

NAYS—82

Austin	Goebel	Michlovic	Richardson
Beloff	Goodman	Milanovich	Rieger
Berson	Grabowski	Mrkoncic	Ritter
Borski	Gray	Mullen	Schmitt
Brown	Greenfield	Murphy	Seventy
Clark, B. D.	Harper	Novak	Shupnik
Cochran	Hoeffel	O'Brien, B. F.	Steighner
Cohen	Irvic	O'Donnell	Stewart
Cole	Itkin	Oliver	Street
DeMedio	Knight	Petrarca	Sweet
DeWeese	Kolter	Phillips	Taylor, F.
Dawida	Kowalyszyn	Pievsky	Trello
Dombrowski	Kukovich	Pistella	Wachob
Duffy	Laughlin	Pratt	Wargo
Earley	Lescovitz	Pucciarelli	White
Fee	Letterman	Punt	Williams
Fryer	Levin	Rappaport	Yahner
Gallagher	McCall	Rasco	Zeller
Gamble	McIntyre	Reed	Zitterman
Gatski	McMonagle	Rhodes	Zwilk
George, C.	Manderino		

NOT VOTING—9

Donatucci, R.	Hutchinson, A.	Jones	Schweder
Dumas	Johnson, J. J.	Rodgers	Shadding
Giammarco			

EXCUSED—6

Barber	Helfrick	Maiale	Weidner
Cappabianca	McClatchy		

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative.

Ordered, That the clerk present the same to the Senate for concurrence.

* * *

The House proceeded to third consideration of **SB 496, PN 1937**, entitled:

An Act authorizing the Department of General Services, with the approval of the Governor, to convey a tract of land, together with any improvements or buildings thereon, in Hazleton, Luzerne County, Pennsylvania to the Hazleton-Nanticoke MH/MR Center, Inc.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—179

Alden	Foster, W. W.	Livengood	Rocks
Anderson	Foster, Jr., A.	Lynch, E. R.	Ryan
Armstrong	Freind	McCall	Salvatore
Arty	Fryer	McKelvey	Schaeffer
Austin	Gallagher	McMonagle	Schmitt
Belardi	Gallen	McVerry	Serafini
Beloff	Gamble	Mackowski	Seventy
Bennett	Gannon	Madigan	Shupnik
Berson	Gatski	Manderino	Sieminski
Bittle	Geesey	Manmiller	Sirianni
Borski	Geist	Michlovic	Smith, E. H.
Bowser	George, C.	Micozzie	Smith, L. E.

Brandt	George, M. H.	Milanovich	Spitz
Brown	Gladeck	Miller	Stairs
Burd	Goebel	Moehlmann	Steighner
Burns	Goodman	Mowery	Stewart
Caltagirone	Grabowski	Mrkoncic	Street
Cessar	Greenfield	Mullen	Stuban
Chess	Grieco	Murphy	Sweet
Cimini	Gruppo	Nahill	Swift
Civera	Hagarty	Novak	Taddonio
Clark, B. D.	Harper	Noye	Taylor, E. Z.
Clark, M. R.	Hasay	O'Brien, B. F.	Taylor, F.
Cochran	Hayes, Jr., S.	O'Brien, D. M.	Telek
Cohen	Hoeffel	O'Donnell	Thomas
Cole	Honaman	Oliver	Trello
Cornell	Hutchinson, A.	Perzel	Vroon
Coslett	Hutchinson, W.	Peterson	Wachob
Cowell	Irvic	Petrarca	Wargo
Cunningham	Itkin	Phillips	Wass
DeMedio	Johnson, E. G.	Piccola	Wenger
DeVerter	Klingaman	Pievsky	White
DeWeese	Knepper	Pistella	Wilson
DiCarlo	Knight	Pitts	Wilt
Davies	Kolter	Polite	Wright, D. R.
Dawida	Kowalyszyn	Pott	Wright, Jr., J.
Dietz	Kukovich	Pratt	Yahner
Dininni	Lashinger	Punt	Yohn
Dombrowski	Laughlin	Pyles	Zeller
Dorr	Lehr	Rappaport	Zitterman
Duffy	Lescovitz	Rasco	Zord
Durham	Letterman	Reed	Zwilk
Earley	Levi	Rhodes	
Fee	Levin	Richardson	Seltzer,
Fischer	Lewis	Ritter	Speaker
Fisher			

