

EXTRAORDINARY SESSION

JOURNAL OF THE SENATE

Thursday, August 2, 1962

The Senate convened at 11:00 o'clock A.M., pursuant to adjournment on Wednesday, August 1, 1962.

The President in the Chair.

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

Mr. President	Cross	Gresham	Pearce
Barron	David	Herrell	Pope
Beall	Davis	Johns	Price
Blank	Edwards	Johnson	Ripley
Boyd	Fraser	Kelly	Roberts
Bronson	Galloway	Kicliter	Stratton
Carraway	Gautier	Mapoles	Tucker
Clarke	Getzen	Melton	Young
Connor	Gibbons	Parrish	

—35.

A quorum present.

The following Prayer was offered by the Senate Chaplain, Reverend James H. Paddock:

To our Lord Jesus Christ, we are grateful for the knowledge and privilege of beginning each day in worship of Thee, the only true God.

We offer thanks for our state government and pray especially for this department of it.

We thank Thee for our Senate President and for each and all other members of our Senate. May their loyalty, devotion, and sacrifices be appreciated by all our people. We also pray for the secretaries and all who work with them.

May the decision of the Supreme Court and the new plan of reapportionment help each citizen of our State to evaluate the abundant life we Americans have. We pray that democracy shall never perish from this earth.

In thy Name. Amen.

The reading of the Journal was dispensed with.

The Senate daily Journal of Wednesday, August 1, 1962, was corrected and as corrected was approved.

ENROLLING REPORT

Your Enrolling Clerk to whom was referred—

H. C. R. No. 3-X

—reports same has been properly enrolled, signed by the Speaker and Chief Clerk of the House of Representatives, and by the President and Secretary of the Senate, and presented to the Governor on August 2, 1962.

ROBT. W. DAVIS
Secretary of the Senate as
Ex Officio Enrolling Clerk
of the Senate

Senator Carraway moved that the Chair be authorized to appoint a select Committee composed of nine members of the Senate to meet with a like Committee on the part of the House of Representatives to study and consider recent court orders and the problems confronting the Legislature regarding reapportionment of representation in the Legislature.

Which was agreed to and it was so ordered.

Pursuant to the foregoing motion made by Senator

Carraway and adopted by the Senate the President announced the appointment of the following select Committee:

Senator Johnson, Chairman; Senator Herrell, Vice Chairman; Senators Davis, Price, Gresham, Pearce, Melton, Connor and Pope.

Senator Davis moved that Senate Rule 48A adopted by the Senate on August 1, 1962, be amended to read as follows:

48A. The President shall appoint a committee on reapportionment, which committee shall consist of thirteen members, to which committee shall be referred all bills on reapportionment. In the event such committee does not act upon any bill referred to it within five legislative days after reference, such bill shall be placed upon the calendar on motion of any Senator.

Which was agreed to by a two-thirds vote and it was so ordered.

INTRODUCTION OF RESOLUTIONS, MEMORIALS, BILLS AND JOINT RESOLUTIONS

By Senator Bronson—

Senate Resolution No. 1-X(62)—

A RESOLUTION PROVIDING FOR PAY OF ATTACHES AND EMPLOYEES INCLUDING INDEXERS OF THE SENATE; AND MILEAGE FOR MEMBERS.

BE IT RESOLVED BY THE SENATE OF THE STATE OF FLORIDA:

Section 1. That all attaches and employees including indexers of the Senate shall receive twelve dollars (\$12.00) per day unless otherwise provided by law.

Section 2. That all attaches and employees including indexers of the Senate shall be entitled to and receive additional compensation for additional services they perform both before and after the 1962 extraordinary session of the legislature upon their names and amounts therefor being certified to the comptroller by the chairman of the legislative management of the Senate.

Section 3. That each member of the Senate shall receive payment for mileage between their homes and the seat of government as provided by section 11.13, Florida Statutes, irrespective of the number of trips actually traveled.

Which was read the first time in full.

The question was put on the adoption of the Resolution.

Upon the adoption of Senate Resolution No. 1-X(62) the roll was called and the vote was:

Yeas—35.

Mr. President	Cross	Gresham	Pearce
Barron	David	Herrell	Pope
Beall	Davis	Johns	Price
Blank	Edwards	Johnson	Ripley
Boyd	Fraser	Kelly	Roberts
Bronson	Galloway	Kicliter	Stratton
Carraway	Gautier	Mapoles	Tucker
Clarke	Getzen	Melton	Young
Connor	Gibbons	Parrish	

Nays—None.

