

## SPECIAL SESSION

# JOURNAL OF THE SENATE

Saturday, August 26, 1967

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

Mr. President	Elrod	Horne	Slade
Askew	Fincher	Johnson	Spencer
Barron	Friday	Knopke	Stockton
Bell	Gibson	Lane	Stolzenburg
Boyd	Gong	McClain	Stone
Chiles	Griffin	Mathews	Thomas
Clayton	Gunter	O'Grady	Weber
Cross	Haverfield	Ott	Weissenborn
de la Parte	Henderson	Poston	Wilson
Edwards	Hollahan	Shevin	Young

40. A quorum present.

Excused: Senators Bafalis, Barrow, Broxson, Deeb, Fisher, Plante, Reuter and Saylor.

Prayer by the Secretary of the Senate:

Heavenly Father, scriptures reveal the foolishness of man when building a house upon sand, but wisdom when building upon a foundation of rock. So let us labor here to construct a document that will withstand the test—strong enough to endure the destructive force of any hostile approach. Let our House of Government be a monument of political strength with a foundation of everlasting security. In our Master's name, we pray. Amen.

The Journal of August 25 was corrected and approved.

On motion by Senator Mathews, pursuant to Rule 5.12 the Senate resolved itself into a Committee of the Whole for the purpose of further consideration of SJR 2-4X(67).

### COMMITTEE OF THE WHOLE

Senator Pope presiding.

Senator Poston offered the following amendment which failed:

**Amendment 239**—Article V, Section 4, Subsection (b), paragraph (2), on page 31, beginning at line 19, strike Subsection (b), Paragraph (2), and insert in lieu thereof the following:

(2) May review by certiorari any decision of a district court of appeal that affects a class of constitutional or state officers, that passes upon a question certified by the district court of appeal to be of great public interest, in which case the supreme court shall confine its review to the question certified, or that is in direct conflict with a decision of another district court of appeal or the supreme court on the same question of law, and may issue writs of prohibition to courts and commissions in causes within the jurisdiction of the supreme court to review, and all writs necessary to the complete exercise of its jurisdiction.

Senator Deeb offered the following amendment which was moved by Senator Chiles and failed:

**Amendment 165**—Article V, Section 4, Subsection (b), on page 31, beginning at line 11, strike entire subsection (b) and insert in lieu thereof the following substantially reworded subsection (b)

(b) Jurisdiction. The supreme court shall hear appeals from orders of trial courts and decisions of district courts of appeal construing a provision of the state or federal constitution and shall have such other original and appellate jurisdiction as is provided by law with power to issue all writs necessary to the complete exercise of its jurisdiction.

Senator Deeb also offered the following amendment which was moved by Senator Chiles and failed:

**Amendment 164**—Article V, Section 5, on page 32, beginning

at line 8, strike entire Section 5 and insert the following substantially reworded Section 5:

Section 5. District courts of appeal.

Appellate districts. The state by law shall be divided into not less than four appellate districts of contiguous counties. There shall be a district court of appeal in each district consisting of not less than three judges. Three judges shall consider each case, and the concurrence of two shall be necessary to a decision. A district court of appeal shall have such original and appellate jurisdiction as is provided by law with power to issue all writs necessary to the complete exercise of its jurisdiction.

Senator Bell offered the following amendment which was adopted:

**Amendment 44**—Article V, Section 7, Subsection (a), on page 34, beginning at line 7, strike present subsection (a) and insert in lieu thereof the following:

Section 7. COUNTY COURTS.—

(a) County courts. In each county having a population of not more than one hundred thousand [,] inhabitants, according to the latest decennial census, there shall be a county court unless that court shall have been abolished, and not re-established, by vote of the electors pursuant to law.

Senator Gibson offered the following amendment which failed:

**Amendment 120**—Article V, Section 8, on page 35, beginning at line 5, add new Subsection (d) as follows:

(d) Constables. A constable shall be elected for each magistrates court by the electors of the county or magistrates court district. He shall serve a term of four years and perform such duties as provided by law.

