

**CALIFORNIA LEGISLATURE**  
**FIFTY-THIRD (FOURTH EXTRAORDINARY) SESSION**

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# SENATE DAILY JOURNAL

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## IN SENATE

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SENATE CHAMBER, SACRAMENTO,  
Saturday, September 21, 1940.

The Senate met at one o'clock p.m., pursuant to the provisions of the proclamation of His Excellency, Culbert L. Olson, Governor of the State of California, dated September 21, 1940, convening the Legislature of the State of California on this day in extraordinary session.

Lieutenant Governor Ellis E. Patterson, President of the Senate of the Fifty-third Session, in the chair, called the Senate to order.

Pursuant to the provisions of section 237 of the Political Code, Joseph A. Beek, Secretary of the Senate, James Boyd Garrison, Minute Clerk, and Joseph F. Nolan, Sergeant-at-Arms, were present and occupied their respective positions.

### Roll Call.

The roll was called, and the following Senators answered to their names:

Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, DeLap, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Hollister, Holohan, Keating, Kenny, Mayo, McBride, McCormack, Metzger, Mixer, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagy—35.

Quorum present.

### Prayer.

By invitation of the President, prayer was offered by the Rev. A. Raymond Grant, Chaplain of the Senate of the Fifty-third Session.

### Proclamation of the Governor.

The President of the Senate directed the Secretary of the Senate to read the proclamation of the Governor convening the Legislature in extraordinary session.

Whereupon the Secretary read the following proclamation:

#### Proclamation.

EXECUTIVE DEPARTMENT, STATE OF CALIFORNIA.

WHEREAS, An extraordinary occasion has arisen and now exists, requiring that the Legislature of the State of California be convened; now, therefore,

I, Culbert L. Olson, Governor of the State of California, by virtue of the power and authority in me vested by section 9 of Article V of the Constitution of the State

of California, do hereby convene the Legislature of the State of California to meet and assemble in extraordinary session, at Sacramento, California, on Saturday, the twenty-first day of September, one thousand nine hundred and forty, at one o'clock p.m. of said day, for the following purposes and to legislate upon the following subjects, to wit:

1. To consider and act upon legislation providing for the establishment and organization in the executive department of the State government of a California State Council of Defense, to be appointed by, and to act upon the direction of, the Governor, in accordance with the plans of the Council of National Defense and its Advisory Commission and of other agencies of the United States Government, with power to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests, for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National defense program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; providing for participation in the work of the California State Council of Defense by members of the Legislature; and providing for an appropriation of money to the State Planning Board and to the California State Council of Defense in the executive department of the State Government for these purposes.

2. To consider and act upon legislation to authorize housing authorities created by the Housing Authorities Law to undertake the development and administration of housing projects for persons and their families engaged in national defense activities.

3. To consider and act upon legislation authorizing the maintenance on days now designated by law as days upon which the public schools shall be closed, of public school classes in vocational training authorized or provided for as part of any program of national defense.

4. To consider and act upon legislation to amend the State Civil Service Act to permit permanent civil service employees of the State a leave of absence for military service in event of war or of emergency in preparing for the National defense.

5. To consider and act upon legislation to amend the State Employees' Retirement Law to extend certain of the benefits thereof to retirement system members absent from State service by reason of service in the armed forces of the United States.

6. To consider and act upon legislation authorizing the State Fire Marshal and his subordinates to make examinations and investigations and to conduct hearings as to the causes of fires, for the purpose of ascertaining whether any such fire was caused by the commission of arson or any other crime; authorizing him to issue subpoenas and to interrogate witnesses under oath for such purposes; providing for the submission to the proper district attorney of all information so obtained which indicates that a crime may have been committed; and authorizing the State Fire Marshal to encourage, sponsor, and cooperate in the adoption of fire prevention measures, including methods of protecting against sabotage effected through arson, and to prepare and disseminate information relating to protection against sabotage effected through arson.

7. To consider and act upon legislation to prohibit from participation in any election, including any primary election, conducted in this State, the Communist Party or any political party or organization which is sponsored or directed by any foreign government, power or political organization, or any political party or organization which carries on, advocates, teaches, justifies, aids, or abets the overthrow by any unlawful means of, or which carries on, advocates, teaches, justifies, aids, or abets a program of sedition or treason against the government of the United States or of this State, or which is affiliated in any way with or adopts the name of any political party or other organization which carries on, advocates, teaches, justifies, aids, or abets such overthrow or such a program.

8. To consider and act upon legislation amending the provisions of Division IXa of the Vehicle Code, relating to the operation of, and regulation of traffic upon, bridges acquired or constructed by the California Toll Bridge Authority.

9. To consider and act upon legislation making an appropriation to be allocated by the Director of Education, with the approval of the Director of Finance, to elementary and secondary school districts for reconstruction, replacement, and repair of physical facilities and buildings damaged or destroyed by earthquakes occurring in the month of May, 1940.

10. To consider and act upon legislation relating to the conditions, restrictions and manner of expenditure of moneys appropriated by Chapter 1 of the Second Extraordinary Legislative Session of 1940.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this twenty-first day of September, A. D., One Thousand Nine Hundred and Forty.

CULBERT L. OLSON,  
Governor of California.

Attest: PAUL PEEK, Secretary of State.

[SEAL]

### Senate Resolution No. 1.

The following resolution was offered :

By Senator Slater :

*Resolved*, That the Senate do now organize and proceed to elect the officers and employees of the Senate for this Fifty-third (Fourth Extraordinary) Session.

Resolution read, and on motion of Senator Slater adopted.

### Senate Resolution No. 2.

The following resolution was offered :

By Senator Swing :

*Resolved*, That Senator Jerrold L. Seawell be and he is hereby elected President pro tempore of the Senate; that Joseph A. Beck be and he is hereby elected Secretary of the Senate; that Joseph F. Nolan be and he is hereby elected Sergeant-at-Arms of the Senate; that James Boyd Garrison be and he is hereby elected Minute Clerk of the Senate; that Rev. A. Raymond Grant be and he is hereby elected Chaplain of the Senate.

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and Senate Resolution No. 2 adopted by the following vote :

AYES—Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, DeLap, Fletcher, Foley, Garrison, Gordon, Hays, Hollister, Holohan, Keating, Kenny, Mayo, McBride, McCormack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagy—34.

NOES—None.

### Oath of Office Administered.

The newly elected officers of the Senate, Senator Jerrold L. Seawell, President pro tempore; Joseph A. Beck, Secretary; Joseph F. Nolan, Sergeant-at-Arms; James Boyd Garrison, Minute Clerk; and Rev. A. Raymond Grant, Chaplain, appeared at the bar of the Senate where the constitutional oath of office was administered to them by Paul Mason, a civil executive officer, and they subscribed to the same.

### Senate Resolution No. 3.

The following resolution was offered :

By Senator Deuel :

*Resolved*, That the Standing Rules of the Senate of the Fifty-third (First Extraordinary) Session as the same appear on page 724 to 739, inclusive, of the Senate Journal of May 24, 1940, be and the same are hereby adopted as the Rules of the Senate for this Fifty-third (Fourth Extraordinary) Session.

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and Senate Resolution No. 3 adopted by the following vote:

**AYES**—Senators Biggar, Breed, Collier, Crittenden, Cunningham, DeLap, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Hollister, Holohan, Keating, Kenny, Mayo, McBride, McCormack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagy—34.

**NOES**—None.

#### **Senate Resolution No. 4.**

The following resolution was offered:

By Senator Seawell:

*Resolved*, That the members appointed to the Committee on Rules of the Fifty-third (First Extraordinary) Session be and the same are hereby appointed members of the Committee on Rules of this Fifty-third (Fourth Extraordinary) Session, also that the members of the Committee on Finance, Revenue and Taxation, of the Fifty-third (First Extraordinary) Session, be and the same are hereby appointed members of the Committee on Finance of this Fifty-third (Fourth Extraordinary) Session, also that the members of the Committee on Governmental Efficiency of the Fifty-third (First Extraordinary) Session be and the same are hereby appointed members of the Committee on Governmental Efficiency of this Fifty-third (Fourth Extraordinary) Session, also that the members of the Committee on Social Problems of the Fifty-third (First Extraordinary) Session be and the same are hereby appointed members of the Committee on Welfare and Institutions of the Fifty-third (Fourth Extraordinary) Session; and be it further

*Resolved*, That the chairmen of the above committees of the Fifty-third (First Extraordinary) Session be and they are hereby reappointed as hereinbefore set forth.

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and Senate Resolution No. 4 adopted by the following vote:

**AYES**—Senators Biggar, Breed, Collier, Crittenden, Cunningham, DeLap, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Hollister, Holohan, Keating, Kenny, Mayo, McBride, Metzger, Mixter, Myhand, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagy—32.

**NOES**—None.

#### **Senate Resolution No. 5.**

The following resolution was offered:

By Senator Foley:

*Resolved*, That the President of the Senate appoint a Special Committee of three Senators to notify the Governor of the organization of the Senate for the Fifty-third (Fourth Extraordinary) Session and that the Senate is now ready to receive any communication he may have to make.

Resolution read, and on motion of Senator Foley adopted.

#### **Appointment of Special Committee.**

The President announced, in accordance with the above resolution, the appointment of Senators Foley, Brown and McCormack.

#### **Senate Resolution No. 6.**

The following resolution was offered:

By Senator Wagy:

*Resolved*, That the President of the Senate appoint a Special Committee of three Senators to notify the Assembly of the Organization of the Senate for the Fifty-third (Fourth Extraordinary) Session and that the Senate is now duly organized and is ready to receive any communication it may have to make.

Resolution read, and on motion of Senator Wagy adopted.

**Appointment of Special Committee.**

The President announced, in accordance with the above resolution, the appointment of Senators Wagy, Quinn and DeLap.

**Senate Resolution No. 7.**

The following resolution was offered:

By Senator McBride:

*Resolved*, That the Secretary of the Senate is hereby directed to notify the Assembly that the Senate elected the following statutory officers of this Fifty-third (Fourth Extraordinary) Session:

<i>President pro tempore</i> .....	Jerrold L. Seawell
<i>Secretary of the Senate</i> .....	Joseph A. Beek
<i>Sergeant-at-Arms</i> .....	Joseph F. Nolan
<i>Minute Clerk</i> .....	James Boyd Garrison
<i>Chaplain</i> .....	A. Raymond Grant

Resolution read, and on motion of Senator McBride adopted.

**Senate Resolution No. 8.**

The following resolution was offered:

By Senator Keating:

*Resolved*, That the State Controller be and he is hereby directed and ordered to draw his warrants upon the proper funds in favor of the following named Senators and officers of the Senate for the amount set opposite each of their names, and the State Treasurer is hereby directed and ordered to pay the same, being the mileage due them by law, for attendance upon the Fifty-third (Fourth Extraordinary) Session:

Senators	County	Mileage	Total at five cents per mile
Biggar, George M	Mendocino	468	\$23 40
Breed, Arthur H, Jr	Alameda	178	8 80
Brown, Charles	Inyo	1,292	64 60
Collier, Randolph	Siskiyou	590	29 50
Crittenden, Bradford S	San Joaquin	98	4 90
Cunningham, R R	Kings	428	21 40
DeLap, T H	Contra Costa	160	8 00
Druel, Charles H	Butte	228	11 40
Fletcher, Ed	San Diego	1,146	57 30
Foley, John D	Santa Clara	256	12 80
Garrison, J C	Stanislaus	164	8 20
Gordon, Frank L	Napa	110	5 50
Hays, Ray W	Fresno	338	16 90
Hollister, J James	Santa Barbara	854	42 70
Holohan, James B	Santa Cruz	396	19 80
Keating, Thomas F	Marin	210	10 50
Kenny, Robert W	Los Angeles	894	44 70
Mayo, Jesse M	Calaveras	170	8 50
McBride, James J	Ventura	980	49 00
McCormack, Thomas	Solano	124	6 20
Metzger, D Jack	Tehama	286	14 30
Myer, Frank M	Tulare	432	21 60
Myhand, Peter P	Merced	222	11 10
Nielsen, Roy J	Sacramento	2	10
Parkman, Harry L	San Mateo	238	11 90
Phillips, John	Riverside	1,094	54 70
Powers, Harold J	Modoc	832	41 60
Quinn, Irwin T	Humboldt	624	31 20
Rich, Wm P	Yuba	104	5 20
Seawell, Jerrold L	Placer	108	5 40
Shelley, John F	San Francisco	180	9 00
Slater, Herbert W	Sonoma	180	9 00
Swing, Ralph E	San Bernardino	1,016	50 80
Tickle, Edward H	Monterey	474	23 70
Wagy, J I	Kern	638	31 90
Officers	County	Mileage	Total at ten cents per mile
Patterson, Ellis E, President	Los Angeles	894	\$89 40
Nolan, Joseph F, Sergeant-at-Arms	Los Angeles	894	89 40
Garrison, J B, Minute Clerk	Alameda	178	17 80

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and Senate Resolution No. 8 adopted by the following vote:

**AYES**—Senators Biggar, Breed, Collier, Crittenden, Cunningham, Deuel, Fletcher, Garrison, Gordon, Hays, Hollister, Holohan, Keating, Kenny, Mayo, McBride, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Rich, Seawell, Shelley, Slater, Swing, and Tickle—29.

**NOES**—None.

### Senate Resolution No. 9.

The following resolution was offered:

By Senator Collier:

*Resolved*, That the Sergeant-at-Arms be and he is hereby authorized to receipt to the Controller for warrants for members and officers of the Senate.

Resolution read, and on motion of Senator Collier adopted.

### Messages from the Governor.

The following messages from the Governor were received and read:

STATE OF CALIFORNIA, GOVERNOR'S OFFICE,  
SACRAMENTO, September 21, 1940.

*To the Members of the Senate and Assembly of the California Legislature,  
Sacramento, California.*

**GREETINGS:** You have been called into this special session on this date for purposes disclosed in the proclamation therefor, a copy of which is attached hereto. Briefly, these purposes are:

- (1) Creation and support of a State Council of Defense.
- (2) Enabling local housing authorities to undertake projects to house defense industry workers.
- (3) Permitting certain schools to remain open on Saturdays, Sundays and holidays to permit their more intense use for training artisans and mechanics.
- (4) Permitting civil service leaves of absence to State employees entering the military service.
- (5) Permitting State employees in military service to maintain their State Retirement System benefits.
- (6) Permitting the creation of an Arson and Sabotage Bureau in the Division of Fire Safety.
- (7) Permitting the abolishment of the Communist Party.
- (8) Permitting the removal of certain restrictions upon the use and operation of the recently acquired Carquinez Bridge.
- (9) Appropriating funds for the reconstruction of school buildings destroyed by earthquake.

In early August, the Council of National Defense of the Government of the United States addressed a memorandum to the governors of the forty-eight States, requesting the creation of State Councils of Defense "to provide means for full utilization of the powers and administrative organizations of Federal, State and local governments and for adjusting and coordinating programs and procedures in order that closely integrated administrative machinery may function with the maximum speed and effectiveness," and to utilize the knowledge, skill and organizational facilities of private agencies in assisting the existing public administrative agencies in a coordinating National defense program.

It was recommended that these councils be advisory to the Governors of the forty-eight States, who as Commanders in Chief of the armed forces and Chief Executives of the civil establishments were considered to be the only State officials in a position to secure executive action throughout the entire administrative structures. The functions of such State Councils of Defense as outlined by the memorandum from the Federal Government are "to advise the Governor on problems arising with respect to the (1) integration of governmental programs for defense; (2) adjustments or arrangements necessary for prompt assimilation of such programs by the administrative establishment; (3) proper coordination between the activities of government and private agencies cooperating in the defense effort."

Upon receipt of this memorandum I requested the organizing committee of an Advisory Council which I had appointed in June to recommend a proper defense organization for California, in accordance with a detailed plan suggested by the Federal Government in its memorandum, and to also recommend on a purely non-partisan basis chairmen and vice chairmen for each of the six functional committees suggested by the memorandum, so that the organized membership of all of the important elements participating in a defense program would be represented. All of the prominent citizens recommended by this committee have accepted appointment and with the representative of the California League of Cities, the Chairman of the State Planning Board and myself constitute the working Executive Committee of the present California State Council of Defense. These gentlemen are:

**Industrial Resources and Production Advisory Committee.**

James Mussatti, General Manager, State Chamber of Commerce.

**Human Resources and Skills Advisory Committee.**

Gordon S. Watkins, Dean, University of California at Los Angeles.

C. J. Haggerty, President, State Federation of Labor.

Harry See, State Representative, Railroad Brotherhoods.

**Housing, Works and Facilities Advisory Committee.**

Baldwin M. Woods, Regional Director, National Resources Planning Board.

John Riffe, State Director, Steel Workers Organization Committee.

E. F. Scattergood, Los Angeles Department of Water and Power.

**Health, Welfare and Consumer Interest Advisory Committee.**

Archibald Young, President, California Council of Social Work.

Richard Neustadt, Regional Director, Social Security Administration.

**Civil Protection Committee.**

Earl Warren, Attorney General.

R. E. Mittelstaedt, Adjutant General.

**Agricultural Resources and Production Advisory Committee.**

C. M. Brown, Jr., Agriculturist.

Jesse W. Tapp, Vice-President, Bank of America.

Samuel C. May, of the State Planning Board.

Richard Graves, Executive Secretary, League of California Cities.

This Executive Committee caused to be prepared and the members present at a meeting on September 13th unanimously approved and requested me to present to you a bill which would give legislative sanction to the existing organizations and provide necessary funds to perform the tasks already requested by the Army, Navy and other Federal agencies, including the National Council of Defense.

Because of the constitutional prohibition in California against participation in executive or administrative work by legislators, it was necessary to provide specifically that representation of both houses be secured through a joint committee empowered to serve on the council to the extent not incompatible with their status as legislators.

A separate appropriation measure granting \$50,000 to the State Planning Board and the Council of Defense has also been proposed in order to secure means for implementing defense activities within the State, pending the effective date of the proposed legislation creating the State Council of Defense.

I feel confident that the members of this Legislature will give the most earnest consideration to the establishing and financing of efficient machinery necessary for cooperating with the Federal defense program, as suggested by the National Defense Council and recommended by the representative citizens who constitute the Executive Committees of the existing State Council of Defense.

