." (See also 17 OAG 171-6, 1928, for discussion of the scope of authority under the call; 15 OAG 163, 1926; 17 OAG 181, 1928; 20 OAG 1115, 1931)

Germaneness of original proposals and amendments. The germaneness of original proposals and amendments to the call has been raised on many occasions, sometimes in sincerity and sometimes as a tactical move. Very frequently the decision has been made at the time the point is raised but occasionally the reasoning behind a decision is given. Following are some instances of matters not considered to be within the call.

"Governor's Call for the 1931 Special Session included (6) To provide necessary state revenues for unemployment relief and tax reduction by providing for an emergency tax upon net incomes, on gifts, on chain stores and inheritance tax. Bill No. 50, A., proposing a tax on pelts of all fur-bearing animals which are being raised for commercial purposes, for unemployment relief, was held not included within the executive call." Speaker Perry, S.S. 1931, A.J. p. 246

"Where special session is called by the governor to make emergency appropriation in addition to that already provided for bovine tuberculosis eradication, action is not permitted on any proposed amendments to statutes relating to maximum specific indemnities to be paid upon condemnation and slaughter of animals." 15 OAG 249

"Bill No. 5, A., provided for a state regulatory system for the sale and manufacture of intoxicating liquor and a state fund for old age pensions. The governor's call for this special session includes five specific subjects which relate to the regulation of the manufacture, sale and transportation of alcohol beverages, a tax on such beverages and on fermented malt beverages of alcoholic content and confirmation of any appointments to office under any legislation that may be enacted. Clearly, the subject of old age pensions is not included within the call and any bill providing for such legislation cannot be considered at this special session. Since Bill No. 5, A., includes two subjects, one being germane and the other not germane, the entire bill

must be considered not germane, as the old age pension provisions are an integral part of the bill, the bill as a whole must be considered. Point of order raised against bill No. 5, A., was sustained." Speaker Young, S.S. 1933, A.J. p. 122

"Any bill relating to the subject of the prevention of frauds under the income tax laws, or to correct or prevent errors, or to impose penalties for violations or making appropriations for these purposes, was included within the call for the special session of 1922, but a bill dealing with exemptions under the income tax law was not included." 11 OAG 249

On March 9, 1928 the Attorney General ruled that a proposal to transfer un-expended appropriation balances made by previous session does not come within the call requiring an appropriation of funds.

Again in 1928 Amendment No. 1, S., to Amendment No. 1, A., to Bill No. 9, S. was held germane because the call provided for the enactment of new statutes relating to revenues as well as the enactment of appropriations for the State Board of Control. S.S. 1928, S.J. p. 70

In 1937 Amendment No. 4, S., to Bill No. 3, S. was held not germane because the allotment of funds for snow removal was not part of a program of highway safety promotion within the meaning of the call. S.S. 1937, S.J. p. 42

In the 1958 Special Session several amendments to a bill (the bill itself being germane to the call) were objected to as not germane to the call. Lieutenant Governor Warren P. Knowles held (S.S. 1958, S.J. p. 37):

"On June 13 the senator from the 26th introduced amendment No. 3, S. to Bill No. 2, A. The senator from the 5th raised the point of order that amendment No. 3, S. was not germane to the call.

"Amendment No. 3, S. changes the 20 day temporary assistance to 30 days. The senator from the 5th argues the call relates to the eligibility of Wisconsin residents who leave the state of Wisconsin but return within one year. The amendment expands the eligibility of persons other than Wisconsin residents who have left the state and returned in addition to such people, and therefore extends beyond the scope of the call. It is a well established fact that any proposal which goes beyond the scope of the call is not germane to the call. The argument on this point of order is extremely technical. Precedents however show that previous presiding officers, including the rulings by the President Pro Tem in rulings made this morning, have given a liberal construction to the provisions of amendments offered to bills considered at special sessions. The presiding officer desires to be eminently fair and if necessary to lean over backward to permit free discussion of all matters pertaining to bills before the legislature at this session. Therefore, the chair rules that the amendment No. 3, S. is germane and the point of order raised by the senator from the 5th is not well taken."

SPECIFIC ITEMS WITH WHICH A SPECIAL SESSION MAY OR MAY NOT DEAL

Over the years, experience has set forth a variety of decisions regarding items which the special session can or cannot consider. Some of these are as follows:

Confirming appointments of the Governor. In the 1st Special Session 1928 confirmation of appointments by the Governor was specifically indicated in the call. In the 2nd Special Session 1928 it was not. On March 6 at the 2nd Special

Session 1928 an appointment came up for confirmation and Senator Hunt raised the point of order that the appointment could not be considered because it was not included in the call. The president ruled that the point of order was not well taken. (2nd S.S. 1928, S.J. p. 7) On January 23, 1928 the then Chief of the Legislative Reference Library, Mr. Edwin E. Witte, prepared a memorandum which stated in part: "The Legislature in special session assembled has all the powers of the Legislature in regular session except that it may not transact business not included (read: may not act on bills not germane) within the call of the Governor. Thus, the Senate may confirm appointments, although this matter is not mentioned in the call of the Governor as has been the case in the calls issued for special sessions other than the present one."