Senator Bell offered the following amendment which failed:

**Amendment 149**—Article V, Section 13, Subsection (a), on page 37, beginning at line 4, strike present subsection (a) and insert in lieu thereof the following:

Section 13. ELECTIONS-TERMS.—

(a) Justices and judges shall be elected in [non-partisan] partisan elections as provided by law.

The vote was:

Yeas—9

Bell	Gunter	Stolzenburg	Wilson
Clayton	Henderson	Thomas	Young
Elrod			

Nays—27

Mr. President	Edwards	Hollahan	Poston
Askew	Fincher	Johnson	Shevin
Barron	Friday	Knopke	Spencer
Boyd	Gibson	McClain	Stockton
Chiles	Gong	Mathews	Stone
Cross	Griffin	O'Grady	Weissenborn
de la Parte	Haverfield	Ott	

### PAIR

The following Pair was announced by the Secretary in accordance with Senate Rule 8.4:

I am paired with Senator Bafalis on Amendment 149. If he were present he would vote "Yea" and I would vote "Nay."

MALLORY E. HORNE, 5th District

Senator Deeb offered the following amendment which was moved by Senator Wilson and failed:

**Amendment 155**—Article V, Section 13, Subsection (a), on page 37, beginning at line 4, strike subsection (a) and insert in lieu thereof the following:

(a) Justices and judges shall be elected [in non partisan elections] as provided by law.

**Senator Chiles presiding.**

Senator Thomas offered the following amendment which was adopted:

**Amendment 212**—Article V, Section 14, Subsection (f), on page 38, beginning at line 25, strike Subsection (f) and insert in lieu thereof:

(f) A justice or judge involuntarily retired for disability, after ten years of judicial service, shall thereafter receive retirement pay as fixed by law. [not less than two thirds his compensation at the time of retirement.]

Senator Mathews offered the following amendment:

**Amendment 281**—Article V, Sections 1-13, on page 30, beginning at line 3, strike Sections 1 through 10. Insert in lieu thereof the following and renumber the subsequent sections accordingly.

Section 1. COURTS.—The judicial power is vested in a supreme court, district courts of appeal, circuit courts, county courts, magistrates courts, and courts established for the trial of offenses against ordinances of municipalities and chartered counties. Administrative officers or bodies may be granted quasi-judicial power in matters connected with the function of their offices.

Section 2. The administration, practice and procedure, jurisdiction, election or selection of judges, filling of vacancies, discipline, retirement and removal, and rule-making power shall be provided by law.

Senator Wilson offered the following amendment to Amendment 281 which was adopted:

In Section 2, line 11, page 1, strike: "or selection"

Senator Mathews withdrew Amendment 281 as amended and reserved the right to offer it again at a later date.

On motion by Senator Mathews, Article V as amended was adopted. The vote was:

Yeas—35

Mr. President	Elrod	Horne	Spencer
Askew	Fincher	Johnson	Stockton
Barron	Friday	Knopke	Stolzenburg
Boyd	Gibson	McClain	Stone
Chiles	Gong	Mathews	Thomas
Clayton	Griffin	O'Grady	Weber
Cross	Gunter	Ott	Weissenborn
de la Parte	Haverfield	Poston	Young
Edwards	Hollahan	Shevin	

Nays—3

Bell	Henderson	Wilson
------	-----------	--------

**Senator Pope presiding.**

The Steering Committee offered the following amendment which was adopted on motion by Senator Mathews:

**Amendment 228**—Article XII, Section 7, on page 64, beginning at line 33, add a new subsection as follows:

(c) Article III, section 11(u), and so much of Article V, section 16(a), as relates to county supplementation of state salaries, shall be effective only after June 30, 1969, and after state laws provide salaries and expenses at least equal to the aggregate being paid when this constitution becomes effective.

Senator Askew offered the following amendment which was adopted:

**Amendment 287**—Article XII, Section 11, Subsection (c), paragraph (3), on page 68, beginning at line 26, strike entire paragraph (3), and insert in lieu thereof the following:

(3) No justice or judge holding office immediately after this

constitution becomes effective who held [state] judicial office on June 30, 1957, shall be subject to retirement from judicial office pursuant to Article V, [section 13 (e)] section 14 (e).