The proposal to enable housing authorities to undertake low-cost housing projects in locations convenient for their use by workers engaged in war industry, bears the hearty approval of many citizens. It is pointed out that the need for such housing projects is secondary only to that of the industries themselves.

Present law prohibits the Saturday and Sunday use of the many high schools throughout the State having machine shops and other equipment for the training of sheet metal workers, pattern workers, molders, machinists, and other artisans and mechanics of whom there now develops such an acute shortage in the war industry. The present emergency suggests the removal of this restriction in order that a more intensive use might be made of these training facilities.

The two proposals affecting State employees in the military service are requested by Adjutant General R. E. Mittelstaedt. They surely need no justification. Their merit is patent.

The proposal regarding anti-American or treasonable political parties is self-explanatory.

The request for an Arson and Sabotage Bureau in the Division of Fire Safety is supported in and throughout every quarter of California's industry; especially those whose products make them the target of the enemies of our government and

our government's defense efforts. No additional funds are requested in this connection.

The Toll Bridge Authority Amendments are correctives found desirable since the purchase of the Carquinez and Antioch Bridges. Present law prohibits the use of a Toll Bridge Authority Bridge by pedestrians, and also requires the Toll Bridge Authority to maintain 24-hour tow-car service on its bridges. Both of these provisions are quite proper in their application to the San Francisco-Oakland Bay Bridge because of its location, its long approaches, and its great length. But the Carquinez Bridge is much used by pedestrians, most of whom live and work in the vicinity of the bridge. Since there appears to be no sound reason for prohibiting such pedestrian use of the Carquinez Bridge, the amendment here contemplated has been suggested.

Since the Carquinez Bridge is relatively short (4,482 feet including its approaches), and since privately conducted tow-car services are maintained and available nearby, and since the need for such service seems very little, it is thought that the cost to the State of maintaining such a service would be an unnecessary and unwarranted expense; all of which suggests the amendment here contemplated.

The proposal to appropriate for the reconstruction of earthquake damage to schools is included in the request of Doctor Walter F. Dexter, Superintendent of Public Instruction and Director of Education, who urges it as an emergency measure.

Respectfully submitted.

CULBERT L. OLSON,  
Governor of California.

STATE OF CALIFORNIA, GOVERNOR'S OFFICE,  
SACRAMENTO, September 21, 1940.

*To the Members of the Senate and Assembly of the California Legislature,  
Sacramento, California.*

GREETINGS: Item No. 10 was included in the call on this date for the fourth extraordinary session of the California State Legislature for the following reasons:

At the second extraordinary session of the Legislature held in May, 1940, the Legislature passed an emergency measure appropriation of \$500,000 to assist in the repair of flood damages. It was designed to assist communities in recovering from the disastrous floods of the winter of 1940. I considered this a meritorious purpose and signed this bill and it became Chapter I of the Statutes of 1940, Second Session.

It later developed that Chapter I contained provisions which made it extremely difficult of operation and, to many deserving communities, of no assistance whatever. Legal opinions interpreting this law have been obtained from the Attorney General, but the legal obstacles have been so great that it has not been possible to allot any of the funds appropriated by Chapter I.

The purpose of including this item in the call of the fourth extraordinary session is to allow the amendment of Chapter I to permit its operation as contemplated when it was enacted.

Respectfully submitted.

CULBERT L. OLSON,  
Governor of California.

### Messages from the Governor.

The following messages from the Governor were received, read and ordered referred to Committee on Rules:

STATE OF CALIFORNIA, GOVERNOR'S OFFICE,  
SACRAMENTO, September 21, 1940.

*To the Honorable Members of the Senate,  
State Capitol, Sacramento, California.*

GREETINGS: Will the Senate advise and consent to the following appointments to the State Board of Prison Directors:

Chris Merchant, San Francisco, vice John D. McGilvray, removed, for the term ending January 12, 1948;

Dr. W. Earle Smith, San Francisco, vice Ed L. Abbott, removed, for the term ending January 12, 1946;

Hugh Lovett Spears, Grapevine, vice T. N. Harvey, removed, for the term ending January 12, 1944;

George A. Briggs, Los Angeles, vice A. R. O'Brien, removed, for the term ending January 12, 1942.

Very truly yours,

CULBERT L. OLSON,  
Governor of California.

CLO:a



STATE OF CALIFORNIA, GOVERNOR'S OFFICE,  
SACRAMENTO, September 21, 1940.

*To the Honorable Members of the Senate,  
State Capitol, Sacramento, California.*

GREETINGS: Will the Senate advise and consent to the following appointments to the State Board of Education:

Lois E. Souter, Los Angeles, vice Eleanor Lloyd Smith, appointment not confirmed, for the term ending January 15, 1943;

Alice H. Dougherty, Oakland, vice self, term expired, for the term ending January 15, 1944;

James M. Tadlock, Eureka, vice Henry S. Crossman, appointment not confirmed, for the term ending January 15, 1944.

Very truly yours,

CULBERT L. OLSON,  
Governor of California.

CLO:a

### **Introduction, First Reading and Reference of Bills.**

The following bill was introduced:

**Senate Bill No. 1:** By Senator Breed—An act providing for the establishment and organization in the Executive Department of the State Government of a California State Council of Defense, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; and providing for participation in the work of the California State Council of Defense by members of the Legislature.

Senate Bill No. 1 read first time, and referred to Committee on Rules.

### **Reports of Special Committees.**

The following reports of Special Committees were received:

Senators Foley, Brown and McCormack, the Special Committee, appointed to wait upon the Governor and inform him of the organization of the Senate, reported they had performed their duty.

Senators Wagy, Quinn and DeLap, the Special Committee appointed to notify the Assembly of the organization of the Senate, reported that they had performed their duty.

### **Recess.**

At one o'clock and fifty-five minutes p.m., on motion of Senator Fletcher, the President of the Senate declared recess until two o'clock p.m., to hear from Congressman Leland Ford.

**Reconvened.**

At two o'clock p.m., the Senate reconvened.

Lieutenant Governor Ellis E. Patterson, President of the Senate, in the chair.

Secretary Joseph A. Beek at the desk.

**Committee of the Whole.**

Senator Phillips moved that the Senate resolve itself into a Committee of the Whole for the purpose of discussing the condition of the Governor's Emergency Fund.

Motion carried.

**SENATE MEETS AS COMMITTEE OF THE WHOLE.**

At two o'clock and ten minutes p.m., the Senate met as a Committee of the Whole.

**Committee of the Whole Arises.**

At three o'clock and fifty-five minutes p.m., on motion of Senator Phillips, the Committee of the Whole arose.

**IN SENATE.**

Lieutenant Governor Ellis E. Patterson, President of the Senate, in the chair.

Secretary Joseph A. Beek at the desk.

**Message from the Assembly.**

At three o'clock and fifty-five minutes p.m., a committee from the Assembly, consisting of Messrs. Maloney, Bennett and Wollenberg, appeared at the bar of the Senate and announced that the Assembly was duly organized and ready to proceed with the business of the State.

**Introduction, First Reading and Reference of Bills.**

The following bills were introduced:

**Senate Bill No. 2:** By Senators Slater, Quinn and Rich—An act to amend section 1 of, and to add sections 2 and 2.1 to, an act entitled "An act making an appropriation to the Emergency Fund specified in Item 212 of the Budget Act of 1939, for the cost of repair and restoration of property damaged or destroyed by storms and floods; prescribing conditions, restrictions and limitations as to the expenditure thereof; declaring the urgency of the act and that it take effect immediately," approved May 29, 1940, relating to the repair and restoration of property damaged or destroyed by storms and floods and the expenditure of moneys appropriated therefor, and declaring the urgency thereof, the act to take effect immediately.

Senate Bill No. 2 read first time, and referred to Committee on Rules.

**Senate Bill No. 3:** By Senators Kenny and Shelley—An act to amend section 13105 of the Health and Safety Code, and to add Chapter 1.5 (embracing sections 13150 to 13156, inclusive) to Part 2 of Division XII thereof, relating to duties of the State Fire Marshal in encouraging, sponsoring and cooperating in the adoption of fire protection measures, including methods for protecting against sabotage effected through arson, and to his duties in preparing and disseminating information relative to methods of protecting against sabotage effected through arson; authorizing investigations by the State Fire Marshal and his subordinates of buildings and premises where fires have occurred, of persons guilty of having knowledge thereof, and of arson and other crime committed in connection therewith.

Senate Bill No. 3 read first time, and referred to Committee on Rules.

### **Adjournment.**

At four o'clock p.m., on motion of Senator Seawell, the President of the Senate declared the Senate adjourned, until ten o'clock and thirty minutes a.m., Sunday, September 22, 1940.

JAMES BOYD GARRISON, Minute Clerk.



**CALIFORNIA LEGISLATURE**  
**FIFTY-THIRD (FOURTH EXTRAORDINARY) SESSION**

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# SENATE DAILY JOURNAL

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## IN SENATE

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SENATE CHAMBER, SACRAMENTO,  
 Sunday, September 22, 1940.

The Senate met at ten o'clock and thirty minutes a.m.  
 Hon. Ellis E. Patterson, President of the Senate, in the chair.  
 Secretary Joseph A. Beek at the desk.

### Roll Call.

The roll was called, and the following answered to their names:

Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Hollister, Holohan, Keating, Kenny, Mayo, McCormack, Mixer, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Slater, Swing, Tickle, and Wagy—31.

Quorum present.

### Prayer.

Prayer was offered by Senator Myhand

### Reading of the Journal.

During the reading of the Journal of Saturday, September 21, 1940, the further reading was dispensed with, on motion of Senator Slater.

### Messages from the Assembly.

The following messages from the Assembly were received and read:

ASSEMBLY CHAMBER, SACRAMENTO, September 21, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly elected the following constitutional officers for the Fifty-third (Fourth Extraordinary) Session:

Hon. Gordon H. Garland	-----	Speaker
Hon. Gardiner Johnson	-----	Speaker pro tempore
Jack Carl Greenburg	-----	Chief Clerk
David V. Oliver	-----	Minute Clerk
Wilkie Ogg	-----	Sergeant-at-Arms
Rev. Raymond Lull Bailey	-----	Chaplain

JACK CARL GREENBURG, Chief Clerk of Assembly.  
 By C. W. BOORN, Assistant Clerk.

ASSEMBLY CHAMBER, SACRAMENTO, September 21, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day passed:

Assembly Bill No. 7—An act to amend sections 607.4, 607.6, 608, and 608.2 of the Vehicle Code, relating to vehicular crossings, and providing that this act shall take effect immediately.

Assembly Bill No. 3—An act to add section 1525 to the State Civil Service Act, relating to leaves of absence of State civil service employees for military service, declaring the urgency thereof, and providing that this act shall take effect immediately.

Assembly Bill No. 1—An act to add sections 2540.3, 2540.4, and 2540.9 to the Elections Code, relating to the recognition and qualification of political parties.

Assembly Bill No. 8—An act to amend sections 47, 108 and 109 of the State Employees' Retirement Law, relating to members absent in the armed forces of the United States, to take effect immediately.

JACK CARL GREENBURG, Chief Clerk of Assembly.

By C. W. BOOTH, Assistant Clerk.

Assembly Bill No. 7 read first time, and referred to Committee on Governmental Efficiency.

Assembly Bill No. 3 read first time, and referred to Committee on Governmental Efficiency.

Assembly Bill No. 1 read first time, and referred to Committee on Governmental Efficiency.

Assembly Bill No. 8 read first time, and referred to Committee on Governmental Efficiency.

ASSEMBLY CHAMBER, SACRAMENTO, September 21, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day adopted:

Assembly Concurrent Resolution No. 1—Relative to Hiram Warren Johnson.

JACK CARL GREENBURG, Chief Clerk of Assembly.

By C. W. BOOTH, Assistant Clerk.

## Consideration of Assembly Concurrent Resolution No. 1.

### Assembly Concurrent Resolution No. 1.

Relative to Hiram Warren Johnson.

WHEREAS, Hiram Warren Johnson was born in Sacramento September 2, 1866, and has recently passed the seventy-fourth anniversary of that occasion; and

WHEREAS, He served as Governor of California for six years, during which time he brought California to the forefront in the enactment of progressive legislation and made the State Government a shining example of honesty and responsibility, so that his name is known for statesmanship and humanity in every household of the State; and

WHEREAS, For the past 24 years he has represented California in the greatest deliberative body in the world, where he has been zealous and effective, stalwartly defending, guarding and preserving the respective interests, rights and privileges of the citizen, the State and the Nation, in all their varied manifestations and relationships, ever battling for the right as he sees it; and

WHEREAS, The people of California in appropriate recognition of his exemplary service and his maturity of judgment have recently, by an overwhelming vote, drafted him for service in the United States Senate for the fifth consecutive time; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That on behalf of the people of California the Legislature congratulates Hiram Warren Johnson on his years and his victories, and expresses the wish of all that the Nation may continue to have the benefit of his counsel in the future as in the past; and be it further

*Resolved,* That the Chief Clerk of the Assembly is hereby directed to transmit a copy of this resolution to the Senate of these United States and a suitably engrossed copy to Hiram Warren Johnson.

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and Assembly Concurrent Resolution No. 1 adopted by the following vote:

**AYES**—Senators Biggar, Breed, Brown, Collier, Crittenden, DeLap, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Hollister, Holohan, Keating, Kenny, Mayo, McBride, McCormack, Metzger, Mixer, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagy—34.

**NOES**—None.

Assembly Concurrent Resolution No. 1 ordered transmitted to the Assembly.

### **Report of Standing Committee.**

The following report of standing committee was received, read, and adopted:

#### **On Rules.**

SENATE CHAMBER, SACRAMENTO, September 22, 1940

**MR. PRESIDENT:** Your Committee on Rules, to which was referred the Governor's Message of September 21, 1940, appointing members of the State Board of Prison Directors and also his message of the same date appointing members of the State Board of Education, has had the same under consideration and respectfully reports them back and recommends that the Secretary of the Senate be instructed to return said communications to the Governor without prejudice advising him that these appointments are now under consideration by the First Extraordinary Session and will be acted upon in due course before the Fifty-third (First Extraordinary) Session adjourns sine die.

SEAWELL, Chairman.

### **Introduction, First Reading and Reference of Bills.**

The following bills were introduced:

**Senate Bill No. 4:** By Senator Fletcher—An act making an appropriation for the reconstruction, replacement and repair of buildings and physical facilities of elementary and secondary schools damaged or destroyed by earthquakes, to take effect immediately.

Senate Bill No. 4 read first time, and referred to Committee on Governmental Efficiency.

**Senate Bill No. 5:** By Senator Nielsen—An act to add section 395.4 to, and to amend section 395.5 of, the Military and Veterans Code, relating to the rights and privileges of State civil service officers and employees engaged in military or naval duties, and providing that this act shall take effect immediately.

Senate Bill No. 5 read first time, and referred to Committee on Governmental Efficiency.

**Senate Bill No. 6:** By Senator Nielsen—An act to add section 152.5 to the State Civil Service Act, relating to leaves of absence of State civil service employees for military service, declaring the urgency thereof, and providing that this act shall take effect immediately.

Senate Bill No. 6 read first time, and referred to Committee on Governmental Efficiency.

**Senate Bill No. 7:** By Senator Nielsen—An act to amend sections 47, 108 and 109 of the State Employees' Retirement Law, relating to the rights of members absent in the armed forces of the United States.

declaring the urgency thereof and providing that this act shall take effect immediately.

Senate Bill No. 7 read first time, and referred to Committee on Governmental Efficiency.

**Senate Bill No. 8:** By Senator Shelley—An act to amend section 152 of the State Civil Service Act, relating to leaves of absence of State civil service employees for military service, to take effect immediately.

Senate Bill No. 8 read first time, and referred to Committee on Governmental Efficiency.

**Senate Bill No. 9:** By Senator Shelley—An act to amend sections 47, 108 and 109 of the State Employees' Retirement Law, relating to members absent in the armed forces of the United States, to take effect immediately.

Senate Bill No. 9 read first time, and referred to Committee on Governmental Efficiency.

**Senate Bill No. 10:** By Senator Swing—An act making an appropriation for the reconstruction, replacement and repair of buildings and physical facilities of elementary and secondary schools damaged or destroyed by earthquakes, to take effect immediately.

Senate Bill No. 10 read first time, and referred to Committee on Finance.

**Senate Bill No. 11:** By Senators Phillips, Brown, Nielsen, Wagy and Mixter—An act to add Division VII, consisting of Chapter I, sections 1400 to 1411, inclusive, to the Military and Veterans Code, relating to the establishment and organization of a California State Council of Defense, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; providing for participation in the work of the California State Council of Defense by members of the Legislature and for the appointment of an Advisory Committee for the assistance of members of the Legislature; and providing an appropriation for the purposes of the chapter.

Senate Bill No. 11 read first time, and referred to Committee on Welfare and Institutions.

### **Second Reading of Senate Bills.**

**Senate Bill No. 1—**An act providing for the establishment and organization in the Executive Department of the State Government of



a California State Council of Defense, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; and providing for participation in the work of the California State Council of Defense by members of the Legislature.

Bill read second time, and ordered re-referred to Committee on Welfare and Institutions.

**Senate Bill No. 2**—An act to amend section 1 of, and to add sections 2 and 2.1 to, an act entitled "An act making an appropriation to the emergency fund specified in Item 212 of the Budget Act of 1939, for the cost of repair and restoration of property damaged or destroyed by storms and floods; prescribing conditions, restrictions and limitations as to the expenditure thereof; declaring the urgency of the act and that it take effect immediately," approved May 29, 1940, relating to the repair and restoration of property damaged or destroyed by storms and floods and the expenditure of moneys appropriated therefor, and declaring the urgency thereof, the act to take effect immediately.

Bill read second time, and ordered re-referred to Committee on Finance.

**Senate Bill No. 3**—An act to amend section 13105 of the Health and Safety Code, and to add Chapter 1.5 (embracing sections 13150 to 13156, inclusive) to Part 2 of Division XII thereof, relating to duties of the State Fire Marshal in encouraging, sponsoring and cooperating in the adoption of fire protection measures, including methods for protecting against sabotage effected through arson, and to his duties in preparing and disseminating information relative to methods of protecting against sabotage effected through arson; authorizing investigations by the State Fire Marshal and his subordinates of buildings and premises where fires have occurred, of persons guilty or having knowledge thereof, and of arson and other crime committed in connection therewith.

