

CALIFORNIA LEGISLATURE

1995-96 REGULAR SESSION

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# ASSEMBLY DAILY JOURNAL

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**Monday, January 23, 1995**

**TWELFTH SESSION DAY**

**FIFTIETH CALENDAR DAY**

**AT SACRAMENTO, CALIFORNIA**



## PROCEEDINGS OF THE ASSEMBLY

### IN ASSEMBLY

Assembly Chamber, Sacramento  
Monday, January 23, 1995

The Assembly met at 11 a.m.

Hon. Willie L. Brown, Jr., Senior Member of the Assembly,  
presiding.

Chief Clerk E. Dotson Wilson at the Desk.

Assistant Clerk Stephen J. Greene, Jr. reading.

#### ROLL CALL

The roll was called, and the following answered to their names—80:

Aguiar	Campbell	Horcher	Murray, Kevin
Alby	Cannella	House	Murray, Willard
Allen	Conroy	Isenberg	Napolitano
Alpert	Cortese	Johnson	Olberg
Archie-Hudson	Cunneen	Kaloogian	Poochigian
Baca	Davis	Katz	Pringle
Baldwin	Ducheny	Knight	Rainey
Bates	Escutia	Knowles	Richter
Battin	Figuroa	Knox	Rogan
Boland	Firestone	Kuehl	Setencich
Bordonaro	Friedman	Kuykendall	Sher
Bowen	Frusetta	Lee	Speier
Bowler	Gallegos	Machado	Sweeney
Brewer	Goldsmith	Martinez	Takasugi
Brown, Valerie	Granlund	Mazzoni	Thompson
Brown, Willie	Hannigan	McDonald	Tucker
Burte	Harvey	McPherson	Vasconcellos
Burton	Hauser	Morrissey	Villaraigosa
Bustamante	Hawkins	Morrow	Weggeland
Caldera	Hoge	Mountjoy	Woods

Quorum present.

**PRAYER**

Upon invitation of Senior Member of the Assembly Willie Brown, the following prayer was offered by Assembly Member Dede Alpert, of the 78th Assembly District:

*God, Our Father, We all wish to be remembered. It is part of that mystery in us which is akin to immortality. Give us each day the moral courage to perform each task as if it were our last; the willingness to show each person encountered the kindness of a brother or sister; and the fortitude to avoid the things that make us less human. Perhaps then the good that we do will live after us.—AMEN.*

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Upon request of Senior Member of the Assembly Willie Brown, Assembly Member Sweeney then led the Assembly in the pledge of allegiance to the Flag.

**REQUEST FOR UNANIMOUS CONSENT**

Assembly Member Alpert was granted unanimous consent that when the Assembly adjourns on this day it do so in honor of the birth of Carter Joel Giroux, born to Bob and Lisa Giroux on January 19, 1995.

Assembly Member Isenberg was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of his longtime friend and neighbor Joseph John Kirrene, of Sacramento and was granted unanimous consent that the following memorial resolution be printed in the Journal:

**Member's Resolution**

By the Honorable Phillip Isenberg, 9th Assembly District:

*Relative to memorializing*

**JOSEPH JOHN KIRRENE**

WHEREAS, The passing of a distinguished California resident and devoted civic leader, Joseph John Kirrene, whose good deeds earned for him the respect and admiration of his colleagues and the countless individuals whose lives he touched, has brought immense sorrow and loss to people throughout the State of California; and

WHEREAS, Joseph Kirrene, an honorary alumnus of Christian Brothers High School and a past President of Sacramento Seniors, was 89 years old when he died; and

WHEREAS, A native of Vallejo, he moved to Sacramento in 1941 and worked as a manager of Graybar Electric Company for 28 years of his 45 years with the company; and

WHEREAS, Mr. Kirrene was well-known for his fund-raising efforts for Christian Brothers sports, and his four sons attended the school, and two were involved with sports teams; and

WHEREAS, Mr. Kirrene was a past president of the school's sport fund-raising organization, the LaSalle Club, and was honored by Christian Brothers for 39 years of service; and

WHEREAS, He was also a member of the Holy Name Society and the Young Men's Institute; and

WHEREAS, The high esteem in which he was held by his loving family, his myriad of friends, and other individuals fortunate enough

to have known him stands as a testament for others who strive for the best in personal, professional, public, and community life, and his memory will live forever in the hearts and minds of those people who knew him; and

WHEREAS, His memory will be cherished by his wife, Florence; his sons, Joe, Jerry, Bob, and Tom; and his 12 grandchildren and 11 great-grandchildren; now, therefore, be it

*RESOLVED BY ASSEMBLY MEMBER PHILLIP ISENBURG,*  
That he expresses his deepest regret at the passing of Joseph John Kirrene, and extends his heartfelt sympathy to his bereaved family and friends.

\* \* \*

Assembly Member Archie-Hudson and Senior Member of the Assembly Willie Brown were granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Mrs. Rose Fitzgerald Kennedy, a distinguished American who was the mother of an American President, an Attorney General of the United States, two United States Senators, and grandmother to a score of public servants.

