

## EXTRAORDINARY SESSION

# JOURNAL OF THE SENATE

Tuesday, August 7, 1962

The Senate convened at 11:00 o'clock A. M., pursuant to adjournment on Monday, August 6, 1962.

The President in the Chair.

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

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

—34.

A quorum present.

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

O God, may Thy Spirit guide these Senators into all truth as we seek Thy leadership for this special session.

You gave a plan of apportionment to a people greater in numbers than we, who were living under conditions and circumstances more difficult than we are. By this record we are encouraged to ask Thee to help us in like manner.

We thank Thee that our State is a portion of the great United States of America.

We pray for the preservation of our national liberty and all the freedoms you gave our forefathers.

In Jesus' Name. Amen.

The reading of the Journal was dispensed with.

The Senate daily Journal of Monday, August 6, 1962, was corrected and as corrected was approved.

### REPORTS OF COMMITTEES

Senator Carraway, Chairman of the Committee on Reapportionment, reported that the Committee had carefully considered the following Concurrent Resolution:

#### Senate Concurrent Resolution No. 5-X(62)—

A SENATE CONCURRENT RESOLUTION PROPOSING THAT THE ATTORNEY GENERAL BY APPROPRIATE PROCEEDINGS OBTAIN A CLARIFICATION OF THE DECISION RENDERED BY THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA IN THE CASE OF PETER B. SOBEL VS. TOM ADAMS, NO. 182-62-M-CIVIL-DD, DATED JULY 23, 1962.

—and recommends that the same be adopted with committee amendment as attached thereto.

And the Concurrent Resolution contained in the preceding report, together with the committee amendment attached thereto, was placed on the Calendar.

Senator Carraway, Chairman of the Committee on Reapportionment, reported that the Committee had carefully considered the following Bill:

S. B. No. 7-X(62)— A Bill to be entitled An Act relating to the apportionment of the Florida Legislature; providing for sixty-seven (67) senators; providing for ninety-five (95) members of the House of Representatives; providing the terms of office and manner of election thereof; providing an effective date.

—and recommends that the same pass.

And the Bill contained in the preceding report was placed on the Calendar of Bills on Second Reading.

Senator Carraway, Chairman of the Committee on Reapportionment, reported that the Committee had carefully considered the following Bill:

S. B. No. 6-X(62)— 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 according to districts.

—and the Committee recommends that the committee substitute therefor, as reported herewith, pass.

And the Bill contained in the preceding report, with the recommended committee substitute attached thereto was placed on the Calendar of Bills on Second Reading.

Senator Carraway, Chairman of the Committee on Reapportionment, reported that the Committee had carefully considered the following Joint Resolution:

#### 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.

—and recommends that the same not pass.

And the Joint Resolution contained in the preceding report was laid on the table.

Senator Carraway, Chairman of the Committee on Reapportionment, reported that the Committee had carefully considered the following Concurrent Resolution:

#### 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.

—and recommends that the same not be adopted.

And the Concurrent Resolution contained in the preceding report was laid on the table.

The President announced the appointment as of August 7, 1962, of Senator W. C. Herrell as a member of the committee to inquire into the suspension from office by the Governor of W. T. Woodward, as Constable in and for District No. Twelve, Duval County, and report its findings to the Senate in Executive Session, in the place of Senator Dempsey J. Barron.

## CONSIDERATION OF SENATE RESOLUTIONS

## Senate Concurrent Resolution No. 5-X(62)—

A SENATE CONCURRENT RESOLUTION PROPOSING THAT THE ATTORNEY GENERAL BY APPROPRIATE PROCEEDINGS OBTAIN A CLARIFICATION OF THE DECISION RENDERED BY THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA IN THE CASE OF PETER B. SOBEL VS. TOM ADAMS, NO. 182-62-M-CIVIL-DD, DATED JULY 23, 1962.

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

That the District Court of the United States for the Southern District of Florida in the case of Peter B. Sobel vs. Tom Adams, No. 182-62-M-Civil-DD, by its order and interlocutory judgment declared the existing constitutional and statutory provisions relating to the apportionment and reapportionment for the nomination and election of the Senate and the House of Representatives of the Florida Legislature to be invidiously discriminatory against the rights of the citizens of the State of Florida guaranteed by the constitution of the United States.

That the Legislature convened in special session for the purpose of complying with the order of the Court desires to meet the letter and spirit of the Court order and the rights of Florida citizens guaranteed by the Federal constitution.

