

CALIFORNIA LEGISLATURE
1960 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

FIRST LEGISLATIVE DAY
FIRST CALENDAR DAY

IN ASSEMBLY

ASSEMBLY CHAMBER
Wednesday, March 2, 1960

At 2 p m, the Assembly met pursuant to the provisions of the Proclamation of His Excellency, Edmund G Brown, Governor of the State of California, dated March 2, 1960, convening the Legislature of the State of California on this day in extraordinary session.

Arthur A Ohnimus, Chief Clerk of the Assembly for the 1960 Regular (Budget) Session, presiding

ANNOUNCEMENT

Arthur A Ohnimus, Chief Clerk of the Assembly, announced that, pursuant to the requirements of the Government Code, Section 9150, the following officers of the Assembly of the 1960 Regular (Budget) Session of the Legislature were present, and in their respective positions:

Arthur A Ohnimus, Chief Clerk; Eleanor K. Donoghue, Minute Clerk; and Tony Beard, Sergeant-at-Arms.

Quorum present

PRAYER

Upon invitation of the Chief Clerk, the following prayer was offered by Rev Robert S. Romeis of St John's Lutheran Church of Sacramento.

Most Gracious God and Heavenly Father, There are times and situations which try the very souls of men. In these, O Lord, we need Thy special presence and help. Grant us the stability and the courage not to be swayed from the path of right judgment either by shallow emotionalism or by petrified stubbornness. Thou art a God of justice; Thou art a God of love. May we ever behold Thee in this paradox of Thy glory, and may we walk with extreme care the way that lies before us, that we offend Thee neither in Thy justice nor in Thy love; through Christ our Lord--
AMEN

Chief Assistant Clerk Patrick R. Murphy at the Desk

PROCLAMATION OF THE GOVERNOR

The Chief Clerk directed that the Proclamation of the Governor convening the Legislature in extraordinary session be read.

Whereupon the following Proclamation was read:

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

Proclamation

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

I, EDMUND G. BROWN, 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 in extraordinary session at Sacramento, California, on the second day of March, 1960, at 2 p m of said day for the following purpose and to legislate upon the following subject:

To consider and act upon legislation abolishing the death penalty.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 2d day of March, 1960.

(SEAL)

EDMUND G. BROWN, Governor of California

ATTEST

FRANK M. JORDAN, Secretary of State

By WALTER C. STUTLER

Assistant Secretary of State

ANNOUNCEMENT

The Chief Clerk announced that the next order of business was the nomination and election of officers for the 1960 Second Extraordinary Session of the Assembly, and declared that nominations for officers of the Assembly were now in order.

RESOLUTIONS

The following resolution was offered:

By Mr. Munnell:

House Resolution No. 1

Relative to the election of Assembly officers

Resolved by the Assembly of the State of California, That the following named persons constitute the officers of the Assembly for the 1960 Second Extraordinary Session, with the per diem as fixed by statute or resolution, to-wit:

| | |
|------------------------|---------------------|
| Hon. Ralph M. Brown | Speaker |
| Hon. Carlos Bee | Speaker pro Tempore |
| Arthur A. Ohnimus | Chief Clerk |
| Eleanor K. Donoghue | Minute Clerk |
| Tony Beard | Sergeant-at-Arms |
| Rev. R. Wilbur Simmons | Chaplain |

Resolution read.

Mr. Munnell moved the adoption of the resolution.

Mr. Hanna seconded the motion.

Resolution adopted by the following vote:

AYES—Bruce F. Allen, Don A. Allen, Backstrand, Bane, Beaver, Belotti, Biddick, Bradley, Bratschi, George E. Brown, Burke, Burton, Buserud, Cameron, Carrell, Charrel, Collier, Conrad, Coolidge, Crown, Cunningham, Cusanovich, Dahl, Davis, DeLotto, Dills, Donahoe, Elliott, Francis, Frew, Gaffney, Garrigus, Ernest R. Geddes, Samuel R. Geddes, Grant, Hanna, Hawkins, Hegland, Holmes, House, Kennick, Kilpatrick, Lanterman, Levering, Lowrey, Luckel, Lunardi, MacBride, Marks, McMillan, Meyers, Mulford, Munnell, Nisbet, O'Connell, Pattee, Petrus, Porter, Reagan, Rees, Rumford, Schrade, Sedgwick, Shell, Sumner, Thelin, Thomas, Unruh, Waldie, Williamson, George A. Wilson, Charles H. Wilson, Winton, Wolftrum, and Z'berg—75.

NOES—None.

Vote Changed Upon Roll Call on House Resolution No. 1

Mr. Lowrey was granted unanimous consent that he be recorded as voting "Aye" instead of "No" on House Resolution No. 1.

Whereupon the Chief Clerk announced the vote of the Assembly, and declared House Resolution No 1 adopted, and the following officers elected as the choice of the Assembly for the 1960 Second Extraordinary Session of the Legislature:

Hon Ralph M. Brown, Speaker, Hon Carlos Bee, Speaker pro Tempore; Arthur A Ohnumus, Chief Clerk, Eleanor K Donoghue, Minute Clerk, Tony Beard, Sergeant-at-Arms, and Rev R Wilbur Simmons, Chaplain

APPOINTMENT OF SELECT COMMITTEES

Chief Clerk Arthur A Ohnumus appointed the following Select Committee to escort Speaker-elect Ralph M Brown to the bar of the Assembly: Mr Munnell, Miss Donahoe, and Mr Schrade

Chief Clerk Arthur A Ohnumus appointed the following Select Committee to escort Speaker pro Tempore-elect Carlos Bee to the bar of the Assembly: Mr Hanna, Mrs Davis, and Mr Hawkins.

OATHS OF OFFICE ADMINISTERED

Hon. Ralph M. Brown, Speaker-elect, Hon Carlos Bee, Speaker pro Tempore-elect; Arthur A Ohnumus, Chief Clerk-elect, Eleanor K Donoghue, Minute Clerk-elect, and Tony Beard, Sergeant-at-Arms-elect, appeared at the bar of the Assembly, and took and subscribed to the following oath administered by Walter Stutler, Deputy Secretary of State:

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic, that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California, that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties upon which I am about to enter

And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means, that within the five years immediately preceding the taking of this oath (or affirmation) I have not been a member of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means except as follows

No Exceptions

and that during such time as I hold the office to which I have been elected I will not advocate nor become a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means

Speaker Presiding

Hon Ralph M Brown, Speaker of the Assembly, presiding.

Time 2 12 p m

Chief Clerk Arthur A Ohnumus at the desk

SENATE NOTIFIED OF ASSEMBLY ORGANIZATION

Speaker Brown instructed the Chief Clerk to inform the Senate by message that the Assembly is in session, and, having elected its officers, is ready to proceed with the legislative business

Speaker pro Tempore Presiding

At 2.13 p m, Hon Carlos Bee, Speaker pro Tempore of the Assembly, presiding

RESOLUTIONS

The following resolutions were offered.