Assembly Member Burton was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Walter Stack, of San Francisco.

Assembly Member Speier was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Nicolina Cecelia De Dominic.

#### **RECESS**

By unanimous consent, at 11:04 a.m., Senior Member of the Assembly Willie Brown declared the Assembly recessed.

#### **REASSEMBLED**

At 11:39 a.m., the Assembly reconvened.

Hon. Willie L. Brown, Jr., Senior Member of the Assembly, presiding.

#### **CAUCUS ANNOUNCEMENTS**

At 11:39 a.m., Assembly Member Martinez was granted unanimous consent that the Democratic Caucus be permitted to meet in the Assembly Lounge.

At 11:39 a.m., Assembly Member Brulte was granted unanimous consent that the Republican Caucus be permitted to meet in the Tom Bane Rules Committee Room.

#### **RECESS**

By unanimous consent, at 11:40 a.m., Senior Member of the Assembly Willie Brown declared the Assembly recessed.

#### **REASSEMBLED**

At 5:45 p.m., the Assembly reconvened.

Hon. Willie L. Brown, Jr., Senior Member of the Assembly, presiding.

**MOTION BY ASSEMBLY MEMBER SHER**

Assembly Member Sher moved that Assembly Member Richard Mountjoy is not duly elected and qualified to be an Assembly Member representing the 59th Assembly District and therefore is not eligible to participate in the business of the Assembly.

Assembly Member Katz seconded the motion.

**Point of Order**

Assembly Member Kaloogian arose to the following point of order:

That pursuant to the provisions of Government Code Section 9023, the Chief Clerk should appropriately preside over this regular session of the Assembly.

**Ruling by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown ruled the point of order not well-taken.

**Point of Order**

Assembly Member Johnson arose to the following point of order:

That pursuant to the provisions of Government Code Section 9023 and consistent with rulings by the Chair on December 5, 1994, the motion by Assembly Member Sher is not in order.

**Ruling by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown ruled the point of order not well-taken.

**Motion to Amend Motion by Assembly Member Sher**

Assembly Member Johnson moved to amend the motion by Assembly Member Sher to state that Assembly Members Horcher and Machado are not duly elected and qualified to represent their respective districts and are therefore not eligible to participate in the business of the Assembly.

**Parliamentary Inquiry**

Assembly Member Johnson arose to the following parliamentary inquiry:

Are Assembly Members Horcher and Machado eligible to vote on his motion to amend the motion by Assembly Member Sher?

**Reply by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown replied that Assembly Members Horcher and Machado would not be eligible to so vote.

**Motion to Amend the Amendment**

Assembly Member Burton moved to amend the motion to amend by Assembly Member Johnson to further state that Assembly Members Johnson, Pringle, Brulte, Bowler and Harvey are not duly elected and qualified to represent their respective districts and are therefore not eligible to participate in the business of the Assembly.

**Point of Order**

Assembly Member Burton arose to the following point of order:

That Assembly Members Horcher and Machado would be eligible to vote on the Johnson motion to amend the motion by Assembly Member Sher and on the Burton motion to amend the amendment by Assembly Member Johnson, but would not be eligible to vote on the main motion to determine their own qualification.

**Ruling by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown ruled the point of order well-taken.

**Point of Order**

Assembly Member Goldsmith arose to the following point of order:

That under the authority of Mason's Manual a temporary presiding officer has not been elected and therefore Assembly Member Willie Brown has no authority to preside.

**Ruling by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown ruled the point of order not well-taken.

**Point of Order**

Assembly Member Johnson arose to the following point of order:

That pursuant to Government Code Section 9023, the Chief Clerk shall preside until a presiding officer is elected.

**Ruling by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown ruled that he had previously ruled the point of order not well-taken.

**Motion by Assembly Member Johnson**

Assembly Member Johnson moved to accept the motion by Assembly Member Burton to amend his amendment to the Sher motion and to further amend that Assembly Members Willie Brown and Vasconcellos are not duly elected and qualified to represent their respective districts and are therefore not eligible to participate in the business of the Assembly.

**Motion Ruled Out of Order**

Senior Member of the Assembly Willie Brown ruled the motion out of order as under the Rules "no amendment to an amendment" may be amended.

**Parliamentary Inquiry**

Assembly Member Kaloogian arose to the following parliamentary inquiry:

What remedy does the Body have if it feels an extra-legal decision was made or it disagrees with the ruling of the Chair?

**Reply by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown replied that the appropriate remedy is for a Member of the Body to move to appeal from the decision of the Chair.

**Motion by Assembly Member Thompson**

Assembly Member Thompson moved that the Assembly do now adjourn.

**Motion Ruled Out of Order**

Senior Member of the Assembly Willie Brown ruled the motion out of order as Assembly Member Thompson spoke prior to making the motion.