NAYS—0

NOT VOTING—16

Donatucci, R.	Halverson	McIntyre	Schweder
Dumas	Johnson, J. J.	Pucciarelli	Shadding
Giammarco	Jones	Rieger	Spencer
Gray	Kanuck	Rodgers	Williams

EXCUSED—6

Barber	Helfrick	Maiale	Weidner
Cappabianca	McClatchy		

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

* * *

The House proceeded to third consideration of **SB 888, PN 1373**, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for the time frame for the creation of a Legislative Reapportionment Commission.

On the question,

Will the House agree to the bill on third consideration?

Mr. WILSON offered the following amendments:

Amend Title, page 1, line 1, by striking out "an amendment" and inserting amendments

Amend Title, page 1, line 3, by removing the period after "Commission" and inserting and further providing for the disposition of taxes on aviation fuel.

Amend Sec. 1, page 1, line 6, by striking out "amendment" and inserting amendments

Amend Sec. 1, page 1, line 7, by striking out "is" and inserting are

Amend Sec. 1, page 1, line 9, by inserting before "That" (1)

Amend Bill, page 2, by inserting after line 25

(2) That section 11, Article VIII be amended to read:

§ 11. Gasoline taxes and motor license fees restricted.

(a) All proceeds from gasoline and other motor fuel excise taxes, motor vehicle registration fees and license taxes, operators' license fees and other excise taxes imposed on products used in motor transportation after providing therefrom for (a) cost of administration and collection, (b) payment of obligations incurred in the construction and reconstruction of public highways and bridges shall be appropriated by the General Assembly to agencies of the State or political subdivisions thereof; and used solely for construction, reconstruction, maintenance and repair of and safety on public highways and bridges [and air navigation facilities] and costs and expenses incident thereto, and for the payment of obligations incurred for such purposes, and shall not be diverted by transfer or otherwise to any other purpose, except that loans may be made by the State from the proceeds of such taxes and fees for a single period not exceeding eight months, but no such loan shall be made within the period of one year from any preceding loan, and every loan made in any fiscal year shall be repayable within one month after the beginning of the next fiscal year.

(b) All proceeds from aviation fuel excise taxes, after providing therefrom for the cost of administration and collection, shall be appropriated by the General Assembly to agencies of the State or political subdivisions thereof and used solely for: the purchase, construction, reconstruction, operation, and maintenance of airports and other air navigation facilities; aircraft accident investigation; the operation, maintenance and other costs of aircraft owned or leased by the Commonwealth; any other purpose reasonably related to air navigation including but not limited to the reimbursement of airport property owners for property tax expenditures; and costs and expenses incident thereto and for the payment of obligations incurred for such purposes, and shall not be diverted by transfer or otherwise to any other purpose.

Section 2. The amendments proposed in paragraphs (1) and (2) of section 1 shall be submitted separately by the Secretary of the Commonwealth to the qualified electors of the State at the primary, municipal or general election next held after the advertising requirements of section 1, Article XI have been satisfied.

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Bucks, Mr. Wilson.

Mr. WILSON. Mr. Speaker, this amendment to SB 888 simply changes line 6 and makes it "amendments", plural, and inserts the contents of HB 62, which passed this House by a margin of 178 to 2, or something like that, and inserts that as two amendments to the constitution. Legal staff tells me this is perfectly okay.

Let me explain, if I may, Mr. Speaker. HB 62 is the amendment to the constitution that broadens the ways the Commonwealth may spend aviation fuel taxes. It simply broadens it. Right now it says it can only be spent on navigational aids. This broadens it and lets us spend it in many of the ways we are doing it right now.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Philadelphia, Mr. Rappaport.

Mr. RAPPAPORT. Mr. Speaker, if I may make a parliamentary inquiry of the Chair, does the gentleman's amendment deal with fiscal problems of some sort? I will be very happy to hear the gentleman.

The SPEAKER pro tempore. The gentleman, Mr. Wilson, may proceed.