By Mr. Hanna

House Resolution No. 2

Relative to adopting Temporary Rules

Resolved by the Assembly of the State of California, That the Temporary Rules of the 1960 Regular (Budget) Session, as printed in the Assembly Journal for February 1, 1960, be and the same are hereby adopted as the Temporary Rules for the 1960 Second Extraordinary Session

Request for Unanimous Consent

Mr. Hanna was granted unanimous consent to take up House Resolution No. 2 without reference to committee or file

Resolution read, and adopted by the following vote:

AYES—Bruce F. Allen, Don A. Allen, Backstrand, Bane, Beaver, Bee, Belotti, Biddick, Bradley, George E. Brown, Burke, Busterud, Cameron, Carrell, Chapel, Collier, Conrad, Coolidge, Crown, Cunningham, Cusanovich, Dahl, Davis, DeLotto, Donahoe, Elliott, Francis, Frew, Gaffney, Garrigus, Ernest R. Geddes, Samuel R. Geddes, Grant, Hanna, Hawkins, Hegland, House, Kennick, Kilpatrick, Lanterman, Levering, Lowrey, Luckel, Lunardi, Marks, McMillan, Meyers, Mulford, Munnell, Nisbet, O'Connell, Pattee, Petris, Porter, Reagan, Rumford, Schrade, Sedgwick, Shell, Sumner, Thelin, Thomas, Walde, Williamson, George A. Willson, Charles H. Wilson, Winton, Wolfrum, Z'berg, and Mr. Speaker—70
NOES—None

By Mr. Hanna:

House Resolution No. 3

Relative to constituting the Assembly Interim Committee on Rules a standing committee

Resolved by the Assembly of the State of California, That, notwithstanding the provisions of Assembly Rule 10 relating to the selection of members of the Standing Committee on Rules, the members of the Standing Committee on Rules for the 1960 Second Extraordinary Session shall be the same as those on the Assembly Interim Committee on Rules immediately prior to the convening of this session

Request for Unanimous Consent

Mr. Hanna was granted unanimous consent to take up House Resolution No. 3 without reference to committee or file.

Resolution read, and adopted by the following vote:

AYES—Bruce F. Allen, Don A. Allen, Bane, Beaver, Bee, Belotti, Biddick, Bradley, George E. Brown, Burke, Busterud, Carrell, Chapel, Collier, Coolidge, Crown, Cunningham, Cusanovich, Dahl, Davis, DeLotto, Donahoe, Elliott, Francis, Frew, Gaffney, Garrigus, Ernest R. Geddes, Samuel R. Geddes, Grant, Hanna, Hawkins, Hegland, Holmes, House, Kennick, Kilpatrick, Lanterman, Levering, Lowrey, Luckel, Lunardi, Marks, McMillan, Meyers, Mulford, Munnell, Nisbet, O'Connell, Pattee, Petris, Porter, Reagan, Rumford, Schrade, Sedgwick, Shell, Sumner, Thelin, Thomas, Walde, Williamson, George A. Willson, Charles H. Wilson, Winton, Wolfrum, Z'berg, and Mr. Speaker—68
NOES—None

By Mr. Hanna

House Resolution No. 4

Resolved by the Assembly of the State of California, That the Chief Clerk or the Sergeant-at-Arms be and they are hereby authorized to receipt to the Controller for all warrants for the payment of members, officers and attaches of the Assembly.

Request for Unanimous Consent

Mr. Hanna was granted unanimous consent to take up House Resolution No. 4 without reference to committee or file.

Resolution read, and adopted.

By Mr. Hanna:

House Resolution No. 5
Relative to mailing lists

Resolved by the Assembly of the State of California, That the Chief Clerk be authorized to receive from the Members of the Assembly a mailing list of Histories and Legislative Digests, to be directed to libraries, chambers of commerce, and other public centers, and to individuals, for general inspection. This list is to be limited to five (5) names each, and shall be forwarded to the Legislative Bill Room for regular mailing. No member shall include on the list any state department or employee thereof except state colleges and universities. The Chief Clerk is further authorized to place accredited newspaper representatives on the regular mailing list as well as the Attorney General, the Office of the Legislative Counsel, and the Governor's office; and be it further

Resolved, That no additional mailing list shall be allowed or authorized unless the sum of fifteen dollars (\$15), each is paid therefor, to the State Printer, and which sum shall be credited to legislative printing and accounted for to the Legislature.

Request for Unanimous Consent

Mr. Hanna was granted unanimous consent to take up House Resolution No. 5 without reference to committee or file

Resolution read, and adopted

NAMES PLACED UPON ROLL CALL ON HOUSE RESOLUTION NO. 1

Messrs. Charles H. Wilson, Pattee, and Waldie were granted unanimous consent that they be recorded as voting "Aye" on House Resolution No. 1.

INQUIRY OF CHAIRMAN OF COMMITTEE ON RULES

Miss Donahoe inquired of the Chairman of the Committee on Rules if the committee would consider providing the additional stamps and assistants necessary to take care of the volume of correspondence brought about by the calling of this extraordinary session of the Legislature

Response by Chairman

Mr. Hanna replied that the committee would give the matter sober and serious consideration

NAMES PLACED UPON ROLL CALL ON HOUSE RESOLUTION NO. 1

Messrs. Lanterman, Rees, MacBride, Hanna, and Dills were granted unanimous consent that they be recorded as voting "Aye" on House Resolution No. 1

LEAVES OF ABSENCE FOR THE DAY

The following member was granted leave of absence for the day, because of illness

Mr. McCollister, on request of Speaker pro Tempore Bee.

PARLIAMENTARY INQUIRY

Mr. Munnell arose to the following parliamentary inquiry: Has the Governor's message to the Legislature been read?

Reply by Speaker pro Tempore

The Speaker pro Tempore replied that the Proclamation has been read, but that no original copy of the message has been presented at the desk

MOTION TO PRINT IN JOURNAL

Mr Munnell moved that the following copy of the message of Governor Edmund G Brown relating to the abolition of the death penalty be ordered printed in the Journal

Motion carried

**MESSAGE TO THE LEGISLATURE BY GOVERNOR EDMUND G. BROWN
RELATING TO THE ABOLITION OF THE DEATH PENALTY IN
CALIFORNIA**

As an act of public conscience and from the experience of over a decade and a half in law enforcement work, I ask the Legislature to abolish the death penalty in California. There are powerful and compelling reasons why this should be done. It is not based on maudlin sympathy for the criminal and depraved. And although I believe the death penalty constitutes an affront to human dignity and brutalizes and degrades society, I do not merely for these reasons urge this course for our State.

I have reached this momentous resolution after 16 years of careful, intimate and personal experience with the application of the death penalty in this State. This experience embraces seven years as District Attorney of San Francisco, eight years as Attorney General of this State, and now 14 months as Governor. I have had a day-to-day, first-hand familiarity with crime and punishment surpassed by very few.

Society has both the right and moral duty to protect itself against its enemies. This natural and prehistoric axiom has never successfully been refuted. If by ordered death, society is really protected and our homes and institutions guarded, then even the most extreme of all penalties can be justified.

But the naked, simple fact is that the death penalty has been a gross failure. Beyond its horror and incivility, it has neither protected the innocent nor deterred the wicked. The recurrent spectacle of publicly sanctioning killing has cheapened human life and dignity without the redeeming grace which comes from justice meted out swiftly, evenly, humanely.

The death penalty is invoked too randomly, too irregularly, too unpredictably, and too tardily to be defended as an effective example warning away wrong-doers.

In California, for example, in 1955, there were 417 homicides. But only 52 defendants were convicted of first degree murder. And only 8, or 2 percent, were, in fact, sentenced to death. There can be no meaningful exemplary value in a punishment the incidence of which is but one to fifty.

Nor is the death penalty to be explained as society's ultimate weapon of desperation against the unregenerate and perverse. The study of executions over a 15-year period produces the startling facts that of 110 condemned cases, 49 percent of those executed had never previously suffered a prior felony, that 75 percent of them came from families which had been broken by divorce, separation or otherwise when the condemned was still in his teens.

Again I say, that if this most drastic of sanctions could be said substantially to serve the ends of legal justice by adding to our safety

and security, it would deserve some greater place in our respect. But no available data from any place or time that I have been able to find from research over many years gives support to the grand argument that the presence or absence of the death penalty exerts any substantial effect upon the incidence of homicide. Indeed, the Report of the British Royal Commission on Capital Punishment, one of the most universally respected and objective studies ever made on the subject, is that there is no clear evidence that the abolition of capital punishment has ever led to an increase in the homicide rate. The Royal Commission concluded, as has nearly every other scientific survey of the problem, that factors other than the presence or absence of the death penalty account for the homicide rate in any given area.