**Point of Order**

Assembly Member Burton arose to the following point of order:

That his motion is a motion to amend the amendment by Assembly Member Johnson and not a motion to amend the main motion by Assembly Member Sher.

**Ruling by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown ruled the point of order well-taken.

**FURTHER CONSIDERATION OF MOTION BY ASSEMBLY MEMBER BURTON TO AMEND THE AMENDMENT BY ASSEMBLY MEMBER JOHNSON**

The question being on the motion by Assembly Member Burton to amend the motion to amend by Assembly Member Johnson to further state that Assembly Members Johnson, Pringle, Brulte, Bowler, and Harvey are not duly elected and qualified to represent their respective districts and are therefore not eligible to participate in the business of the Assembly.

The roll was opened and the motion to amend the amendment lost by the following vote:

**AYES—40**

Alpert	Cannella	Horcher	McDonald
Archie-Hudson	Cortese	Isenberg	Murray, Kevin
Baca	Davis	Johnson	Murray, Willard
Bates	Ducheny	Katz	Napolitano
Brown, Valerie	Escutia	Knox	Sher
Brown, Willie	Figuroa	Kuehl	Speier
Burton	Friedman	Lee	Sweeney
Bustamante	Gallegos	Machado	Tucker
Caldera	Hannigan	Martinez	Vasconcellos
Campbell	Hauser	Mazzoni	Villaraigosa

**NOES—40**

Aguiar	Brulte	House	Poochigian
Alby	Conroy	Kaloogian	Pringle
Allen	Cunneen	Knight	Rainey
Baldwin	Firestone	Knowles	Richter
Battin	Frusetta	Kuykendall	Rogan
Boland	Goldsmith	McPherson	Setencich
Bordonaro	Granlund	Morrissey	Takasugi
Bowen	Harvey	Morrow	Thompson
Bowler	Hawkins	Mountjoy	Weggeland
Brewer	Hoge	Olberg	Woods

**FURTHER CONSIDERATION OF MOTION BY ASSEMBLY MEMBER JOHNSON  
TO AMEND MOTION BY ASSEMBLY MEMBER SHER**

The question being on the motion by Assembly Member Johnson to amend the motion by Assembly Member Sher to further state that Assembly Members Horcher and Machado are not duly elected and qualified to represent their respective districts and are therefore not eligible to participate in the business of the Assembly.

The roll was opened and the motion to amend the motion lost by the following vote:

**AYES—40**

Aguiar	Conroy	Johnson	Poochigian
Alby	Cunneen	Kaloogian	Pringle
Allen	Firestone	Knight	Rainey
Baldwin	Frusetta	Knowles	Richter
Battin	Goldsmith	Kuykendall	Rogan
Boland	Granlund	McPherson	Setencich
Bordonaro	Harvey	Morrissey	Takasugi
Bowler	Hawkins	Morrow	Thompson
Brewer	Hoge	Mountjoy	Weggeland
Brulte	House	Olberg	Woods

**NOES—40**

Alpert	Campbell	Hauser	McDonald
Archie-Hudson	Cannella	Horcher	Murray, Kevin
Baca	Cortese	Isenberg	Murray, Willard
Bates	Davis	Katz	Napolitano
Bowen	Ducheny	Knox	Sher
Brown, Valerie	Escutia	Kuehl	Speier
Brown, Willie	Figueroa	Lee	Sweeney
Burton	Friedman	Machado	Tucker
Bustamante	Gallegos	Martinez	Vasconcellos
Caldera	Hannigan	Mazzoni	Villaraigosa

**FURTHER CONSIDERATION OF MOTION BY ASSEMBLY MEMBER SHER**

Senior Member of the Assembly Willie Brown directed the Clerk to restate the motion by Assembly Member Sher.

The question being on the motion by Assembly Member Sher that Assembly Member Mountjoy is not duly elected and qualified to represent the 59th Assembly District and is therefore not eligible to participate in the business of the Assembly.

**Parliamentary Inquiry**

Assembly Member Caldera arose to the following parliamentary inquiry:

Is Assembly Member Mountjoy eligible to vote on the motion by Assembly Member Sher?

**Reply by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown replied in the negative.

**Point of Order**

Assembly Member Johnson arose to the following point of order:

That Assembly Member Sher limit debate to the merits of the motion stated.

**Ruling by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown ruled the point of order not well-taken.



**Motion to Appeal from the Decision of the Chair**

Assembly Member Brulte moved to appeal from the decision of the Chair.

The question being: Shall the decision of the Chair that Assembly Member Mountjoy is not eligible to vote on the motion by Assembly Member Sher be sustained?