Mr. WILSON. The amendment that I put in is a proposal to amend the Constitution of the Commonwealth of Pennsylvania, the same as SB 888. In other words, we are both amending the constitution. It is the same subject, amendment to the Constitution of the Commonwealth of Pennsylvania.

Mr. RAPPAPORT. Mr. Speaker, does the gentleman's amendment have anything to do with problems of the Reapportionment Commission?

Mr. WILSON. No. It deals with the subject of amending the Constitution of the Commonwealth of Pennsylvania.

Mr. RAPPAPORT. Now I would like to have a parliamentary ruling from the Chair, if I may, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Rappaport.

Mr. RAPPAPORT. Is it the intention of the Chair, under the rules of this House, to permit entirely nonrelevant constitutional amendments to be amended into other proposals for constitutional amendments?

The SPEAKER pro tempore. The Chair turns the gavel back to the Speaker.

THE SPEAKER (H. JACK SELTZER) IN THE CHAIR

Mr. RAPPAPORT. Mr. Speaker, I apologize to the gentleman from York for giving him such a problem. I hope I did not scare him away.

The SPEAKER. The Chair thanks the gentleman from York for presiding again so ably.

The Chair believes that the question that has been posed is whether or not it is constitutional— The Chair would suggest to the gentleman he pose his question a second time.

Mr. RAPPAPORT. Mr. Speaker, I am making a parliamentary inquiry to the Chair, and I asked this question without any regard to the merits of either the present form of SB 888 or the merits of the proposal of the gentleman from Bucks. It is obvious, however, Mr. Speaker, that the proposal of the gentleman from Bucks has nothing to do with legislative reapportionment, and I have two questions to ask the Speaker.

Assuming for a moment that the proposal of the gentleman from Bucks goes into this bill, will it be presented to the voters as one question or two questions?

The SPEAKER. Does the gentleman wish to pose the second question before the Chair responds?

Mr. RAPPAPORT. Yes, Mr. Speaker. I will not argue with the Speaker on that bit of procedure.

If the answer of the Speaker is in the affirmative, I want to know who is going to divide the question?

The SPEAKER. The Chair was anticipating this line of inquiry since he had a discussion with the gentleman from Washington, Mr. Sweet, about a similar question on a bill on the next page. The Chair has asked members of the staff to research it. We can find nothing in the constitution or in the statutes or in the rules of this House or in our custom and usage or in the parliamentary authority which would prohibit this.

In response to the second question, it would be the understanding of the Chair that these proposals would be separate on the ballot.

Mr. RAPPAPORT. If I may proceed, Mr. Speaker, with your permission.

The SPEAKER. The gentleman may proceed.

Mr. RAPPAPORT. The Chair has said that there is no precedent. Well, perhaps the Chair—

The SPEAKER. The Chair said he could find nothing that would prohibit this from happening. The gentleman may proceed.

Mr. RAPPAPORT. Therefore, the question recurs, Mr. Speaker—I now make a formal parliamentary inquiry—if a member should raise the issue of germaneness, how will the Speaker rule?

The SPEAKER. Under the rules of the House, germaneness as well as constitutionality must be decided by the House and not by the Speaker.

Mr. RAPPAPORT. With all apologies to the Speaker, I was under the impression that the Speaker makes the ruling and then an aggrieved member has the right to appeal the ruling of the Chair.

The SPEAKER. The Chair refers to rule 27 and he quotes that part of rule 27: "Questions involving whether an amendment is germane to the subject shall be decided by the House."

Mr. RAPPAPORT. Very well then, Mr. Speaker. Now I would like an answer to my next question. Assuming that the House agrees this is germane, for the sake of argument—and I might throw all argument to the contrary—to whom are we then delegating our legislative authority to decide exactly how this issue or issues will be put to the voters?

The SPEAKER. The Chair is reluctant to get in a deep discussion, but in response to the gentleman's question, it is the Secretary of the Commonwealth through the Bureau of Elections who decides what will go on the ballot.

Now, is the gentleman going to have some further questions? The gentleman may proceed.

Mr. RAPPAPORT. No, Mr. Speaker, but I would be grateful to be recognized on an issue of germaneness, if I may be.