Senator Askew also offered the following amendment which was adopted:

**Amendment 288**—Article XII, Section 11, Subsection (h), on page 70, add new subsection (h) to Section 11.

(h) Clerks of court. After the effective date of this constitution, clerks of court shall continue to serve as follows:

(1) Except as hereinafter provided, the clerks of the circuit court will continue to serve in such offices in their respective counties.

(2) In counties having fewer than one hundred thousand population, the elective clerks of the courts abolished by this schedule who are in office on the effective date hereof shall serve out the remainder of their terms as clerks of the county courts in their respective counties.

(3) Except as hereinafter provided, in counties having in excess of one hundred thousand population, the elective clerks of the courts abolished by this schedule who are in office on the effective date hereof shall serve out the remainder of their terms as deputies to the clerks of the circuit court in their respective counties.

(4) In Escambia County, there is created the office of county clerk, which officer shall also be the clerk of the board of county commissioners, county recorder, and ex officio auditor and perform duties prescribed by law. The person holding the office of clerk of the circuit court on the effective date of this constitution shall be the county clerk for the remainder of the term for which he was appointed or elected.

(5) In Escambia County there shall be the office of clerk of the circuit court, which officer shall also serve as clerk of the magistrate court and perform duties prescribed by law. The person holding the office of the clerk of the court of record of Escambia County on the effective date of this constitution shall be the clerk of the circuit court for the remainder of the term for which he was appointed or elected.

The Steering Committee offered the following amendment which was adopted on motion by Senator Mathews:

**Amendment 231**—Article XII, Section 13, on page 70, beginning at line 8, strike Section 13 and insert in lieu thereof:

Section 13. PRESERVATION OF EXISTING GOVERNMENT.—All provisions of the Constitution of 1885, as amended, [not embraced herein,] which are not inconsistent with this constitution shall become statutes subject to modification or repeal as are other statutes.

Senator Poston offered the following amendment:

**Amendment 240**—Article XII, Section 14, on page 70, beginning at line 14, strike section 14, and insert in lieu thereof the following:

Section 14. CONSOLIDATION AND HOME RULE.—Article VIII, sections 9, 10, 11 and 24, of the Constitution of 1885, as amended, shall remain in full force and effect as to each county affected until that county shall adopt a charter or home rule plan pursuant to this constitution. Provided, however, that all provisions of the Metropolitan Dade County Home Rule Charter contained in such charter on the date of the adoption of this Constitution shall be valid and any amendments to such charter which would have been authorized under Article VIII, Section 11, of the Florida Constitution adopted November 6, 1956, may be made.

Senators Weissenborn, Hollahan and Poston offered the following substitute amendment which was adopted on motion by Senator Weissenborn:

Strike Section 14 of Article XII and insert in lieu thereof the following:

Section 14. CONSOLIDATION AND HOME RULE.—Article VIII, sections 9, 10, 11 and 24, of the constitution of 1885, as amended, shall remain in full force and effect as to each county affected, as if this constitution had not been adopted, until that county shall adopt a charter or home rule plan pursuant to this constitution. All provisions of the Metropolitan Dade County Home Rule Charter, heretofore or hereafter adopted by the electors of Dade County pursuant to Article

VIII, section 11 of the constitution of 1885, shall be valid, and any amendments to such charter shall be valid, provided that the said provisions of such charter and the said amendments thereto are authorized under said Article VIII, section 11, of the constitution of 1885.

Senator Mathews offered the following amendment which was adopted:

In Article XII, Section 10(1) as amended strike: "fifteen (15)" and insert the following: forty (40)

**Senator Cross presiding.**

Senator Stockton offered the following amendment which failed:

**Amendment 298—DECLARATION OF RIGHTS** on page 6, beginning at line 11, insert the following new section to follow Section 23.

Section 24. **AGE DISABILITY.**—No person eighteen years of age shall be subject to any legal disability because of age.

The Liaison Committee offered the following amendment which was moved by Senator Friday and adopted:

**Amendment 1-a—Article I (new),** on page 1, beginning at line 1,

**PREAMBLE**

We, the people of the State of Florida, being grateful to Almighty God for our constitutional liberty, in order to secure its benefits, perfect our government, insure domestic tranquility, maintain public order, and guarantee equal civil and political rights to all, do ordain and establish this constitution.