The roll was opened and the decision of the Chair sustained by the following vote:

**AYES—40**

Alpert	Campbell	Hauser	McDonald
Archie-Hudson	Cannella	Horcher	Murray, Kevin
Baca	Cortese	Isenberg	Murray, Willard
Bates	Davis	Katz	Napolitano
Bowen	Ducheny	Knox	Sher
Brown, Valerie	Escutia	Kuehl	Speier
Brown, Willie	Figueroa	Lee	Sweeney
Burton	Friedman	Machado	Tucker
Bustamante	Gallegos	Martinez	Vasconcellos
Caldera	Hannigan	Mazzoni	Villaraigosa

**NOES—40**

Aguiar	Conroy	Johnson	Poochigian
Alby	Cunneen	Kaloogian	Pringle
Allen	Firestone	Knight	Rainey
Baldwin	Frusetta	Knowles	Richter
Battin	Goldsmith	Kuykendall	Rogan
Boland	Granlund	McPherson	Setencich
Bordonaro	Harvey	Morrissey	Takasugi
Bowler	Hawkins	Morrow	Thompson
Brewer	Hoge	Mountjoy	Weggeland
Brulte	House	Olberg	Woods

**Parliamentary Inquiry**

Assembly Member Brulte arose to the following parliamentary inquiry:

Is not a majority of the members present and voting required to sustain the decision of the Chair?

**Reply by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown replied that the decision of the Chair is sustained by a majority of the Members present and voting, and that pursuant to the Rules, in the event of a tie vote, the appeal is lost.

**Parliamentary Inquiry**

Assembly Member Johnson arose to the following parliamentary inquiry:

What is the vote required to carry the main motion by Assembly Member Sher?

**Reply by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown replied that the main motion by Assembly Member Sher requires 40 votes to carry.

**Parliamentary Inquiry**

Assembly Member Johnson arose to the following parliamentary inquiry:

What is the basis for your ruling?

**Reply by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown replied that a majority of the Members determine the membership.

**Time for Debate Yielded**

Without objection, Assembly Member Sher yielded a portion of his closing time to Assembly Member Willie Brown.

**At 7:30 p.m. Hon. John Vasconcellos, 22nd District, presiding**

**Parliamentary Inquiry**

Assembly Member Johnson arose to the following parliamentary inquiry:

Under what authority is Assembly Member Vasconcellos presiding?

**Reply by Chair**

The Chair replied that he was in the Chair presiding, as the next senior member present, and further, that under the Rules the presiding officer may not participate in debate from the Chair, but must do so from his/her Desk.

**Point of Personal Privilege**

Assembly Member Johnson arose to a point of personal privilege.

**At 7:40 p.m., Senior Member of the Assembly Willie L. Brown, Jr.,  
13th District, presiding**

**SUBSTITUTE MOTION OFFERED**

Assembly Member Bowen moved to offer a substitute motion that the Assembly vote on a set of House rules and on the election of Assembly Member Bernie Richter to the Office of Speaker of the Assembly.

Assembly Member Machado seconded the motion.

**Parliamentary Inquiry**

Assembly Member Pringle arose to the following parliamentary inquiry:

Are copies of the proposed House rules available for distribution to the membership?

**Reply by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown replied that the question pending before the Body is a motion to offer a substitute motion, not a motion to adopt proposed House rules.

**Point of Order**

Assembly Member Knowles arose to the following point of order:

That he challenges the propriety of the motion to offer a substitute motion when copies of the proposed rules it pertains to are not available to the membership.

**Ruling by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown ruled that the motion to offer a substitute motion is in order, as the question before the Body is not on the adoption of House rules.

**Point of Personal Privilege**

Assembly Member Cannella arose to a point of personal privilege.

**Inquiry by Assembly Member Baca**

Assembly Member Baca made the following inquiry of the Chair: Is Assembly Member Richter a candidate for the Office of Speaker of the Assembly?

**Reply by Assembly Member Richter**

Assembly Member Richter stated for the record that he would not be a candidate for the Office of Speaker of the Assembly if he were the 41st vote.

**Demand for Previous Question**

Assembly Members Burton, Tucker, Martinez, Horcher, and Escutia demanded the previous question. Demand sustained.

**Motion to Offer Substitute Motion Withdrawn**

Assembly Member Bowen, with the consent of the second to the motion, withdrew her motion to offer a substitute motion that the Assembly vote on a set of House rules and on the election of Assembly Member Bernie Richter to the Office of Speaker of the Assembly.

**Parliamentary Inquiry**

Assembly Member Johnson arose to the following parliamentary inquiry:

Is not an affirmative vote of 41 votes required to determine the qualification of a Member pursuant to the Rules?

**Reply by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown replied that Assembly Member Mountjoy is not eligible to vote on the motion to determine his qualification and therefore, with 79 eligible Members, 40 votes are required to carry the motion by Assembly Member Sher.

**Motion to Appeal from the Decision of the Chair**

Assembly Member Johnson moved to appeal from the decision of the Chair.

The question being: Shall the decision of the Chair that the motion by Assembly Member Sher requires 40 votes to carry be overruled?

