

SPECIAL SESSION

JOURNAL OF THE SENATE

Friday, January 13, 1967

The Senate was called to order by the President at 11:00 A. M. The following Senators were recorded present:

Mr. President	Deeb	Haverfield	Shevin
Askew	de la Parte	Hollahan	Slade
Bafalis	Edwards	Horne	Spencer
Barron	Elrod	Johnson (19th)	Spottswood
Barrow	Fisher	Johnson (37th)	Stolzenburg
Boyd (15th)	Friday	Knopke	Teague
Boyd (28th)	Gibson	McCarty	Thomas
Broxson	Gong	Mathews	Weissenborn
Chiles	Greene	Ott	Whitaker
Covington	Gregory	Poston	Wilson
Davis (5th)	Griffin	Ryan	Young
Davis (27th)	Gunter	Saylor	

47. A quorum present.

Excused: Senator Fincher.

Prayer by the Reverend Arthur L. Albers, Pastor of Garden of Peace Lutheran Church, St. Petersburg:

In the name of the Father and of the Son and of the Holy Ghost. Lord, Majesty, God, in whose hand is the destiny of government we ask thee to give us wisdom in all deliberations. During confused and tension-filled days, give us patience. Allow not our anxieties to cloud our stability. We ask thy blessing upon our Governor and these elected officials who direct through their decisions the lives of millions of people. In the name of the Father and of the Son and of the Holy Ghost.

The reading of the Journal was dispensed with.

The Journal of January 12 was corrected and approved as follows:

Page 25, column 2, counting from the bottom of the column, insert between lines 12 and 13 the following: The Senate Concurrent Resolution was certified to the House immediately, by waiver of the rule.

The Journal of January 10 was further corrected and approved as follows:

Page 20, column 2, strike lines 7 and 8

Page 20, column 2, counting from the bottom of the column, insert between lines 26 and 27 the following: HCR 3-X contained in the above message, was read the first time in full.

On motion of Senator de la Parte, the President directed that the following remarks of Senator Boyd (28th), Chairman of the Committee on Apportionment, Resolutions and Memorials be spread upon the Journal:

REMARKS OF SENATOR BOYD (28th DISTRICT) TO SENATE APPORTIONMENT COMMITTEE

With the sincere hope of instilling confidence and respect for the integrity of our labor, and its product, in the minds of the people of Florida and the interested Judiciary, I feel compelled to convene this committee with a few remarks.

To the distinguished jurists and legal minds addressed to the technicalities here involved and to our bewildered lay public who seek only representative government, I present a pertinent fact which comforts me as I undertake, with you, this arduous task. This Legislature, unlike all others, performs its respectful response to the Court Order of January 10, 1967, untainted by grossly inequitable population balances. Mark well, as you judge our deliberation, the fantastic fact that 49% of the people of Florida elected 50% of this Senate and that 50.43% of our citizens elected an exact 50.43% of the present House of Representatives. Balancing equities then as between districts only, although urgent, does not indicate that the common good of our citizenry is not democratically and fairly assured of representative government. This Legislature thus in balance with the majority of Floridians has contributed countless hours

preparing itself for the unprecedented challenges of a regular session convening less than three months hence. The overwhelming responsibilities of constructing a well-proportioned budget for the operation of the government of Florida for the next two years strongly advises against a reconstitution of this Legislature, which is already organized and actively working for the public interest in Florida. Compounding this advice are the problems of constitutional revision and governmental organization geared to a demanding Florida anxious to keep pace with a nation on the move.

This Legislature, unlike its predecessors, is committed to fair apportionment, and we must pursue this current assignment constantly reminded of our complete dedication to it. Few will remember that we strive diligently and succeed (as we shall)—All will remember if we yield to the temptation of political expediency and thus fail. The orderly processes of democratic government extend to us a moment for historic justification. I commend to you and the Senate of Florida a noble effort by great men and women.

On motion of Senator de la Parte the roll was called for the purpose of reflecting the sentiments of the Senate on the foregoing statement. The vote was: Yeas—47. Nays—0.

