

EXTRAORDINARY SESSION

JOURNAL OF THE SENATE

Thursday, January 31, 1963

The Senate convened at 1:00 o'clock P. M., pursuant to adjournment on Wednesday, January 30, 1963.

The President in the Chair.

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

| | | | |
|---------------|----------------|---------------|-----------------|
| Mr. President | Edwards | Johnson (6th) | Roberts |
| Askew | Fraser | Kelly | Ryan |
| Barron | Friday | McCarty | Stratton |
| Blank | Galloway | Mapoles | Tucker |
| Boyd | Gautier | Mathews | Whitaker |
| Bronson | Gibson | Melton | Williams (27th) |
| Clarke | Herrell | Parrish | Williams (4th) |
| Connor | Hodges | Pearce | Young |
| Covington | Johns | Pope | |
| Cross | Johnson (19th) | Price | |

—38.

A quorum present.

The following Prayer was offered by the Senate Chaplain, Reverend George C. Bedell:

O God, give us the will and desire to launch out into deep waters and to aim for the goals that are high and difficult; make us responsive to great things when they call us; when our own powers are inadequate, show us where to turn for the help we need. These things we ask in trust and confidence in the Name of Jesus Christ, our Lord. Amen.

The reading of the Journal was dispensed with.

The Senate daily Journal of Tuesday, January 29, 1963, was further corrected as follows:

Page 1, column 2, line 4, strike the name "Reuben" and insert in lieu thereof: Reubin

Also—

Page 1, column 2, line 4, counting from the bottom of the column, strike the name "Orlo" and insert in lieu thereof: Irlo

Also—

Page 3, column 2, line 9, strike the word "JONT" and insert in lieu thereof: JOINT

Also—

Page 3, column 2, line 10, strike the word "CONSTITUTON" and insert in lieu thereof: CONSTITUTION

Also—

Page 4, column 1, line 20, counting from the bottom of the column, strike the word "representativs" and insert in lieu thereof: representatives

Also—

Page 5, column 1, line 4, counting from the bottom of the column, strike the word "Twenty-third" and insert in lieu thereof: Twenty-thrid

Also—

Page 5, column 2, line 21, strike the word "disricts" and insert in lieu thereof: districts

Also—

Page 6, column 1, line 5, counting from the bottom of

the column, strike the word "ADDIG" and insert in lieu thereof: ADDING

And as further corrected was approved.

The Senate daily Journal of Wednesday, January 30, 1963, was corrected and as corrected was approved.

INTRODUCTION OF RESOLUTIONS, MEMORIALS, BILLS AND JOINT RESOLUTIONS

By Senators Pearce, Friday and Hodges—

Senate Memorial No. 8-X(63)—

A MEMORIAL TO THE FEDERAL DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, REQUESTING THE WITHHOLDING OF ANY JUDGMENT RELATING TO THE REAPPORTIONMENT OF THE LEGISLATURE OF THE STATE OF FLORIDA UNTIL AFTER THE 1963 REGULAR SESSION OF THE LEGISLATURE IN ORDER TO PERMIT THE LEGISLATURE SUFFICIENT TIME TO MAKE THE NECESSARY PREPARATION FOR THE EFFICIENT HOUSING, RENOVATION AND ENLARGEMENT OF THE CAPITOL REQUIRED BY REAPPORTIONMENT.

WHEREAS, the legislature of Florida, in extraordinary session August, 1962, adopted a resolution on reapportionment with an accompanying bill which was to become effective upon the adoption of a constitutional amendment, which amendment was placed on the general election ballot November 6, 1962, and

WHEREAS, the reapportionment plan was subsequently approved by the federal court, and

WHEREAS, only approximately thirty-three per cent (33%) of the qualified electors were interested enough in reapportionment to vote upon the question, and

WHEREAS, eighteen per cent (18%) of the total eligible electors of the thirty-three per cent (33%) voting, voted against the amendment and approximately fifteen per cent (15%) voted in favor, leaving a difference of only three per cent (3%) of the total eligible voters between the yeas and the nays, and

WHEREAS, the legislature has been called back into extraordinary session in an effort to try again to find a solution to the reapportionment question, and

WHEREAS, since approximately sixty-seven per cent (67%) of the total eligible voters of the state failed to express a preference on the reapportionment problem, indicating either (1) a complete disinterest in the entire question, (2) an overwhelming approval of the present apportionment as it exists, or (3) by failing to vote, indicating that the matter could be decided any way the legislature chose, leaving it largely to the minority groups to settle their differences, and

WHEREAS, this situation has created an atmosphere of uncertainty in the minds of most legislators as to whether in the public mind this is of such an emergency as to require unusual haste or should be presented back to the voters for further consideration, and

WHEREAS, every effort is being made toward that end, and

WHEREAS, apportionment just prior to a general legislative session by election if carried out too fast, can create more problems than can be solved within the time existing between the approval of any constitutional

amendment, the election of the members of the legislature, and the convening of the general session, NOW, THEREFORE,

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

That the federal court be and is hereby requested to withhold any further consideration of pending litigation until after the regular session of 1963 for the following reasons:

That two (2) primary elections and a special general election must be held to fill any vacancies created by the adoption of a constitutional amendment, and even if the elections are held as permitted by law, the public in general would be forced to vote on candidates without proper time to evaluate their qualifications to hold office, and probably add to the legislature some fifty (50) or more members just five (5) days prior to the convening of the general session.