The roll was opened and the decision of the Chair sustained by the following vote:

**AYES—40**

Aguiar	Conroy	Johnson	Poochigian
Alby	Cunneen	Kaloogian	Pringle
Allen	Firestone	Knight	Rainey
Baldwin	Frusetta	Knowles	Richter
Battin	Goldsmith	Kuykendall	Rogan
Boland	Cranlund	McPherson	Setencich
Bordonaro	Harvey	Morrissey	Takasugi
Bowler	Hawkins	Morrow	Thompson
Brewer	Hoge	Mountjoy	Weggeland
Brulte	House	Olberg	Woods

**NOES—40**

Alpert	Campbell	Hauser	McDonald
Archie-Hudson	Cannella	Horcher	Murray, Kevin
Baca	Cortese	Isenberg	Murray, Willard
Bates	Davis	Katz	Napolitano
Bowen	Ducheny	Knox	Sher
Brown, Valerie	Escutia	Kuehl	Speier
Brown, Willie	Figueroa	Lee	Sweeney
Burton	Friedman	Machado	Tucker
Bustamante	Gallegos	Martinez	Vasconcellos
Caldera	Hannigan	Mazzoni	Villaraigosa

**ROLL CALL REQUESTED**

Assembly Member Thompson requested unanimous consent that the roll be called orally on the motion by Assembly Member Sher.

**Request Ruled Out of Order**

Senior Member of the Assembly Willie Brown ruled the request out of order as pursuant to the Rules and custom and precedent roll call votes are recorded by electrical voting system in the Assembly.

**FURTHER CONSIDERATION OF MOTION BY ASSEMBLY MEMBER SHER**

The question being on the motion of Assembly Member Sher that Assembly Member Richard Mountjoy is not duly elected and qualified to represent the 59th Assembly District and therefore is not eligible to participate in the business of the Assembly.

The roll was opened and the motion by Assembly Member Sher carried by the following vote:

**AYES—40**

Alpert	Campbell	Hauser	McDonald
Archie-Hudson	Cannella	Horcher	Murray, Kevin
Baca	Cortese	Isenberg	Murray, Willard
Bates	Davis	Katz	Napolitano
Bowen	Ducheny	Knox	Sher
Brown, Valerie	Escutia	Kuehl	Speier
Brown, Willie	Figueroa	Lee	Sweeney
Burton	Friedman	Machado	Tucker
Bustamante	Gallegos	Martinez	Vasconcellos
Caldera	Hannigan	Mazzoni	Villaraigosa

**NOES—39**

Aguiar	Conroy	Johnson	Pringle
Alby	Cunneen	Kaloojian	Rainey
Allen	Firestone	Knight	Richter
Baldwin	Frusetta	Knowles	Rogan
Battin	Goldsmith	Kuykendall	Setencich
Boland	Granlund	McPherson	Takasugi
Bordonaro	Harvey	Morrissey	Thompson
Bowler	Hawkins	Morrow	Weggeland
Brewer	Hoge	Olberg	Woods
Brulte	House	Poochigian	

**Motion to Reconsider Motion by Sher on Next Legislative Day**

Assembly Member Johnson moved to reconsider on the next legislative day the vote whereby the motion by Assembly Member Sher carried.

Motion ordered to the unfinished business file.

(NOTE: Later this day, Assembly Member Johnson waived his motion to reconsider the above vote whereby the motion by Assembly Member Sher carried.)

**NOMINATIONS FOR SPEAKER OF THE ASSEMBLY****Nominations from the Floor**

Assembly Member Vasconcellos nominated Assembly Member Willie L. Brown, Jr. for the Office of Speaker of the Assembly for the 1995-96 Regular Session.

**Parliamentary Inquiry**

Assembly Member Johnson arose to the following parliamentary inquiry:

Given that a motion to reconsider the vote whereby the motion by Assembly Member Sher carried has been offered, is Assembly Member Mountjoy eligible to vote on the question of election of Speaker of the Assembly?

**Reply by Senior Member of the Assembly Willie Brown**

Senior Member of the Assembly Willie Brown replied in the negative.

**CAUCUS ANNOUNCEMENTS**

At 8:20 p.m., Assembly Member Burton was granted unanimous consent that the Democratic Caucus be permitted to meet in the Assembly Lounge.

**RECESS**

By unanimous consent, at 8:21 p.m., Senior Member of the Assembly Willie Brown declared the Assembly recessed.

**FIFTY FIRST CALENDAR DAY**

Assembly Chamber, Sacramento  
Tuesday, January 24, 1995

**REASSEMBLED**

At 12:39 a.m., the Assembly reconvened.  
Hon. Willie L. Brown, Jr., Senior Member of the Assembly, presiding.

**INTRODUCTION AND FIRST READING OF  
ASSEMBLY BILLS**

The following bills were introduced and read the first time:

**ASSEMBLY BILL NO. 167—Bordonaro.** An act to amend Section 977 of the Penal Code, relating to arraignment.

**ASSEMBLY BILL NO. 168—Alpert.** An act to amend Sections 1000.6, 1000.7, 1000.8, 1000.9, 1000.91, 1000.92, 1000.93, 1000.94, and 1000.95 of the Penal Code, relating to domestic violence.

