R. J. McNealy, Esq.
Chairman of the Committee
on Ordinances and Transition

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"In support of this view, counsel for petitioner relies upon Section 1470 of the Penal Code, which provides that, 'if appeal is dismissed or the judgment affirmed, a copy of the order of dismissal or judgment of affirmation must be remitted to the Court below, which may proceed to enforce its sentence'.

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"On the 1st day of January, 1880, the County Court of the City and County of San Francisco went out of existence,
the Superior Court succeeding to its powers and jurisdictions. The case now under consideration was then properly before the Superior Court, and that Court had the same power and jurisdiction over it as it would have had if the case had been in the first instance 'commenced, filed, or lodged therein'."

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"Where any constitutional provision or wording is borrowed or adopted from another state the courts of which have placed a construction on its language it will be presumed that it was taken in view of such judicial interpretation and with the purpose of adopting the language as the same had been interpreted by the courts of the state from which it was taken.

"A similar opinion was expressed in the case of Norfolk and West Virginia R. R. Co. v. Cheatwoods 103 Virginia 356 the Court stating 'where any constitutional provision of another state is incorporated in the constitution of this state, the court construction placed upon the provisions by the courts of such other state before its adoption here must be adopted in this state'."

ELECTIONS

The case of State ex rel. v. Moores et al. 7 Nebraska 45 involving dispute over an election of a City Judge and resulting in the institution of a peremptory writ of mandamus, the court held that an election provided for and required to take place by the adoption of the Constitution is self-operative.
The court quoting Section 18, Article 6 and Section 13, Article 10 of the Constitution relating to the general elections to be had under the new constitution stated as follows: (Page 1014)

"that the relator having been elected for a term of two years, to commence in January, 1895, at the regular election held in 1895, regular elections for police magistrate in the district comprising the city of Omaha should be held every two years thereafter; that the office and the district still existed in 1901; that the above-quoted provisions of the Constitution are so far self-enforcing that an election held to fill such office, participated in generally by the people of Omaha at the general election in 1901, was a valid election for that purpose."

I have analyzed and made a list of a great deal of cumulative material enunciating some of the doctrines held by the courts on various subjects. A great deal of the material is purely cumulative and I wish to solicit an expression of an opinion from your Committee as to whether you desire such additional material and also any other questions not covered in the submitted memoranda.

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December 8, 1955

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