That the legislature needs sufficient time to properly budget funds for the expensive renovation of the capitol, to provide for additional seating, adequate quarters and other administrative requirements which cannot be added in this short time.

That the legislative chambers for the senate and the house of representatives, with its present thirty-eight (38) senate seats and ninety-five (95) house seats, does not provide sufficient room for additional senators and house members without considerable renovation, rearrangement and additions to the capitol and the senate and house office accommodations.

That for the above practical reasons and physical existing conditions, the legislature desires to have time to prepare for an efficient legislature.

That legislative committees have been and will be engaged in budget hearings, finance and taxation legislation and other matters of importance to all citizens.

That the legislature has shown its willingness to comply with the mandate of the court by submitting a revolutionary apportionment plan which was defeated.

We will continue to try and find an acceptable formula and it is without any desire to shirk responsibility in reapportionment that we make this request but we fully realize the impact that any sizable increased apportionment will have on the physical accommodations available now for the efficient operation of the legislature if forced on the legislature too fast.

BE IT FURTHER RESOLVED that a copy of this memorial be officially signed by the constitutional officers of the house and senate and certified by the secretary of state to the federal district court for the southern district of Florida.

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

MESSAGE FROM THE GOVERNOR

The following message from the Governor was received and read:

STATE OF FLORIDA
OFFICE OF THE GOVERNOR
TALLAHASSEE

January 31, 1963

*Honorable Wilson Carraway
President of the Senate
Capitol Building
Tallahassee, Florida*

*Honorable Mallory Horne
Speaker, House of Representatives
Capitol Building
Tallahassee, Florida*

Gentlemen:

Following the action of the Senate of the State of Florida

on January 29 in adopting a statutory proposal for the apportionment of the Senate I requested of the Supreme Court of the State of Florida an advisory opinion concerning certain of my powers and duties. In their unanimous opinion, copy of which is attached, the Court has advised me, among other things, that:

"It therefore appears that the controlling question giving you concern is whether or not the judgment of the aforementioned Federal Court dated July 23, 1962, has eliminated from the Constitution of Florida the State organic limitation on the House and Senate. We think the language is clear and unequivocal wherein the Federal Court said, 'Said provisions are hereby found and declared to be prospectively null, void and inoperative.' The only doubt might rest with whether or not the Court has jurisdiction to so order. Without conceding the right, we must concede the power, of the Federal judicial system to enforce its judgment in this cause. The jurisdiction is settled in view of the pronouncement of the Supreme Court of the United States in *Baker v. Carr*, 369 U. S. 186. And so it is that the decision of the Federal Court, *supra*, in this cause has eliminated the limitations provided in the Florida Constitution on the size of the House and Senate, and you have the power to continue to call recurring extra sessions under Section 8, Article IV, Florida Constitution, until such time as a reapportionment bill is enacted by the Legislature in conformity with the Fourteenth Amendment of the Constitution of the United States, notwithstanding the aforesaid limitations as they were prior to the decision of the Federal Court, *supra*, on July 23, 1962, and which have been by virtue of that decree invalidated."

It is now apparent that there are no organic limitations in our search for an equitable formula for apportionment, and we are restricted by the Federal Courts only in that whatever formula we adopt must not be "invidiously discriminatory." This imposes an awesome responsibility, but it also creates a golden opportunity. For the first time in a century you are free as a body of informed and dedicated legislators to cut the pattern of Florida's representation in the Legislature to fit the configurations which time and growth have wrought.

I suggest that each of us in the light of this new development must re-think his position. While this opinion does not point the way out of the political jungle into which we have been thrown, it does give us the strength and the tools we need to emerge. I shall be eager to work with you in finding the proper way.

Respectfully,
FARRIS BRYANT
Governor

Senator Pearce moved that the Senate proceed to the consideration of Executive Business.

Which was agreed to.

And the Senate went into Executive Session at 1:18 o'clock P.M.

The Senate emerged from Executive Session at 1:26 o'clock P.M., and resumed its Session.

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

| | | | |
|---------------|----------------|---------------|-----------------|
| Mr. President | Edwards | Johnson (6th) | Roberts |
| Askew | Fraser | Kelly | Ryan |
| Barron | Friday | McCarty | Stratton |
| Blank | Galloway | Mapoles | Tucker |
| Boyd | Gautier | Mathews | Whitaker |
| Bronson | Gibson | Melton | Williams (27th) |
| Clarke | Herrell | Parrish | Williams (4th) |
| Connor | Hodges | Pearce | Young |
| Covington | Johns | Pope | |
| Cross | Johnson (19th) | Price | |

A quorum present.