That the Legislature thought that by the enactment of Chapter 61-6, Laws of Florida, and causing same to be placed on the November ballot for its approval or rejection by the people, they had met the requirements of law. The above mentioned decisions of the Court indicate this determination to be inaccurate.

The Court, however, failed to lay down any criterion for the Legislature to follow in meeting the requirements of the Federal constitution as construed by the Federal judiciary.

In light of the above and foregoing, it is respectfully suggested that the Attorney General and the Secretary of State of the State of Florida by appropriate proceeding seek from the Court a clarification of its above mentioned order and specifically request that the Court enunciate sufficient criterion for the Legislature to follow in its endeavors to comply with the requirements of the Federal constitution.

Was taken up in its order and read for the information of the Senate, having been read the second time in full on August 3, 1962, and referred to the Committee on Reapportionment.

The Committee on Reapportionment offered the following amendment to Senate Concurrent Resolution No. 5-X(62):

Strike out everything after the first paragraph ending with the words "by the constitution of the United States." and insert in lieu thereof the following:

WHEREAS, since the Interlocutory Order and Judgment entered on July 23, 1962, by the District Court of the United States for the Southern District of Florida in the case of **Peter B. Sobel v. Tom Adams, Secretary of State**, is not an Interlocutory Injunction as contemplated by Title 28, U. S. Code, Section 1253, there does not appear to lie an appeal to the United States Supreme Court from such order and judgment at this time, and

WHEREAS, if at the time of the entry by the District Court of an Interlocutory or Permanent Injunction or other appealable order or judgment, no act or resolution relating to apportionment has passed the legislature, or if the legislature has reapportioned itself by statutory

provision and such provision is unacceptable to the District Court, or if the legislature has reapportioned itself by constitutional amendment and implementing statute and such reapportionment is unacceptable to the District Court, or if said District Court by Judicial Decree attempts to apportion the legislature, appeal shall be taken to the United States Supreme Court in accordance with law for a determination of the constitutional and statutory questions involved; provided that should statutory reapportionment be acceptable to the District Court, appeal be taken to the United States Supreme Court in accordance with law to resolve the question of the invalidity of the Florida Constitutional provisions relating to apportionment, NOW, THEREFORE,

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

That the Secretary of State, as the officer designated by law for the technical service of process, associate special counsel to assist his staff and the staff of the chief state legal officer in the conduct of appropriate appellate proceedings to the United States Supreme Court and for this purpose there is hereby set aside from funds appropriated for legislative expense the sum of \$50,000.00.

Senator Herrell moved the adoption of the amendment.

Which was agreed to and the amendment was adopted.

The question was put on the adoption of Senate Concurrent Resolution No. 5-X(62), as amended, which reads as follows:

## Senate Concurrent Resolution No. 5-X(62)—

A SENATE CONCURRENT RESOLUTION PROPOSING THAT THE ATTORNEY GENERAL BY APPROPRIATE PROCEEDINGS OBTAIN A CLARIFICATION OF THE DECISION RENDERED BY THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA IN THE CASE OF PETER B. SOBEL VS. TOM ADAMS, NO. 182-62-M-CIVIL-DD, DATED JULY 23, 1962.

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

That the District Court of the United States for the Southern District of Florida in the case of Peter B. Sobel vs. Tom Adams, No. 182-62-M-Civil-DD, by its order and interlocutory judgment declared the existing constitutional and statutory provisions relating to the apportionment and reapportionment for the nomination and election of the Senate and the House of Representatives of the Florida Legislature to be invidiously discriminatory against the rights of the citizens of the State of Florida guaranteed by the constitution of the United States.

WHEREAS, since the Interlocutory Order and Judgment entered on July 23, 1962, by the District Court of the United States for the Southern District of Florida in the case of **Peter B. Sobel v. Tom Adams, Secretary of State**, is not an Interlocutory Injunction as contemplated by Title 28, U. S. Code, Section 1253, there does not appear to lie an appeal to the United States Supreme Court from such order and judgment at this time, and