Bill read second time, and ordered re-referred to Committee on Governmental Efficiency.

### Recess.

At eleven o'clock and fifteen minutes a.m., on motion of Senator Seawell, the President of the Senate declared recess until one o'clock and thirty minutes p.m.

**Reconvened.**

At one o'clock and thirty minutes p.m., the Senate reconvened.

Lieutenant Governor Ellis E. Patterson, President of the Senate, in the chair.

Secretary Joseph A. Beek at the desk.

**Recess.**

At one o'clock and thirty-one minutes p.m., on motion of Senator Seawell, the President of the Senate declared recess until two o'clock and thirty-five minutes p.m.

**Reconvened.**

At two o'clock and thirty-five minutes p.m., the Senate reconvened.

Lieutenant Governor Ellis E. Patterson, President of the Senate, in the chair.

Secretary Joseph A. Beek at the desk.

**Reports of Standing Committees.**

The following reports of standing committees were received and read:

**On Finance.**

SENATE CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: Your Committee on Finance, to which was referred.

Senate Bill No. 2—An act to amend section 1 of, and to add sections 2 and 21 to, an act entitled "An act making an appropriation to the emergency fund specified in Item 212 of the Budget Act of 1939, for the cost of repair and restoration of property damaged or destroyed by storms and floods; prescribing conditions, restrictions and limitations as to the expenditure thereof; declaring the urgency of the act and that it take effect immediately," approved May 29, 1940, relating to the repair and restoration of property damaged or destroyed by storms and floods and the expenditure of moneys appropriated therefor, and declaring the urgency thereof, the act to take effect immediately;

Has had the same under consideration, and respectfully reports the same back, and recommends that it do pass.

Committee membership—11; committee vote: Ayes 8; absent 3.

TICKLE, Chairman.

**On Governmental Efficiency.**

SENATE CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: Your Committee on Governmental Efficiency, to which was referred:

Assembly Bill No. 1—An act to add sections 2540.3, 2540.4, and 2540.9 to the Elections Code, relating to the recognition and qualification of political parties;

Assembly Bill No. 3—An act to add section 152.5 to the State Civil Service Act, relating to leaves of absence of State civil service employees for military service, declaring the urgency thereof, and providing that this act shall take effect immediately;

Assembly Bill No. 7—An act to amend sections 607.4, 607.6, 608, and 608.2 of the Vehicle Code, relating to vehicular crossings, and providing that this act shall take effect immediately;

Assembly Bill No. 8—An act to amend sections 47, 108 and 109 of the State Employees' Retirement Law, relating to members absent in the armed forces of the United States, to take effect immediately;

Has had the same under consideration, and respectfully reports the same back, and recommends that they do pass.

Committee membership—11; committee vote: Ayes—7; absent—4.

HAYS, Chairman.

SENATE CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: Your Committee on Governmental Efficiency, to which was referred:

Senate Bill No. 6—An act to add section 152.5 to the State Civil Service Act, relating to leaves of absence of State civil service employees for military service,

declaring the urgency thereof, and providing that this act shall take effect immediately;

Senate Bill No. 7—An act to amend sections 47, 108 and 109 of the State Employees' Retirement Law, relating to the rights of members absent in the armed forces of the United States, declaring the urgency thereof and providing that this act shall take effect immediately;

Has had the same under consideration, and respectfully reports the same back, and recommends that they do pass.

Committee membership—11; committee vote: Ayes—7; absent—4.

HAYS, Chairman.

#### On Welfare and Institutions.

SENATE CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT. Your Committee on Welfare and Institutions, to which was referred

Senate Bill No. 11—An act to add Division VII, consisting of Chapter I, sections 1400 to 1411, inclusive, to the Military and Veterans Code, relating to the establishment and organization of a California State Council of Defense, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; providing for participation in the work of the California State Council of Defense by members of the Legislature and for the appointment of an Advisory Committee for the assistance of members of the Legislature; and providing an appropriation for the purposes of the chapter;

Has had the same under consideration, and respectfully reports the same back, with amendments, and recommends that the amendments be adopted, but without recommendation as to the final disposition of the bill.

Committee membership—11; committee vote: Ayes—6; noes—4; absent—1.

PHILLIPS, Chairman.

#### Consideration of Committee Amendments.

Pursuant to the report of the Committee on Welfare and Institutions, the following amendments to Senate Bill No. 11 were read and adopted:

##### Amendment No. 1.

In line 19 of the title of the printed bill, after "the", and before "work", insert the following: "appointment and".

##### Amendment No. 2.

On page 2 of the printed bill, strike out line 10, and in line 11, strike out "the Assembly", and insert in lieu thereof the following: "the majority of the members of the legislative committee created under this chapter".

##### Amendment No. 3.

On page 2 of the printed bill, strike out lines 45 and 46, and insert in lieu thereof the following:

"1403. Immediately upon the effective date of this chapter, the".

##### Amendment No. 4.

On page 2, line 50, of the printed bill, after "Assembly," insert the following: "shall advise and consent by a majority vote to the appointment of the members of the State Council of Defense by the Governor. The members of the Legislature".

##### Amendment No. 5.

On page 3, line 37, of the printed bill, strike out "president", and strike out line 38, and insert in lieu thereof the following: "legislative committee and".

##### Amendment No. 6.

On page 3, lines 40 and 41, of the printed bill, strike out "president pro tempore of the Senate and the Speaker of the Assembly", and insert in lieu thereof the following: "legislative committee, expressed by a majority vote"

##### Amendment No. 7.

On page 4 of the printed bill, strike out lines 46 through 52, inclusive, and on page 5, strike out lines 1 through 13, inclusive.

Bill ordered to print, and on file for second reading.

**Resolution.**

The following resolution was offered:

By Senator Seawell:

*Resolved*, That Assembly Bills Nos. 1, 3, 7 and 8, and Senate Bills Nos. 2, 6 and 7 present a case of urgency, as that term is used in section 15 of Article IV of the Constitution, and the provision of that section requiring that the bills shall be read on three several days in each house is hereby dispensed with, and it is ordered that said bills be read the second and third times, and placed upon their passage.

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and the resolution adopted by the following vote:

**AYES**—Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, Deuel, Fletcher, Garrison, Gordon, Hays, Hollister, Holohan, Keating, Kenny, Mayo, McBride, McCormack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Quinn, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagye—32.

**NOES**—None.

Whereupon the President declared the provisions of section 15, Article IV of the Constitution suspended for the purpose of considering, at this time, Assembly Bills Nos. 1, 3, 7 and 8, and Senate Bills Nos. 2, 6, and 7.

**Consideration of Assembly Bill No. 1.**

**Assembly Bill No. 1**—An act to add sections 2540.3, 2540.4, and 2540.9 to the Elections Code, relating to the recognition and qualification of political parties.

Bill read second time.

**Amendments From the Floor.**

During second reading of Assembly Bill No. 1, the following amendments, offered by Senator Kenny, were read:

**Amendment No. 1.**

In line 1 of the title of the printed bill, strike out "2540.3, 2540.4," and insert in lieu thereof the following: "2540.4".

**Amendment No. 2.**

On page 1 of the printed bill, strike out lines 1 to 7, inclusive.

**Amendment No. 3.**

On page 1, line 8, of the printed bill, strike out "Sec. 2.", and insert in lieu thereof the following: "Section 1."

**Amendment No. 4.**

On page 2 of the printed bill, strike out lines 2 and 3, and in line 4, strike out "other", and insert in lieu thereof the following: "any means whatsoever, with any".

**Amendment No. 5.**

On page 2, line 11, of the printed bill, strike out "3", and insert in lieu thereof the following: "2".

**Amendment No. 6.**

On page 2 of the printed bill, strike out lines 13 to 15, inclusive, and insert in lieu thereof the following:

"2540.9. At least 150 days before each primary election the Secretary of State shall hold a hearing and determine within 120 days before such primary election which parties are qualified under this article to participate in the next forthcoming primary election. Notice of such hearing shall be mailed to the secretary of the State Central Committee of each party which qualified to participate in the last preceding primary election at the last known address of each such secretary as shown on the records on file in the office of the Secretary of State. The failure of any such secretary to receive the notice or any erroneous address thereon shall not affect the jurisdiction of the Secretary of State to proceed with the hearing. In the

absence of such a determination by the Secretary of State no party may be disqualified from participation in any primary election.

Such deter—".

**Amendment No. 7.**

On page 2, line 18, of the printed bill, strike out "4", and insert in lieu thereof the following: "3".

**Amendment No. 8.**

On page 2, line 22, of the printed bill, strike out "5" and insert in lieu thereof the following: "4".

**Motion to Table.**

Senator Myhand moved that the above amendments be laid on the table.

Motion carried, and such was the order.

Bill read third time.

The question being on the passage of the bill.

The roll was called, and Assembly Bill No. 1 passed by the following vote:

**AYES**—Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Hollister, Holohan, Keating, Mayo, McBride, McCormack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagy—33.

**NOES**—Senator Kenny—1.

Title read and approved.

Assembly Bill No. 1 ordered transmitted to the Assembly.

**Consideration of Senate Bill No. 6.**

**Senate Bill No. 6**—An act to add section 152.5 to the State Civil Service Act, relating to leaves of absence of State civil service employees for military service, declaring the urgency thereof, and providing that this act shall take effect immediately.

Bill read second time.

Bill read third time.

**Urgency Clause.**

**SEC. 2.** This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution. The following is a statement of the facts constituting such necessity:

In view of the apparent necessity for providing an adequate National defense program as promptly as possible, it is anticipated that many State employees may volunteer their services with the military and naval forces of the United States instead of awaiting conscription under the Federal Selective Military Service Law. It has, therefore, become necessary to provide for the retention of the civil service rights of those so going into service. The preservation of a sound civil service system requires that this protection be afforded to these employees, and in order to make this act fully effective it is necessary that this act take effect immediately.

Urgency clause read.

The question being on the adoption of the urgency clause.

The roll was called, and the urgency clause adopted by the following vote:

**AYES**—Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Hollister, Holohan, Keating, Mayo, McBride, McCormack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagy—32.

**NOES**—None.

The question being on the passage of the bill.

The roll was called, and Senate Bill No. 6 passed by the following vote:

**AYES**—Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Hollister, Holohan, Keating, Mayo, McBride, McCormack, Metzger, Mixer, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagy—33.

**NOES**—None.

Title read and approved.

Senate Bill No. 6 ordered transmitted to the Assembly.

### Consideration of Senate Bill No. 7.

**Senate Bill No. 7**—An act to amend sections 47, 108 and 109 of the State Employees' Retirement Law, relating to the rights of members absent in the armed forces of the United States, declaring the urgency thereof and providing that this act shall take effect immediately.

Bill read second time.

Bill read third time.

#### Urgency Clause.

**SEC. 4.** This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution. The following is a statement of the facts constituting such necessity:

The effect on the retirement rights of State employees of the Federal law providing for National selective military service necessitates an immediate amendment of the law in order to protect the retirement rights and benefits of State employees who will be called upon to serve their country in its armed forces. In order to make this act fully effective and to prevent an unjust and inequitable discrimination against State employees who are performing a patriotic duty, it is necessary that it take effect immediately.

Urgency clause read.

The question being on the adoption of the urgency clause.

The roll was called, and the urgency clause adopted by the following vote:

**AYES**—Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Hollister, Holohan, Keating, Kenny, Mayo, McBride, McCormack, Metzger, Mixer, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagy—34.

**NOES**—None.

The question being on the passage of the bill.

The roll was called, and Senate Bill No. 7 passed by the following vote:

**AYES**—Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Hollister, Holohan, Kenny, Mayo, McBride, McCormack, Metzger, Mixer, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, Swing, and Tickle—32.

**NOES**—None.

Title read and approved.

Senate Bill No. 7 ordered transmitted to the Assembly.

### Consideration of Senate Bill No. 2.

**Senate Bill No. 2**—An act to amend section 1 of, and to add sections 2 and 2.1 to, an act entitled "An act making an appropriation to the emergency fund specified in Item 212 of the Budget Act of 1939, for the cost of repair and restoration of property damaged or destroyed

by storms and floods; prescribing conditions, restrictions and limitations as to the expenditure thereof; declaring the urgency of the act and that it take effect immediately," approved May 29, 1940, relating to the repair and restoration of property damaged or destroyed by storms and floods and the expenditure of moneys appropriated therefor, and declaring the urgency thereof, the act to take effect immediately.

Bill read third time.

**Urgency Clause.**

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and shall, therefore, go into immediate effect. The statement of the facts constituting such necessity is as follows:

It has developed that some of the requirements, express or implied, of the act which this act amends, operate to hamper the expenditure of the moneys appropriated thereby and to delay the accomplishment of the purposes thereof. In order to avoid such delay and make possible the completion of the needed work of repair and restoration prior to the time when storms and floods may again be expected and to avert further danger to the public peace, health and safety, it is necessary that this amendatory act go into effect immediately.

Urgency clause read.

The question being on the adoption of the urgency clause.

The roll was called, and the urgency clause adopted by the following vote:

AYES—Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hollister, Holohan, Keating, Mayo, McBride, McCormack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagy—33.

NOES—None.

The question being on the passage of the bill.

The roll was called, and Senate Bill No. 2 passed by the following vote:

AYES—Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hollister, Holohan, Keating, Mayo, McCormack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagy—31.

NOES—None.

Title read and approved.

Senate Bill No. 2 ordered transmitted to the Assembly.

**Consideration of Assembly Bill No. 7.**

**Assembly Bill No. 7**—An act to amend sections 607.4, 607.6, 608, and 608.2 of the Vehicle Code, relating to vehicular crossings, and providing that this act shall take effect immediately.

Bill read second time.

Bill read third time.

**Urgency Clause.**

SEC. 5. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety, and shall therefore take effect immediately. The facts constituting such necessity are as follows: The existing provisions of Division IXa of the Vehicle Code were enacted prior to the acquisition by the State, under the provisions of the California Toll Bridge Authority Act, of the Carquinez and Antioch Bridges, and the application of the existing provisions of the sections of the Vehicle Code hereby amended to said bridges would result in confusion, impediment of traffic and in endangering public safety. The State is not equipped to furnish the towing service required under existing law, and prohibition against the furnishing of towing service by others would result in

confusion, delay of traffic, and danger to the public safety. The prohibition of certain kinds of traffic will prohibit the use of said bridges in the manner heretofore permitted.

Urgency clause read.

The question being on the adoption of the urgency clause.

The roll was called, and the urgency clause adopted by the following vote:

AYES—Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, Deuel, Fletcher, Garrison, Gordon, Hollister, Holohan, Mayo, McCormack, Metzger, Mixer, Myhand, Nielsen, Parkman, Phillips, Powers, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagy—28.

NOES—None.

The question being on the passage of the bill.

The roll was called, and Assembly Bill No. 7 passed by the following vote:

AYES—Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Hollister, Holohan, Keating, Mayo, McBride, McCormack, Metzger, Mixer, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagy—33.

NOES—None.

Title read and approved.

Assembly Bill No. 7 ordered transmitted to the Assembly.

### **Re-reference of Assembly Bills Nos. 3 and 8.**

Senator Seawell moved that Assembly Bills Nos. 3 and 8 be re-referred to Committee on Governmental Efficiency.

Motion carried, and such was the order.

### **Messages from the Assembly.**

The following messages from the Assembly were received and read:

ASSEMBLY CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day passed:

Assembly Bill No. 2—An act to add section 3.93 to the School Code, relating to the maintenance of public school classes on Saturday and declaring that this act shall take effect immediately.

JACK CARL GREENBURG, Chief Clerk of Assembly.  
By C. W. BOOTH, Assistant Clerk.

Assembly Bill No. 2 read first time, and referred to Committee on Rules.

ASSEMBLY CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day passed:

Assembly Bill No. 6—An act making an appropriation for the reconstruction, replacement and repair of buildings and physical facilities of elementary and secondary schools damaged or destroyed by earthquakes, to take effect immediately.

JACK CARL GREENBURG, Chief Clerk of Assembly.  
By C. W. BOOTH, Assistant Clerk.

Assembly Bill No. 6 read first time, and referred to Committee on Rules.



**Senate Resolution No. 10.**

The following resolution was offered:

By Senators Metzger and Mayo:

WHEREAS, The people of the civilized world and particularly of the State of California were shocked and grieved to learn of the kidnapping of three year old Marc de Tristan from his Hillsborough home; and

WHEREAS, News has now come to us by teletype message that the kidnapper has been captured and the baby found alive and well; and

WHEREAS, This capture was made by mountaineers of the State of California whose public-spirited conduct is a source of great satisfaction to the members of this Senate; now, therefore, be it

*Resolved*, That the Senate commend those who effected the capture of this criminal and that the Secretary of the Senate be instructed to send to them, when their names and addresses are ascertained, suitably engrossed copies of this resolution of commendation.

Resolution read, and on motion of Senator Metzger adopted.

**Privilege of Floor of Senate Extended.**

On request of Senator Shelley, the privilege of the floor of the Senate Chamber for this day was unanimously extended to J. Edwin Mattox, Past President of the Young Democrats of San Francisco, Incorporated.

**Report of Standing Committee.**

The following report of standing committee was received and read:

**On Rules.**

SENATE CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: Your Committee on Rules, to which was referred:

Assembly Bill No. 2—An act to add section 3.93 to the School Code, relating to the maintenance of public school classes on Saturday and declaring that this act shall take effect immediately;

Assembly Bill No. 6—An act making an appropriation for the reconstruction, replacement and repair of buildings and physical facilities of elementary and secondary schools damaged or destroyed by earthquakes, to take effect immediately;

Has had the same under consideration, and respectfully reports the same back, and recommends that they be referred to the Committee on Finance.

Committee membership—5; committee vote: Ayes—5.

SEAWELL, Chairman.

Assembly Bills Nos. 2 and 6 ordered referred to Committee on Finance.

**Introduction, First Reading and Reference of Bills.**

The following resolutions were introduced:

**Senate Joint Resolution No. 1:** By Senator Myhand—Relative to memorializing Congress and the President of the United States to enact legislation for the purpose of deporting Harry Bridges.

Senate Joint Resolution No. 1 read, and referred to Committee on Rules.

**Senate Concurrent Resolution No. 1:** By Senator Biggar—Relative to legislation on Defense Council and subjects directly related thereto.