Mr. President	Deeb	Haverfield	Shevin
Askew	de la Parte	Hollahan	Slade
Bafalis	Edwards	Horne	Spencer
Barron	Elrod	Johnson (19th)	Spottswood
Barrow	Fisher	Johnson (37th)	Stolzenburg
Boyd (15th)	Friday	Knopke	Teague
Boyd (28th)	Gibson	McCarty	Thomas
Broxson	Gong	Mathews	Weissenborn
Chiles	Greene	Ott	Whitaker
Covington	Gregory	Poston	Wilson
Davis (5th)	Griffin	Ryan	Young
Davis (27th)	Gunter	Saylor	

INTRODUCTION

By Senators Shevin and Spencer—

SB 6-X(67)—A bill to be entitled An act relating to representation in the Senate of the Legislature of Florida; amending subsection (2) of section 1 of House Bill 17-X(66) by reapportioning the representation in senatorial districts 3, 4, 5, 6, 8, 12, 14, 15, 16, 19, 20, 24, 25, 27, 28, 36 and 41, as established by said House Bill 17-X(66); providing for continuance in office of senators elected from districts 5, 6, 8, 14, 15, 16, 25 and 41 in 1966; providing for special election and terms of office of senators to be elected from districts 3, 4, 12, 19, 20, 24, 27, 28 and 36; providing for the continuance in office of senators elected in 1966 from districts not affected by this act; providing an effective date.

Was read the first time by title and referred to the Committee on Apportionment, Resolutions and Memorials.

By Senators Gong and Spencer—

SR 7-X(67)—A resolution relating to Congressional redistricting; proposing that the Senate of Florida request the Governor of Florida to immediately extend the call of the special session of the Florida Legislature now convened to include the subject matter of Congressional redistricting.

WHEREAS, there is now pending before the United States Court of Appeals for the Fifth Circuit an appeal of a ruling by the United States District Court for the Southern District of Florida in Miami that the present Congressional districting plan adopted by the Legislature in 1965, although of doubtful constitutionality, was acceptable on an interim basis, and

WHEREAS, in the light of the United States Supreme Court decision in Swann v. Adams and the application by that Court of that decision to Congressional districting plans in the Indiana case of Duddleston v. Grills, Supreme Court No. 370, January 9, 1967, the attorneys for the plaintiffs filed a motion that the United States Court of Appeals for the Fifth Circuit

forthwith reverse the decision of the United States District Court for the Southern District of Florida, and

WHEREAS, in the past, Legislative reapportionment plans, including the presently existing plan, have been based on Congressional districts which have been assumed by the legislature to be constitutional, and

WHEREAS, it would now appear that the presently existing Congressional districting plan is not constitutional because of a maximum population differential of twenty-four percent between the largest and the smallest congressional districts and for other reasons set forth in Plaintiffs' Motion To Reverse Without Oral Argument attached hereto, and

WHEREAS, under the extended call of the Governor of Florida the legislature is now reconsidering the issue of legislative reapportionment, and

WHEREAS, if the issue of congressional redistricting is not now considered by the Florida Legislature, a future special session to consider this issue at the cost to the people of Florida of Twelve Thousand Dollars a day may be necessary, NOW, THEREFORE,

Be it resolved by the Senate of the State of Florida:

That the Senate hereby respectfully requests the Governor of Florida to immediately extend the call of the Special Session of the Florida Legislature now convened to include the subject matter of congressional redistricting, and

That a select committee of the senate be appointed forthwith by the President of the Senate to consider the issue of congressional redistricting.

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 23640

EDMOND J. GONG, et al.,

Appellants,

—vs—

HAYDON BURNS, as Governor of
the State of Florida, et al.,

Appellees.