In a similar vein, the Attorney General had ruled in 1919 "that anything which in its nature was a mere expression of opinion might well be considered as something less than the transaction of business." 8 OAG 664

There was, however, a difference between the earlier appointment precedents, and the question of action by the 1963 Senate meeting in special session acting on appointments held over. In each of the earlier precedents, the special sessions had followed after the adjournment sine die of the regular session. Thus all appointments put before the regular session had already been disposed of, and such appointments as could be acted upon by the special session were submitted to the Senate during, or in anticipation of, the special session. Therefore--whether or not the Governor had mentioned appointments in his call--each appointment acted on during a special session had been specifically submitted by the Governor for action during the special session.

On this basis, it must be assumed that, during the 1963 Special Session of the Wisconsin Legislature, the Senate could act on any appointments submitted to it by the Governor, whether mentioned in the call or not, in anticipation of the special session or during the special session, but that it cannot act on appointments held over from the regular session.

The same rule as applies to legislative action during a special session on bills, joint resolutions, or resolutions, also applies to appointments: when the Legislature convenes in special session there is nothing before it, and it can act only on such measures as are placed before it in anticipation of the special session or while the special session is in progress.

Joint resolutions amending Constitution. There is a precedent in each house for holding that a joint resolution amending the Constitution is not in order at a special session unless such matter was included within the Governor's call. (See also 23 OAG 65-7)

At the 1931 Special Session, Jt. Res. 13, A., to amend the Constitution by adding thereto Sec. 12, Art. VIII, relating to the production and distribution of the necessities of life, was before the Assembly. "On point of order raised by Mr. Carow that the joint resolution was not within the executive call for the special session, the speaker held the point of order well taken and the joint resolution not properly before the Assembly." Speaker Perry, S.S. 1931, A.J. p. 145

On January 31, 1934, the Senate had under consideration Jt. Res. 58, S., proposing a new section of the Constitution to permit the consolidation of county and municipal governments in Milwaukee County. "Senator Cashman rose to the point of order that the joint resolution was not in order, as a joint resolution proposing an amendment to the constitution cannot be considered at a special session when such matter is not included within the governor's call for the special session.

The president pro tempore citing a former precedent directly in point, held the order well taken." Sen. Loomis, 2nd S.S. 1933, S.J. p. 349

Resolutions and memorials expressing opinions of the Legislature. It has been held that under the call a resolution or memorial expressing an opinion may be considered. It should be noted, however, that the Legislature has frequently prohibited such proposals by restrictions in the rules. Thus at least 2 such resolutions were held out of order in 1937 as prohibited by the rules. (S.S. 1937, S.J. p. 224; S.S. 1937, S.J. p. 231)

"In the absence of authority establishing that the passage of resolutions, or the adoption of memorials merely expressive of the opinion of the legislature constituted business, it would seem to follow that the legislature was not prohibited to express its opinions by this means, if it so saw fit." 8 OAG, 663-664 (1919)

Investigating committees. On January 23, 1928, Mr. Edwin E. Witte, Chief of the Legislative Reference Library, prepared a memo stating that there was precedent for the Legislature to create an investigating committee although not set forth in the call, and citing Jt. Res. 5, A., 1905 Special Session, relating to an investigation of the university, and Jt. Res. 8, S., 1918 1st Special Session, relating to an investigation of reconstruction after the war. A similar joint resolution, Jt. Res. 11, A., 1928 Special Session, providing for an interim legislative committee to study the educational system of the state and make recommendations to the Legislature of 1929, was held in order although there was no mention of this subject in the call. S.S. 1928, S.J. p. 49

Petitions. In 1937 the chair ruled that a petition could not be received under the rules in effect for the session. S.S. 1937, A.J. p. 32

SUMMARY OF PROPOSALS ON WHICH POINTS OF ORDER WERE RAISED.

By and large either the legislators have not introduced measures which were not germane or the presiding officers have taken a liberal view toward what was germane. In only 3 of the 16 special sessions since 1905 have any proposals been dropped because they were not germane. During one other, 1937 Joint Resolutions 4, A., 5, A. and 6, A. were dropped because they were not proper under the joint rules in effect.

Ruled not germane:

1912 Joint Resolutions 2, S. and 2, A.
1931 Bills No. 12, S.; 20, S.; 22, S.; 30, S.; 33, S.; 34, S.; 41, S.;
17, A.; 21, A.; 23, A.; 24, A.; 29, A.; 30, A.; 31, A.; 38, A.; 40,
A.; 46, A.; 47, A.; 50, A. and Joint Resolutions 10, S.; 13, A.; 18,
A. and 19, A.
1933 Bills No. 11, S. and 5, A. and Joint Resolutions 58, S.; 21, A. and
and 25, A.