**Consideration of Senate Concurrent Resolution No. 1.**

Senator Biggar asked for, and was granted, unanimous consent for the consideration of Senate Concurrent Resolution No. 1, without reference to committee for purpose of adoption.

**Senate Concurrent Resolution No. 1.**

Relative to legislation on Defense Council and subjects directly related thereto

WHEREAS, The Governor has included as an item of legislation in his Proclamation for this Fourth Special Session of the Legislature, the creation of the State Council of Defense and subjects directly related thereto; and

WHEREAS, The enactment of this legislation should not be undertaken in view of the gravity of the situation without full study and adequate consideration, nor until such time as Congress has developed a defense program; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby expresses its intention to study thoroughly and adequately the need for such legislation and the ramifications thereof; and be it further

*Resolved,* That the Legislature is anxious to further the National Defense Program and does not intend to finally adjourn this Fourth Special Session until it has had time to so adequately consider the creation of a California State Council of Defense; and be it further

*Resolved,* That when it has completed its consideration the Legislature expresses its intention of reconvening for the purpose of finally disposing of the proposal.

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and Senate Concurrent Resolution No. 1 adopted by the following vote:

AYES—Senators Biggar, Breed, Collier, Crittenden, Deuel, Fletcher, Gordon, Hays, Holohan, Keating, Mayo, Metzger, Mixter, Myland, Parkman, Phillips, Rich, Seawell, Swing, Tickle, and Wagy—21.

NOES—Senators Cunningham, Foley, Garrison, Hollister, McBride, Nielsen, Quinn, Shelley, and Slater—9.

Senate Concurrent Resolution No. 1 ordered transmitted to the Assembly.

**Recess.**

At five o'clock and fifty minutes p.m., on motion of Senator Seawell, the President of the Senate declared recess until eight o'clock p.m.

**Reconvened.**

At eight o'clock p.m., the Senate reconvened.

Lieutenant Governor Ellis E. Patterson, President of the Senate, in the chair.

Secretary Joseph A. Beek at the desk.

**Messages from the Assembly.**

The following messages from the Assembly were received and read:

ASSEMBLY CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day passed:

Senate Bill No. 6—An act to add section 1525 to the State Civil Service Act, relating to leaves of absence of State civil service employees for military service, declaring the urgency thereof, and providing that this act shall take effect immediately.

JACK CARL GREENBURG, Chief Clerk of Assembly.

Senate Bill No. 6 ordered to enrollment.

ASSEMBLY CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day adopted:

Senate Concurrent Resolution No. 1—Relative to legislation on Defense Council and subjects directly related thereto.

JACK CARL GREENBURG, Chief Clerk of Assembly.  
By C. W. BOOTH, Assistant Clerk.

Senate Concurrent Resolution No. 1 ordered to enrollment.

### Reports of Standing Committee.

The following reports of standing committee were received and read:

#### On Finance.

SENATE CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: Your Committee on Finance, to which was referred:

Assembly Bill No. 2—An act to add section 393 to the School Code, relating to the maintenance of public school classes on Saturday and declaring that this act shall take effect immediately;

Has had the same under consideration, and respectfully reports the same back, and recommends that it do pass.

Committee membership—11; committee vote: Ayes—8; absent—3

TICKLE, Chairman.

SENATE CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: Your Committee on Finance, to which was referred:

Assembly Bill No. 6—An act making an appropriation for the reconstruction, replacement and repair of buildings and physical facilities of elementary and secondary schools damaged or destroyed by earthquakes, to take effect immediately;

Has had the same under consideration, and respectfully reports the same back with amendments, and recommends that the amendments be adopted, and that it do pass as amended.

Committee membership—11; committee vote: Ayes—8; absent—3.

TICKLE, Chairman.

### Messages from the Assembly.

The following messages from the Assembly were received and read:

ASSEMBLY CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly amended, and on this day passed as amended:

Senate Bill No. 2—An act to amend section 1 of, and to add sections 2 and 2.1 to, an act entitled "An act making an appropriation to the Emergency Fund specified in Item 212 of the Budget Act of 1939, for the cost of repair and restoration of property damaged or destroyed by storms and floods; prescribing conditions, restrictions and limitations as to the expenditure thereof; declaring the urgency of the act and that it take effect immediately," approved May 29, 1940, relating to the repair and restoration of property damaged or destroyed by storms and floods and the expenditure of moneys appropriated therefor, and declaring the urgency thereof, the act to take effect immediately;

And respectfully requests your honorable body to concur in said amendments.

JACK CARL GREENBURG, Chief Clerk of Assembly.  
By C. W. BOOTH, Assistant Clerk.

ASSEMBLY CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly amended, and on this day passed as amended:

Senate Bill No. 7—An act to amend sections 47, 108 and 109 of the State Employees' Retirement Law, relating to the rights of members absent in the armed forces of the United States, declaring the urgency thereof and providing that this act shall take effect immediately;

And respectfully requests your honorable body to concur in said amendments.

JACK CARL GREENBURG, Chief Clerk of Assembly  
By C. W. BOOTH, Assistant Clerk.

ASSEMBLY CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day adopted:

Assembly Joint Resolution No. 1—Relative to memorializing Congress to pass legislation for the control of predators.

JACK CARL GREENBURG, Chief Clerk of Assembly.  
By C. W. BOOTH, Assistant Clerk.

Assembly Joint Resolution No. 1 read, and referred to Committee on Rules.

ASSEMBLY CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day adopted:

Assembly Concurrent Resolution No. 2—Relative to a recess of the Senate and Assembly of the State of California.

JACK CARL GREENBURG, Chief Clerk of Assembly.

Assembly Concurrent Resolution No. 2 read, and referred to Committee on Rules.

### **Consideration of Assembly Amendment.**

The Senate took up for consideration Assembly amendment to Senate Bill No. 2.

#### **Amendment No. 1.**

On page 2, line 22, of the printed bill, strike out the period, and insert in lieu thereof the following: “; and

(c) Such expenditure and purpose is first approved by the State Controller”.

The question being: Shall the Senate concur in Assembly amendment to Senate Bill No. 2?

The roll was called, and Assembly amendment to Senate Bill No. 2 concurred in by the following vote:

AYES—Senators Biggar, Breed, Brown, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Holohan, Keating, Mayo, McBride, McCormack, Metzger, Mixer, Myhand, Nielsen, Parkman, Phillips, Quinn, Rich, Seawell, Slater, and Wagy—27.

NOES—None.

Senate Bill No. 2 ordered to enrollment.

### **Consideration of Assembly Amendment.**

The Senate took up for consideration Assembly amendment to Senate Bill No. 7.

#### **Amendment No. 1.**

In line 2 of the title of the printed bill, strike out “Law”, and insert in lieu thereof the following: “Act”.

The question being: Shall the Senate concur in Assembly amendment to Senate Bill No. 7?

The roll was called, and Assembly amendment to Senate Bill No. 7 concurred in by the following vote:

AYES—Senators Biggar, Breed, Brown, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Holohan, Keating, Mayo, McBride, McCormack, Metzger, Mixer, Nielsen, Parkman, Phillips, Powers, Rich, Seawell, Slater, and Wagy—26.

NOES—None.

Senate Bill No. 7 ordered to enrollment.

### Report of Standing Committee.

The following report of standing committee was received and read:

#### On Rules.

SENATE CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: Your Committee on Rules, to which was referred:

Assembly Joint Resolution No. 1—Relative to memorializing Congress to pass legislation for the control of predators,  
Has had the same under consideration, and respectfully reports the same back, and recommends that it be placed on file

Committee membership—5; committee vote: Ayes—5.

SEAWELL, Chairman.

### Consideration of Assembly Joint Resolution No. 1.

#### Assembly Joint Resolution No. 1.

Relative to memorializing Congress to pass legislation for the control of predators.

WHEREAS, Due to existing Federal legislation the killing of predators that prey upon our fish and game is prohibited in national parks; and

WHEREAS, Such predators daily take a deadly toll of fish and game in and out of national parks; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California does hereby memorialize the President and Congress of the United States to consider and enact legislation permitting the control of predators in National parks in the State of California by the California Fish and Game Commission and its duly authorized officers and agents; and be it further*

*Resolved, That the Chief Clerk of the Assembly of the State of California is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and member of the House of Representatives from California to the Congress of the United States, and that such Senators and members from California are respectfully urged to support such legislation.*

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and Assembly Joint Resolution No. 1 adopted by the following vote:

AYES—Senators Biggar, Breed, Brown, Crittenden, Cunningham, Deuel, Fletcher, Foley, Gordon, Hays, Holohan, Keating, Mayo, McBride, McCormack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Slater, Tickle, and Wagye—28.

NOES—None.

Assembly Joint Resolution No. 1 ordered transmitted to the Assembly.

#### Resolution.

The following resolution was offered:

By Senator Seawell:

*Resolved, That Assembly Bills Nos. 6 and 2 present a case of urgency, as that term is used in section 15 of Article IV of the Constitution, and the provision of that section requiring that the bill shall be read on three several days in each house is hereby dispensed with, and it is ordered that said bill be read the second and third times, and placed upon their passage.*

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and the resolution adopted by the following vote:

AYES—Senators Biggar, Breed, Brown, Crittenden, Cunningham, Deuel, Fletcher, Foley, Gordon, Hays, Holohan, Keating, Mayo, McBride, McCormack, Metzger,

Mixer, Myhand, Nielsen, Parkman, Phillips, Powers, Rich, Seawell, Slater, Tickle, and Wagy—27.

NOES—None.

Whereupon the President declared the provisions of section 15, Article IV of the Constitution suspended for the purpose of considering, at this time, Assembly Bills Nos. 2 and 6.

### Consideration of Assembly Bill No. 2.

**Assembly Bill No. 2**—An act to add section 3.93 to the School Code, relating to the maintenance of public school classes on Saturday, and declaring that this act shall take effect immediately.

Bill read second time.

Bill read third time.

#### Urgency Clause.

SEC. 2. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and as such shall take effect immediately. The facts constituting such necessity are as follows:

The Federal Government is making preparations to defend this Nation against possible aggression, and in preparing for the national defense, it is necessary to construct large amounts of military weapons, stores and supplies. The Federal Government has requested that the facilities of the public schools be used to the fullest possible extent in training persons for such purposes. Under the present law of this State, the schools must remain closed on Saturdays and certain other days and the inability to use the schools and the large amounts of equipment and other facilities of the schools to the fullest extent is hampering plans for the national defense. Upon this act becoming effective, the training facilities and the preparations for the defense of the State and Nation will be materially enhanced.

Urgency clause read.

The question being on the adoption of the urgency clause.

The roll was called, and the urgency clause adopted by the following vote:

AYES—Senators Biggar, Breed, Brown, Crittenden, Cunningham, Deuel, Fletcher, Foley, Gordon, Hays, Holohan, Keating, Mayo, McBride, McCormack, Metzger, Mixer, Myhand, Nielsen, Parkman, Phillips, Powers, Rich, Seawell, Slater, Tickle, and Wagy—27.

NOES—None.

The question being on the passage of the bill.

The roll was called, and Assembly Bill No. 2, passed by the following vote:

AYES—Senators Biggar, Breed, Brown, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Holohan, Keating, Mayo, McBride, McCormack, Metzger, Mixer, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Slater, Tickle, and Wagy—29.

NOES—None.

Title read and approved.

Assembly Bill No. 2 ordered transmitted to the Assembly.

### Consideration of Assembly Bill No. 6.

**Assembly Bill No. 6**—An act making an appropriation for the reconstruction, replacement and repair of buildings and physical facilities of elementary and secondary schools damaged or destroyed by earthquakes, to take effect immediately.

Bill read second time.

**Amendment From the Floor.**

During third reading of Assembly Bill No. 6, the following amendment, offered by Senator Rich, was read and adopted:

**Amendment No. 1.**

On page 1, line 1, of the printed bill, strike out "\$255,000", and insert in lieu thereof "\$100,000".

Bill read, ordered to print, and on file.

**Report of Standing Committee.**

The following report of standing committee was received and read:

**On Rules.**

SENATE CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: Your Committee on Rules, to which was referred:

Assembly Concurrent Resolution No. 2—Relative to a recess of the Senate and Assembly of the State of California;  
Has had the same under consideration, and respectfully reports the same back, and recommends that it be placed on file.

Committee membership—5; committee vote: Ayes—5

SEAWELL, Chairman.

**Consideration of Assembly Concurrent Resolution No. 2.**

**Assembly Concurrent Resolution No. 2.**

Relative to a recess of the Senate and Assembly of the State of California.

WHEREAS, The Legislature of the State of California is convened in extraordinary session, which commenced on the twenty-first day of September, 1940, pursuant to a Proclamation of the Governor of the State of California, as provided by section 9 of Article V of the Constitution of the State of California; and

WHEREAS, The Senate and the Assembly of the State of California find it necessary and desirable to recess until not later than the second day of December, 1940; and

WHEREAS, It may be necessary in the interests of the State for such recess of the Senate and the Assembly to terminate prior to said second day of December, 1940; and

WHEREAS, The Constitution of the State of California provides that neither house shall, without the consent of the other, adjourn for more than three days; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring*, That the Assembly hereby consents to the adjournment of the Senate for a period of more than three days, as more particularly herein set forth; and be it further

*Resolved*, That the Senate hereby consents to the adjournment of the Assembly for a period of more than three days, as more particularly herein set forth; and be it further

*Resolved*, That the Senate and the Assembly of the State of California shall adjourn at nine o'clock p.m. on the twenty-second day of September, 1940, and the Legislature and each house thereof shall thereupon recess until the second day of December, 1940, and shall convene at eleven o'clock a.m. on said second day of December, 1940, unless sooner reconvened as hereinafter provided; and be it further

*Resolved*, That in the event it appears to the President pro tempore of the Senate and to the Speaker of the Assembly to be for the best interests of the State that the Legislature and the Senate and Assembly thereof reconvene on a day prior to said second day of December, 1940, they are expressly authorized and directed to call the Legislature and the Senate and Assembly thereof together to convene on a day and at an hour to be specified by them jointly in a notice of reconvening of the Legislature and the Senate and Assembly thereof. Duplicate copies of such notice shall be prepared and signed by the President pro tempore of the Senate and by the Speaker of the Assembly. One copy shall be delivered to the Secretary of the Senate and the other copy shall be delivered to the Chief Clerk of the Assembly. Such delivery shall be made at least three days prior to the day set in the notice for such reconvening. Copies of the notice forthwith shall be mailed by the Secretary of the Senate to each member of the Senate at the home address for such member as shown by the records of the Secretary and copies shall be mailed by the Chief Clerk of the Assembly to each member of the Assembly at the home address for such member as shown by the records of the Chief Clerk. Following the giving of such notice of reconvening and the mailing of copies thereof, as herein provided,

the Legislature and the Senate and Assembly thereof shall thereupon reconvene on the day and at the hour specified in such notice. The affidavits of the Secretary of the Senate and of the Chief Clerk of the Assembly that copies of any such notice were severally received by them and mailed to the members as herein provided shall be conclusive evidence of the facts therein stated.

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and Assembly Concurrent Resolution No. 2 adopted by the following vote:

**AYES**—Senators Biggar, Breed, Brown, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Holohan, Keating, Mayo, McBride, McCormack, Metzger, Mixter, Myhand, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Slater, Tickle, and Wagy—28.

**NOES**—None.

Assembly Concurrent Resolution No. 2 ordered transmitted to the Assembly.

### **Introduction, First Reading and Reference of Bills.**

The following bill was introduced:

**Senate Bill No. 12:** By Senators Quinn and Garrison—An act providing for the establishment and organization in the Executive Department of the State Government of a California State Council of Defense, in accordance with the recommendations of the Council of National Defense and its Advisory Commission and of other agencies of the United States Government, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; and providing for participation in the work of the California State Council of Defense by members of the Legislature.

Senate Bill No. 12 read first time, and referred to Committee on Governmental Efficiency.

### **Consideration of Assembly Bill No. 6.**

**Assembly Bill No. 6**—An act making an appropriation for the reconstruction, replacement and repair of buildings and physical facilities of elementary and secondary schools damaged or destroyed by earthquakes, to take effect immediately.

Bill read third time.

#### **Urgency Clause.**

**SEC. 2.** This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and shall therefore go into immediate effect. The following is a statement of facts constituting such necessity:

Severe earthquakes occurring in the month of May, 1940, have damaged or destroyed school buildings and other physical facilities of elementary and secondary



school districts in Imperial County Unless these buildings and facilities are replaced without delay, the educational opportunities of the children in these districts will be curtailed, and the health of the residents of a large area of the State will be endangered by the use of temporary and make-shift structures. The responsibility of providing for the education of these children and for the protection of the health of the community is an obligation of the State which must be discharged immediately.

Urgency clause read.

The question being on the adoption of the urgency clause.

The roll was called, and the urgency clause adopted by the following vote:

AYES—Senators Biggar, Breed, Brown, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Holohan, Keating, Mayo, McBride, McCormack, Metzger, Mixter, Myhand, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Slater, Tickle, and Wagy—28.

NOES—None.

The question being on the passage of the bill.

The roll was called.

### Call of the Senate.

Pending the announcement of the vote, Senator Fletcher moved a call of the Senate.

Motion carried.

The Secretary was directed to call the roll.

The roll was called, and the following answered to their names:

Senators Biggar, Breed, Brown, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Holohan, Keating, Mayo, McBride, McCormack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Slater, Tickle, and Wagy—29.

The Secretary announced the absentees.

Time, eight o'clock and forty-five minutes p.m.

The President of the Senate directed the Sergeant-at-Arms to close the doors.

The Sergeant-at-Arms having been furnished with the names of the absentees, was directed to bring them to the bar of the Senate.

