

SPECIAL SESSION

JOURNAL OF THE SENATE

Friday, August 4, 1967

The Senate was called to order by the President Pro Tempore at 9:00 a.m. The following Senators were recorded present:

Mr. President	Deeb	Horne	Sayler
Askew	de la Parte	Johnson	Shevin
Bafalis	Edwards	Knopke	Slade
Barron	Elrod	Lane	Stockton
Barrow	Fisher	McClain	Stolzenburg
Bell	Friday	Mathews	Stone
Boyd	Gibson	O'Grady	Weber
Broxson	Griffin	Ott	Weissenborn
Chiles	Gunter	Plante	Wilson
Clayton	Haverfield	Poston	Young
Cross	Henderson	Reuter	

43. A quorum present.

Excused: Senators Fincher, Gong, Hollahan, Spencer and Thomas. Senator Haverfield at 10:00 a.m.

Prayer by Senator Bafalis of the 33rd Senatorial District:

Deliver us, our Father, from futile hopes and from clinging to lost causes, that we may move into ever-growing calm and ever-widening horizons. Where we cannot convince, let us be willing to persuade, for small deeds done are better than great deeds planned. We know that we cannot do everything. But help us to do something. In the Master's name we pray. Amen.

The reading of the Journal was dispensed with.

The Journal of August 3 was corrected and approved.

On motion by Senator Ott, pursuant to Rule 5.12 the Senate resolved itself into a Committee of the Whole for the purpose of further consideration of SJR 2-XXX(67).

COMMITTEE OF THE WHOLE

The Committee of the Whole took up for consideration SJR 2-XXX(67).

Senator Weber offered the following amendment:

Amendment 1—Declaration of Rights, Section 2, on page 1, beginning at line 13, as follows: Strike all of Section 2 and insert in lieu thereof:

Section 2. **Basic rights.**—All persons are equal before the law and have inalienable rights, among which are the right to enjoy life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess, and protect property; [except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law.] No person shall be deprived of any right because of race or religion.

Senator Deeb offered the following substitute amendment which failed:

Declaration of Rights. Section 2, paragraph 1, on page 1, beginning at line 13, as follows: Strike entire section 2 and insert the following:

Section 2. **Basic rights.**—All persons are equal before the law and have inalienable rights, among which are the right to enjoy life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess, and protect property; [except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law.] but owning, possessing and disposing of property by ineligible aliens, incompetents and minors may be regulated by law. No person shall be deprived of any right because of race or religion.

The question recurred on the original amendment which failed.

Senator Pope presiding.

Senator Fisher offered the following amendment:

Amendment 10—Declaration of Rights, Section 3, on page 1, beginning at line 23, as follows: Strike all of Section 3 and insert in lieu thereof:

Section 3. **Religious Freedom.**—There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, health, peace or safety.

Senators O'Grady and Barron offered the following substitute amendment:

Declaration of Rights, Section 3, on page 1, beginning at line 5, as follows: Strike "public morals, peace or safety." and insert in lieu thereof: the morals, peace or safety of the public.

Senator Fisher offered the following amendment to the substitute amendment which failed:

Line 2, page 1, add after word "morals," health

The vote was:

Yeas—8

Barrow	Edwards	Ott	Weber
Bell	Fisher	Reuter	Wilson

Nays—29

Mr. President	Cross	Henderson	Sayler
Askew	Deeb	Horne	Shevin
Bafalis	de la Parte	Johnson	Stockton
Barron	Elrod	Knopke	Stolzenburg
Boyd	Friday	McClain	Stone
Broxson	Gibson	Mathews	
Chiles	Griffin	Plante	
Clayton	Gunter	Poston	

The substitute amendment was adopted. The vote was:

Yeas—36

Mr. President	Cross	Johnson	Sayler
Askew	Deeb	Knopke	Shevin
Barron	de la Parte	McClain	Slade
Barrow	Elrod	Mathews	Stockton
Bell	Fisher	O'Grady	Stolzenburg
Boyd	Griffin	Ott	Stone
Broxson	Gunter	Plante	Weber
Chiles	Henderson	Poston	Weissenborn
Clayton	Horne	Reuter	Wilson

Nays—4

Bafalis	Edwards	Friday	Gibson
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Senator Shevin offered the following amendment:

Amendment 18—Declaration of Rights, Section 4, paragraph 1, on page 1, beginning at line 28, strike Section 4 and insert in lieu thereof:

Section 4. **Freedom of Speech and Press.**—Every person may speak, write and publish his sentiments on all subjects but shall be responsible for the abuse of that right. No laws shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for defamation the truth may be given in evidence. If it shall appear that the matter charged as defamatory is true [and was published with good motives], the party shall be acquitted or exonerated.