So Senate Resolution No. 1-X(62) was adopted.

By Senator Young—

Senate Joint Resolution No. 2-X(62)—

A JOINT RESOLUTION PROPOSING AN AMENDMENT TO ARTICLE VII OF THE STATE CONSTITUTION RELATING TO APPORTIONMENT AND CENSUS.

WHEREAS, the Governor of the State of Florida has, for the purposes of apportionment, called a special session of the legislature to apportion the legislature in a manner most representative of the people of this State; and,

WHEREAS, an amendment to the Constitution dealing with the subject matter of apportionment should be submitted to the voters of the State of Florida at the earliest possible time; NOW, THEREFORE,

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF FLORIDA:

That the following amendment of Article VII of the Constitution of the State of Florida relating to apportionment in the Senate and House of Representatives be and the same is hereby agreed to and shall be submitted to the electors of the State of Florida for ratification or rejection in the general election to be held in November, 1962:

Section 1. Section 1, 2, 3 and 4 of Article VII are hereby repealed and in lieu thereof the following sections are hereby adopted:

ARTICLE VII

Representation — Apportionment

Section 1. Composition of the Legislature — The legislature of the State of Florida shall consist of a Senate and a House of Representatives. Members of the Senate shall be elected for a term of four (4) years and members of the House of Representatives shall be elected for a term of two (2) years. The term of members of the legislature shall expire on the first Tuesday after the first Monday in November of each regular election year. Members of the Senate and of the House of Representatives shall be elected as provided by law.

Section 2. Senate — The State of Florida shall be apportioned into thirty-seven (37) senatorial districts;

(1) Said senatorial districts shall be consecutively numbered and shall contain the counties as follows:

DISTRICT	COUNTIES
1	Santa Rosa, Okaloosa
2	Escambia
3	Walton, Holmes, Washington
4	Jackson, Calhoun
5	Charlotte, Lee, Hendry
6	Gadsden, Liberty, Franklin
7	Polk
8	Leon, Wakulla
9	Citrus, Hernando, Sumter
10	Sarasota
11	Pinellas
12	St. Lucie, Martin, Indian River
13	Dade
14	Columbia, Gilchrist, Levy
15	Union, Bradford, Clay

16	Nassau, Baker
17	Hamilton, Suwannee, Lafayette, Dixie
18	Duval
19	Orange
20	Marion
21	Pasco
22	Jefferson, Madison, Taylor
23	Lake
24	Monroe, Collier
25	Bay, Gulf
26	Putnam
27	Hardee, DeSoto, Highlands, Glades
28	Volusia
29	Seminole
30	Broward
31	St. Johns, Flagler
32	Alachua
33	Osceola, Okeechobee
34	Hillsborough
35	Palm Beach
36	Manatee
37	Brevard

(2) There shall be one (1) Senator for each senatorial district.

(3) All Senators serving in odd-numbered districts created hereby at the time this Article becomes effective shall be deemed elected, under this Article, to serve until the general election to be held in 1964.

There shall be held in each senatorial district created hereby, for which there is no elected Senator at the time this Article becomes effective, a special election within one hundred twenty (120) days after November 6, 1962 for the purpose of electing a Senator for such district, such election to be held as provided by law. Each Senator so elected from an odd-numbered district shall serve until the general election to be held in 1964. Each Senator so elected from an even-numbered district shall serve until the general election to be held in 1966.

All Senators elected in the general election of November 6, 1962 shall be deemed elected under this Article to serve as Senator from the district created by this Article in which said Senator shall reside; provided, however, that in each senatorial district created by this Article in which there shall be more than one (1) elected Senator at the time this Article becomes effective there shall be a special election within one hundred twenty (120) days after November 6, 1962 for the purpose of electing a Senator for such district; such election to be held as provided by law.

Section 3. House of Representatives—The House of Representatives shall be apportioned as follows:

(1) Each senatorial district having less than one per cent (1%) of the total population of the State of Florida shall have one (1) Representative.

(2) Each senatorial district having one per cent (1%) or more of the total population of the State of Florida shall have one (1) Representative for each one per cent

(1%), or major fraction thereof, of the total population of the State of Florida.