WHEREAS, if at the time of the entry by the District Court of an Interlocutory or Permanent Injunction or other appealable order or judgment, no act or resolution relating to apportionment has passed the legislature, or if the legislature has reapportioned itself by statutory provision and such provision is unacceptable to the District Court, or if the legislature has reapportioned itself by constitutional amendment and implementing statute and such reapportionment is unacceptable to the District Court, or if said District Court by Judicial Decree attempts to apportion the legislature, appeal shall be taken to the United States Supreme Court in accordance with

law for a determination of the constitutional and statutory questions involved; provided that should statutory reapportionment be acceptable to the District Court, appeal be taken to the United States Supreme Court in accordance with law to resolve the question of the invalidity of the Florida Constitutional provisions relating to apportionment, NOW, THEREFORE,

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

That the Secretary of State, as the officer designated by law for the technical service of process, associate special counsel to assist his staff and the staff of the chief state legal officer in the conduct of appropriate appellate proceedings to the United States Supreme Court and for this purpose there is hereby set aside from funds appropriated for legislative expense the sum of \$50,000.00.

Upon the adoption of Senate Concurrent Resolution No. 5-X(62), as amended, the roll was called and the vote was:

Yeas—29.

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

Nays—4.

Gibbons	Kicliter	Parrish	Young
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So Senate Concurrent Resolution No. 5-X(62), as amended, was adopted and referred to the Secretary of the Senate as Ex Officio Engrossing Clerk, for engrossing.

**CONSIDERATION OF BILLS AND JOINT RESOLUTIONS ON SECOND READING**

**S. B. No. 7-X(62)** — A Bill to be entitled An Act relating to the apportionment of the Florida legislature; providing for sixty-seven (67) senators; providing for ninety-five (95) members of the house of representatives; providing the terms of office and manner of election thereof; providing an effective date.

Was taken up in its order.

Senator Melton moved that the rules be waived and Senate Bill No. 7-X(62) be read the second time by title only.

Which was agreed to by a two-thirds vote.

And Senate Bill No. 7-X(62) was read the second time by title only.

Senator Herrell offered the following amendment to Senate Bill No. 7-X(62):

In Section 2, page 2, strike the entire section and insert in lieu thereof the following:

Section 2. Representation in the senate of the Florida legislature shall be apportioned according to senatorial districts of which there shall be thirty-eight (38) as nearly equal in population as practicable.

Senator Herrell moved the adoption of the amendment.

Which was not agreed to so the amendment failed of adoption.

Senator Melton moved that the rules be further waived and Senate Bill No. 7-X(62) be read the third time in full and put upon its passage.

Which was agreed to by a two-thirds vote.

And Senate Bill No. 7-X(62) was read the third time in full.

Upon the passage of Senate Bill No. 7-X(62) the roll was called and the vote was:

Yeas—23.

Mr. President	Connor	Getzen	Pearce
Barron	Cross	Johns	Ripley
Beall	Davis	Johnson	Roberts
Bronson	Edwards	Mapoles	Stratton
Carraway	Fraser	Melton	Tucker
Clarke	Galloway	Parrish	

Nays—10.

Boyd	Gibbons	Kicliter	Young
David	Herrell	Pope	
Gautier	Kelly	Price	

So Senate Bill No. 7-X(62) passed, title as stated, and the action of the Senate was ordered certified to the House of Representatives immediately, by waiver of the rule.

**PAIR**

The following Pair was announced by the Secretary in accordance with Senate Rule 12:

I am paired with Senator Blank on the passage of S. B. No. 7-X(62).

If he were present he would vote "No" and I would vote "Aye."

TRAVIS A. GRESHAM, JR.  
Senator, 24th District.

Dated August 7, 1962.

Senator Davis, Chairman of the Committee on Rules and Calendar, moved that the rules be waived and the hour of adjournment of this Session be fixed at 12:30 o'clock P.M., this day.

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

**S. B. No. 6-X(62)** — 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 according to districts.

Was taken up in its order.

Senator Carraway moved that the rules be waived and Senate Bill No. 6-X(62) be read the second time by title only.

Which was agreed to by a two-thirds vote.

And Senate Bill No. 6-X(62) was read the second time by title only.

The following Committee Substitute for Senate Bill No. 6-X(62):

By the Committee on Reapportionment —

**Committee Substitute for Senate Bill No. 6-X(62)—**

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 according to districts.

Was read the first time by title only.

Senator Carraway moved that the rules be waived and the Committee Substitute for Senate Bill No. 6-X(62) be read the second time by title only.

Which was agreed to by a two-thirds vote.

And the Committee Substitute for Senate Bill No. 6-X(62) was read the second time by title only.