Senator Pearce moved that the Senate stand in recess until 3:00 o'clock P. M., this day.

Which was agreed to.

Thereupon the Senate stood in recess at 1:28 o'clock P. M.

The Senate was called to order by the President at 3:00 o'clock P. M., and upon call of the roll the following Senators answered to their names:

| | | | |
|---------------|----------------|---------------|-----------------|
| Mr. President | Edwards | Johnson (6th) | Roberts |
| Askew | Fraser | Kelly | Ryan |
| Barron | Friday | McCarty | Stratton |
| Blank | Galloway | Mapoles | Tucker |
| Boyd | Gautier | Mathews | Whitaker |
| Bronson | Gibson | Melton | Williams (27th) |
| Clarke | Herrell | Parrish | Williams (4th) |
| Connor | Hodges | Pearce | Young |
| Covington | Johns | Pope | |
| Cross | Johnson (19th) | Price | |

—38.

A quorum present.

Senator Herrell moved that the Senate revert to the Introduction of Resolutions, Memorials, Bills and Joint Resolutions.

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

INTRODUCTION OF RESOLUTIONS, MEMORIALS, BILLS AND JOINT RESOLUTIONS

By Senator Herrell—

Senate Joint Resolution No. 9-X(63)—

A JOINT RESOLUTION PROPOSING AN AMENDMENT TO ARTICLE VII OF THE CONSTITUTION OF FLORIDA BY ADDING A SECTION TO BE NUMBERED BY THE SECRETARY OF STATE; PROVIDING FOR THE APPORTIONMENT OF THE MEMBERSHIP OF THE SENATE OF THE STATE OF FLORIDA.

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

That an amendment to article VII of the constitution of Florida, by adding thereto a section to be assigned a number by the secretary of state, is hereby agreed to and shall be submitted to the electors of this state for ratification or rejection at the next general election to be held in November, 1964:

Section . **Senate apportionment.**—The legislature shall divide the state into forty-seven (47) senatorial districts with one (1) senator elected in each district. The counties of the state shall be apportioned into forty-two (42) senatorial districts and five (5) other districts shall be added by superimposing over district 30, district 43, representing Broward county; by superimposing over district 13, district 44, representing Dade county; by superimposing over district 18, district 45, representing Duval county; by superimposing over district 11, district 46, representing Pinellas county; and by superimposing over district 34, district 47, representing Hillsborough county. The forty-seven (47) districts shall be apportioned among the several counties of the state to provide equitable representation based upon similar economic interests, geographic area and population.

The legislature that shall meet in regular session in 1971 and those that shall meet every ten (10) years

thereafter shall reapportion the representation in the senate in accordance with the provisions of this section.

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

Senator Hodges moved that the rules be waived and all Bills, Resolutions and Memorials passed or adopted by the Senate during the remainder of the present extraordinary session of the Legislature be immediately certified to the House of Representatives.

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

Senator Hodges moved that when the Senate adjourns at this Session, it adjourn to reconvene at 10:00 o'clock A. M., Friday, February 1, 1963.

Which was agreed to and it was so ordered.

Senator Edwards moved that the Senate stand in recess subject to the call of the President.

Which was agreed to.

Thereupon the Senate stood in recess at 3:22 o'clock P. M.

The Senate was called to order by the President at 5:51 o'clock P. M., and upon call of the roll the following Senators answered to their names:

| | | | |
|---------------|----------------|---------------|-----------------|
| Mr. President | Edwards | Johnson (6th) | Roberts |
| Askew | Fraser | Kelly | Ryan |
| Barron | Friday | McCarty | Stratton |
| Blank | Galloway | Mapoles | Tucker |
| Boyd | Gautier | Mathews | Whitaker |
| Bronson | Gibson | Melton | Williams (27th) |
| Clarke | Herrell | Parrish | Williams (4th) |
| Connor | Hodges | Pearce | Young |
| Covington | Johns | Pope | |
| Cross | Johnson (19th) | Price | |

—38.

A quorum present.

The Senate resumed the Introduction of Resolutions, Memorials, Bills and Joint Resolutions.

By Senator Herrell—

S. B. No. 10-X(63)— A Bill to be entitled An Act providing for the apportionment of the membership of the Senate of the Legislature of the State of Florida; amending Section 10.01, adding Section 10.04, Florida Statutes; providing for an election; providing for filling vacancies; providing effective date.

Which was read the first time by title only and referred to the Committee on Apportionment.

By Senators Mathews, Price, Barron, Pope, Johnson (19th), Blank, McCarty, Askew and Whitaker—

S. B. No. 11-X(63)— A Bill to be entitled An Act apportioning the Senate of the Legislature of the State of Florida; providing for a special election; amending Section 10.01 and creating Section 10.04, Florida Statutes; providing an effective date.

Which was read the first time by title only and referred to the Committee on Apportionment.

Senator Hodges moved that the Senate adjourn.

Which was agreed to.

And the Senate stood adjourned at 5:54 o'clock P. M., until 10:00 o'clock A. M., Friday, February 1, 1963.