Specifically, the death penalty has been abolished in nine states (Minnesota, Wisconsin, Delaware, Michigan, Rhode Island, North Dakota, Maine, Hawaii, and Alaska) and in 30 foreign countries (as Sweden, Belgium, Norway, Italy, Western Germany, Puerto Rico, Austria and 22 others).

In none of these states has the homicide rate increased, and indeed, in comparison with other states their rates seem somewhat lower. And these rates are lower not because of the death penalty but because of particular social organization, composition of population, economic and political conditions.

I have attached to this document a map of the United States in which the various states are shaded to indicate their murder rate over a 10-year period from 1948 through 1957, compiled by the California Department of Corrections. It shows graphically that the states without capital punishment along with several others which do retain the death penalty have the least incidence of homicides. And in striking contrast, 12 southern states have the highest homicide rate of all.

This last fact points up the most glaring weakness of all, and that is that, no matter how efficient and fair the death penalty may seem in theory, in actual practice in California as elsewhere it is primarily inflicted upon the weak, the poor, the ignorant, and against racial minorities. In California, and in the Nation as a whole, the overwhelming majority of those executed are psychotic or near-psychotic, alcoholic, mentally defective, or otherwise demonstrably mentally unstable. In the experience of former Wardens Lewis Lawes of Sing Sing and Clunton P. Duffy of San Quentin, seldom are those with funds or prestige convicted of capital offenses, and even more seldom are they executed.

The shading of the attached map shows the disproportionate rate of homicides in the southern states, all of which zealously apply the death penalty.

As shocking as may be the statistics in our deep South where the most extensive use of the death penalty is made and against the most defenseless and downtrodden of the population, the Negroes, let it be remembered too that in California, in the 15-year period ending in 1953, covering 110 executions, 30 percent were of Mexicans and Negroes, more than double the combined population percentages of these two groups at the time. Indeed, only last year, 1959, out of 48 executions in the United States, 21 only were whites, while 27 were of

Negroes. These figures are not mine I tender them to you for critical examination and comparison But I believe you will find them compelling evidence of the gross unfairness and social injustice which has characterized the application of the death penalty.

And finally, I bring to your attention the lessons I have learned here, in California, in 16 years of public service, but especially since I became Governor. Last January I inaugurated the practice of personally conducting executive clemency hearings in every death case upon request Every such case is carefully investigated and comes to me complete with transcripts, investigative reports, and up-to-date psychological, neuropsychiatric, and sociological evaluations

These are all hard cases to review and consider There have been 19 of them these past 14 months They present a dreary procession of sordid, senseless violence, perpetrated by the wandering outcasts of the State Not a single one of these 19 accomplished a pittance of material gain Nine of the 19 suffered obvious and deep mental imbalance In the only three cases where actual murder was entertained by conscious design, sickness of mind was clinically established to have existed for many years All of them were products of the hinterlands of social, economic, and educational disadvantage

Six of these I have commuted to life imprisonment without possibility of parole Eight of them we have given unto the executioner: miserable, bewildered sacrifices We have taken their lives But I have seen in the files and transcripts, in the books which we have now closed upon them, that who they were and where they were, played just as big a part in their ultimate condemnation as what they did And I saw also that, but for just the slightest twist of circumstance, these 19 might have received a term of years as did the other 98 percent of those who killed.

I have studied their cases and I know that not a single execution has ever halted the sale of a single gun or restrained a moment's blind rage

And in these cases, too, there looms always the ugly chance that innocent men may be condemned, however careful are our courts and juries. Our judicial system gives us pride, but tempered by the realization that mankind is subject to error.

And this to me has been no idle fear. Within six months after I became Governor there came to me the duty to pardon a man who had, despite the care of court and counsel of his choice, been convicted of the willful slaying of his wife.

This man, John Henry Fry by name, admittedly under the influence of alcohol at the time of the crime stood convicted by the force of circumstances which he could not explain Happily, he was not executed And last June 16th we pardoned him for that which he had never done.

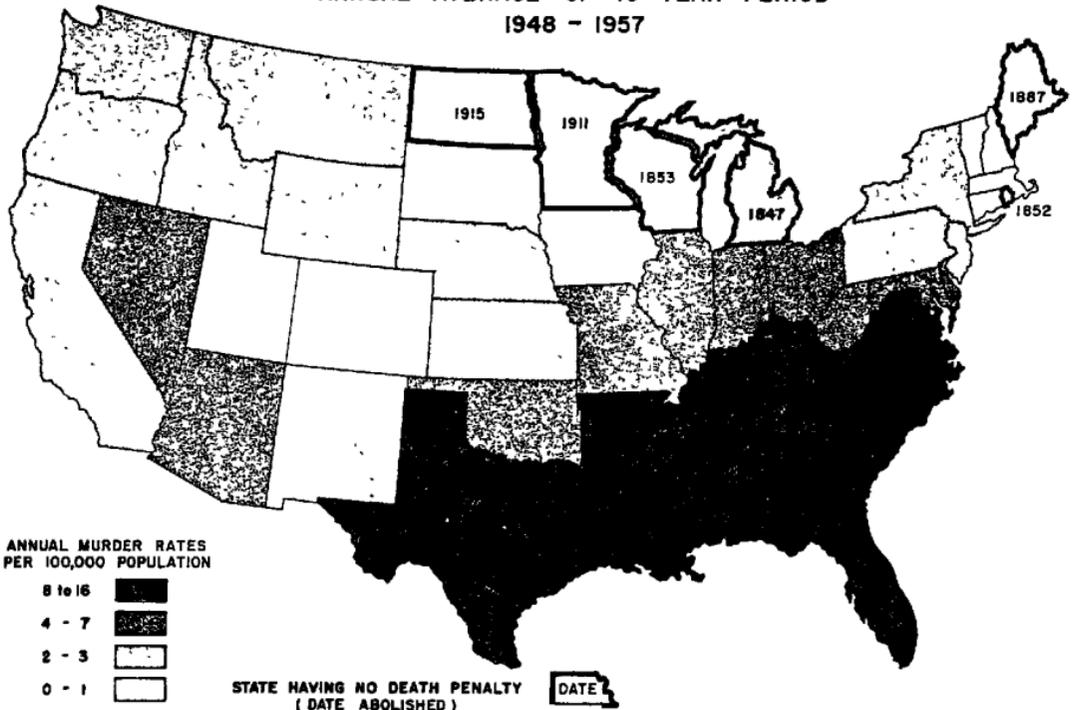
Here, but for the grace of God, there might now be on our hands the blood of a man, poor, ignorant, friendless—and innocent

I issue this call for consideration of the death penalty as a matter of conviction and conscience

It is a Governor's task to present to the Legislature those matters on which he feels action is important and urgent, and to make clear his position and the principles for which he stands.

The Legislature, directly representing the people, has a wisdom of its own and an independent function for which I have the greatest respect

STATE MURDER RATE
ANNUAL AVERAGE OF 10 YEAR PERIOD
1948 - 1957



Mar. 2, 1960]

ASSEMBLY JOURNAL

I am a realist and know the great resistance to what I propose. But public leadership must face up to the humane as well as economic and social issues of our communities. And it is not enough for those charged with public responsibilities to be content to cope with just the immediate and readily attainable—the basic and long range values of our society must also constantly be brought into fuller reality. I believe the entire history of our civilization is a struggle to bring about a greater measure of humanity, compassion and dignity among us. I believe those qualities will be the greater when the action proposed here is achieved—and not just for the wretches whose execution is changed to life imprisonment, but for each of us.