Senator Carraway moved the adoption of the Committee Substitute for Senate Bill No. 6-X(62).

Which was agreed to and the Committee Substitute for Senate Bill No. 6-X(62) was adopted.

Senator Gibbons offered the following amendment to Committee Substitute for Senate Bill No. 6-X(62):

Following the enacting clause, strike out the remainder of the bill and insert in lieu thereof the following:

Section 1. The representation in the senate of the Florida legislature shall consist of thirty-eight (38) members each representing a district with the view of effecting equitable representation based upon population as nearly as practicable.

Section 2. The thirty-eight (38) districts provided for in section 3, article VII of the constitution of Florida shall be constituted as follows:

DISTRICT	COUNTIES
First	Santa Rosa
Second	Escambia
Third	Okaloosa
Fourth	Gadsden and Liberty
Fifth	Nassau, Baker, Union and Bradford
Sixth	Jackson and Calhoun
Seventh	Polk
Eighth	Leon
Ninth	Citrus, Hernando, Levy, Dixie and Taylor
Tenth	Gulf, Franklin, Wakulla, Jefferson and Madison
Eleventh	Pinellas
Twelfth	St. Lucie
Thirteenth	Dade
Fourteenth	Columbia, Gilchrist, Lafayette, Suwannee and Hamilton
Fifteenth	Charlotte, Glades, Collier and Hendry
Sixteenth	Seminole
Seventeenth	Monroe
Eighteenth	Duval
Nineteenth	Orange
Twentieth	Marion
Twenty-first	Indian River
Twenty-second	Walton, Washington and Holmes
Twenty-third	Lake
Twenty-fourth	Lee
Twenty-fifth	Bay
Twenty-sixth	Putnam and Flagler
Twenty-seventh	Hardee, DeSoto and Highlands
Twenty-eighth	Volusia
Twenty-ninth	Sarasota
Thirtieth	Broward
Thirty-first	St. Johns and Clay
Thirty-second	Alachua
Thirty-third	Osceola, Okeechobee and Martin

Thirty-fourth	Hillsborough
Thirty-fifth	Palm Beach
Thirty-sixth	Manatee
Thirty-seventh	Brevard
Thirty-eighth	Pasco and Sumter

Section 3. The legislature shall reapportion the representation in the senate at the 1971 regular session of the legislature and every ten (10) years thereafter based upon the preceding latest federal decennial census.

In the event the legislature shall fail to reapportion the representation as required by this act, the governor shall call the legislature together in extraordinary session to consider the question of reapportionment, and such extraordinary session shall mandatorily be required to reapportion its membership before adjournment, and such extraordinary session so called shall not expire until reapportionment is effected and shall consider no business other than reapportionment.

Section 4. The senators elected from the newly created even numbered districts shall be elected for a term of four (4) years and the senators elected from the newly created odd numbered districts shall be elected for a term of two (2) years. Thereafter all senators shall be elected for four (4) year terms.

Section 5. (1) The certificates of nomination of qualified candidates for the state senate nominated in the 1962 primaries are hereby confirmed and ratified and the names of the candidates shall be placed on the ballot in the general election of November, 1962.

(2) Special primary elections shall be called by the governor for selecting nominees of recognized political parties as candidates in the November, 1962, general election for the offices created by the provisions of this act.

Section 6. It is declared to be the legislative intent that, if any section, subsection, sentence, clause or provision of this act is held invalid, the remainder of the act shall not be affected.

Section 7. This act shall take effect immediately upon becoming a law.

Senator Gibbons moved the adoption of the amendment.

Which was not agreed to so the amendment failed of adoption.

Senator Carraway moved that the rules be further waived and Committee Substitute for Senate Bill No. 6-X(62) be read the third time in full and put upon its passage.

Which was agreed to by a two-thirds vote.

And Committee Substitute for Senate Bill No. 6-X(62) was read the third time in full.

Pending consideration of Committee Substitute for Senate Bill No. 6-X(62), Senator Pope moved that all motions to reconsider be considered by the Senate at the time the motion is made and that all Bills and Joint Resolutions pertaining to reapportionment be immediately certified to the House of Representatives upon passage or adoption.

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

The hour of adjournment having arrived, a point of order was called and the Senate stood adjourned at 12:30 o'clock P. M., until 11:00 o'clock A. M., Wednesday, August 8, 1962.