(3) The population herein referred to is and shall be the population of the State according to the last preceding decennial Federal census. Upon the certification of such census to the State each ten (10) years, the Secretary of State shall make the apportionment herein specified, which apportionment shall be applicable for the next succeeding election of members of the House of Representatives and thereafter until the next Federal census. The first such apportionment shall be made by the Secretary of State upon the ratification of this amendment by the electors.

(4) The 1963 House of Representatives shall be composed of the Representatives elected pursuant to this Article, if this Article is ratified in the general election in November, 1962.

(a) There shall be held in each senatorial district, which will under this Article lose members in the House of Representatives, a special election within one hundred twenty (120) days after November 6, 1962 for the purpose of electing Representatives for said senatorial district, such election to be held as provided by law.

(b) There shall be held in each senatorial district, which will under this Article gain additional members in the House of Representatives, a special election within one hundred twenty (120) days after November 6, 1962 for the purpose of electing such additional Representatives for said district, such election to be held as provided by law.

(c) Members of the House of Representatives elected in the general election of November 6, 1962 shall be deemed elected under this Article in those districts whose total number of Representatives, under this Article, shall equal or exceed the total number of Representatives elected from counties within said districts in said general election of November 6, 1962.

Which was read the first time in full and referred to the Committee on Reapportionment.

By Senators Galloway, Beall, Connor, Fraser, Pearce, Stratton, Davis, Roberts, Mapoles and Tucker—

Senate Concurrent Resolution No. 3-X(62)—

A CONCURRENT RESOLUTION TO THE FEDERAL COURTS, AND PARTICULARLY THE DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, DEMANDING THEM TO CONFINE THEIR ACTIVITIES TO PROPER COURT PROCEEDINGS AND TO HALT DICTATORIAL THREATENING OF THE DULY ELECTED LEGISLATORS OF FLORIDA.

WHEREAS, it has come to the attention of this body that the Federal Courts have ceased to act as a Judicial body and are setting themselves as the lawmakers of this and several other sovereign states of the Union, and

WHEREAS, by admission these courts do not know whether they have the power to abolish state sovereignty, and, as in the past where there seems to be some question about their power or authority, they have assumed or usurped all power, forcing unprecedented laws on the American people. We, the Florida Legislature, a branch of Florida's Government, are not spineless; have no lacking of intestinal fortitude, and do not intend to abdicate the sovereignty of the people to dictatorial orders of any Court, and

WHEREAS, this body has placed before the people of Florida a reapportionment amendment which is a replica of the federal legislative branch, to-wit: In the United States Senate the five largest states have a representation ratio of 46 to 1, as compared with a ratio of the five smallest states of 1 to 1, and under said reapportionment

amendment the five largest districts would have a representation ratio of 32 to 1 as compared with a ratio of the five smallest districts of 1 to 1, and

WHEREAS, the Federal District Court, Southern District of Florida, with less than one hour consideration of argument has usurped the entire sovereignty of Florida with one small stroke of a pen, scorching and obliterating a whole section of the Florida Constitution which we are sworn to uphold, and

WHEREAS, the federal court is blinding itself by saying this body did not, ". . . afford any rational basis for a reapportionment that will meet the requirement of equal protection of the law," to-wit: The representation ratio of the Florida Senate in the reapportionment amendment is more favorable to populous areas of Florida than is the United States Senate to the populous states of the Union. Likewise said court ignored the provision in the reapportionment amendment which provides that each county reaching 50,000 in population shall have one senator, and

WHEREAS, we deplore the high-handed arbitrary and unreasonable attempted seizure of our sovereign state Legislature, by any court made up of men who have never been elected and are not responsible directly to the people, and

WHEREAS, the entire federal judiciary is pursuing a course deliberately designed to abolish the "rule of law" concept of freedom and to substitute therefor the "rule of whim of individual men who happen to be judges by the political accident of appointment for life," and

WHEREAS, in pursuit of this concept the Federal District Court, following the lead (but not the mandate) of its own parent court, the United States Supreme Court overturned 186 years of freedom-preserving precedent of protection of individual liberty by and through state sovereignty and checks and balances between three branches of government, and

WHEREAS, the federal government is not subservient to the people of this country but in many particulars is the biggest enemy the people of this United States have, and

WHEREAS, the electorate is conveniently not given opportunity to express itself on issues of great public interest and concern, and

WHEREAS, the present unrest and anxiety over national affairs would somewhat be alleviated and confidence in federal government might possibly be restored if the voters of this nation have right to more expression in the policies and actions of our federal government and its judiciary, NOW THEREFORE,

BE IT RESOLVED BY THE SENATE OF THE STATE OF FLORIDA, THE HOUSE OF REPRESENTATIVES CONCURRING:

That the federal courts are hereby formally advised that this body has reapportioned Florida subject to the vote of the people of Florida.