Finally, I urge that the deliberations on this profound issue, whatever the outcome, be conducted with reason and restraint. There is already too much senseless violence and vituperation in our lives. Conscientious people may differ, but the ultimate issue here is clear. Can law and order be maintained as well or better if capital punishment is abolished?

Whatever the decision, I urge every one of us to search his conscience carefully and fully. In the final outcome of that I have full confidence.

INTRODUCTION, FIRST READING, AND REFERENCE OF ASSEMBLY BILLS

The following bills were introduced, and read the first time.

Assembly Bill No. 1: By Messrs Bruce F. Allen, Shell, Dahl, Schrade, Chapel, Conrad, Coolidge, Cusanovich, Dills, Grant, Holmes, Lanterman, Levering, Pattee, and Reagan—An act to amend Section 11501 of the Health and Safety Code, relating to penalties for narcotics offenses.

Suggestion

Speaker pro Tempore Bee suggested that, by unanimous consent, the Committee on Criminal Procedure be activated at this session.

Mr. Conrad suggested that bills introduced today be held at the desk.

Mr. Bruce F. Allen requested instead, that the bills be ordered printed, and held at the desk.

Assembly Bill No. 1 ordered printed, and held at the desk.

Assembly Bill No. 2: By Messrs Bruce F. Allen, Shell, Dahl, Schrade, Chapel, Conrad, Coolidge, Cusanovich, Dills, Grant, Holmes, Lanterman, Levering, Pattee, and Reagan—An act to amend Section 11502 of the Health and Safety Code, relating to penalties for narcotics offenses.

Ordered printed, and held at the desk.

Assembly Bill No. 3: By Messrs Bruce F. Allen, Shell, Dahl, Schrade, Backstrand, Chapel, Conrad, Coolidge, Cusanovich, Dills, Grant, Holmes, Lanterman, Levering, Pattee, and Reagan—An act to add Section 11689 to the Health and Safety Code, relating to evidence in criminal actions and proceedings involving narcotics laws.

Ordered printed, and held at the desk.

Parliamentary Inquiry

Mr O'Connell arose to the following parliamentary inquiry. Does the Proclamation by the Governor, calling the Legislature into this Second Extraordinary Session, include the subject of narcotics?

Reply by Speaker pro Tempore

The Speaker pro Tempore replied that the Proclamation contains only one item "To consider and act upon legislation abolishing the death penalty"

Parliamentary Inquiry

Mr O'Connell arose to the following parliamentary inquiry Is Assembly Bill No 3 germane to the Proclamation?

Reply by Speaker pro Tempore

The Speaker pro Tempore read aloud a section from the bill, and replied that he assumed that the bill was within the call

Statement by Mr. Bruce F. Allen

Mr Bruce F Allen stated that he had received an opinion from the Legislative Counsel that the bills were germane.

Parliamentary Inquiry

Mr O'Connell arose to the following parliamentary inquiry Does the Speaker pro Tempore rule that the bills are germane?

Reply by Speaker pro Tempore

The Speaker pro Tempore replied that, after reading the digest of the bill and hearing the statement by Mr. Bruce F Allen he would have to rule the bills germane

Point of Order

Mr Munnell arose to the following point of order: That this session has been called for the purpose of abolishing the death penalty; so these bills, which oppose the abolition of capital punishment and extend the death penalty to new crimes, are not germane to the session

Ruling by Speaker pro Tempore

The Speaker pro Tempore ruled the point of order not well taken in view of the opinion of the Legislative Counsel.

Point of Order

Mr Munnell arose to the following point of order. That the bills are not germane to the session, and requested that decision on the point of order be deferred until a written opinion of the Legislative Counsel is received at the desk, and read to the members

Statement by Mr. Bruce F Allen

Mr Bruce F Allen stated that the written opinion would be presented at the desk in a few moments

Motion to Activate Committee

Mr O'Connell moved that the Standing Committee on Criminal Procedure be activated at this session with the same membership as the Standing Committee on Criminal Procedure at the 1960 First Extraordinary Session.

Mr. Crown seconded the motion

Parliamentary Inquiry

Mr. Conrad arose to the following parliamentary inquiry: What is the order of business before the House?

Reply by Speaker pro Tempore

The Speaker pro Tempore replied that the order of business was the Introduction of Bills, and that such a motion or resolution would be in order.

The question being on the motion by Mr. O'Connell

Motion to Amend

Mr. Lowrey moved that the motion by Mr. O'Connell be amended to provide that all standing committees be activated

Mr. O'Connell accepted the amendment to his motion

The question being on the amended motion by Mr. O'Connell that all standing committees be activated at this session with the same memberships as the standing committees for the 1960 First Extraordinary Session.

Motion carried by the following vote:

Ayes—Bruce F. Allen, Bane, Beaver, Bee, Belotti, Biddick, Britschgi, George E. Brown, Burke, Busterud, Cameron, Carrell, Chapel, Collier, Coolidge, Crown, Cunningham, Cusanovich, Dahl, Davis, DeLotto, Donahoe, Elliott, Francis, Fiew, Gaffney, Garrigus, Samuel R. Geddes, Grant, Hanna, Hawkins, Hegland, Holmes, Hous, Kennick, Kilpatrick, Lanteiman, Levering, Luckel, Lunardi, MacBride, Marks, McMullan, Meyers, Mulford, Munnell, Nisbet, O'Connell, Pattee, Petrus, Porter, Reagan, Rees, Rumford, Schrade, Sedgwick, Shell, Sumner, Thelin, Thomas, Waldie, Williamson, George A. Wilson, Charles H. Wilson, Winton, Wolfrum, and Z'berg—67.

Nays—Ernest R. Geddes and Lowrey—2

Parliamentary Inquiry

Mr. Lowrey arose to the following parliamentary inquiry: Should not a vote first have been taken on his amendment to the motion?

Reply by Speaker pro Tempore

The Speaker pro Tempore replied that Mr. O'Connell had accepted the amendment to his motion.

Votes Changed Upon Roll Call

Mr. Lowrey was granted unanimous consent that he be recorded as voting "No", instead of "Aye" on the amended motion.

Mr. Ernest R. Geddes was granted unanimous consent that he be recorded as voting "No" instead of "Aye" on the amended motion

Motion to Refer Bills to Committee

Mr. O'Connell moved that Assembly Bills Nos. 1, 2, and 3 be referred to the Committee on Criminal Procedure.

Mr. Munnell seconded the motion

Parliamentary Inquiry

Mr. Bruce F. Allen arose to the following parliamentary inquiry: Does not such a motion first require a suspension of the Rules?

Reply by Speaker pro Tempore

The Speaker pro Tempore replied that it did not

Substitute Motion to Hold Bills at Desk

Mr Ernest R. Geddes moved, as a substitute motion, that Assembly Bills Nos. 1, 2, and 3 be held at the desk, until the Speaker assigns them to a committee.

Mr. Lowrey seconded the motion

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

AYES—Bruce F. Allen, Backstrand, Bane, Beaver, Belotti, Biddick, Bradley, Britschgi, George E. Brown, Burke, Busterud, Cameron, Carrell, Chapel, Collier, Conrad, Coolidge, Crown, Cunningham, Cusanovich, Dahl, Davis, DeLotto, Dills, Donahoe, Elliott, Francis, Frew, Gaffney, Gatticus, Ernest R. Geddes, Samuel R. Geddes, Grant, Hanna, Hawkins, Hegland, Holmes, House, Kennick, Kilpatrick, Lanterman, Levering, Lowrey, Luckel, Lunardi, MacBride, Marks, McMillan, Meyers, Mulford, Munnell, O'Connell, Patten, Petrus, Porter, Reagan, Rees, Rumford, Schrader, Sedgwick, Shell, Sumner, Theba, Thomas, Walde, Williamson, George A. Wilson, Charles H. Wilson, Winton, Wolfrum, and Z'berg—71

NOES—None

Parliamentary Inquiry

Mr. Thomas arose to the following parliamentary inquiry. Will the bills being held at the desk be referred to committee by Speaker Brown?