### Proceedings Under Call of the Senate.

#### Senate Resolution No. 11.

The following resolution was offered:

By Senator Seawell:

WHEREAS, The Legislature of the State of California is convened in (Fourth Extraordinary) Session pursuant to Proclamation of the Governor dated September 21, 1940, the contents of which proclamation are incorporated herein by reference as if set forth at length; and

WHEREAS, It is necessary that careful study and consideration be given by the Legislature to all the matters contained in said proclamation and not heretofore fully acted upon; now, therefore, be it

*Resolved by the Senate of the State of California*, That the Governmental Efficiency Standing Committee of the Senate of the Fourth Extraordinary Session is hereby authorized and directed to gather, assemble, study and analyze all facts and matters pertaining to the subjects of legislation set forth in said proclamation, and matters incidental thereto, and particularly with reference to the proposal to establish a California State Council of Defense; and be it further

*Resolved*, That said committee of the Fourth Extraordinary Session shall have and exercise like powers and duties to those vested by resolution in the Governmental Efficiency Standing Committee of the Senate of the First Extraordinary Session of the Fifty-third Legislature; and be it further

*Resolved*, That said Governmental Efficiency Standing Committee of the Senate of the Fourth Extraordinary Session shall have and exercise all the powers and duties vested in it by the Standing Rules of the Senate for said session and that it is hereby authorized to meet during any recess of that session, at the State Capitol or elsewhere in the State; and be it further

*Resolved*, That the appropriation heretofore made from the contingent fund of the Senate to the Governmental Efficiency Standing Committee of the First Extraordinary Session is hereby made available equally for expenditure by the Governmental Efficiency Standing Committee of the Senate of the Fourth Extraordinary Session, to be disbursed upon certification of the chairman of the committee upon warrants drawn by the Controller upon the Treasurer.

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and Senate Resolution No. 11 adopted by the following vote:

**AYES**—Senators Biggar, Breed, Brown, Cunningham, Deuel, Fletcher, Foley, Gordon, Hays, Holohan, Keating, Mayo, McCormack, Metzger, Mixer, Myhand, Nielsen, Parkman, Phillips, Powers, Rich, Seawell, Slater, and Wagy—24.

**NOES**—None.

### **Approval of Journal.**

The Senate Journal of the Fifty-third (Fourth Extraordinary) Session of Saturday, September 21, 1940, was, on motion of Senator Seawell, approved as corrected by the Journal Clerk and Minute Clerk.

### **Re-reference of Senate Bill No. 11.**

Senator Seawell moved that Senate Bill No. 11 be referred to Committee on Governmental Efficiency.

Motion carried, and such was the order.

### **Withdrawal and Re-reference of Senate Bill No. 1.**

Senator Phillips moved that Senate Bill No. 1 be withdrawn from Committee on Welfare and Institutions, and referred to Committee on Governmental Efficiency.

Motion carried, and such was the order.

### **Further Proceedings Under Call of the Senate Dispensed With.**

At eight o'clock and fifty minutes p.m., further proceedings under the call of the Senate were dispensed with, on motion of Senator Fletcher.

The names of the absentees were called, and Assembly Bill No. 6 refused passage by the following vote:

**AYES**—Senators Brown, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Holohan, Mayo, McBride, McCormack, Mixer, Myhand, Nielsen, Parkman, Phillips, Quinn, Rich, Seawell, Slater, Tickle, and Wagy—23.

**NOES**—Senators Biggar, Breed, Hays, Keating, Metzger, and Powers—6.

### **Motion to Reconsider.**

Senator Fletcher moved to reconsider the vote whereby Assembly Bill No. 6 was refused passage.

### **Postponement of Reconsideration.**

On motion of Senator Fletcher, the further consideration of the motion to reconsider the vote whereby Assembly Bill No. 6 was refused passage was continued until the next legislative day.

### Senate Resolution No. 12.

The following resolution was offered :

By Senator Seawell :

*Resolved*, That the President of the Senate appoint a Committee of Three to notify the Governor that the Senate is ready to recess in accordance with the provisions of Assembly Concurrent Resolution No. 2, and to ask His Excellency if he has any further communications to transmit to the Senate.

Resolution read, and on motion of Senator Seawell, adopted.

#### Appointment of Special Committee.

The President announced, in accordance with the above resolution, the appointment of Senators Powers, Rich and McBride.

### Senate Resolution No. 13.

The following resolution was offered :

By Senator Seawell :

*Resolved*, That the President of the Senate appoint a Committee of Three to notify the Assembly that the Senate is ready to recess in accordance with the provisions of Assembly Concurrent Resolution No. 2 and to ask the Assembly if it has any further communication to submit to the Senate.

Resolution read, and on motion of Senator Seawell, adopted.

#### Appointment of Special Committee.

The President announced, in accordance with the above resolution, the appointment of Senators Quinn, Mayo and Breed.

### Report of Standing Committee.

The following report of standing committee was received and read :

#### On Rules.

SENATE CHAMBER, SACRAMENTO, September 22, 1940.

MR. PRESIDENT: Your Committee on Rules has examined :

Senate Concurrent Resolution No. 1—Relative to legislation on Defense Council and subjects directly related thereto;

Senate Bill No. 2—An act to amend section 1 of, and to add sections 2 and 2.1 to, an act entitled "An act making an appropriation to the emergency fund specified in Item 212 of the Budget Act of 1939, for the cost of repair and restoration of property damaged or destroyed by storms and floods; prescribing conditions, restrictions and limitations as to the expenditure thereof; declaring the urgency of the act and that it take effect immediately," approved May 29, 1940, relating to the repair and restoration of property damaged or destroyed by storms and floods and the expenditure of moneys appropriated therefor, and declaring the urgency thereof, the act to take effect immediately;

Senate Bill No. 6—An act to add section 152.5 to the State Civil Service Act, relating to leaves of absence of State civil service employees for military service, declaring the urgency thereof, and providing that this act shall take effect immediately;

Senate Bill No. 7—An act to amend sections 47, 108 and 109 of the State Employees' Retirement Act, relating to the rights of members absent in the armed forces of the United States, declaring the urgency thereof and providing that this act shall take effect immediately;

And reports that the same have been correctly enrolled and presented to the Governor on the twenty-second day of September, 1940, at eight o'clock and thirty minutes p.m.

SEAWELL, Chairman.

### Approval of Minutes.

The minutes of this legislative day, Sunday, September 22, 1940, were, on motion of Senator Seawell, approved as corrected by the Journal Clerk and Minute Clerk.

**Message from the Assembly.**

At eight o'clock and fifty-five minutes p.m. a committee from the Assembly, consisting of Messrs. Field, Robertson and Heisinger, appeared at the bar of the Senate and announced that the Assembly was prepared to adjourn for the recess, and had no further communications to transmit to the Senate.

**Report of Committee.**

Senator Quinn, as chairman of the committee appointed to inform the Assembly of the readiness of the Senate to adjourn for the recess, as provided in Assembly Concurrent Resolution No. 2, reported that the committee had delivered the message to the Assembly, and had been requested by the Assembly to inform the Senate that the Assembly had no further communications to transmit, as they were prepared to adjourn for the recess.

**Report of Committee.**

Senator Brown, as chairman of the committee appointed to wait upon the Governor and inform him of the readiness of the Senate to adjourn for the recess, as provided in Assembly Concurrent Resolution No. 2, reported that they had performed their duty.

**Adjournment.**

Whereupon at nine o'clock p.m., on motion of Senator Phillips, in accordance with the provisions of Assembly Concurrent Resolution No. 2, the President of the Senate declared the Fifty-third (Fourth Extraordinary) Session of the Senate adjourned until eleven o'clock a.m., Monday, December 2, 1940, unless sooner reconvened in accordance with the provisions of Assembly Concurrent Resolution No. 2.

JAMES BOYD GARRISON, Minute Clerk.

**CALIFORNIA LEGISLATURE**  
**FIFTY-THIRD (FOURTH EXTRAORDINARY) SESSION**

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# SENATE DAILY JOURNAL

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## IN SENATE

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SENATE CHAMBER, SACRAMENTO,  
Monday, December 2, 1940.

The Senate met at eleven o'clock a.m., pursuant to the provisions of Assembly Concurrent Resolution No. 2, reconvening the Legislature after the recess.

Lieutenant Governor Ellis E. Patterson, President of the Senate of the Fifty-third Session, in the chair, called the Senate to order.

Joseph A. Beek, Secretary of the Senate; James Boyd Garrison, Minute Clerk, and Joseph F. Nolan, Sergeant-at-Arms, were present and occupied their respective positions.

### Roll Call.

The roll was called, and the following Senators answered to their names:

Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, DeLap, Fletcher, Foley, Garrison, Gordon, Hays, Holohan, Jespersen, Keating, Kenny, Mayo, McBride, McCormack, Metzger, Mixer, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Slater, Swing, Tickle, and Wagy—33.

Quorum present.

### Prayer.

Prayer was offered by the Chaplain, Rev. A. Raymond Grant.

### Privilege of Floor of Senate Extended.

On request of Senator Fletcher, the privilege of the floor of the Senate Chamber for this day was unanimously extended to Mr. and Mrs. J. W. Rice of San Diego.

On request of Senator Biggar, the privilege of the floor of the Senate Chamber for this day was unanimously extended to Miss Mary Connover of Los Angeles, and F. C. Kelpatreck of Rockport.

**Senate Resolution No. 14.**

The following resolution was offered:

By Senator Kenny:

*Resolved*, That the President of the Senate appoint a Special Committee of three to notify the Governor that the Senate has reconvened the Fifty-third (Fourth Extraordinary) Session pursuant to Assembly Concurrent Resolution No. 2, and is now ready to receive any communication he may have to make.

**Appointment of Special Committee.**

The President announced, in accordance with the above resolution, the appointment of Senators Kenny, Breed and Mayo.

**Senate Resolution No. 15.**

The following resolution was offered:

By Senator Parkman:

*Resolved*, That the President of the Senate appoint a Special Committee of three to notify the Assembly that the Senate has reconvened the Fifty-third (Fourth Extraordinary) Session pursuant to Assembly Concurrent Resolution No. 2, and is now ready to proceed with the business of the State.

**Appointment of Special Committee.**

The President announced, in accordance with the above resolution, the appointment of Senators Parkman, Quinn and Biggar.

**Senate Resolution No. 16.**

The following resolution was offered:

By Senator Tickle:

*Resolved*, That the following named persons previously elected to the statutory offices set forth below be and the same are hereby directed to reassume their official duties.

Joseph F. Nolan, Sergeant-at-Arms;

J. Boyd Garrison, Minute Clerk;

Rev. A. Raymond Grant, Chaplain.

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and Senate Resolution No. 16 adopted by the following vote:

AYES—Senators Biggar, Brown, Collier, Crittenden, DeLap, Fletcher, Gordon, Hays, Holohan, Jespersen, Keating, McBride, McCormack, Metzger, Mixter, Myhand, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Slater, Swing, and Wagv—25

NOES—None.

**Introduction, First Reading and Reference of Bills.**

The following bill was introduced:

**Senate Bill No. 13:** By Senator Seawell—An act making an appropriation for the expenses of the Senate for the Fourth Extraordinary Session of the Legislature, this act to take effect immediately.

Senate Bill No. 13 read first time, and referred to Committee on Rules.

### Report of Standing Committee.

The following report of standing committee was received and read:

#### On Rules.

SENATE CHAMBER, SACRAMENTO, December 2, 1940.

MR. PRESIDENT: Your Committee on Rules, to which was referred:

Senate Bill No. 13—An act making an appropriation for the expenses of the Senate for the fourth extraordinary session of the Legislature, this act to take effect immediately;

Has had the same under consideration, and respectfully reports the same back, and recommends that it do pass.

Committee membership—5; committee vote: Ayes—5.

SEAWELL, Chairman.

### Resolution.

The following resolution was offered:

By Senator Seawell:

*Resolved*, That Senate Bill No. 13 presents a case of urgency, as that term is used in section 15 of Article IV of the Constitution, and the provision of that section requiring that the bill shall be read on three several days in each House is hereby dispensed with, and it is ordered that said bill be read the second and third times, and placed upon its passage.

Resolution read.

The question being on the adoption of the resolution.

The roll was called.

### Call of the Senate.

Pending the announcement of the vote, Senator Seawell moved a call of the Senate.

Motion carried.

The Secretary was directed to call the roll.

The roll was called, and the following answered to their names:

Senators Brown, Collier, Crittenden, DeLap, Fletcher, Gordon, Hays, Holohan, Jespersen, Keating, McBride, McCormack, Metzger, Mixer, Myhand, Phillips, Rich, Seawell, Slater, Swing, and Waggy—21.

The Secretary announced the absentees.

Time, eleven o'clock and ten minutes a.m.

The President of the Senate directed the Sergeant-at-Arms to close the doors.

The Sergeant-at-Arms having been furnished with the names of the absentees, was directed to bring them to the bar of the Senate.

### Further Proceedings Under Call of the Senate Dispensed With.

At eleven o'clock and twenty minutes a.m., further proceedings under the call of the Senate were dispensed with, on motion of Senator Seawell.

The names of the absentees were called, and the resolution adopted by the following vote:

AYES—Senators Biggar, Breed, Brown, Collier, Crittenden, DeLap, Fletcher, Garrison, Gordon, Hays, Holohan, Jespersen, Keating, Kenny, Mayo, McBride,

McCormack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Quinn, Rich, Seawell, Slater, Swing, Tickle, and Wagy—30.

NOES—None.

Whereupon, the President declared the provisions of section 15, Article IV, of the Constitution suspended for the purpose of considering, at this time, Senate Bill No. 13.

### **Consideration of Senate Bill No. 13.**

**Senate Bill No. 13**—An act making an appropriation for the expenses of the Senate for the Fourth Extraordinary Session of the Fifty-third Session of the Legislature, this act to take effect immediately.

Bill read second time.

Bill read third time.

The question being on the passage of the bill.

The roll was called, and Senate Bill No. 13 passed by the following vote:

AYES—Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, DeLap, Fletcher, Garrison, Gordon, Hays, Holohan, Jespersen, Keating, Kenny, Mayo, McBride, McCormack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Rich, Seawell, Slater, Swing, Tickle, and Wagy—30.

NOES—None.

Title read and approved.

Senate Bill No. 13 ordered transmitted to the Assembly.

### **Consideration of Motion to Reconsider.**

Pursuant to his motion given on a previous day, Senator Fletcher moved that the Senate, at this time, reconsider the vote whereby Assembly Bill No. 6 was refused passage.

The question being on the adoption of the motion to reconsider.

The roll was called, and Assembly Bill No. 6 reconsidered by the following vote:

AYES—Senators Biggar, Breed, Brown, Collier, Crittenden, Fletcher, Garrison, Gordon, Holohan, Jespersen, Keating, Kenny, McCormack, Mixter, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Slater, Swing, and Wagy—24.

NOES—Senators DeLap, Metzger, Myhand, and Tickle—4.

### **Re-reference of Assembly Bill No. 6.**

Senator Fletcher moved that Assembly Bill No. 6 be re-referred to Committee on Revenue and Taxation.

Motion carried, and such was the order.

### **Message from the Governor.**

The following message from the Governor was received and read:

STATE OF CALIFORNIA, GOVERNOR'S OFFICE,  
SACRAMENTO, December 2, 1940.

*Honorable Members of the Senate,  
Sacramento, California.*

GENTLEMEN: No doubt you are wholly familiar with the matters which I am calling to your attention herein. However, some of the subjects of this and other extraordinary sessions of the Legislature, and chiefly the subjects related to the National Defense, are of such importance that I feel that I should call your attention to the necessity of action prior to the next regular session of the Legislature.



A measure passed at one of the special sessions can not take effect until at least March, 1941; that is, ninety days after adjournment of the session at which it is passed. A measure passed at the regular session in all probability will not take effect until September, 1941. It is true that an urgency measure can go into immediate effect, but it will be remembered that Article IV, Section 1, of the State Constitution provides that "no measure creating or abolishing any office or changing the salary, term or duties of any officer, or granting any franchise or special privilege, or creating any vested right or interest, shall be construed to be an urgency measure." Therefore, it is plain that those measures which may be construed as creating an office or changing the duties of an officer and which will be needed before September, 1941, should be acted upon before the regular session of the Legislature.

I may say, also, that some of the defense measures, while apparently of small individual significance, may be a necessary step in a very large program and the delay in the matter of legislation may cause serious delays in the program.

Respectfully submitted,

CULBERT L. OLSON,  
Governor of California.

CLO:lm

### Messages from the Governor.

The following messages from the Governor were received and read and ordered referred to Committee on Rules:

STATE OF CALIFORNIA, GOVERNOR'S OFFICE,  
SACRAMENTO, December 2, 1940.

*To the Honorable Members of the Senate, State Capitol,  
Sacramento, California.*

GREETINGS: Will the Senate advise and consent to the following appointments to the State Board of Prison Directors:

Chris Merchant, San Francisco, vice John D. McGilvray, removed, for the term ending January 12, 1944;

Dr. W. Earle Smith, San Francisco, vice Ed L. Abbott, removed, for the term ending January 12, 1942;

Hugh Lovett Spears, Grapevine, vice T. N. Harvey, removed, for the term ending January 12, 1948;

George A. Briggs, Los Angeles, vice A. R. O'Brien, removed, for the term ending January 12, 1946.

Very truly yours,

CULBERT L. OLSON,  
Governor of California.

CLO:a

STATE OF CALIFORNIA, GOVERNOR'S OFFICE,  
SACRAMENTO, December 2, 1940.

*To the Honorable Members of the Senate, State Capitol,  
Sacramento, California.*

GREETINGS: Will the Senate advise and consent to the following appointments to the State Board of Education:

Lois E. Souter, Los Angeles, vice Eleanor Lloyd Smith, appointment not confirmed, for the term ending January 15, 1943;

Alice H. Dougherty, Oakland, vice self, term expired, for the term ending January 15, 1944;

James M. Tadlock, Eureka, vice Henry S. Grossman, appointment not confirmed, for the term ending January 15, 1944.

Very truly yours,

CULBERT L. OLSON,  
Governor of California.

CLO:a

### Recess.

At twelve o'clock m., on motion of Senator Seawell, the President of the Senate declared recess until three o'clock and forty minutes p.m.

### Reconvened.

At three o'clock and forty minutes p.m., the Senate reconvened.

Lieutenant Governor Ellis E. Patterson, President of the Senate, in the chair.

Secretary Joseph A. Beek at the desk.

**Message from the Assembly.**

The following message from the Assembly was received and read :

ASSEMBLY CHAMBER, SACRAMENTO, December 2, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day adopted :

Assembly Concurrent Resolution No. 3—Relative to adjournment *sine die* of the Fourth Extraordinary Session of the Fifty-third Legislature of the State of California.

JACK CARL GREENBURG, Chief Clerk of Assembly.  
By C. W. BOOTH, Assistant Clerk.

Assembly Concurrent Resolution No. 3 read, and referred to Committee on Rules.

