

SECRETARY OF STATE: Not duty of to call House of Representatives together in extra session.

11226 RS Mo 1929

October 11th, 1933.

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Hon. Dwight H. Brown
Secretary of State
Jefferson City, Missouri

Dear Mr. Brown:

This department acknowledges receipt of your letter of September 27th wherein you request an opinion as to your duties with reference to the extra session which convenes October 17th. Your letter is as follows:

"An official today raised the question with me as to whether or not it is my constitutional duty to call to order the House of Representatives when it convenes in extra session on October 17.

I have been under the impression that the organization of the Legislature at a regular session, continues throughout the biennium, unless by resolution one or both bodies adopt resolutions providing for re-organization for the extra session, and my impression has been that such decision to re-organize would come after the body had been called to order and had proceeded to business.

Kindly advise me whether or not it is my constitutional duty to call to order the House of Representatives. An early reply will be greatly appreciated."

By statute, when the General Assembly convenes in regular session, it is your duty to call the House of Representatives together, the Section being 11226 R. S. Mo. 1929 which is as follows:

"The general assembly shall meet on the first Wednesday after the first day of January in the year 1861, and on the corresponding day in January every second year thereafter; and at 12 o'clock of the day fixed by law for the convening of the legislature, it shall be the duty of the secretary of state, or, in case of his death, absence or inability to act, some other person to be designated by the governor, to call the house of representatives together and preside over its deliberations until a temporary organization shall have been effected."

But this, being an extra session, we are to be guided by precedent. In 1861 there was a special session called by the governor and the House of Representatives was not called together by the Secretary of State, the officers of the General Assembly acting as officers until an election or resolution was voted upon and the officers for the session were declared elected. An extra session was called by the governor of Missouri in 1867 on page 5 of the House Journal and in that session the officers of the General Session remained as officers until a resolution was offered and the same was voted upon. In 1895 Governor Stone called an extra session, as shown by House Journal on page 5. In that session the House was called to order by Speaker Russell. A resolution was offered relating to the officers of the organization and the same was voted upon. On Tuesday, June 14th, 1921, pursuant to a call by Governor Hyde, as shown in House Journal, Vol. 2, page 1535 of the General Assembly, the House was called to order by Speaker O'Fallon. A resolution was then offered and voted upon relative to the officers for the extra session. On Thursday, November 3, 1921, Governor Hyde called a second extra session and the same was called together and presided over by Speaker O'Fallon until a resolution was offered and voted upon relating to the officers for that extra session.

Hon. Dwight H. Brown

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In the absence of any law bearing directly upon the question we are guided, and have been guided solely in the past, by precedent, therefore it is the opinion of this department that as this is not a regular session and that section 11226 quoted supra is not applicable relating to your duties, the officers of the fifty-seventh General Assembly will preside and call the session together and will remain as said officers until re-elected or replaced by other officers.

Yours very truly,

OLLIVER W. NOLAN
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

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