The SPEAKER. The gentleman is in order and may proceed.

GERMANENESS QUESTIONED

Mr. RAPPAPORT. Mr. Speaker, I intend to formally raise the issue of germaneness.

Mr. Speaker, what I have to say does not go to the merits of the proposal by the gentleman from Bucks, Mr. Wilson.

The SPEAKER. The gentleman from Philadelphia, Mr. Rappaport, has raised the germaneness of the amendment offered by the gentleman from Bucks, Mr. Wilson.

Mr. RAPPAPORT. Mr. Speaker, may I be recognized to debate that?

The SPEAKER. Those who believe that the amendment is germane will vote "aye," and those who believe it is not germane will vote "no."

The Chair recognizes the gentleman from Philadelphia, Mr. Rappaport.

Mr. RAPPAPORT. Mr. Speaker, as I said earlier, I do not rise to debate the merits of the amendment proposed by the gentleman from Bucks, Mr. Wilson. Instead I rise to debate whether we really want to go this way. A constitutional amendment is a very serious thing. It is something that we live with for a very long time. Do we want to start considering constitutional amendments brought up on the floor as an amendment to another constitutional amendment bill, or do we prefer that something as serious as a constitutional amendment go through the committee process for the necessary refinements? I do not belong to the majority party in this House, and the gentleman from Bucks does, yet I believe that every constitutional amendment should go through the committee process. I believe that very strongly. I think that the massaging that we give to such things in committees is extremely important, and constitutional amendments, like good wine and good whiskey, frequently benefit from the aging process. Mr. Speaker, I have had the occasion to be part of the writing of a Constitution of Pennsylvania, and many of the things we did there in haste, we have come to later regret, and I think that is very potent here.

Secondly, Mr. Speaker, I do not care to delegate my power as a legislator to formulate constitutional amendments to somebody working over in the Department of State. I was going to say some clown over in the Department of State, but I happen to know the Secretary very well and I would not characterize the staff that way. But that is essentially who is going to be doing it, not this General Assembly who is the one who should be doing it.

May I remind you that proposals for constitutional amendments do not go through the executive branch at all, by law. We propose it, and if we propose it in some sort of reasonable form, it goes on the ballot as we proposed it, not as the executive department proposes it. Therefore, Mr. Speaker, since admittedly the proposal of the gentleman from Bucks, Mr. Wilson, has nothing to do whatsoever with the subject of SB 888—and I really have not looked at it closely enough to know how I am going to vote on it—I would suggest that it is not germane. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I am somewhat surprised to find that there evidently is no precedent with respect to the question raised by the gentleman from Philadelphia, Mr. Rappaport. There being no precedent, I suppose we have to look to other areas from which we can draw a conclusion as to whether the amendment is or is not germane to the bill that is before us. Under those circumstances I would suggest to the members that it is germane for the following reason:

We have allowed time and time again amendments to be offered to bills such as the Crimes Code, the Administrative Code, and the like, under the heading of Administrative Code, School Code, and anything dealing with that area we have said is germane. In the case of the constitutional amendment before us and the bill which is an amendment to the constitution, I suggest that the basic document is the constitution, and if we are suggesting an amendment to it, then the entire constitution is fair game for amendment.

I would suggest that this line of reasoning is as logical as the one proposed by Mr. Rappaport. I would agree, however, that it is a serious matter, and I gave a lot of thought to the position I would take prior to addressing the House. However, I think logic must prevail, and that logic is that if the constitution is under consideration, then any section of that constitution is fair game for amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Wilson.

Mr. WILSON. Mr. Speaker, on the gentleman's point on germaneness, I call his attention to several things: One, the beginning of SB 888, which says, "...proposing an amendment to the Constitution of the Commonwealth of Pennsylvania...." and it describes what the first amendment to that Constitution shall be. I refer him to rule 20, which says, "No bill shall be passed containing more than one subject, which shall be clearly expressed in its title,..." in its title. The title of this bill is "...proposing an amendment to the Constitution of the Commonwealth of Pennsylvania." I would also call his attention to my amendment, on page 2, at the bottom of the page, where it says, "The amendments proposed in paragraphs (1) and (2)"—(1) and (2), the two different amendments that we are proposing to the constitution— "...shall be submitted separately by the Secretary of the Commonwealth to the qualified electors of the State at the primary, municipal or general election,..." et cetera. I suggest that the subject of the amendment to the Constitution of Pennsylvania is germane, and that is what I propose to do.