**Reports of Special Committees.**

The following reports of Special Committees were received :

Senators Kenny, Breed and Mayo, the Special Committee appointed to wait upon the Governor and inform him of the organization of the Senate, reported they had performed their duty.

Senators Parkman, Qunn and Biggar, the Special Committee appointed to notify the Assembly of the organization of the Senate, reported that they had performed their duty.

**Adjournment.**

At three o'clock and forty-five minutes p.m., on motion of Senator Seawell, the President of the Senate declared the Senate adjourned, until eleven o'clock a.m., Tuesday, December 3, 1940.

JAMES BOYD GARRISON, Minute Clerk.

**CALIFORNIA LEGISLATURE**  
**FIFTY-THIRD (FOURTH EXTRAORDINARY) SESSION**

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# SENATE DAILY JOURNAL

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## IN SENATE

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SENATE CHAMBER, SACRAMENTO,  
Tuesday, December 3, 1940.

The Senate met at eleven o'clock a.m.

Hon. Ellis E. Patterson, President of the Senate, in the chair.

Secretary Joseph A. Beek at the desk.

### Roll Call.

The roll was called, and the following answered to their names:

Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, DeLap, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Holohan, Jespersen, Kenny, Mayo, McBride, Metzger, Mixer, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Slater, Swing, Tickle, and Wagy—32.

Quorum present.

### Prayer.

Prayer was offered by the Chaplain, Rev. A. Raymond Grant.

### Reading of the Journal.

During the reading of the Journal of Monday, December 2, 1940, the further reading was dispensed with, on motion of Senator Slater.

### Leave of Absence.

Senator Shelley was, on motion of Senator Slater, granted leave of absence for this day.

### Recess.

At eleven o'clock and five minutes a.m., on motion of Senator Seawell, the President of the Senate declared recess until four o'clock and thirty-five minutes p.m.

### Reconvened.

At four o'clock and thirty-five minutes p.m., the Senate reconvened. Lieutenant Governor Ellis E. Patterson, President of the Senate, in the chair.

Secretary Joseph A. Beek at the desk.

### Message from the Assembly.

The following message from the Assembly was received and read:

ASSEMBLY CHAMBER, SACRAMENTO, December 3, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day passed:

**Senate Bill No. 13**—An act making an appropriation for the expenses of the Senate for the Fourth Extraordinary Session of the Fifty-third Session of the Legislature, this act to take effect immediately.

JACK CARL GREENBURG, Chief Clerk of Assembly.  
By C. W. BOOTH, Assistant Clerk.

Senate Bill No. 13 ordered to enrollment.

### Report of Standing Committee.

The following report of standing committee was received and read:

#### On Rules.

SENATE CHAMBER, SACRAMENTO, December 3, 1940.

MR. PRESIDENT: Your Committee on Rules has examined:

**Senate Bill No. 13**—An act making an appropriation for the expenses of the Senate for the Fourth Extraordinary Session of the Fifty-third Session of the Legislature, this act to take effect immediately;  
And reports that the same has been correctly enrolled and presented to the Governor on the third day of December, 1940, at four o'clock and forty-five minutes p.m.

SEAWELL, Chairman.

#### Recess.

At five o'clock p.m., on motion of Senator Seawell, the President of the Senate declared recess until five o'clock and forty minutes p.m.

#### Reconvened.

At five o'clock and forty minutes p.m., the Senate reconvened.

Lieutenant Governor Ellis E. Patterson, President of the Senate, in the chair.

Secretary Joseph A. Beek at the desk.

### Introduction, First Reading and Reference of Bills.

The following bill was introduced:

**Senate Bill No. 14:** By Senators Brown, Myhand, Powers, Fletcher, Gordon, Hays, Mayo and Deuel—An act to add Division VII, consisting of Chapter I, sections 1400 to 1470, inclusive, to the Military and Veterans Code, relating to the establishment and organization of a California State Council of Defense, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs,

and to coordinate properly governmental and private agencies in the defense effort; providing for participation in the appointment and work of the California State Council of Defense by members of the Legislature and for the appointment of an advisory committee for the assistance of members of the Legislature; and providing an appropriation for the purposes of the chapter.

Senate Bill No. 14 read first time, and ordered held at desk without reference to committee.

**Adjournment.**

At five o'clock and forty-two minutes p.m., on motion of Senator Seawell, the President of the Senate declared the Senate adjourned, until eleven o'clock a.m., Wednesday, December 4, 1940.

JAMES BOYD GARRISON, Minute Clerk.



**CALIFORNIA LEGISLATURE**  
**FIFTY-THIRD (FOURTH EXTRAORDINARY) SESSION**

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# SENATE DAILY JOURNAL

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## IN SENATE

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SENATE CHAMBER, SACRAMENTO,  
Wednesday, December 4, 1940.

The Senate met at eleven o'clock a m.

Hon. Ellis E. Patterson, President of the Senate, in the chair.

Secretary Joseph A. Beek at the desk.

### Roll Call.

The roll was called, and the following answered to their names:

Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, DeLap, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Jespersen, Keating, Kenny, Mayo, McBride, McCormack, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, Swing, Tickle, and Wagy—33.

Quorum present.

### Prayer.

Prayer was offered by the Chaplain, Rev. A. Raymond Grant.

### Reading of the Journal.

During the reading of the Journal of Tuesday, December 3, 1940, the further reading was dispensed with, on motion of Senator Slater.

### Report of Standing Committee.

The following report of standing committee was received and read:

#### On Finance.

SENATE CHAMBER, SACRAMENTO, December 3, 1940

MR. PRESIDENT. Your Committee on Finance, to which was referred:

Assembly Bill No. 6—An act making an appropriation for the reconstruction, replacement and repair of buildings and physical facilities of elementary and secondary schools damaged or destroyed by earthquakes, to take effect immediately; Has had the same under consideration, and respectfully reports the same back, and recommends that it do pass.

Committee membership—11; committee vote: Ayes—7; noes—2; absent—2

TICKLE, Chairman

### Third Reading of Assembly Bills.

**Assembly Bill No. 6**—An act making an appropriation for the reconstruction, replacement and repair of buildings and physical facilities of elementary and secondary schools damaged or destroyed by earthquakes, to take effect immediately.

Bill read third time.

The question being on the passage of the bill.

The roll was called, and Assembly Bill No. 6 passed by the following vote:

**AYES**—Senators Biggar, Breed, Collier, Crittenden, Cunningham, DeLap, Denel, Fletcher, Foley, Garrison, Gordon, Jespersen, Keating, Kenny, Mayo, McBride, McCormack, Mixer, Myhand, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Slater, Swing, and Wagy—28.

**NOES**—Senators Hays, and Tickle—2.

Title read and approved.

Assembly Bill No. 6 ordered transmitted to the Assembly.

### Introduction, First Reading and Reference of Bills.

The following bill was introduced:

**Senate Joint Resolution No. 2:** By Senator Quinn—Relative to purchases of woolen materials and products for National Defense Program.

### Consideration of Senate Joint Resolution No. 2.

#### Senate Joint Resolution No. 2.

Relative to purchases of woolen materials and products for National Defense Program.

**WHEREAS**, The Government of the United States has embarked on a program designed to protect the shores of this country against the menace of totalitarianism; and

**WHEREAS**, As part of this program the Government is purchasing woolen materials and products necessary for adequate defense; and

**WHEREAS**, Consistent with the ideals of democracy which we are striving to defend and preserve is the thought that woolen goods manufacturers throughout the country should be given an opportunity to do their share towards carrying into effect the defense program; and

**WHEREAS**, Because of differentials in prices resulting from location, woolen goods manufacturers on the West Coast can not compete with their competitors in other sections of the country in submitting bids for Government contracts, and are thus deprived of an opportunity to participate in the defense program; and

**WHEREAS**, The inequities in this situation call for desirable changes at the earliest possible date; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly*, That the National Advisory Defense Commission and the United States War and Navy Departments are hereby respectfully urged to provide in their specifications for bids for National defense contracts for the purchase and sale of woolen products, in cases where the bids of West Coast manufacturers of such products would otherwise exceed those of manufacturers in other sections of the country, such excess representing the cost of transporting the products to the place of delivery, either that:

(a) An allowance in the amount of freight will be made in favor of the bids submitted by the West Coast manufacturers; or

(b) The bids submitted by West Coast manufacturers may be based on prices F.O.B. their mills; and be it further

*Resolved*, That a copy of this resolution be sent to the President and Vice President of the United States, to the Speaker of the House of Representatives of the Congress of the United States, to each member of the Senate and the House of



Representatives from California in the Congress of the United States, to Mr. Edward Stettinius and each other member of the National Advisory Defense Commission of the United States, to the Secretaries of the War and Navy Departments of the United States, and to the Quartermaster-General of the United States Army in command at Philadelphia.

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and Senate Joint Resolution No. 2 adopted by the following vote:

**AYES**—Senators Biggar, Collier, Crittenden, Cunningham, Deuel, Fletcher, Foley, Gordon, Hays, Jespersen, Keating, Kenny, Mayo, McBride, McCormack, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Seawell, Shelley, Slater, Swing, Tickle, and Wagye—28.

**NOES**—None.

Senate Joint Resolution No. 2 ordered transmitted to the Assembly.

### **Recess.**

At eleven o'clock and thirty minutes a.m., on motion of Senator Seawell, the President of the Senate declared recess until three o'clock and thirty minutes p.m.

### **Reconvened.**

At three o'clock and thirty minutes p.m., the Senate reconvened.

Hon. Jerrold L. Seawell, President pro tempore of the Senate, in the chair.

Secretary Joseph A. Beek at the desk.

### **Resolution.**

The following resolution was offered:

By Senator Hays:

*Resolved*, That Senate Bill No. 14 presents a case of urgency, as that term is used in section 15 of Article IV of the Constitution, and the provision of that section requiring that the bill shall be read on three several days in each house is hereby dispensed with, and it is ordered that said bill be read the second and third times, and placed upon its passage.

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and the resolution adopted by the following vote:

**AYES**—Senators Biggar, Breed, Brown, Collier, Crittenden, Cunningham, DeLap, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Keating, Kenny, Mayo, McCormack, Metzger, Mixter, Myhand, Nielsen, Phillips, Powers, Rich, Seawell, Shelley, Slater, Tickle, and Wagye—29.

**NOES**—None.

Whereupon, the President declared the provisions of section 15, Article IV of the Constitution suspended for the purpose of considering, at this time, Senate Bill No. 14.

### **Consideration of Senate Bill No. 14.**

**Senate Bill No. 14**—An act to add Division VII, consisting of Chapter I, sections 1400 to 1470, inclusive, to the Military and Vet-

erans Code, relating to the establishment and organization of a California State Council of Defense, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; providing for participation in the appointment and work of the California State Council of Defense by members of the Legislature and for the appointment of an Advisory Committee for the assistance of members of the Legislature; and providing an appropriation for the purposes of the chapter.

**Amendment from the Floor.**

During third reading of Senate Bill No. 14 the following amendment, offered by Senator Mayo, was read and adopted:

**Amendment No. 1.**

On page 5 of the printed bill, strike out the following, commencing on line 7: "If the ordinance is approved by the council it may be enacted by the city or county."

**Motion to Re-refer Senate Bill No. 14.**

Senator DeLap moved that Senate Bill No. 14 be re-referred to Committee on Governmental Efficiency.

**Ayes and Noes Demanded.**

A roll call was demanded by Senators Garrison, Collier and Shelley on the adoption of the motion.

The roll was called and the motion refused adoption by the following vote:

AYES—Senators Biggar, Breed, Cunningham, and DeLap—4.

NOES—Senators Brown, Collier, Crittenden, Deuel, Fletcher, Foley, Garrison, Gordon, Keating, Mayo, McBride, McCormack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, and Wagye—25.

**Consideration of Senate Bill No. 14 (Resumed).**

**Further Amendment from the Floor.**

During third reading of Senate Bill No. 14, the following amendment, offered by Senator Breed, was read and refused adoption:

**Amendment No. 1.**

On page 2, line 27, of the printed bill, after the word "chairman", insert the following: "the Attorney General, The Adjutant General, the Superintendent of Public Instruction,".

**Leave of Absence.**

Senator Tickle was, on motion of Senator Cunningham, granted leave of absence for the balance of this legislative day.

**President of the Senate in the Chair.**

At four o'clock and thirty minutes p.m., Lieutenant Governor Ellis E. Patterson, President of the Senate, in the chair.

**Amendments from the Floor.**

During third reading of Senate Bill No. 14, the following amendments, offered by Senator Kenny, were read:

**Amendment No. 1.**

On page 2, line 28, of the printed bill, after the word "Governor", strike out the remainder of said line, and strike out all of lines 29 and 30.

**Ayes and Noes Demanded.**

A roll call was demanded by Senators Garrison, Shelley and Kenny on the adoption of Amendment No. 1.

The roll was called and Amendment No. 1 refused adoption by the following vote:

**AYES**—Senators Collier, Cunningham, Deuel, Foley, Garrison, Jespersen, Keating, Kenny, Mayo, McBride, Metzger, Myhand, Quinn, Shelley, and Slater—15.

**NOES**—Senators Biggar, Breed, Brown, Crittenden, DeLap, Fletcher, Gordon, Hays, McCormack, Mixer, Nielsen, Parkman, Phillips, Powers, Rich, Seawell, Swing, and Wagye—18.

**Amendment No. 2.**

On page 2, line 44, of the printed bill, after the word "are", strike out the words "not confirmed through the failure of the Senate to", and in line 45, strike out the words "adopt a resolution of confirmation," and insert in lieu thereof the following: "rejected by the Senate."

Amendment adopted.

**Amendment No. 3.**

On page 2, line 46, of the printed bill, after the word "immediately", strike out the words: "upon adjournment of that session".

Amendment adopted.

**Amendment No. 4.**

On page 3, line 2, of the printed bill, after the comma, strike out the words "it may", and strike out all of lines 3, 4, 5, 6, 7, 8 and 9, and in line 10, strike out the words: "the office of the Secretary of State and".

Amendment adopted.

**Amendment No. 5.**

On page 3, line 23, of the printed bill, after the word "the", strike out the word "Legislature", and insert in lieu thereof the following: "State Council and the Legislative Defense Advisory Committee".

Amendment adopted.

**Amendment No. 6.**

On page 3 of the printed bill, strike out all of lines 27 to 39, inclusive.

Amendment adopted.

**Amendment No. 7.**

On page 3, line 40, of the printed bill, strike out the numerals "1418", and insert in lieu thereof the numerals "1416"; and in line 44, strike out the numerals "1419", and insert in lieu thereof the numerals "1417".

Amendment adopted.

**Amendment No. 8.**

On page 3, line 45, of the printed bill, following the word "executive", strike out the remainder of said line, and in line 46, strike out "\$3,000 a year", and insert in lieu thereof the word "secretary".

Amendment, on motion of Senator Deuel, laid on the table.

**Amendment No. 9.**

On page 3, line 48, of the printed bill, after the period, insert the following: "The executive secretary shall be responsible to the State Council and shall exercise such duties as may be assigned to him by the council".

Amendment adopted.

**Amendment No. 10.**

On page 4 of the printed bill, strike out all of lines 46 to 50, inclusive.

Amendment adopted.

**Amendment No. 11.**

In line 19 of the title of the printed bill, following the words "in the", strike out the words: "appointment and"; and in line 21, following the letters "lature", strike out the remainder of the line; and in line 22 preceding the semicolon, strike out the words "for the assistance of members of the Legislature".

Amendment adopted.

**Amendment No. 12.**

On page 5, line 36, of the printed bill, after the period, strike out the word "This", and strike out all of lines 37, 38 and 39.

On motion of Senator Seawell, amendment was laid on the table.

**Further Amendment from the Floor.**

During third reading of Senate Bill No. 14, the following amendment, offered by Senator McCormack, was read and adopted:

**Amendment No. 1.**

On page 2, lines 28 and 29, of the printed bill, strike out the words "and consent".

**Motion to Reconsider.**

Senator Phillips moved to reconsider the vote whereby the amendment offered by Senator Breed to Senate Bill No 14 was refused adoption.

Reconsideration granted.

**Reconsideration of the Amendment Offered by Senator Breed.****Amendment No. 1.**

On page 2, line 27, of the printed bill, after the word "chairman", insert the following: ", the Attorney General, The Adjutant General, the Superintendent of Public Instruction,".

Amendment refused adoption.

**Further Amendments from the Floor.**

During third reading of Senate Bill No. 14, the following amendments, offered by Senator Shelley, were read and adopted:

**Amendment No. 1.**

On page 3, line 18, of the printed bill, after the comma, strike out the remainder of the said line, and insert in lieu thereof the following: "who shall serve as the Legislative Defense Advisory Committee, at least a majority of which shall meet with and advise the Governor as to the".

**Amendment No. 2.**

On page 3, line 20, of the printed bill, after the period, strike out "The members of the Legislature shall meet", and insert in lieu thereof the following: "The Legislative Defense Advisory Committee shall meet".

**Further Amendment from the Floor.**

During third reading of Senate Bill No. 14, the following amendment, offered by Senator Metzger, was read and adopted:

**Amendment No. 1.**

On page 2 of the printed bill, between lines 34 and 35, insert the following: "Any member of the council may be removed for cause by a majority vote of all members of the council."

Bill read second time, ordered to print, engrossment, and on file for third reading.

**Message from the Assembly.**

The following message from the Assembly was received and read:

ASSEMBLY CHAMBER, SACRAMENTO, December 4, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day adopted:

Senate Joint Resolution No. 2—Relative to purchases of woolen materials and products for National Defense Program.

JACK CARL GREENBURG, Chief Clerk of Assembly.  
By C. W. BOOTH, Assistant Clerk.

Senate Joint Resolution No. 2 ordered to enrollment.

**Consideration of Assembly Concurrent Resolution No. 3.**

**Assembly Concurrent Resolution No. 3**—Relative to adjournment sine die of the Fourth Extraordinary Session of the Fifty-third Legislature of the State of California.

**Amendment from the Floor.**

During the reading of Assembly Concurrent Resolution No. 3 the following amendment, offered by Senator Seawell, was read and adopted:

**Amendment No. 1.**

At the end of the original resolution, strike out "4.30 o'clock p.m., December 3, 1940", and insert in lieu thereof the following: "3 o'clock p.m., December 5, 1940".