Senator Sayler offered the following amendment to the amendment which was adopted, with Senators Edwards and Pope voting "Nay":

In Section 4, lines 7 and 8, page 1, strike: "it shall appear that"

Senator Askew presiding.

Senator Deeb offered the following amendment to the amendment which failed:

Beginning at line 9, after the word "true" and before the words, "the party," insert the following words: and was not published with malicious motives,

The question recurred on adoption of the amendment as amended which failed.

Senator Pope presiding.

Senator Broxson offered the following amendment which was adopted:

Amendment 19—Declaration of Rights, Section 4, on page 2, beginning at line 3, strike Section 4, and insert in lieu thereof, the following:

Section 4. Freedom of speech and press.—Every person may speak, write and publish his sentiments on all subjects but shall be responsible for the abuse of that right. No laws shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for defamation the truth may be given in evidence. If [it shall appear that] the matter charged as defamatory is true and was published with good motives, the party shall be acquitted or exonerated.

Amendment 13 by Senator Deeb was withdrawn.

Senator Deeb offered the following amendment which failed:

Amendment 14—Declaration of Rights, Section 12, paragraph 1, on page 3, beginning at line 11, as follows: substantial rewording: Strike entire section 12 and insert the following:

Section 12. Searches and seizures.—The right of people to be secure in their persons, properties, papers, effects and private communications against unreasonable searches, seizures, pictorializations or interceptions by any means shall not be violated. No warrant for search, seizure, pictorialization or interception shall be issued unless supported by a sworn or affirmed written statement showing probable cause, and the statement and warrant shall particularly describe the places, persons, things or communications to be searched, seized, pictorialized or intercepted and the nature and purpose of any evidence to be obtained.

Senators Fincher and Shevin offered the following amendment which was moved by Senator Shevin and failed:

Amendment 17—Declaration of Rights, Section 12, on page 3, beginning at line 11, as follows: Strike Section 12 and insert in lieu thereof:

Section 12. Searches and seizures.—The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, [and against the unreasonable interception of private communications by any means,] shall not be violated. The interception of private communications by wiretapping devices or any other means is prohibited except in those cases involving a national emergency or effecting the national security. No warrant shall be issued except upon probable cause, supported by oath or affirmation particularly describing the place or places to be searched, the person or persons, thing or things to be seized, [the communication to be intercepted,] and the nature of evidence to be obtained. Articles or information obtained in violation of this right shall not be admissible in evidence.

Senator Horne presiding.

Consideration of proposed amendments 20, 21 and 24 by Senator de la Parte was temporarily deferred.

Senators Clayton and de la Parte offered the following amendment which was adopted on motion by Senator Clayton:

Amendment 60—Declaration of Rights, Section 12, on page 3, beginning at line 11, as follows: Strike present section 12 Declaration of Rights and insert the following:

Section 12. Searches and seizures.—The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means,

shall not be violated. No warrant shall be issued except upon probable cause, supported by [oath or affirmation] affidavit, particularly describing the place or places to be searched, the person or persons, thing or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained. Articles or information obtained in violation of this right shall not be admissible in evidence.

Senator Shevin offered the following amendment which was adopted:

Amendment 22—Declaration of Rights, Section 15, Subsection (a), on page 4, beginning at line 6, as follows: Strike subsection (a) and insert in lieu thereof:

(a) No person shall be tried for capital crime without presentment or indictment returned by the affirmative vote of two-thirds of the members of a grand jury of not less than eighteen members, or for other felony without such presentment or indictment or an information under oath filed by the prosecuting officer of the court, [except in cases in the militia.] except in cases of persons on active duty in the militia who are tried by courts martial.

Senator Mathews moved that the Committee of the Whole rise. Which was agreed to.