**ASSEMBLY BILL NO. 169—Richter.** An act to amend Sections 4585, 4587, and 4590 of the Public Resources Code, relating to forest practices.

**ASSEMBLY BILL NO. 170—Alpert.** An act to add Chapter 32 (commencing with Section 7596) to Division 7 of Title 1 of the Government Code, relating to disabled persons, and declaring the urgency thereof, to take effect immediately.

**ASSEMBLY BILL NO. 171—Machado.** An act to amend Section 186.22 of the Penal Code, relating to crimes.

**ASSEMBLY BILL NO. 172—Conroy.** An act to add Section 13205 to the Penal Code, relating to criminal street gangs.

**ASSEMBLY BILL NO. 173—Machado.** An act to amend Sections 290 and 290.4 of the Penal Code, relating to sex offenders.

**ASSEMBLY BILL NO. 174—Willard Murray.** An act to add Sections 41601.1 and 48200.5 to the Education Code, relating to the Compton Unified School District.

**ASSEMBLY BILL NO. 175—Bowler.** An act to amend Section 50081 of the Government Code, relating to peace officers.

**ASSEMBLY BILL NO. 176—Bowler.** An act to amend Section 12403 of the Penal Code, relating to custodial officers.

**ASSEMBLY BILL NO. 177—Mountjoy (Principal coauthor: Harvey).** An act to add Section 19 to the Public Resources Code, and to add and repeal Sections 17053.26 and 23626 of the Revenue and Taxation Code, relating to the environment.

**ASSEMBLY BILL NO. 178—Johnson.** An act to amend Section 1295 of the Penal Code, relating to bail.

**ASSEMBLY BILL NO. 179—Battin.** An act to add Section 12830 to the Food and Agricultural Code, relating to economic poisons.

**ASSEMBLY BILL NO. 180—Morrow.** An act to amend Section 4055 of the Family Code, relating to family law.

**FURTHER CONSIDERATION OF NOMINATIONS FOR  
SPEAKER OF THE ASSEMBLY**

The nomination of Assembly Member Willie L. Brown, Jr. for the Office of Speaker of the Assembly was seconded by Assembly Members Baca and Archie-Hudson, whereupon each addressed the assemblage.

**Further Nominations for Speaker**

Assembly Member Johnson nominated Assembly Member Jim Brulte for the Office of Speaker of the Assembly for the 1995-96 Regular Session.

Nomination of Jim Brulte seconded by Assembly Member Aguiar, whereupon he addressed the assemblage.

**NOTICE OF RECONSIDERATION WAIVED**

Assembly Member Johnson waived his motion to reconsider the vote whereby the motion by Assembly Member Sher carried that Assembly Member Mountjoy is not duly elected and qualified to be an Assembly Member representing the 59th Assembly District and therefore is not eligible to participate in the business of the Assembly.

**ELECTION OF SPEAKER**

The roll was called, with the following result:

*For Assembly Member Willie L. Brown, Jr.:*

Assembly Members Alpert, Archie-Hudson, Baca, Bates, Bowen, Valerie Brown, Willie Brown, Burton, Bustamante, Caldera, Campbell, Cannella, Cortese, Davis, Ducheny, Escutia, Figueroa, Friedman, Gallegos, Hannigan, Hauser, Horcher, Isenberg, Katz, Knox, Kuehl, Lee, Machado, Martinez, Mazzoni, McDonald, Kevin Murray, Willard Murray, Napolitano, Sher, Speier, Sweeney, Tucker, Vasconcellos, and Villaraigosa—40.

*For Assembly Member Jim Brulte:*

Assembly Members Aguiar, Alby, Allen, Baldwin, Battin, Boland, Bordonaro, Bowler, Brewer, Brulte, Conroy, Cunneen, Firestone, Frusetta, Goldsmith, Granlund, Hawkins, Hoge, House, Johnson, Kaloogian, Knight, Knowles, Kuykendall, McPherson, Morrissey, Morrow, Olberg, Poochigian, Pringle, Rainey, Richter, Rogan, Setencich, Takasugi, Thompson, Weggeland, Woods, and Harvey—39.

Whereupon Speaker-elect Willie Brown announced the vote as the Assembly's choice for Speaker of the Assembly for the 1995-96 Regular Session of the Legislature.

**OATH OF OFFICE ADMINISTERED**

Speaker-elect Willie L. Brown, Jr. appeared at the bar of the Assembly and took and subscribed to the following oath of office administered by E. Dotson Wilson, Chief Clerk of the Assembly:

**OATH***for the Office of Speaker of the Assembly*

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 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.

**Speaker Presiding**

At 12:58 a.m., Hon. Willie L. Brown, Jr., Speaker of the Assembly, presiding.