Reply by Speaker pro Tempore

The Speaker pro Tempore replied that the bills will be sent to print, and will be referred to a committee by the Speaker or the Speaker pro Tempore when they are returned

Parliamentary Inquiry

Mr. Thomas arose to the following parliamentary inquiry: Will the Speaker pro Tempore assign the bills?

Reply by Speaker pro Tempore

The Speaker pro Tempore replied that he would, if he is presiding at that time.

OPINION OF LEGISLATIVE COUNSEL

The following opinion of the Legislative Counsel was received, and read:

Opinion of Legislative Counsel
STATE OF CALIFORNIA, OFFICE OF LEGISLATIVE COUNSEL
SACRAMENTO, CALIFORNIA, February 29, 1960

Hon. Bruce F. Allen
Assembly Chamber

Scope of the Call—Narcotics—No. 2105

DEAR MR. ALLEN:

Question

If the Governor includes in a supplementary proclamation for the 1960 First Extraordinary Session the item "To consider and act upon legislation abolishing the death penalty," would a bill be within the call if it added to the Health and Safety Code a section reading as follows:

"11689. In any criminal action or other proceeding commenced to enforce the provisions of Section 11501 or Section 11502, in a case in which a permissible alternative penalty for violation of the section is death, all relevant and material evidence not otherwise privileged,

shall be admissible. No evidence shall be excluded because of the manner in which it was obtained, unless its admission is prohibited by the United States Constitution or the Constitution of the State of California. Nothing in this section shall be construed to limit the right of any person to seek and obtain redress for any injury to his person or property or for the infringement of any of his rights. In any criminal proceeding to enforce Section 11501 or 11502, evidence may be introduced to show that the case is one in which the person charged, if found guilty, could be punished by death.

This section shall become effective only if, at the 1960 First Extraordinary Session of the Legislature, Section 11501 or Section 11502 is amended so that death is an alternative penalty."

Opinion

In our opinion it would.

Analysis

Section 9 of Article V of the California Constitution authorizes the Governor to convene the Legislature on extraordinary occasions by proclamation, stating the purposes for which he has convened it. The section further provides that when the Legislature is so convened, it shall have no power to legislate on any subjects other than those specified in the proclamation.

With respect to the question of what measures may be considered under an item of the Governor's proclamation convening an extraordinary session, the California Supreme Court in the case of *Martin v. Riley* (1942), 20 Cal 2d 28, stated as follows (at p 39):

"... The duty of the Legislature in special session to confine itself to the subject matter of the call is of course mandatory. It has no power to legislate on any subject not specified in the proclamation. (*People v. Curry*, 130 Cal. 82 [62 Pac. 516]; *Swing v. Riley*, 13 Cal. (2d) 513, 518 [90 P. (2) 313].) But when the Governor has submitted a subject to the Legislature, the designation of that subject opens for legislative consideration matters relating to, germane to and having a natural connection with the subject proper. (*Blackford v. Judith Basin County*, 109 Mont. 578 [98 P. (2d) 872, 877, 126 A L R 639], and cases cited.) Any matter of restriction or limitation becomes advisory or recommendatory only and not binding on the Legislature (*People v. District Court*, 23 Colo 150 [46 Pac. 281]; *Long v. State*, 58 Tex. Cr. R. 209 [127 S W. 208, 21 Ann. Cas. 405] ..."

It is to be noted that all presumptions are in favor of the constitutionality of any act passed by the Legislature during the special session, and such act will be held to be constitutional if by any reasonable construction of the language of the proclamation it can be said that the subject of the legislation is embraced therein (*Martin v. Riley*, above, at p 40).

Thus, in *Baldwin v. State* (Tex.), 3 S W. 109, cited with approval in *Martin v. Riley*, supra, it was held that the call "to reduce the taxes both ad valorem and occupation so far as it may be found consistent with the support of an efficient state government" embraced the entire

subject of taxation, and a bill authorizing the levy of taxes on occupations not theretofore taxed was upheld.

Accordingly, it appears to us that the subject of the item in question is the death penalty, any restrictive language in the item being advisory only. A bill which prescribes rules of evidence particularly applicable to criminal actions and proceedings in cases in which an alternative penalty is death is, in our opinion, one relating to, germane to and having a natural connection with the subject proper.

Very truly yours,

RALPH N. KLEPS, Legislative Counsel
By TERRY J. BAUM
Deputy Legislative Counsel

Request for Unanimous Consent

Mr. Bruce F. Allen was granted unanimous consent that the above opinion of the Legislative Counsel be ordered printed in the Journal.

NAMES PLACED UPON ROLL CALL ON HOUSE RESOLUTION NO. 1

Messrs. Britschgi and Burton were granted unanimous consent that they be recorded as voting "Aye" on House Resolution No. 1.

REQUEST FOR UNANIMOUS CONSENT

Mr. Levering was granted unanimous consent that the Speaker, Speaker pro Tempore, or the Chief Clerk be instructed to arrange that the publications of this Second Extraordinary Session be printed in such a color of ink that the type will be legible.

INQUIRY BY MR. CHAPEL

Mr. Chapel stated that he had been advised that each Member of the Assembly would receive only 50 copies of the book "The Legislature of California"; and inquired if there was any way in which the members could receive a greater number of copies because of the numerous requests they are receiving for copies of this publication.

Suggestion by Speaker pro Tempore

Speaker pro Tempore Bee suggested that the question be taken up with the Committee on Rules.

Inquiry by Mr. Lanterman

Mr. Lanterman inquired if, because of the urgent requests for these books for use in the schools, provision for a uniform supply of this book could not be made, so that all schools would be supplied with a proper amount to be designated by the Committee on Rules.

Statement by Mr. Ernest R. Geddes

Mr. Ernest R. Geddes requested that he be notified when the Rules Committee considers this matter; and stated that he felt that a portion of the cost for printing these books or supplying this information should be borne by either the Department of Education or the State Printing Division, since the book is being used as a supplementary textbook in courses of study required of the schools.

Statement by Mr. Gaffney

Mr Gaffney joined in commending Mr Ohnimus on the book, and requested that he be notified when the subject of their distribution comes up before the Committee on Rules, since he would like to discuss terms under which these books could also be made available to non-public schools.

NAMES PLACED UPON ROLL CALL ON HOUSE RESOLUTION NO. 1

Messrs. Unruh and Holmes were granted unanimous consent that they be recorded as voting "Aye" on House Resolution No 1.

MESSAGES FROM THE SENATE

SENATE, CALIFORNIA LEGISLATURE
March 2, 1960

Hon. Ralph Brown
Speaker of the Assembly
Sacramento, California

DEAR MR SPEAKER: This is to advise the Assembly that the 1960 Second Extraordinary Session of the Senate is now duly organized and ready to proceed with the business of the State.