GERMANENESS QUESTIONED IN SECOND HOUSE

Normally under the principle of comity the house does not question the germaneness of a proposal initiated in the other house, but this principle has not been adhered to in the special session. Senator Schumann raised the point of order that Jt. Res. 11, A., 1st Special Session 1928, was not germane to the call. The president held that the resolution was in order under the call. No mention was made of the fact that the proposal originated in the Assembly. S.S. 1928, S.J. p. 49

Senator Severson raised the point of order that Jt. Res. 17, A., 1st Special Session 1928, was not germane to the call. In this case the president held the point of order not well taken inasmuch as Jt. Res. 17, A., had originated in and been considered by the Assembly. S.S. 1928, S.J. p. 53

In 1937 the Senate raised the point of order that Joint Resolutions 4, A., 5, A., and 6, A., were not in order under Jt. Res. 1, S., which provided that no resolution except necessary procedural resolutions be considered. In each case the point of order was considered well taken. S.S. 1937, S.J. p. 277

VETOES

The power to veto may be exercised during a special session as well as during a regular session. Even the partial veto may be and has been used. Since 1905 the veto has been used in 5 special sessions (including the 1962 concurrent special-adjourned session) on a total of 9 bills. In no case has the veto ever been overridden. The vetoed measures are as follows:

1918 1st Special Session	Bills 12, S., and 5, A.
1922 Special Session	Bill 2, A.
1931 Special Session	Bills 45, A., and 48, A.
1937 Special Session	Bill 1, S., partially vetoed
1962 June-July Session	Bills 814, S., 815, S., and 817, S.

ADJOURNMENT

While the Governor has the sole power to convene the Legislature in special session, he has no authority to adjourn it. The Governor has on occasion hinted that his requests could be handled quickly, but he can do nothing about it. The Legislature sets the date and time of adjournment by joint resolution. In 1916 no date was set for adjournment. The joint resolution merely stated the Legislature would adjourn upon receipt of information from the Governor that he had no further communication to make to this special session. The resolution of adjournment may originate in either house. Usually a joint resolution is adopted near the close of the session authorizing a joint committee to wait on the Governor, inform him that the Legislature has completed its work and ascertaining if he has any further communication to put before the Legislature.

ATTORNEY GENERAL'S OPINIONS RELATING TO SPECIAL SESSIONS

7 OAG 49	(1918)	Call by Governor.
7 OAG 116	(1918)	Salary and mileage for special session.
8 OAG 663	(1919)	Joint Resolution is not "business" and therefore permitted even though subject is not in the call.
10 OAG 243-5	(1921)	Salary for special session.
11 OAG 235	(1922)	Perquisites of office.
11 OAG 249-54	(1922)	Scope of authority under the call.
15 OAG 163-5	(1926)	Scope of authority under the call.
17 OAG 111-2	(1928)	Compensation for special session.
17 OAG 166-8	(1928)	Joint Resolution does not have force of law.
17 OAG 170-71	(1928)	Appropriation for staff.
17 OAG 171-76	(1928)	Scope of authority under call.
23 OAG 65	(1934)	Joint Resolution amending Constitution cannot be considered under call.
37 OAG 374	(1948)	Calling special session.
51 OAG 1	(1962)	Calling special session while Legislature, though adjourned, is technically still in session.

OUR LATEST PUBLICATIONS

LEGISLATIVE REFERENCE LIBRARY

Research Bulletin:

RB-141 A Guide to the Wisconsin Blue Book, 1853 to 1962.
February 1963.

Informational Bulletins:

- IB-222 A Chronological Listing of Important Events in the History of Wisconsin Legislative and Congressional Apportionment, 1950 to December 31, 1962. January 1963.
- IB-223 Wisconsin Vote for Governor 1954 to 1962, by County: Republican Plurality, Per Cent, and 5-Election Average. January 1963.
- IB-224 Three Proposed Amendments to the Wisconsin Constitution to be Submitted to the April 1963 Election. March 1963.
- IB-225 Full-Crew Laws in Wisconsin: Highlights of Their History. April 1963.
- IB-226 Annual Versus Biennial Legislative Sessions. April 1963.
- IB-227 Analysis of the Family Code: Establishment and Termination of Marriages in Wisconsin. May 1963.
- IB-228 Mathematics of Apportionment Applied to the Wisconsin Assembly. May 1963.
- IB-229 The Evolution of the Occupational Motor Vehicle Operator's License in Wisconsin. June 1963.
- IB-230 The Parole of County Jail Prisoners Under the Wisconsin Huber Law. June 1963.

LEGISLATIVE REFERENCE BUREAU

Informational Bulletins:

- IB-63-1 Medical Care for the Aged in Wisconsin. October 1963.
- IB-63-2 The School Aid Formula in Wisconsin: A Brief Review of its Development. October 1963.
- IB-63-3 The 1963 Executive Vetoes in Wisconsin. October 1963.