**RESOLUTIONS**

The following resolution was offered:

**House Resolution No. 10**

By Assembly Members Bowen and Machado:

*Relative to Rules of the Assembly*

*Resolved by the Assembly of the State of California*, That the following rules be adopted:

**Amendment of Rules**

1. These rules shall remain in effect for the entire 1995-96 Regular Session unless amended by a resolution adopted by an affirmative recorded vote of 54 or more Members. These rules may not be substituted or suspended except by an affirmative recorded vote of 54 or more Members.

**Standing Committees**

2. Twenty-six standing committees of the Assembly are hereby created, upon the several subjects, and titled respectively, as follows:

Agriculture  
 Appropriations  
 Banking and Finance  
 Budget  
 Consumer Protection, Governmental Efficiency and Economic Development  
 Education  
 Elections, Reapportionment and Constitutional Amendments  
 Environmental Safety and Toxic Materials  
 Governmental Organization  
 Health  
 Higher Education  
 Housing and Community Development  
 Human Services  
 Insurance  
 Judiciary



Labor and Employment  
Local Government  
Natural Resources  
Public Employees, Retirement and Social Security  
Public Safety  
Rules  
Revenue and Taxation  
Televising the Assembly and Information Technology  
Transportation  
Utilities and Commerce  
Water, Parks and Wildlife

#### **Membership of Committees**

3. The Committee on Rules shall determine the number of Members to serve on each standing committee, other than the Committee on Rules.

All standing committees shall have an equal number of Members with one-half of the Members to be appointed by the Democratic Caucus and one-half by the Republican Caucus.

Each caucus shall determine the manner in which it appoints the Members.

#### **Chairpersons of Committees**

4. The party caucuses shall appoint the chairpersons and vice chairpersons of the standing committees. The committees, other than the Committee on Rules, shall be allocated to the caucuses as follows: the Floor Leader of the party other than that of the Speaker shall select from between the Committees on Appropriations and Budget, the Speaker then shall select one committee, and the Floor Leader of the party other than that of the Speaker and the Speaker, in that order, then shall alternately select one committee from the remaining committees.

The Committees on Appropriations and Budget shall have chairpersons of different parties.

The party caucus that did not appoint the chairperson of a committee shall appoint the vice chairperson.

If the chairperson or vice chairperson of a standing committee has not been appointed within 15 calendar days after the adoption of this rule, the Speaker shall make the appointment.

#### **Committees other than Standing Committees**

5. The Committee on Rules may create committees other than standing committees, including subcommittees. The membership, chairperson, and vice chairperson shall be determined by the Committee on Rules.

#### **Joint Committees**

6. The Committee on Rules shall appoint Members to joint committees. The appointments shall be fairly apportioned in a manner to be determined by the Committee on Rules.

#### **Committee on Rules**

7. There is a Committee on Rules, which shall act as the executive committee of the Assembly. The committee shall consist of a chairperson, who shall be the Speaker or a Member appointed by the Speaker, a vice chairperson, who shall be the Floor Leader of the

party other than that of the Speaker or a Member appointed by the Floor Leader, and 8 other Members, 4 appointed by the Democratic Caucus and 4 appointed by the Republican Caucus.

#### **Co-Chief Administrative Officers of the Assembly**

8. The Committee on Rules shall appoint Co-Chief Administrative Officers of the Assembly who shall have duties relating to the administrative, fiscal, and business affairs of the Assembly that the committee shall prescribe.

Both Co-Chief Administrative Officers shall be responsible for administering the allocations made by the Committee on Rules for the Assembly share of the joint operations of the houses, common functions, committees, and offices of the Members. One Co-Chief Administrative Officer shall be responsible for administering the allocations to the Office of the Speaker and offices of other leaders of the same party and to the caucus of the same party as that of the Speaker. The other Co-Chief Administrative Officer shall be responsible for administering the allocations to the office of the Floor Leader of the party other than that of the Speaker and offices of other leaders of the same party and to the caucus of that same party.

#### **Allocation of Operating Funds**

9. The Committee on Rules shall classify certain functions of the Assembly as common functions. The common functions include services that are available to all Members without regard to party affiliation, and include, but are not limited to, the Offices of the Chief Clerk and Sergeant at Arms, printing, and computer services.

The committee shall allocate an amount for the Assembly share of the joint operations of the houses, including the Legislative Analyst.

The committee shall allocate an amount for the common functions.

The committee shall allocate an amount for the operation of the office of the Speaker and the office of the Floor Leader of the party other than that of the Speaker, and offices of other party leaders as determined by the committee.

The committee shall allocate an amount to the chairpersons and vice chairpersons of all other committees.

The committee shall allocate an equal amount for the operation of the office of each Member.

After allocating amounts for the joint operations, common functions, offices of the Speaker, Floor Leader, and party leaders, committees, and offices of the Members, the Committee on Rules shall allocate the remainder of the operating funds in equal amounts to the party caucuses.

The committee shall allocate sufficient amounts for all expenditures of the entities during the entire 1995-96 Regular Session.

If the committee has not made the initial allocations within 15 calendar days after the adoption of this rule, the Speaker shall make the allocations.