The Senate was called to order by Senator Horne at 12:45 p. m. The following Senators were recorded present:

Mr. President	Deeb	Johnson	Shevin
Askew	de la Parte	Knopke	Slade
Bafalis	Edwards	Lane	Stockton
Barron	Elrod	McClain	Stolzenburg
Barrow	Fisher	Mathews	Stone
Bell	Friday	O'Grady	Weber
Boyd	Gibson	Ott	Weissenborn
Broxson	Griffin	Plante	Wilson
Chiles	Gunter	Poston	Young
Clayton	Henderson	Reuter	
Cross	Horne	Saylor	

42. A quorum present.

The President presiding.

Pursuant to the provisions of HB 464, the President announced the appointment of Senators Mathews, Friday, Stone, Young and Askew as members on the part of the Senate of the Legislative Auditing Committee.

REPORT OF COMMITTEE

The following report of the Committee on Rules and Calendar was read:

The Honorable Verle Pope, President August 3, 1967
The Florida Senate

Sir:

The Committee on Rules and Calendar met and recommends the following Rules to be in effect while the Senate is in the Committee of the Whole House considering Senate Joint Resolution 2-XXX(67):

1. That upon consideration for the first time of amendments to Senate Joint Resolution 2-XXX(67) on an Article by Article and section by section basis, amendments will be considered to be adopted if approved by a vote of three-fifths or more of the membership of the Senate.
2. Articles as amended or after all amendments proposed have been considered to a specific article will be considered as adopted and informally engrossed as a portion of Senate Joint Resolution 2-XXX(67) if approved by a three-fourths vote.

The Rules herein shall cease to exist after completion of the consideration for the first time of each Article of Senate Joint Resolution 2-XXX(67) in the Committee of the Whole House.

Respectfully submitted,
JOHN E. MATHEWS, JR.

Senator Mathews moved the adoption of the foregoing report of Committee.

On motion by Senator Mathews, time of adjournment was extended until final action on the foregoing report of Committee and a Message from the House of Representatives.

A substitute motion by Senator Deeb failed that the Committee Report be reconsidered by the Committee on Rules and Calendar and the Committee consider taking up SJR 1-XXX-(67).

The question recurred on the motion by Senator Mathews, which was adopted. The vote was:

Yeas—22

Mr. President	Chiles	Gibson	Poston
Askew	Cross	Griffin	Stockton
Barron	Deeb	Gunter	Stolzenburg
Bell	Edwards	Knopke	Stone
Boyd	Elrod	McClain	
Broxson	Friday	Mathews	

Nays—15

Bafalis	O'Grady	Sayler	Weissenborn
Fisher	Ott	Shevin	Wilson
Henderson	Plante	Slade	Young
Johnson	Reuter	Weber	

Senator Friday, by request, moved that the Senate reconsider the vote by which the report of the Committee on Rules and Calendar was adopted. The motion went over under the rule.

On motion by Senator Mathews, the following new rule was adopted:

As of August 3, 1967, the Enrolling and Engrossing Room will not handle any reproduction requests of senators except as follows:

1. material to be distributed to other members of the legislature but if order is large—in the opinion of the enrolling and engrossing clerk—it will require the approval of the rules committee;
2. not to exceed 25 copies of bills, resolutions, reports or other actions of the Senate provided that the total order does not require in excess of 100 pages.

On motion by Senator Mathews, the Senate reverted to the consideration of—

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

The following message was read:

The Honorable Verle A. Pope
President of the Senate

August 4, 1967

Sir:

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote and adopted—

By Representative Holloway—

HCR 13-XXX(67)—A concurrent resolution providing that the House of Representatives and the Senate convene in joint meeting in the chamber of the House of Representatives at 2:00 p.m. on Tuesday, August 8, for a program in recognition of the planning now underway to cope with the problems of mass transportation in Florida.

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

HCR 13-XXX(67), contained in the above message, failed to receive the required Constitutional two-thirds vote for introduction and consideration by the Senate.

On motion by Senator Fisher, the Senate reconsidered the vote, and HCR 13-XXX(67) was admitted for introduction and consideration; was read the first time in full and referred to the Committee on Rules and Calendar.

The hour of adjournment having arrived, a point of order was called and the Senate adjourned at 1:27 p. m. to reconvene at 10:00 a. m., August 7, 1967.