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Constitutional boundaries need enforcement

By Erin Grunze

On May 15, the Supreme Court will hear arguments concerning the legality of the December 2018 “extraordinary session.” The League of Women Voters of Wisconsin is one of the plaintiffs in this lawsuit. In recent weeks, there have been some misconceptions perpetuated by those who oppose the merits of our case. Here are some facts of the lawsuit:

First, the Wisconsin Constitution does not authorize the Legislature to call itself into an “extraordinary session.” In fact, the Wisconsin Constitution lays out restrictions on the Legislature, including limiting its convening power. This is to ensure legislators act responsibly and honorably when creating laws. The process is also to provide accountability, so the public is given appropriate notice about legislative activity. This is so citizens may engage with the process through review, discussion, and giving input. This is how democracy is practiced. The Legislature did not follow the law in December 2018 when it convened itself through an internal legislative rule.

Despite what some will try and argue, extraordinary sessions are not the way Wisconsin has always operated. Wisconsinites adopted the State Constitution in 1848. It establishes that the Legislature can convene only at times authorized by statute or when the governor calls a “special session.” Last December’s extraordinary session fits into neither category. While it was not the first “extraordinary session,” such sessions are a relatively recent invention of the Legislature; the first was called in 1980. Wisconsin survived and thrived for more than 130 years without extraordinary sessions. Enforcing the constitutional limitation on when the Legislature can convene will not endanger our state.

Absent an actual emergency, the Legislature should legislate during their regular sessions. The Constitution never intended for the Legislature to be in session nonstop. It contradicts the Constitution, and it does not fit with the Legislature’s own history or the other laws it has passed. To give just one example, Wisconsin law prohibits lobbyists from giving campaign contributions to legislators while the Legislature is in session; if,



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as the Legislature now insists, it is always in session, that means any legislator who has accepted a campaign contribution from a lobbyist has done so in violation of the law.

Additionally, if the Supreme Court rules that the December 2018 extraordinary session bills are unconstitutional, chaos will not break out. The lawsuit only seeks for a ruling on the bills passed in December 2018. The Legislature operated beyond its constitutional powers to attempt to pass numerous provisions in these bills that undo long-held priorities established by Wisconsin law. Such sweeping changes should not be made without careful consideration of their impacts or without public participation. If the “extraordinary session” in December 2018 is allowed to stand, this hurried, secretive process will lead to further distrust of the government and further abuse of power. If the extraordinary session is ruled unconstitutional, then the bills can be reintroduced in regular session and follow the normal procedure.

Wisconsinites should be able to trust that our elected leaders will respect their obligations and will always act in accordance with the Constitution. The Legislature broke that trust by convening an unconstitutional extraordinary session, increasing their own authority, and constraining executive power. If those governing act outside of their constitutional powers, it is up to the court to enforce those boundaries.

From the onset, the League’s concern with the extraordinary session has not been about partisan politics—it is about upholding the rule of law and requiring the Legislature to act within Wisconsin’s Constitution, to which all elected officials are bound. This is an issue of fairness and of protecting our democracy, the Wisconsin Constitution, and the people of Wisconsin whom our organization serves. Wisconsin voters who prefer fairness and integrity to power and pettiness understand this, and they expect those voted into office to represent the people by governing with fairness and integrity.

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Erin Grunze is the executive director of The League of Women Voters of Wisconsin - a nonpartisan political organization that advocates for informed and active participation in government. There are 20 local Leagues throughout Wisconsin. More information at lwwwi.org.