Very truly yours,

J A BEEK, Secretary of the Senate

SENATE CHAMBER, March 2, 1960

MR SPEAKER: I am directed to inform your honorable body that the Senate has elected the following statutory officers for the 1960 Second Extraordinary Session, to wit:

| | |
|--------------------------------------|------------------|
| <i>President pro Tempore</i> | Hugh M Burns |
| <i>Secretary of the Senate</i> | Joseph A Beek |
| <i>Minute Clerk</i> | John F Lea |
| <i>Sergeant-at-Arms</i> | Joseph F Nolan |
| <i>Chaplain</i> | Rev. I E Metcalf |

J A BEEK, Secretary of the Senate
By R W LYONS, Chief Assistant Secretary

ADJOURNMENT

At 2 47 p m , on motion of Mr Winton, the Speaker pro Tempore declared the Assembly adjourned until 11 a m , Thursday, March 3, 1960

RALPH M. BROWN, Speaker

ELEANOR K DONOGHUE, Minute Clerk

CALIFORNIA LEGISLATURE
1960 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

SECOND LEGISLATIVE DAY
SECOND CALENDAR DAY

IN ASSEMBLY

ASSEMBLY CHAMBER
Thursday, March 3, 1960

The Assembly met at 11 a m
Hon Ralph M. Brown, Speaker of the Assembly, presiding.
Chief Clerk Arthur A Ohnnumus at the desk.

ROLL CALL

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

Bruce F. Allen, Don A. Allen, Backstrand, Bane, Beaver, Bee, Belotti, Biddick, Bradley, Britschgi, George E. Brown, Burke, Burton, Busterud, Cameron, Carrell, Chapel, Collier, Conrad, Coolidge, Crown, Cunningham, Cusanovich, Dahl, Davis, DeLotto, Dills, Donahoe, Elliott, Francis, Frew, Gaffney, Garrigus, Ernest R. Geddes, Samuel R. Geddes, Grant, Hanna, Hawkins, Hegland, Holmes, House, Kenrick, Kilpatrick, Lanterman, Levering, Lowrey, Luckel, Lunardi, MacBride, Marks, McCollister, McMillan, Meyers, Mulford, Munnell, Nisbet, O'Connell, Pattee, Petris, Porter, Reagan, Rees, Rumford, Schrade, Sedgwick, Shell, Sumner, Thelin, Thomas, Unruh, Waldie, Williamson, George A. Wilson, Charles H. Wilson, Winton, Wolfum, Z'berg, and Mr. Speaker—78

Quorum present.

PRAYER

Upon invitation of Speaker Brown, the following prayer was offered by Rev Robert S Romeis of St John's Lutheran Church of Sacramento:

Almighty and Everlasting God, Grant us a right sense of values, that we may be able to distinguish between the things which endure and the things which pass away. Help us always to base our judgments upon principle and not upon personalities. Lead us to do the right as Thou dost enable us to see the right, for though we are men and not gods, we hold in our hands the power either to advance Thy Holy purposes or to hinder their fulfillment. So let us act this day and every day that we receive Thy commendation; through Jesus Christ, Thy Son, our Lord—AMEN

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr Elliott

COMMUNICATIONS

The following communications were presented by the Chief Clerk from

MRs. H B Brigham of Los Angeles, and 20 others, opposing the abolition of capital punishment. Ordered filed with the Secretary of State.

Sophie Kramer of Beverly Hills, and seven others, favoring abolition of capital punishment. Ordered filed with the Secretary of State

RESOLUTIONS

The following resolution was offered ·

By Miss Donahoe ·

House Resolution No. 6

Relative to postage allowance and secretarial services for
Members of the Assembly

WHEREAS, The great increase in mail received by the Members of the Assembly pertaining to the subject of the death penalty and the necessity of responding thereto has made it imperative that the members temporarily be afforded additional postage and secretarial services, now, therefore, be it

Resolved by the Assembly of the State of California, That the Committee on Rules is hereby directed to take the necessary steps to provide additional postage allowances and secretarial help to the Members of the Assembly for the purpose of dealing with the additional correspondence burden imposed by the present extraordinary session relative to the death penalty. The Committee on Rules shall purchase postage stamps for the purposes of this resolution in such amounts and denominations and at such times as it determines, and shall supply them to the members as requested in addition to postage otherwise authorized for the members, except that no member may requisition more than a total of _____ dollars (\$_____) worth of stamps under this resolution

Resolution read, and referred to the Committee on Rules

**REFERENCE OF ASSEMBLY BILLS NOS. 1, 2, AND 3
TO COMMITTEE**

Speaker Brown ordered **Assembly Bills Nos. 1, 2, and 3**, previously ordered held at the desk, referred to the Committee on Criminal Procedure

ADJOURNMENT

At 11 14 a m, on motion of Mr. Winton, the Speaker declared the Assembly adjourned until 11 30 a m, Monday, March 7, 1960.

RALPH M BROWN, Speaker

ELEANOR K DONOGHUE, Minute Clerk

CALIFORNIA LEGISLATURE

1960 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

THIRD LEGISLATIVE DAY

SIXTH CALENDAR DAY

IN ASSEMBLY**ASSEMBLY CHAMBER**

Monday, March 7, 1960

The Assembly met at 11 30 a m

Hon. Ralph M Brown, Speaker of the Assembly, presiding

Chief Clerk Arthur A Ohmhus at the desk

ROLL CALL

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

Bruce F. Allen, Don A. Allen, Buckstrand, Beaver, Bee, Belotti, Biddick, Bradley, Britschgs, George E. Brown, Burke, Buiton, Buserud, Cameron, Carrell, Chapel, Collier, Conrad, Coolidge, Crown, Cunningham, Cusumovich, Dahl, DeLotto, Dills, Donahoe, Elliott, Francis, Frew, Gaffney, Garingus, Ernest R. Geddes, Samuel R. Geddes, Grant, Hanna, Hawkins, Hegland, Holmes, House, Kennick, Kilpatrick, Lanterman, Levering, Luckel, Lunardi, MacBride, Marks, McCollister, McMullan, Meyers, Mulford, Munnell, Nisbet, O'Connell, Puttee, Petris, Porter, Rangan, Rees, Schrade, Sedgwick, Shell, Sumner, Theln, Thomas, Waldie, Williamson, George A. Wilson, Charles H. Wilson, Winton, Wolfrum, Z'berg, and Mr. Speaker—73

Quorum present.

PRAYER

Upon invitation of Speaker Brown, the following prayer was offered by Rev. Robert S. Romeis of St. John's Lutheran Church of Sacramento:

Eternal God and Heavenly King, We give Thee thanks that Thou hast brought us safely to the beginning of another day and another week. Defend us and lead us this day by Thy mighty power that we commit no evil, under the guise of expediency, that we choose not that which is safe instead of that which is right, that we walk not the lower road because it is the easier way. Remind us that we are to be instruments of Thy justice, mercy, and love; and not tools in the hands of lethargy, obstinacy, and popularity. We have a sacred trust and its performance cannot be evaded or postponed. Guide us, O God, in Thy way.

We also pray for the speedy recovery of the Chaplain of this Assembly, the Rev. R. Wilbur Simmons. By Thy grace may he soon be restored to health; through Jesus Christ, Thy Son, our Lord—AMEN

PLEDGE OF ALLEGIANCE TO THE FLAG

Upon request of Speaker Ralph M. Brown, the Assembly then gave the pledge of allegiance to the Flag.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr Burke

LEAVES OF ABSENCE FOR THE DAY

The following member was granted leave of absence for the day, because of illness.

Mr Unruh, on request of Speaker Brown

The following members were granted leaves of absence for the day, because of legislative business elsewhere.

Mr Bane, on request of Speaker Brown

Mrs Davis, on request of Speaker Brown

Mr Lowrey, on request of Speaker Brown

The following member was granted leave of absence for the day, and desired to waive his per diem:

Mr Rumford, on request of Speaker Brown

COMMUNICATIONS

The following communications were presented by the Chief Clerk from

Mr and Mrs. Edgar Miller of Pasadena, and 29 others, opposing the abolition of capital punishment. Ordered filed with the Secretary of State

Dor Cobble of Richmond, and 24 others favoring the abolition of capital punishment. Ordered filed with the Secretary of State

ANNOUNCEMENT

Miss Donahoe announced a meeting in Room 4203 at 2 p m today to hear a report on the Master Plan for Higher Education by those who are the architects of the master plan

ADJOURNMENT

At 11 54 a m, on motion of Mr Hanna, the Speaker declared the Asserby adjourned until 11 45 a m, Tuesday, March 8, 1960

RALPH M BROWN, Speaker

ELEANOR K DONOGHUE, Minute Clerk

CALIFORNIA LEGISLATURE
1960 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

FOURTH LEGISLATIVE DAY
SEVENTH CALENDAR DAY

IN ASSEMBLY

ASSEMBLY CHAMBER
Tuesday, March 8, 1960

The Assembly met at 11 45 a m

Hon Ralph M Brown, Speaker of the Assembly, presiding
Chief Clerk Arthur A Ohnmus at the desk.