**ARTICLE I**

**DECLARATION OF RIGHTS**

Section 1. **Political power.**—All political power is inherent in the people. The enunciation herein of certain rights shall not be construed to deny or impair others retained by the people.

Section 2. **Basic rights.**—All natural persons are equal before the law and have inalienable rights, among which are the right to enjoy and defend 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.

The Liaison Committee also offered the following amendment which was moved by Senator Friday:

**Amendment 2-a—Article I, DECLARATION OF RIGHTS,** strike Section 8 and insert in lieu thereof the following:

Section 8. **Right to bear arms.**—The right of the people to keep and bear arms shall not be infringed, but the manner in which they may be borne may be regulated by law.

Senator Weissenborn offered the following amendment to Amendment 2-a which was adopted:

In the last line of the amendment between "by" and "law", insert the word: general

The vote was:

Yeas—21

Barron	Gibson	Horne	Weber
Bell	Gong	O'Grady	Weissenborn
Boyd	Griffin	Poston	Young
Clayton	Gunter	Slade	
Elrod	Haverfield	Stolzenburg	
Friday	Henderson	Thomas	

Nays—13

Mr. President	de la Parte	Shevin	Wilson
Askew	Fincher	Spencer	
Chiles	McClain	Stockton	
Cross	Mathews	Stone	

**PAIR**

The following Pair was announced by the Secretary in accordance with Senate Rule 8.4:

I am paired with Senator Bafalis on amendment by Senator Weissenborn to Amendment 2-a. If he were present he would vote "Yea" and I would vote "Nay."

RAY C. KNOPKE, 23rd District

Senator Weissenborn offered the following substitute amendment:

Section 8 of the Declaration of Rights is to read as follows:

Section 8. **Right to bear arms.**—The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the State shall not be infringed, except that the manner in which they may be borne may be regulated by the Legislature.

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

In Section 1, page 1, at the end of amendment strike period and insert the following: and kept.

The substitute amendment for Amendment 2-a was adopted.

Amendment 3-a by the Liaison Committee was withdrawn.

The Liaison Committee also offered the following amendment which was adopted on motion by Senator Friday:

**Amendment 4-a—Article I, DECLARATION OF RIGHTS,** strike all of Section 15 and insert in lieu thereof the following:

Section 15. **Prosecution for crime—offenses committed by children.**—

(a) No person shall be tried for capital crime without presentment or indictment by a grand jury, or for other felony without such presentment or indictment or in information under oath filed by the prosecuting officer of the court, except persons on active duty in the militia when tried by courts martial.

(b) When authorized by law, a child as therein defined may be charged with a violation of law as an act of delinquency instead of crime and tried without a jury or other requirements applicable to criminal cases. Any child so charged shall, upon demand made as provided by law before a hearing in a juvenile proceeding, be tried in an appropriate court as an adult. A child found delinquent shall be disciplined as provided by law.

*Note 1. The composition of grand juries was thought best covered in Article V. The changes in subsection (b) and the other changes in subsection (a) are grammatical.*

*Note 2. It is impossible to show changes because they are different in the two houses.*

The Liaison Committee also offered the following amendment which was adopted on motion by Senator Friday:

**Amendment 5-a—Article I, DECLARATION OF RIGHTS,** on page 4, beginning at line 28, strike section 16 and insert in lieu thereof the following:

Section 16. **Rights of accused.**—In all criminal prosecutions the accused shall have the right to a copy of the charges, to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person and to have the assistance of counsel for his defense, and to have a speedy, public and impartial trial by jury.

The Liaison Committee also offered the following amendment which was adopted on motion by Senator Friday:

**Amendment 6-a—Article I, DECLARATION OF RIGHTS,** strike all of Section 17 and insert in lieu thereof the following:

Section 17. **Excessive punishments.**—Excessive fines, cruel or unusual punishment, attainder, [corruption of blood, forfeiture of estate,] indefinite imprisonment, and unreasonable detention of witnesses are forbidden.