This body does not recognize the usurped power of the federal court to act as the Legislature of Florida and that any act of a federal court attempting to order the makeup of this body by judicial fiat will be ignored and unrecognized, and no person will be seated in this body except by the will of this body as provided by the Constitution of Florida enacted by its sovereign people.

The federal courts are further advised that no reactionary new frontier concept of judicial dictatorship will be acceded to by the Legislature of Florida and troops, force, and police state tactics will not force us to bend the straight tree of Freedom as guaranteed by the Constitutions of Florida and the United States for which many of us offered our blood on foreign soil to preserve.

We demand that the federal courts confine their activity in Florida to matters of judicial decision and demand the rights of this body to sit freely and to deliberate without threats and interference from such courts.

We stand ready against any dictatorial force—federal court or otherwise, to protect freedom and to protect our constitutions that insure it. Governments should be of laws not of men—even assumed supermen like those self-styled political arbiters known as federal judges. We will do our duty to this principle. We have done our duty by offering a reapportionment amendment to our people for their approval or rejection. Further at this time relating thereto, we will not do, so help us God.

We sincerely request our national congress to enact appropriate legislation requiring all federal judges, including the justices of the supreme court of the United States, and all federal judges now in office be subject to popular election in the treasured democratic tradition.

Which was read the first time in full and referred to the Committee on Reapportionment.

By Senators Beall and Clarke—

Senate Memorial No. 4-X(62)—

A MEMORIAL TO THE CONGRESS OF THE UNITED STATES TO ENACT MEASURES TO CAUSE THE OFFICES OF JUDGES OF THE FEDERAL JUDICIARY TO BE ELECTIVE IN THE SAME MANNER AS MEMBERS OF THE UNITED STATES SENATE AND TO PREVENT ANY FURTHER USURPATION OF STATES' RIGHTS BY FEDERAL JUDICIAL LEGISLATION.

WHEREAS, the Legislature of the state of Florida does hereby express a firm belief that recent actions of the Judiciary of the United States in delving into matters of apportionment of the Legislatures of various sovereign States, including the sovereign State of Florida, is a far more serious threat to the security of the Nation and our Constitutional form of Government and to States' rights than any possible threat of Communistic aggression, and

WHEREAS, the several sovereign States have at no time surrendered to the Federal Government the right under the Tenth Amendment to the Constitution to exercise their

discretion in the regulation of matters of strictly local concern, and

WHEREAS, the sovereign States in ratifying the Fourteenth Amendment to the Constitution did not agree that the power to regulate matters of local concern be prohibited to them thereby, and

WHEREAS, the Legislature of the State of Florida being of the opinion that members of the Federal Judiciary should be accountable to the citizens of the various States of the United States in the same manner as the President, Vice-President, and members of Congress, and being so accountable might then tend to act within Constitutional limits and maintain the Constitutional guarantees of the several sovereign States under the sacred compact under which this Union of States was created, NOW, THEREFORE,

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF FLORIDA:

That the Congress of the United States be and it is hereby requested to enact appropriate measures designed to cause the members of the Judiciary of the Courts of the United States to be answerable to the Electorate in their respective jurisdictions in the same manner as members of the Senate of the United States of America.

BE IT FURTHER RESOLVED that copies of this Memorial be dispatched to the President of the United States; to the President of the United States Senate; to the Speaker of the United States House of Representatives; and to each of the Congressional Delegation of the United States Congress; and to the First Justice and each member of the Supreme Court of the United States and to each Justice of the United States Courts of Appeals in the Districts including the States of Louisiana, Arkansas, Texas, Mississippi, Alabama, Tennessee, Georgia, Florida, South Carolina, North Carolina and Virginia and to the Judges of the District Courts of the United States appointed and presiding within the State of Florida.

Which was read the first time in full and referred to the Committee on Reapportionment.

Senator Davis moved that the Senate adjourn.

Which was agreed to.

And the Senate stood adjourned at 11:18 o'clock A.M., until 11:00 o'clock A. M., Friday, August 3, 1962.