**Consideration of Assembly Concurrent Resolution No. 3, as Amended.****Assembly Concurrent Resolution No. 3.**

Relative to adjournment sine die of the Fourth Extraordinary Session of the Fifty-third Legislature of the State of California.

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Fourth Extraordinary Session of the Fifty-third Legislature of the State of California, which convened at one o'clock p.m., on the twenty-first day of September, 1940, pursuant to a proclamation issued by the Governor of the State of California under date of September 21, 1940, shall adjourn sine die at three o'clock p.m., December 5, 1940.

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and Assembly Concurrent Resolution No. 3 adopted by the following vote:

**AYES**—Senators Biggar, Breed, Brown, Crittenden, Cunningham, DeLap, Fletcher, Foley, Garrison, Gordon, Hays, Keating, Kenny, Mayo, McBride, McCormack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Shelley, Slater, Swing, and Wagy—30.

**NOES**—None.

Assembly Concurrent Resolution No. 3 ordered transmitted to the Assembly.

### **Adjournment.**

At five o'clock and fifty minutes p.m., on motion of Senator Seawell, the President of the Senate declared the Senate adjourned, until ten o'clock and thirty minutes a.m., Thursday, December 5, 1940.

JAMES BOYD GARRISON, Minute Clerk.

CALIFORNIA LEGISLATURE  
FIFTY-THIRD (FOURTH EXTRAORDINARY) SESSION

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# SENATE DAILY JOURNAL

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## IN SENATE

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SENATE CHAMBER, SACRAMENTO,  
Thursday, December 5, 1940.

The Senate met at ten o'clock and thirty minutes a.m.

Hon. Ellis E. Patterson, President of the Senate, in the chair.

Secretary Joseph A. Beek at the desk.

### Roll Call.

The roll was called, and the following answered to their names:

Senators Biggar, Breed, Brown, Cunningham, DeLap, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Keating, Kenny, Mayo, McBride, Mixer, Myhand, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Slater, and Wagy—25.

Quorum present.

### Prayer.

Prayer was offered by the Chaplain, Rev. A. Raymond Grant.

### Reading of the Journal.

During the reading of the Journal of Wednesday, December 4, 1940, the further reading was dispensed with, on motion of Senator Slater.

### Leaves of Absence.

Senator Holohan was, on motion of Senator Slater, granted leave of absence for this day.

Senator Swing was, on motion of Senator Rich, granted leave of absence for this day.

Senator Tickle was, on motion of Senator Cunningham, granted leave of absence for this day.

### Report of Standing Committee.

The following report of standing committee was received and read:

#### On Rules.

SENATE CHAMBER, SACRAMENTO, December 5, 1940

MR. PRESIDENT: Your Committee on Rules has examined:

Senate Bill No. 14.

And reports that the same has been correctly engrossed.

SEAWELL, Chairman.

**Consideration of Daily File.  
Third Reading of Senate Bill.**

**Senate Bill No. 14**—An act to add Division VII, consisting of Chapter I, Sections 1400 to 1470, inclusive, to the Military and Veterans Code, relating to the establishment and organization of a California State Council of Defense, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; providing for participation in the work of the California State Council of Defense by members of the Legislature; and providing an appropriation for the purposes of the chapter.

Bill read third time.

The question being on the passage of the bill.

The roll was called.

**Call of the Senate.**

Pending the announcement of the vote, Senator Hays moved a call of the Senate.

Motion carried.

The Secretary was directed to call the roll.

The roll was called, and the following answered to their names:

Senators Biggar, Breed, Cunningham, DeLap, Deuel, Fletcher, Foley, Gordon, Hays, Keating, Kenny, Mayo, McBride, Mixter, Phillips, Powers, Quinn, Rich, Seawell, Slater, and Waggy—21.

The Secretary announced the absentees.

Time, ten o'clock and forty-five minutes a.m.

The President of the Senate directed the Sergeant-at-Arms to close the doors.

The Sergeant-at-Arms having been furnished with the names of the absentees, was directed to bring them to the bar of the Senate.

**Further Proceedings Under Call of the Senate Dispensed With.**

At ten o'clock and fifty-eight minutes a.m., further proceedings under the call of the Senate were dispensed with, on motion of Senator Hays.

The names of the absentees were called, and Senate Bill No. 14 passed by the following vote:

**AYES**—Senators Biggar, Breed, Brown, Crittenden, Cunningham, DeLap, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Keating, Kenny, Mayo, McBride, McCor-



mack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Slater, and Wagy—29.  
NOES—None.

Title read and approved.

Senate Bill No. 14 ordered transmitted to the Assembly.

### **Approval of Journals.**

The Senate Journals of the Fifty-third (Fourth Extraordinary) Session of Monday, December 2, 1940; Tuesday, December 3, 1940, and Wednesday, December 4, 1940, were, on motion of Senator Seawell, approved as corrected by the Journal Clerk and Minute Clerk.

### **Recess.**

At eleven o'clock a.m., on motion of Senator Seawell, the President of the Senate declared recess until eleven o'clock and forty minutes a.m.

### **Reconvened.**

At eleven o'clock and forty minutes a.m., the Senate reconvened. Senator Nielsen, of the Ninth District, in the chair.  
Secretary Joseph A. Beek at the desk.

### **Report of Standing Committee.**

The following report of standing committee was received and read :

#### **On Rules.**

SENATE CHAMBER, SACRAMENTO, December 5, 1940.

MR. PRESIDENT: Your Committee on Rules has examined :

Senate Joint Resolution No. 2—Relative to purchases of woolen materials and products for National Defense Program;  
And reports that the same has been correctly enrolled and presented to the Governor on the fifth day of December, 1940, at eleven o'clock a.m.

SEAWELL, Chairman.

### **Message from the Assembly.**

The following message from the Assembly was received and read :

ASSEMBLY CHAMBER, SACRAMENTO, December 4, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day passed :

Assembly Concurrent Resolution No. 4—Relative to the birth of Roger Hayes Moore.

JACK CARL GREENBURG, Chief Clerk of Assembly.  
By C. W. BOOTH, Assistant Clerk.

### **Consideration of Assembly Concurrent Resolution No. 4.**

#### **Assembly Concurrent Resolution No. 4.**

Relative to the birth of Roger Hayes Moore.

WHEREAS, When the reverberations from the flapping of the wings of the Chief Stork had finally ceased on December 2, 1940, it was found that the Providential Carrier had presented Roger Hayes Moore to Mr. and Mrs. Clifton Hayes Moore; and

WHEREAS, Roger Hayes Moore constituted at birth nine pounds and two ounces of boundless joy not only to his parents, but particularly to his grandparents, State Printer and Mrs. George H. Moore; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature felicitate both the parents and the grandparents of Roger Hayes Moore on the occasion of this propitious addition to their family; and be it further

*Resolved*, That the Legislature foresees a long and substantial career for Roger Hayes Moore to his own credit, the credit of his parents and his grandparents, and the credit of the State of California; and be it finally

*Resolved*, That the chief clerk of the Assembly is directed to prepare and deliver a properly engrossed copy of this resolution to the family of Roger Hayes Moore to be held by them in trust for him.

Resolution read.

The question being on the adoption of the resolution.

The roll was called, and Assembly Concurrent Resolution No. 4 adopted by the following vote:

AYES—Senators Biggar, Brown, Crittenden, Cunningham, Deuel, Fletcher, Foley, Garrison, Gordon, Hays, Jespersen, Keating, Kenny, Mayo, McBride, McCormack, Metzger, Mixter, Myhand, Nielsen, Parkman, Phillips, Powers, Quinn, Rich, Seawell, Slater, and Wagy—28.

NOES—None.

Assembly Concurrent Resolution No. 4 ordered transmitted to the Assembly.

### **Recess.**

At eleven o'clock and fifty minutes a.m., on motion of Senator Seawell, the Acting President of the Senate declared recess until two o'clock and thirty minutes p.m.

### **Reconvened.**

At two o'clock and thirty minutes p.m., the Senate reconvened. Lieutenant Governor Ellis E. Patterson, President of the Senate, in the chair.

Secretary Joseph A. Beek at the desk.

### **Message from the Assembly.**

The following message from the Assembly was received and read:

ASSEMBLY CHAMBER, SACRAMENTO, December 5, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day concurred in Senate amendments to:

Assembly Concurrent Resolution No. 3.

JACK CARL GREENBURG, Chief Clerk of Assembly.

By C. W. BOOTH, Assistant Clerk.

### **Call of the Senate.**

Senator Seawell moved a call of the Senate.

Motion carried.

The Secretary was directed to call the roll.

The roll was called, and the following answered to their names:

Senators Crittenden, DeLap, Deuel, Fletcher, Foley, Garrison, Keating, Mayo, McBride, Mixter, Myhand, Nielsen, Powers, Quinn, Rich, Seawell, Slater, and Wagy—18.

The Secretary announced the absentees.

Time, two o'clock and thirty-five minutes p.m.

The President of the Senate directed the Sergeant-at-Arms to close the doors.

The Sergeant-at-Arms having been furnished with the names of the absentees, was directed to bring them to the bar of the Senate.

**Proceedings Under Call of the Senate.  
Message from the Governor.**

The following message from the Governor was received and read :

STATE OF CALIFORNIA, GOVERNOR'S OFFICE,  
SACRAMENTO, December 5, 1940.

*To the Honorable Members of the Senate and Assembly,  
State Capitol, Sacramento, California.*

GREETINGS: I have been advised that Senate Bill 14 relating to the establishment of a California State Council of Defense has been passed by the Senate and transmitted to the Assembly.

I have been advised further that the bill, prior to amendment, provided a State Council of Defense "to consist of the Governor, as Chairman, and fourteen members appointed by the Governor with the advice and consent of the majority of the members of the committee of members of the Legislature created under" the bill and subject to confirmation by the Senate, and that in the discussion of the bill in the Senate the objection was made that the words "with the advice and consent" would require the consent of a majority of the members of the committee referred to in the bill, to the appointments mentioned, before the appointments could become valid or effective for any purpose, and that such requirement would be an invasion of the prerogatives of the Governor under the constitutional concepts of the respective functions of the Governor and the Legislature; and further that the Senate by amendment struck out the words "and consent" before passing the bill and that it was the intention of the members of that body that this amendment would effectually remove any requirement that the appointments mentioned must be approved by the committee in order to be effective, and that under the bill as passed the function of the committee would be to advise the Governor but not to act to reject or confirm any appointment.

I have requested the advice of the Legislative Counsel as to the interpretation of the words "with the advice" as used in the bill as passed by the Senate, and I have received the communication attached hereto in which he advises me that the words "with the advice" have essentially the same meaning as the words "with the advice and consent," and that the bill as it now stands would require the consent and approval of the members of the committee before the appointments of the members of the Council of Defense would be effective, contrary to the intent of the Senate.

I have been, and in the future shall be, glad to confer with any members or group of members of the Legislature, and to secure any information they may have, in relation to appointments which I have the power to make, and I shall especially be glad to confer with any members or group of members of the Legislature in regard to appointments that I might be empowered to make to a State Council of Defense, because of the common desire for unity in all matters concerning the national defense. However, I agree with the expressions of members of the Senate which I have heretofore mentioned, to the effect that the enactment of a measure containing a requirement that an appointment by the Governor must be approved by a committee of members of the Legislature before becoming effective, would be a dangerous precedent towards the abolishment of the distinctions between the functions of the administrative and legislative branches of the government, and I could not concur in such action nor approve the bill mentioned in its present form.

In view of the fact that this bill is now being considered and that the Senate and Assembly may adjourn very shortly after action has been taken on the bill, I have deemed it proper to inform you of the opinion of the Legislative Counsel, and as to my views on the bill. I may also say that I have been advised orally by the office of the Attorney General to exactly the same effect as I was advised by the Legislative Counsel.

Respectfully submitted.  
CLO:PW

CULBERT L. OLSON,  
Governor.

SACRAMENTO, CALIFORNIA, December 5, 1940.

*Honorable Culbert L. Olson, Governor of California,  
State Capitol, Sacramento, California.*

DEAR GOVERNOR OLSON: You have inquired whether, if Senate Bill No. 14 of the fourth extraordinary session, as amended in the Senate December 4, 1940, becomes a law, an appointment to the State Council of Defense created thereby can be effective if not agreed to by a majority of the members of the committee of members of the Legislature also provided for therein.

The problem turns upon the meaning of the language in section 1410 of that bill, which reads as follows:

"1410. There is hereby created a California State Council of Defense to consist of the Governor as chairman and fourteen members appointed by the Governor with the advice of the majority of the members of the committee of members of the Legislature created under this chapter, and

subject to confirmation by the Senate. The action of the Senate shall be expressed by a single house resolution or resolutions, passed by a majority vote of all members elected to the Senate and filed in the office of the Secretary of State. Any member of the council may be removed for cause by a majority vote of all members of the council."

We have concluded that, although the matter is not wholly free from doubt, the bill requires the agreement of a majority of the members of the legislative committee to the appointments to the council.

In the short time available, we have discovered two cases interpreting the meaning of the phrase "with the advice of." In *Opinion of the Justices to the Governor and Council* (1906), 190 Mass. 616, 78 N. E. 311, the court said:

"As to this class of cases, where the Constitution declares that the power to act is in the Governor, or that the act may be done by the Governor, 'by and with the advice of council,' or 'by and with the advice and consent of the council,' we are of opinion that the responsibility rests primarily upon the Governor to determine, as the supreme executive magistrate, whether any action is called for, and what action, if any, is desirable; and that the provision for advice of the Council is a requirement that their approval and concurrence shall accompany the affirmative act and enter into it before it becomes complete and effective. We do not think that these different phrases, used in different parts of the Constitution, namely, 'by and with the advice of council,' 'by and with the advice and consent of the council,' 'with the advice and consent of the council,' 'with advice of council,' and 'with advice of the council,' differ at all in legal effect."

In the recent case of *Graham vs. Lockhart* (1939), 53 Ariz. 531, 91 P. (2d) 265, the court said:

"Plaintiff, without stressing the point, suggests that an appointment 'by and with the advice of the Senate' does not require 'a consent' as such phrase commonly is worded. This view is hardly tenable. The rule is otherwise in the only jurisdiction cited. In *Re Opinion of the Justices*, 190 Mass. 616, 78 N. E. 311."

It could be argued that inasmuch as the court may look at the legislative history of an act to determine its proper construction in doubtful cases (*People vs. Zadro* (1936), 16 Cal. App. (2d) 398), the amendment out of the section of the phrase "and consent" shows the intent of the Senate.

In this connection it should be noted that on the day preceding the day on which the amendment was adopted, a communication was printed in the Senate Journal for the first extraordinary session (page 808) in which is a lengthy quotation from the case first cited in this letter. The Senate may therefore have been aware of that judicial construction of the language "with the advice of."

It is also true that slightly different language is found in Section 1414:

"1414. Immediately upon the effective date of this chapter, the President pro tempore of the Senate shall appoint two members of the Senate and the Speaker of the Assembly shall appoint three members of the Assembly who, with the President pro tempore of the Senate and the Speaker of the Assembly, who shall serve as the Legislative Defense Advisory Committee, at least a majority of which shall meet with and advise the Governor as to the appointment of the members of the State Council of Defense by the Governor. The Legislative Defense Advisory Committee shall meet with and participate in the work of the council, its committees and personnel."

We believe that this language is not inconsistent with the construction herein placed on section 1410 but imposes a supplemental duty to meet and discuss the appointments with the Governor.

Very truly yours,

FRED B. WOOD, Legislative Counsel.  
By MARTIN McDONOUGH, Assistant Counsel.

MMcD:cm

### Communication.

The following communication was received, read, and on motion of Senator Garrison ordered printed in the Journal:

#### Memorandum.

To: Mr. Hession, Assistant Attorney General.  
From: Wilmer W. Morse, Deputy Attorney General.  
Dated: December 5, 1940.  
In re: Senate Bill No. 14 (Fourth Extraordinary Session).

The only authorities which I have been able to locate in the brief time allotted hold in effect that an act to be done by the Governor "by and with the advice of"

or "by and with the advice and consent of" a second body must receive the consent of the second body to become effective and that there is no difference in legal effect between the two phrases.

Opinion of the Justices, 190 Mass. 616, 78 N. E. 311; *Graham vs. Lockhart*, 53 Ariz. 531, 91 Pac. (2d) 265; 2 C. J. S. 892

I am therefore of the view that the consent of the majority of the committee of members of the Legislature, mentioned in section 1410 of Senate Bill No. 14, Fourth Extraordinary Session, should it become law, must be obtained for the appointment by the Governor of members of the California Defense Council created therein.

WILMER W. MORSE,  
Deputy Attorney General

WWM-LM

### Further Proceedings Under Call of the Senate Dispensed With.

At two o'clock and forty minutes p.m., further proceedings under the call of the Senate were dispensed with, on motion of Senator Seawell.

### Message from the Assembly.

The following message from the Assembly was received and read:

ASSEMBLY CHAMBER, SACRAMENTO, December 5, 1940

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day amended, and passed as amended:

Senate Bill No. 14—An act to add Division VII, consisting of Chapter I, sections 1400 to 1470, inclusive, to the Military and Veterans Code, relating to the establishment and organization of a California State Council of Defense, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; providing for participation in the work of the California State Council of Defense by members of the Legislature; and providing an appropriation for the purposes of the chapter;

And respectfully requests your honorable body to concur in said amendments

JACK CARL GREENBURG, Chief Clerk of Assembly.

By C. W. BOOTH, Assistant Clerk.

### Consideration of Assembly Amendments.

The Senate took up for consideration Assembly amendments to Senate Bill No. 14.

#### Amendment No. 1.

On page 3, line 3, of the printed bill, as amended, strike out "in lieu of failing to confirm,".

#### Amendment No. 2.

On page 3, line 22, of the printed bill, as amended, strike out "who".

#### Amendment No. 3.

On page 3, line 31, of the printed bill, as amended, after "Legislative", insert the following: "Defense".

#### Amendment No. 4.

On page 4, line 5, of the printed bill, as amended, strike out "secretary", and insert in lieu thereof the following: "director".

#### Amendment No. 5.

On page 3 of the printed bill, as amended, between lines 29 and 30, insert the following:

"The function of the Legislative Committee in advising the Governor regarding appointments, as provided in section 1410 and in this section, shall not be construed as a limitation upon the power of the Governor to make appointments under this chapter nor to require any consent or approval by the committee to effectuate such appointments."