The Liaison Committee also offered the following amendment which was adopted on motion by Senator Friday:

**Amendment 7-a—Article I, DECLARATION OF RIGHTS,** strike all of Section 21 and insert in lieu thereof the following:

Section 21. **Access to courts.**—The courts shall be [opened] open to every person for redress of any injury, and justice shall be [impartially] administered without sale, denial or delay.

Senator Stockton offered the following amendment which failed:

**Amendment 292—Article II, Section 2,** on page 8, beginning at line 9, strike all of section 2 and renumber subsequent sections accordingly.

The Liaison Committee offered the following amendment which was moved by Senator Friday and adopted:

**Amendment 8-a—ARTICLE I. (original draft) Strike: ARTICLE I. STATE BOUNDARIES—CAPITAL** and insert in lieu thereof **ARTICLE II—GENERAL PROVISIONS**

The Liaison Committee also offered the following amendment which was moved by Senator Friday and adopted:

**Amendment 9-a—Article II (original draft)—strike: Article II, General Provisions,** and renumber all sections beginning with number 3.

The Liaison Committee also offered the following amendment which was adopted on motion by Senator Friday:

**Amendment 10-a—Article II, Strike all of Section 1** and insert in lieu thereof the following:

Section 1. **State boundaries.**—The state boundaries are: Begin at the mouth of the Perdido River, which for the purposes of this description is defined as the point where latitude 30 degrees 16' 53" north and longitude 87 degrees 31' 06" west intersect; thence to the point where latitude 30 degrees 17' 02" north and longitude 87 degrees 31' 06" west intersect; thence to the point where latitude 30 degrees 18' 00" north and longitude 87 degrees 27' 08" west intersect; thence to the point where the center line of the Intracoastal Canal (as the same existed on June 12, 1953) and longitude 87 degrees 27' 00" west intersect; the same being in the middle of the Perdido River; thence up the middle of the Perdido River to the point where it intersects the south boundary of the State of Alabama, being also the point of intersection of the middle of the Perdido River with latitude 31 degrees 00' 00" north; thence east, along the south boundary line of the State of Alabama, the same being

latitude 31 degrees 00' 00" north to the middle of the Chattahoochee River; thence down the middle of said river to its confluence with the Flint River; thence in a straight line to the head of the St. Marys River; thence down the middle of said river to the Atlantic Ocean; thence due East to the edge of the Gulf Stream or a distance of three (3) geographic miles whichever is the greater distance; thence in a southerly direction along the edge of the Gulf Stream or along a line three (3) geographic miles from the Atlantic coastline and three (3) leagues distant from the Gulf of Mexico coastline, whichever is greater, to and through the Straits of Florida and westerly, including the Florida reefs, to a point due south of and three (3) leagues from the southernmost point of the Marquesas Keys; thence westerly along a straight line to a point due south of and three (3) leagues from Loggerhead Key, the westernmost of the Dry Tortugas Islands; thence westerly, northerly and easterly along the arc of a curve three (3) leagues distant from Loggerhead Key to a point due north of Loggerhead Key; thence northeast along a straight line to a point three (3) leagues from the coastline of Florida; thence northerly and westerly three (3) leagues distant from the coastline to a point west of the mouth of the Perdido River three (3) leagues from the coastline as measured on a line bearing 0 degrees 01' 00" west from the point of beginning; thence along said line to the point of beginning.

The State of Florida shall also include any additional territory within the United States adjacent to the Peninsula of Florida lying south of the St. Marys River, east of the Perdido River, and south of the States of Alabama and Georgia.

The Legislature may extend the coastal boundaries to such limits as the laws of the United States or international law may permit.

On motion by Senator de la Parte, the Committee of the Whole reconsidered the vote by which Amendment 5-a was adopted this day and on motion by Senator Mathews, Amendment 5-a was recommitted to the Liaison Committee.

On motion by Senator Mathews, Amendment 5-a was recommitted to the Liaison Committee.

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

The Senate was called to order by Senator Cross at 1:43 p. m. A quorum present.

On motion by Senator Mathews, it was agreed by two-thirds vote that when the Senate adjourns it adjourn to reconvene at 10:00 a. m., August 28, 1967.

On motion by Senator Mathews, the Senate adjourned at 1:45 p. m. to reconvene at 10:00 a. m., August 28, 1967.