ROLL CALL

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

Bruce F Allen, Don A Allen, Backstrand, Bane, Beaver, Bee, Belotti, Biddick, Bradley, Buttschi, George E. Brown, Burke, Burton, Busterud, Cameron, Carrell, Chapel, Collier, Conrad, Coolidge, Crown, Cunningham, Cusanovich, Dahl, Davis, DeLotto, Dills, Donahoe, Elliott, Francis, Frew, Gaffney, Garigus, Samuel R Geddes, Grant, Hanna, Hawkins, Hegland, Holmes, House, Kennick, Kilpatrick, Lanterman, Levering, Lowrey, Luckel, Lunardi, MacBride, Marks, McCollister, McMillan, Meyers, Mulford, Munnell, Nisbet, O'Connell, Petris, Porter, Reagan, Rees, Rufford, Schrade, Sedgwick, Shell, Sumner, Thelin, Thomas, Umuh, Waldie, Williamson, George A. Willson, Charles H. Wilson, Winton, Wolfrum, Z'berg, and Mr Speaker—76

Quorum present

PRAYER

Upon invitation of Speaker Brown, the following prayer was offered by Rev Robert S Romeis of St John's Lutheran Church of Sacramento:

Almighty and Most Merciful God, Though we live in the world as it is, help us to catch a vision of the world as it ought to be. Then, O Lord, grant us the wisdom, the courage, and the active faith to transform the present imperfect into the future perfect. At least, O God, make us try, for ideals can be achieved if men place themselves in Thy hands and submit themselves to Thy will; through Jesus Christ, Thy Son, our Lord—AMEN.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr Luckel

LEAVES OF ABSENCE FOR THE DAY

The following member was granted leave of absence for the day, because of illness:

Mr Pattee, on request of Speaker Brown.

The following member was granted leave of absence for the day, because of legislative business elsewhere:

Mr Ernest R Geddes, on request of Speaker Brown

COMMUNICATIONS

The following communications were presented by the Chief Clerk from

F. Vaal'dnean of Thornton and Artur Pinheiro of Portugal, favoring the abolition of capital punishment. Ordered filed with the Secretary of State

Mrs Joe Wozah and J. W. Wozah of Torrance, opposing the abolition of capital punishment. Ordered filed with the Secretary of State.

ADJOURNMENT

At 11 50 a m. on motion of Mr Winton, the Speaker declared the Assembly adjourned until 11 45 a m., Wednesday, March 9, 1960.

RALPH M BROWN, Speaker

ELEANOR K DONOGHUE, Minute Clerk

CALIFORNIA LEGISLATURE
1960 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

FIFTH LEGISLATIVE DAY
EIGHTH CALENDAR DAY

IN ASSEMBLY

ASSEMBLY CHAMBER
Wednesday, March 9, 1960

The Assembly met at 11 45 a m
Hon Ralph M Brown, Speaker of the Assembly, presiding
Chief Clerk Arthur A. Ohnimus at the desk.

ROLL CALL

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

Bruce F. Allen, Don A. Allen, Backstrand, Banc, Beaver, Bee, Belotti, Biddick, Bradley, Britschgi, George E. Brown, Burke, Hurton, Rusterud, Cameron, Carrell, Chapel, Collier, Conrad, Coolidge, Crown, Cunningham, Cusanovich, Dahl, Davis, DeLotto, Dills, Donahoe, Elliott, Francis, Frew, Gaffney, Garrigus, Ernest R. Geddes, Samuel R. Geddes, Grant, Hanna, Hawkins, Hegland, Holmes, House, Ken-
nick, Kilpatrick, Lanterman, Levering, Lowrey, Luckel, Lunardi, MacBride, Marks, McCollister, McMillan, Meyers, Malford, Munnell, Nisbet, O'Connell, Pattee, Petrus, Porter, Reagan, Rees, Rumford, Schrade, Sedgwick, Shell, Sumner, Thelin, Thomas, Unruh, Waldie, Williamson, George A. Willson, Winton, Wolfrum, Zberg, and Mr Speaker—77.

Quorum present.

PRAYER

Upon invitation of Speaker Brown, the following prayer was offered by the Rev Robert S. Romeis of St John's Lutheran Church of Sacramento:

Almighty God, The Creator and Sustainer of All Men Who Dwell Upon the Face of the Earth, Forgive us our pride in believing that we can manage life without Thy help; forgive our folly in thinking that we know all the answers when we haven't even understood all the questions; forgive our unfaithfulness as we again and again fail to practice what we profess. Cleanse our hearts, sharpen our minds, stiffen our wills, so that in facing the grave decisions which stand before us we may do that which is honest, considerate, just, merciful and pleasing in Thy sight, through Jesus Christ, Thy Son, our Lord —AMEN.

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Garrigus

LEAVES OF ABSENCE FOR THE DAY

The following member was granted leave of absence for the day, because of legislative business elsewhere:

Mr Charles H. Wilson, on request of Speaker Brown.

PETITIONS

The following petition was presented by the Chief Clerk from:
Lecn S Kind of San Francisco, and seven others favoring abolition of the death penalty. Ordered filed with the Secretary of State

COMMUNICATIONS

The following communications were presented by the Chief Clerk from:

Frances B. Needle of Pacoima, opposing abolition of the death penalty. Ordered filed with the Secretary of State.

Jane Seaver of Los Angeles and four others, favoring abolition of the death penalty. Ordered filed with the Secretary of State.

MOTION TO APPROVE JOURNALS

Upon motion of Mr Munnell, the Journals for Wednesday, March 2, 1960, and Thursday, March 3, 1960, were approved as corrected by the Minute Clerk

ADJOURNMENT

At 11.50 a m , on motion of Mr. Winton, the Speaker declared the Assembly adjourned until 11 45 a m , Thursday, March 10, 1960.

RALPH M BROWN, Speaker

ELEANOR K DONOGHUE, Minute Clerk

CALIFORNIA LEGISLATURE

1960 SECOND EXTRAORDINARY SESSION

ASSEMBLY DAILY JOURNAL

SIXTH LEGISLATIVE DAY

NINTH CALENDAR DAY

IN ASSEMBLY

ASSEMBLY CHAMBER
Thursday, March 10, 1960

The Assembly met at 11 45 a m
Hon. Ralph M Brown, Speaker of the Assembly, presiding.
Chief Clerk Arthur A Ohnumus at the desk

ROLL CALL

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

Bruce F Allen, Don A Allen, Backstrand, Bane, Beaver, Bee, Belotti, Biddick, Bradley, Bitschgi, George E Brown, Burke, Burton, Busterud, Cameron, Carrell, Chapel, Collier, Conrad, Coolidge, Crown, Cunningham, Cusanovich, Dahl, Davis, DeLotto, Dills, Donahoe, Elliott, Francis, Frew, Gaffney, Garrigus, Ernest R. Geddes, Samuel R Geddes, Grant, Hanna, Hawkins, Hegland, Holmes, House, Kennick, Kilpatrick, Lanterman, Levering, Lowrey, Luckel, Lunardi, MacBride, Marks, McCollister, McMillan, Meyers, Mulford, Munnell, Nusbet, O'Connell, Pattee, Petris, Porter, Reagan, Rees, Rufford, Schrader, Sedgwick, Shell, Sumner, Thein, Thomas, Unruh, Waldie, Williamson, George A Willson, Charles H Wilson, Winton, Wolfman, Z'berg, and Mr Speaker—78

Quorum present.