**Points of Information.**

Senator Seawell raised the following point of information:

Would the affirmative vote of twenty-one members or of twenty-seven members be required to concur in the Assembly amendments to Senate Bill No. 14?

The President announced his decision and stated that he would rule that an affirmative vote of only twenty-one members is necessary to concur in amendments to the bill.

The President having ruled that the amendments from the Assembly to Senate Bill No. 14 required only twenty-one votes for concurrence, Senator Phillips rose to a point of information and asked the following questions: (1) If the amendments included a change in the amount of the appropriation, would the President rule that twenty-seven votes were necessary to concur; and (2) If the Assembly added an urgency clause by amendment, would the President rule that twenty-seven votes were necessary to concur?

The President replied that in the instances named he would rule that twenty-seven votes were required, for the following reason: That in both instances the subject of the amendments would have required twenty-seven votes for passage, but that although the bill for any reason required twenty-seven votes for passage, only twenty-one votes would be required to concur in amendments which relate to matters which themselves would require only twenty-one votes for passage.

The question being: Shall the Senate concur in Assembly amendments to Senate Bill No. 14?

The roll was called.

**Call of the Senate.**

Pending the announcement of the vote, Senator Garrison moved a call of the Senate.

Motion carried.

The Secretary was directed to call the roll.

The roll was called, and the following answered to their names:

Senators Crittenden, DeLap, Denel, Fletcher, Foley, Garrison, Gordon, Hays, Jespersen, Keating, Mayo, McBride, McCormack, Metzger, Mixer, Myhand, Nielsen, Phillips, Powers, Quinn, Rich, Seawell, Slater, and Wagy—24.

The Secretary announced the absentees.

Time, two o'clock and forty-five minutes p.m.

The President of the Senate directed the Sergeant-at-Arms to close the doors.

The Sergeant-at-Arms having been furnished with the names of the absentees, was directed to bring them to the bar of the Senate.

**Further Proceedings Under Call of the Senate Dispensed With.**

At two o'clock and forty-seven minutes p.m., further proceedings under the call of the Senate were dispensed with, on motion of Senator Garrison.

The names of the absentees were called, and the Senate refused to concur in Assembly amendments to Senate Bill No. 14 by the following vote:

AYES—Senators Deuel, Foley, Garrison, Jespersen, Keating, Metzger, Quinn, Shelley, and Slater—9.

NOES—Senators Crittenden, DeLap, Fletcher, Gordon, Hays, Mayo, McBride, McCormack, Mixter, Myhand, Nielsen, Phillips, Powers, Rich, Seawell, and Wagy—16.

### Re-reference of Senate Bill No. 14.

Senator DeLap moved that Senate Bill No. 14 be re-referred to Committee on Governmental Efficiency.

The roll was called, and the motion lost by the following vote:

AYES—Senators DeLap, Gordon, Hays, Jespersen, Keating, Metzger, Powers, Quinn, Rich, and Wagy—10.

NOES—Senators Crittenden, Deuel, Fletcher, Foley, Garrison, Mayo, McBride, McCormack, Mixter, Myhand, Nielsen, Seawell, Shelley, and Slater—14

### Message from the Assembly.

The following message from the Assembly was received and read:

ASSEMBLY CHAMBER, SACRAMENTO, December 5, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day respectfully refused to recede from its amendments to:

Senate Bill No. 14—An act to add Division VII, consisting of Chapter I, sections 1400 to 1470, inclusive, to the Military and Veterans Code, relating to the establishment and organization of a California State Council of Defense, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustment necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; providing for participation in the work of the California State Council of Defense by members of the Legislature; and providing an appropriation for the purposes of the chapter;

And appointed Messrs. Houser, Call and King, as a Committee on Free Conference to meet a like committee from the Senate

JACK CARL GREENBURG, Chief Clerk of Assembly.

By C. W. BOOTH, Assistant Clerk.

### Report of Standing Committee.

The following report of standing committee was received and read:

#### On Rules.

SENATE CHAMBER, SACRAMENTO, December 5, 1940.

MR. PRESIDENT: Your Committee on Rules has appointed Senators Hays, Mixter and Quinn as members of a Free Conference Committee to meet a like committee from the Assembly regarding Senate Bill No. 14

Committee membership—5; committee vote: Ayes—4; absent—1.

SEAWELL, Chairman.

### Report of Committee on Conference.

The following report of Committee on Conference was received and read:

SENATE CHAMBER, SACRAMENTO, December 5, 1940.

MR. PRESIDENT: Your Committee on Free Conference concerning:

Senate Bill No. 14—An act to add Division VII, consisting of Chapter I, sections 1400 to 1470, inclusive, to the Military and Veterans Code, relating to the establishment and organization of a California State Council of Defense, to plan

for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; providing for participation in the work of the California State Council of Defense by members of the Legislature; and providing an appropriation for the purposes of the chapter; Reports that it has met a like committee of the Assembly, consisting of Assemblymen Call, Houser and King, and reports that the Committee on Free Conference has agreed to recommend the following:

That the Senate concur in the Assembly amendments, and that the bill be further amended as follows:

#### **Amendment No. 1.**

In the title of the printed bill, as amended, strike out lines 2 to 21, inclusive, and insert in lieu thereof the following:

"1400 to 1426, inclusive, to the Military and Veterans Code, relating to State participation in planning for the national defense, providing an appropriation for the purposes of this chapter, to take effect immediately."

#### **Amendment No. 2.**

On page 1, line 2, of the printed bill, as amended, strike out "1470", and insert in lieu thereof the following: "1426".

#### **Amendment No. 3.**

On page 2 of the printed bill, as amended, strike out line 3, and insert in lieu thereof the following:

### **"Chapter 1. State Participation in National Defense.**

#### **Article 1. General Provisions.**

1400. This chapter may be cited as the State Defense Act.

#### **Article 2. Administration.**

1410. The Adjutant General of this State shall administer the program of State Participation in National Defense provided for in this chapter.

1411. The Adjutant General may appoint, subject to the approval of the commander of the Ninth Corps Army Area, five assistants, as follows:

- (1) A Director of Plans and Training
- (2) A Director of Supply
- (3) A Director of Disaster Relief
- (4) A Director of Intelligence
- (5) An Inspector General

1412. The Adjutant General may employ such personnel and make such expenditures as are necessary to carry out the purposes of this chapter.

1413. All persons appointed or employed under this chapter shall by The Adjutant General be constituted members of the California National Guard subject to all regulations prescribed under the authority of the United States. Such persons shall act under the supervision and control of The Adjutant General, and are for his assistance in the performance of the duties imposed upon him by law.

#### **Article 3. Functions.**

1420. It shall be the duty of The Adjutant General to coordinate the activities of this State in planning for the national defense; to provide the necessary instructions, training schedules and technique needed to insure to the civilian population the maximum of protection under war-time conditions; to maintain civilian morale necessary in the conduct of a modern war; and to insure that civilians will provide a continuous flow of material in the face of an enemy attempting constantly to attack the source of supply.

1421. In addition to any duties assigned by The Adjutant General from time to time, the Director of Plans and Training shall prepare a coordinated plan for home security for the State. He shall also act as liaison officer between the army and the civil authorities.

1422. In addition to any duties assigned by The Adjutant General from time to time, the Director of Supply shall aid in the solution of problems arising in the operation and maintenance of industry and the relations between industry and labor.

1423. In addition to other duties assigned by The Adjutant General from time to time, the Director of Disaster Relief shall prepare plans for the evacuation of refugees, medical relief, fire prevention and other problems which might arise in threatened areas.



1424. In addition to other duties assigned by The Adjutant General from time to time, the Director of Intelligence shall prepare plans for the prevention of espionage and sabotage and for the control of enemy aliens.

1425. In addition to other duties assigned by The Adjutant General from time to time, the Inspector General shall assist in the solution of problems arising from the pursuit of civilian life under war conditions.

1426. Every department, commission, agency, board, officer and employee of the State government and of every political subdivision, county, city, city and county, public district and public corporation of or in this State shall cooperate with and assist The Adjutant General so as to enable The Adjutant General to accomplish the objectives of this chapter.

SEC. 2. The sum of \$10,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the State treasury not otherwise appropriated, for the purposes of Chapter I of Division VII of the Military and Veterans Code enacted by this act, to be expended under the direction of The Adjutant General.

SEC. 3. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

An adequate program for National defense requires the utmost cooperation on the part of the State. The preparation for such a program must be made quickly if this country is to be secure. Events abroad indicate that a flagrant disregard of this country's international rights and even invasion is threatened unless a readiness to defend is apparent. In order to provide for the necessary cooperation with the Federal Government by this State it is necessary that this act take effect immediately.

#### Amendment No. 4.

On page 2 of the printed bill, as amended, strike out lines 5 to 51 inclusive, and strike out all of pages 3, 4 and 5.

HAYS.  
MIXTER  
QUINN.

Senate Committee on Free Conference.

KING.  
CALL.  
HOUSER.

Assembly Committee on Free Conference.

#### Motion to Refer Report to Committee.

Senator Keating moved that the report of the Committee on Free Conference concerning Senate Bill No. 14 be referred to Committee on Governmental Efficiency.

#### Motion to Table.

Senator Metzger moved that the above motion be laid on the table. The question being on the adoption of the motion.

The roll was called, and the motion lost by the following vote:

AYES—Senators Crittenden, Fletcher, Foley, Garrison, Gordon, Jespersen, Mayo, Metzger, Nielsen, and Seawell—10.

NOES—Senators DeLap, Deuel, Hays, Keating, McBride, McCormack, Mixter, Myhand, Phillips, Powers, Quinn, Rich, Shelley, Slater, and Wagye—15.

#### Further Consideration of the Motion to Refer to Committee.

The question being on the adoption of the motion to refer to committee.

The roll was called, and the report of the Committee on Free Conference concerning Senate Bill No. 14 was referred to Committee on Governmental Efficiency by the following vote:

AYES—Senators DeLap, Deuel, Hays, Jespersen, Keating, McCormack, Myhand, Phillips, Powers, Quinn, Rich, Shelley, Slater, and Wagye—14.

NOES—Senators Crittenden, Fletcher, Foley, Garrison, Gordon, Mayo, McBride, Metzger, Mixer, Nielsen, and Seawell—11.

### Reports of Standing Committees.

The following reports of standing committees were received and read:

#### On Rules.

SENATE CHAMBER, SACRAMENTO, December 5, 1940.

MR. PRESIDENT: Your Committee on Rules, to which was referred:

Senate Joint Resolution No. 1—Relative to memorializing Congress and the President of the United States to enact legislation for the purpose of deporting Harry Bridges;

Has had the same under consideration, and respectfully reports the same back, without recommendation for the reason that no committee action has been taken.

Committee membership—5; committee vote: Ayes—5.

SEAWELL, Chairman.

#### On Finance, Revenue and Taxation.

SENATE CHAMBER, SACRAMENTO, December 5, 1940.

MR. PRESIDENT: Your Committee on Finance, Revenue and Taxation, to which was referred:

Senate Bill No. 10—An act making an appropriation for the reconstruction, replacement and repair of buildings and physical facilities of elementary and secondary schools damaged or destroyed by earthquakes, to take effect immediately;

Has had the same under consideration, and respectfully reports the same back, without recommendation for the reason that no committee action has been taken.

Committee membership—11; committee vote: Ayes—11.

TICKLE, Chairman.

#### On Governmental Efficiency.

SENATE CHAMBER, SACRAMENTO, December 5, 1940

MR. PRESIDENT: Your Committee on Governmental Efficiency, to which was referred:

Senate Bill No. 12—An act providing for the establishment and organization in the Executive Department of the State Government of a California State Council of Defense, in accordance with the recommendations of the Council of National Defense and its Advisory Commission and of other agencies of the United States Government, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; and providing for participation in the work of the California State Council of Defense by members of the Legislature;

Senate Bill No. 14—An act to add Division VII, consisting of Chapter I, sections 1400 to 1470, inclusive, to the Military and Veterans Code, relating to the establishment and organization of a California State Council of Defense, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; providing for participation in the work of the California State Council of Defense by members of the Legislature; and providing an appropriation for the purposes of the chapter;

Has had the same under consideration, and respectfully reports the same back, without recommendation for the reason that no committee action has been taken.

Committee membership—11; committee vote: Ayes—11.

HAYS, Chairman.

SENATE CHAMBER, SACRAMENTO, December 5, 1940.

MR. PRESIDENT: Your Committee on Governmental Efficiency, to which was referred:

Assembly Bill No. 3—An act to add Section 152.5 to the State Civil Service Act, relating to leaves of absence of State civil service employees for military service, declaring the urgency thereof, and providing that this act shall take effect immediately;

Assembly Bill No. 8—An act to amend Sections 47, 108 and 109 of the State Employees' Retirement Law, relating to members absent in the armed forces of the United States, to take effect immediately;

Has had the same under consideration, and respectfully reports the same back, without recommendation for the reason that no committee action has been taken.

Committee membership—11; committee vote: Ayes—11.

HAYS, Chairman.

SENATE CHAMBER, SACRAMENTO, December 5, 1940.

MR. PRESIDENT: Your Committee on Governmental Efficiency, to which was referred:

Senate Bill No. 1—An act providing for the establishment and organization in the Executive Department of the State Government of a California State Council of Defense, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; and providing for participation in the work of the California State Council of Defense by members of the Legislature;

Senate Bill No. 3—An act to amend Section 13105 of the Health and Safety Code, and to add Chapter 15 (embracing Sections 13150 to 13156, inclusive) to Part 2 of Division XII thereof, relating to duties of the State Fire Marshal in encouraging, sponsoring and cooperating in the adoption of fire protection measures, including methods for protecting against sabotage effected through arson, and to his duties in preparing and disseminating information relative to methods of protecting against sabotage effected through arson; authorizing investigations by the State Fire Marshal and his subordinates of buildings and premises where fires have occurred, of persons guilty or having knowledge thereof, and of arson and other crime committed in connection therewith;

Senate Bill No. 4—An act making an appropriation for the reconstruction, replacement and repair of buildings and physical facilities of elementary and secondary schools damaged or destroyed by earthquakes, to take effect immediately;

Senate Bill No. 5—An act to add Section 395.4 to, and to amend Section 395.5 of, the Military and Veterans Code, relating to the rights and privileges of State civil service officers and employees engaged in military or naval duties, and providing that this act shall take effect immediately;

Senate Bill No. 8—An act to amend Section 152 of the State Civil Service Act, relating to leaves of absence of State civil service employees for military service, to take effect immediately;

Senate Bill No. 9—An act to amend Sections 47, 108 and 109 of the State Employees' Retirement Law, relating to members absent in the armed forces of the United States, to take effect immediately;

Senate Bill No. 11—An act to add Division VII, consisting of Chapter I, Sections 1400 to 1411, inclusive, to the Military and Veterans Code, relating to the establishment and organization of a California State Council of Defense, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, health, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; providing for participation in the appointment and work of the California State Council of Defense by members of the Legislature and for the appointment of an Advisory Committee for the assistance

of members of the Legislature; and providing an appropriation for the purposes of the chapter;  
Has had the same under consideration, and respectfully reports the same back, without recommendation for the reason that no committee action has been taken.

Committee membership—11; committee vote: Ayes—11.

HAYS, Chairman.

### **Senate Resolution No. 17.**

The following resolution was offered:

By Senator Hays:

*Resolved*, That the President of the Senate appoint a Committee of Three to notify the Governor that the Senate is ready to adjourn sine die the Fifty-third (Fourth Extraordinary) Session of the Legislature pursuant to the provisions of Assembly Concurrent Resolution No. 3 and to ask if His Excellency has any further communications to transmit to the Senate.

Resolution read, and on motion of Senator Hays adopted.

#### **Appointment of Special Committee.**

The President announced, in accordance with the above resolution, the appointment of Senators Hays, McBride and Garrison.

### **Senate Resolution No. 18.**

The following resolution was offered:

By Senator Deuel:

*Resolved*, That the President of the Senate appoint a Committee of Three to notify the Assembly that the Senate is ready to adjourn sine die the Fifty-third (Fourth Extraordinary) Session of the Legislature pursuant to the provisions of Assembly Concurrent Resolution No. 3 and to ask if the Assembly has any further communications to transmit to the Senate.

Resolution read, and on motion of Senator Deuel adopted.

#### **Appointment of Special Committee.**

The President announced, in accordance with the above resolution, the appointment of Senators Deuel, Metzger and Slater.

### **Message from the Assembly.**

The following message from the Assembly was received and read:

ASSEMBLY CHAMBER, SACRAMENTO, December 5, 1940.

MR. PRESIDENT: I am directed to inform your honorable body that the Assembly on this day refused to adopt the report of the Committee on Free Conference concerning:

Senate Bill No. 14.

JACK CARL GREENBURG, Chief Clerk of Assembly.  
By C. W. BOOTH, Assistant Clerk.

### **Report of Committee.**

Senator Deuel, as chairman of the committee appointed to inform the Assembly of the readiness of Senate to adjourn sine die, in accordance with the provisions of Assembly Concurrent Resolution No. 3, reported that the committee had delivered the message to the Assembly and had been requested by the Assembly to inform the Senate that the Assembly had no further communications to transmit, as they were prepared to adjourn sine die.

**Report of Committee.**

Senator Hays, as chairman of the committee appointed to wait upon the Governor and inform him of the readiness of the Senate to adjourn sine die, as provided in Assembly Concurrent Resolution No. 3, reported that they had performed their duty.

**Message from the Assembly.**

At two o'clock and fifty-nine minutes p.m., a committee from the Assembly, consisting of Messrs. Houser, Dilworth and Collins, appeared at the bar of the Senate and announced that the Assembly was prepared to adjourn the Fifty-third (Fourth Extraordinary) Session sine die.

**Approval of Minutes.**

The minutes of this legislative day, Thursday, December 5, 1940, were, on motion of Senator Seawell, approved as corrected by the Minute Clerk.

**Final Adjournment.**

Whereupon, at three o'clock p.m., on motion of Senator Seawell, in accordance with the provisions of Assembly Concurrent Resolution No. 3, the President of the Senate declared the Fifty-third (Fourth Extraordinary) Session of the Senate of the State of California adjourned sine die.

JAMES BOYD GARRISON, Minute Clerk.