MOTION TO REVERSE WITHOUT
ORAL ARGUMENT

Appellants move for reversal of the decision of the court below in this case, without oral argument, and immediate declaration by this Court that the congressional districting plan adopted by the Florida Legislature is unconstitutional under the decision of the Supreme Court in *Swann v. Adams*, Case No. 136, decided January 9, 1967 (a copy of which is attached hereto) on the following grounds:

1. There is a maximum differential of 24% between the largest and the smallest congressional districts in the plan adopted by the Florida Legislature¹ and approved by the court below (R. 52-53).

2. In the three congressional districts incorporating parts of Dade County, Florida contained in the congressional districting plan adopted by the Florida Legislature, there is a differential of 17% between the largest and the smallest congressional districts (Appellants' Brief, page 3).

3. No justification whatsoever was made by the Appellees in the court below for such population deviations in the congressional districts adopted by the Florida Legislature (R. 42-53). No justification is possible. Political considerations were the sole basis for the congressional districting plan, the most flagrant example being the division of Dade County on a non-population basis.

4. Under the decision of *Swann v. Adams*, it is clear that the unjustified population deviations in the congressional districting plan adopted by the Florida Legislature require the immediate reversal of the decision of the court below.

5. The decision in *Swann v. Adams* relied in part on the

¹ Senate Bill 26-XX(65); Ch. 65-2442, Fla. Laws, Extra Session, 1965 (R. 31-38).

congressional districting case of *Maryland Citizens Committee for Fair Congressional Redistricting, Inc. v. Tawes*, 253 F. Supp. 731, 733. In addition, the Supreme Court has already applied the decision in *Swann v. Adams* in a congressional districting case. In *Duddleston v. Grills*, Supreme Court No. 370, January 9, 1967 the Court reversed the lower court's decision upholding the Indiana congressional districting plan. See also *Kilpatrick v. Priesler*, Supreme Court No. 738, January 9, 1967.

In the alternative, Appellants move that the oral argument in this case be expedited.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Motion to Reverse Without Oral Argument was mailed to each of the following:

Honorable Earl H. Faircloth
Attorney General of the State of Florida
State Capitol Building
Tallahassee, Florida
John U. Lloyd, Esquire
Broward County Courthouse
Fort Lauderdale, Florida,

this 10th day of January, 1967.

P. D. THOMSON

Was read the first time in full and referred to the Committee on Apportionment, Resolutions and Memorials.

The motion of Senator Gong that SR 7-X(67) be withdrawn from the Committee on Apportionment, Resolutions and Memorials failed. The vote was:

Yeas—7

Chiles	Griffin	Shevin	Weissenborn
Gong	Haverfield	Spencer	

Nays—39

Mr. President	Davis (27th)	Gunter	Ryan
Askew	Deeb	Hollahan	Saylor
Bafalis	de la Parte	Horne	Slade
Barron	Edwards	Johnson (19th)	Spottswood
Barrow	Elrod	Johnson (37th)	Stolzenburg
Boyd (15th)	Fisher	Knopke	Teague
Boyd (28th)	Friday	McCarty	Whitaker
Broxson	Gibson	Mathews	Wilson
Covington	Greene	Ott	Young
Davis (5th)	Gregory	Poston	

On motion of Senator Whitaker, the Senate went into Executive Session at 12:00 Noon. On emerging therefrom at 1:13 P. M., the roll was called and the following Senators were recorded present:

Mr. President	Chiles	Fisher	Haverfield	Ott	Shevin	Stolzenburg	Wilson
Askew	Covington	Friday	Hollahan	Poston	Slade	Teague	Young
Bafalis	Davis (5th)	Gibson	Horne	Ryan	Spencer	Weissenborn	
Barron	Davis (27th)	Gong	Johnson (19th)	Sayler	Spottswood	Whitaker	
Barrow	Deeb	Greene	Johnson (37th)				
Boyd (15th)	de la Parte	Gregory	Knopke				
Boyd (28th)	Edwards	Griffin	McCarty				
Broxson	Elrod	Gunter	Mathews				

46. A quorum present.

On motion of Senator Whitaker, the Senate stood adjourned at 1:15 P. M. until 2:00 P. M., January 16, 1967.