PRAYER

Upon invitation of Speaker Brown, the following prayer was offered by Rev Robert S Romeis of St John's Lutheran Church of Sacramento

O God of Mercy, Whose only-begotten Son prayed for those who drove nails into His hands and feet, 'Father, forgive them for they know not what they do,' grant us forgiveness for our failure to heed the voice of Thy love. Help us to know that there is no honor in being able to evade the making of decisions, but that the only honor worth while is the honor of standing firmly upon the principles of true justice and true mercy which Thou hast made known. Make us realize that laws do not make men good, but only men who are right with Thee can enact good legislation. Give us grace to see ourselves in all our weakness, prejudice, and our pride, so that in thus acknowledging our sins, and seeking Thy pardon, we may with cleansed consciences be worthy to lead the people of this State forward on the road of righteousness, through Thy Son, Jesus Christ Our Lord, who liveth and reigneth with Thee and the Holy Ghost, one God, world without end—AMEN

MOTION TO DISPENSE WITH READING OF THE JOURNAL

Further reading of the Journal of the previous legislative day was dispensed with on motion of Mr. Bradley.

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COMMUNICATIONS

The following communications were presented by the Chief Clerk from

Vivian Henrietta Burruss of Baltimore, Maryland, and five others favoring the abolition of capital punishment. Ordered filed with the Secretary of State

Mrs. Alexandria Hammell of Oakland, opposing the abolition of capital punishment. Ordered filed with the Secretary of State

RECESS

At 11 55 a. m., on motion of Mr Winton, the Assembly recessed until 3 p.m.

REASSEMBLED

At 3 p m , the Assembly reconvened

Hon Ralph M Brown, Speaker of the Assembly, presiding
Chief Clerk Arthur A Ohnimus at the desk.

MESSAGES FROM THE SENATE

The following message from the Senate was received, and read:

Message From the Senate

SENATE CHAMBER, March 10, 1960

MR SPEAKER I am directed to inform your honorable body that the Senate on this day adopted:

Senate Concurrent Resolution No. 1

J. A BEEK, Secretary of the Senate
By R. W. LYONS, Chief Assistant Secretary

Parliamentary Inquiry

Mr Collier arose to the following parliamentary inquiry: What are the contents of Senate Concurrent Resolution No. 1?

Reply by Speaker

The Speaker replied that the resolution will be read as soon as Mr. Bruce F Allen returns to the Chamber from the meeting of the Committee on Criminal Procedure.

FIRST READING AND REFERENCE OF SENATE BILLS

The following resolution was read:

Senate Concurrent Resolution No. 1—Relative to final adjournment of the 1960 Second Extraordinary Session of the Legislature.

Request for Unanimous Consent

Mr Winton was granted unanimous consent to take up Senate Concurrent Resolution No. 1 without reference to committee or file.

CONSIDERATION OF SENATE CONCURRENT RESOLUTION NO. 1

Senate Concurrent Resolution No. 1—Relative to final adjournment of the 1960 Second Extraordinary Session of the Legislature.

Resolution read

Parliamentary Inquiry

Mr Collier arose to the following parliamentary inquiry: Is the question on adjournment sine die of this session?

Reply by Speaker

The Speaker replied that it was, since the resolution provides for adjournment sine die.

Parliamentary Inquiry

Mr. Winton arose to the following parliamentary inquiry. Is the question debatable?

Reply by Speaker

The Speaker replied that it was

Point of Order

Mr. Munnell arose to the following point of order. That Mr. Collier is not speaking to the question

Ruling by Speaker

The Speaker ruled the point of order not well taken

The question being on the adoption of the resolution

Resolution adopted by the following vote:

AYES—Don A. Allen, Backstrand, Bane, Beaver, Bee, Belotti, Buddick, Britschgi, George E. Brown, Burke, Burton, Buserud, Cameron, Carrell, Conrad, Coolidge, Crown, Cusanovich, Davis, DeLotto, Dills, Donahoe, Elliott, Francis, Frew, Gaffney, Garrigus, Ernest R. Geddes, Samuel R. Geides, Grant, Hanna, Hawkins, Hegland, House, Kennick, Kilpatrick, Lanterman, Lowrey, Luckel, Lunardi, MacBride, Marks, McCollister, McMillan, Meyers, Mulford, Munnell, Nisbet, O'Connell, Patten, Petrus, Porter, Rees, Rumford, Schrade, Sedgwick, Shell, Sumner, Thelin, Thomas, Unruh, Waldr, Williamson, George A. Wilson, Charles H. Wilson, Winton, Wolfrum, Z'berg, and Mr. Speaker—60.

NOES—Chapel, Collier, Dahl, Levering, and Reagan—5.

Resolution ordered transmitted to the Senate.

Instructions to Chief Clerk

Speaker Brown instructed the Chief Clerk to advise the Senate immediately that the Assembly has adopted Senate Concurrent Resolution No. 1.

REMARKS ON CONDITION OF FILE

Mr. Burton spoke on the condition of the file

Point of Order

Mr. McCollister arose to the following point of order. That there is nothing before the House, so further discussion is not in order

Ruling by Speaker

The Speaker ruled the point of order well taken

MOTION TO APPROVE JOURNALS

Upon motion of Mr. Winton, the Journals for Monday, March 7, 1960; Tuesday, March 8, 1960; Wednesday, March 9, 1960, and Thursday, March 10, 1960, were approved as corrected by the Minute Clerk

REPORTS OF STANDING COMMITTEES**Committee on Criminal Procedure**

ASSEMBLY CHAMBER, March 10, 1960

MR. SPEAKER: Your Committee on Criminal Procedure reports:

Assembly Bill No. 1

Assembly Bill No. 2

Assembly Bill No. 3

Without action.

O'CONNELL, Chairman

Committee on Rules

ASSEMBLY CHAMBER, March 10, 1960

MR SPEAKER: Your Committee on Rules reports:

House Resolution No. 6

Without action

HANNA, Chairman

RECESS

At 3.30 p.m., on motion of Mr. Winton, the Assembly recessed until 4.45 p.m.

REASSEMBLED

At 4.45 p.m., the Assembly reconvened

Hon. Ralph M. Brown, Speaker of the Assembly, presiding.

Chief Clerk Arthur A. Ohmmus at the desk.

APPOINTMENT OF SELECT COMMITTEE

Speaker Brown appointed Mr. Winton as a Select Committee of One to inform the Governor that the Assembly has concluded its labors, and is ready to adjourn sine die pursuant to the provisions of Senate Concurrent Resolution No. 1.

SENATE NOTIFIED THAT ASSEMBLY HAS CONCLUDED LABORS

Speaker Brown instructed the Chief Clerk to inform the Senate by message that the Assembly has concluded its labors, and is ready to adjourn sine die.

REPORT OF SELECT COMMITTEE

The Select Committee of One appointed to wait upon the Governor appeared before the bar of the Assembly, and reported that it had performed its duties.

ADJOURNMENT SINE DIE

At 5 o'clock p.m., pursuant to the provisions of Senate Concurrent Resolution No. 1, the Hon. Ralph M. Brown, Speaker of the Assembly, announced that the time for final adjournment of the 1960 Second Extraordinary Session of the Legislature of the State of California had arrived, and therefore declared the Assembly adjourned sine die.

RALPH M. BROWN, Speaker

ELEANOR K. DONOGHUE, Minute Clerk