#### **Appointments to Governmental Entities**

10. Any appointment to an office made by the Speaker pursuant to a statute to a board, commission, or other governmental entity, and any other appointment that the Speaker is authorized to make to a

governmental entity, shall be confirmed by the Committee on Rules. Any dismissal of an appointee by the Speaker shall be confirmed by the committee.

**Members who are not Democrats or Republicans**

11. A Member who is not registered with either the Democratic or Republican Party as of January 1, 1995, shall declare his or her association with the party caucus of either of those two parties for the purpose of applying these rules. Thereafter, it shall be deemed that the Member is a member of that party caucus for the limited purpose of these rules.

**Election to Another Office**

12. Any Member elected to an incompatible office shall be deemed to have resigned his or her office in the Assembly on the tenth day after the Secretary of State issues the certificate of election unless the Member has resigned earlier.

**Election of Speaker**

13. The Speaker shall be elected by a vote of the majority of the duly elected and qualified Members.

**HOUSE RESOLUTION NO. 10 TAKEN UP**

Resolution read, and on motion of Assembly Member Bowen, House Resolution No. 10 was taken up, for purpose of consideration.

**HOUSE RESOLUTION NO. 10**—Relative to Rules of the Assembly.

**Parliamentary Inquiry**

Assembly Member Pringle arose to the following parliamentary inquiry:

What is the vote requirement for adoption of the House rules?

**Reply by Speaker**

The Speaker replied that 40 votes are required to adopt the House rules.

**Further Consideration of House Resolution No. 10**

The question being on the adoption of House Resolution No. 10.

The roll was opened and House Resolution No. 10 adopted by the following vote:

**AYES—40**

Alpert	Campbell	Hauser	McDonald
Archie-Hudson	Cannella	Horcher	Murray, Kevin
Baca	Cortese	Isenberg	Murray, Willard
Bates	Davis	Katz	Napolitano
Bowen	Ducheny	Knox	Sher
Brown, Valerie	Escutia	Kuehl	Speier
Brown, Willie	Figueroa	Lee	Sweeney
Burton	Friedman	Machado	Tucker
Bustamante	Gallegos	Martinez	Vasconcellos
Caldera	Hannigan	Mazzoni	Villaraigosa

**NOES—12**

Boland	Harvey	Knight	Olberg
Goldsmith	Hoge	Morrissey	Rainey
Granlund	Kalooagian	Morrow	Setencich

**COMMUNICATIONS**

The following communication was presented by the Chief Clerk, and ordered printed in the Journal:

**Explanation of Vote—House Resolution No. 10**

January 24, 1995

*Mr. Dotson Wilson, Chief Clerk  
California State Assembly  
State Capitol  
Sacramento, California*

Dear Mr. Wilson: I would like the record to correctly reflect my intentions of voting for House Resolution 10, January 24, for I inadvertently voted No on the measure, when my intentions were AYE.

Sincerely,

BRETT J. GRANLUND, Assembly Member  
Sixty-fifth District

**ANNOUNCEMENTS**

Speaker Brown announced that the Assembly would convene check-in session later this day, from 11 a.m. to 5 p.m., check-in session on Wednesday, January 25, and Floor session on Thursday, January 26, at 9 a.m.

**CAUCUS ANNOUNCEMENTS**

Assembly Member Brulte announced that the Republican Caucus would meet today, upon adjournment, in the Tom Bane Rules Committee Room.

**REQUEST FOR UNANIMOUS CONSENT**

Assembly Member Katz was granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of John Krautkraemer, of the San Francisco Bay Area.

Assembly Members Willard Murray and Kevin Murray were granted unanimous consent that when the Assembly adjourns on this day it do so out of respect to the memory of Corinne Gleed, of Los Angeles, who was the mother of Congressman Julian Dixon.

**MOTION TO ADJOURN**

At 1:52 a.m., Assembly Member Brulte moved that the Assembly do now adjourn.

Assembly Member Hannigan seconded the motion.

Motion carried.

**ADJOURNMENT**

At 1:53 a.m., pursuant to the motion by Assembly Member Brulte, the Assembly adjourned until 11 a.m., Tuesday, January 24, 1995, in honor of the birth of Carter Joel Giroux, on motion of Assembly Member Alpert; out of respect to the memory of Joseph John Kirrene, on motion of Assembly Member Isenberg; out of respect to the memory of Mrs. Rose Fitzgerald Kennedy, on motion of Assembly Member Archie-Hudson and Speaker Brown; out of respect to the memory of Walter Stack, on motion of Assembly Member Burton; out of respect to the memory of Nicolonia Cecelia De Dominic, on motion of Assembly Member Speier; out of respect to the memory of John Krautkraemer, on motion of Assembly Member Katz; and out of respect to the memory of Corinne Gleed, on motion of Assembly Members Willard Murray and Kevin Murray.

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WILLIE L. BROWN, JR., Speaker

PAM CAVILEER, Minute Clerk