The SPEAKER. The Chair recognizes the gentleman from Dauphin, Mr. Piccola.

Mr. PICCOLA. I reluctantly rise to urge that the House vote that this amendment is not germane. I must reluctantly agree with the gentleman from Philadelphia, and for basically the same reasons. I support both Mr. Wilson's amendment and the provisions now contained in SB 888,

and it is for that reason that I would urge we find that this amendment is not germane. I feel that if we pass an amendment or, in essence, two amendments in one bill, we are jeopardizing the ultimate success of both of these amendments. These amendments must be passed in the next session of the General Assembly before they may be placed upon the ballot, and it is quite possible that in the next session they will pass in separate bill form or that only one will pass and one will not pass. I then would raise the question whether we have in two consecutive sessions passed the same constitutional amendment. I would also question whether the amendment would be placed upon the ballot as one question or two, and if it was placed upon the ballot with two questions, those opposed to one issue may cause the defeat of the other.

I think this is a very bad precedent, and I feel we have coming up in the next vote or two a very similar issue in which we are going to try to possibly put two constitutional amendments into one bill, one of which I would support and one of which I would not support, and it raises a very grave question as to how you would vote and what the meaning of your vote is on that particular amendment. I therefore would urge that this House find that this amendment is not germane.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Taddonio.

Mr. TADDONIO. Mr. Speaker, I think the question is clearly germane. If one looks at article XI of the constitution, it is mentioned no less than six times that the House shall propose an amendment or amendments, plural. If the framers of the constitution did not intend for us to be able to put more than one amendment in a bill, it clearly would not have had this language in here. The constitution goes on to state that "When two or more amendments shall be submitted they shall be voted upon separately." So this would solve the question of whether or not you would have to vote for both or together on the ballot. So I think clearly this is a germane amendment and I would support the germaneness.

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Spitz.

Mr. SPITZ. Mr. Speaker, I rise to support the gentleman from Philadelphia in his request that this amendment not be considered germane. The gentleman from Allegheny referred to one section of the constitution where plural amendments are referred to, et cetera, but the reason for the germaneness ruling that we have faced before is that article III of our constitution says that no bill shall be passed containing more than one subject. I think it is fairly clear. I think it is up to this House to determine whether or not this bill and the constitutional amendment we have previously considered to be a bill containing more than one subject.

I think we are treading on treacherous waters, and I do not think that we have the urgency with respect to Mr. Wilson's amendment that we apparently have with respect to the other, and I do not think that this is the type of bill

that we should be considering that is so clouded, and I do not believe it to be germane.

On the question,

Will the House sustain the germaneness of the amendments?

The following roll call was recorded:

YEAS—56

Arty	Foster, Jr., A.	Lewis	Reed
Bittle	Gannon	McKelvey	Rocks
Brown	Geesey	McVerry	Ryan
Cessar	Geist	Miller	Salvatore
Chess	Gladeck	Nahill	Scheaffer
Cimini	Gruppo	Noye	Sieminski
Clark, M. R.	Hagarty	O'Brien, D. M.	Spencer
Cornell	Halverson	Perzel	Taddonio
Cunningham	Hayes, Jr., S.	Peterson	Telek
Dietz	Johnson, E. G.	Phillips	Thomas
Dorr	Klingaman	Polite	Vroon
Durham	Knepper	Pott	Wright, Jr., J.
Fischer	Lehr	Punt	Zeller
Fisher	Levi	Pyles	Zord

NAYS—127

Alden	Foster, W. W.	Livengood	Rieger
Anderson	Fryer	Lynch, E. R.	Ritter
Armstrong	Gallagher	McCall	Schmitt
Austin	Gallen	McIntyre	Serafini
Belardi	Gamble	McMonagle	Seventy
Beloff	Gatski	Mackowski	Shupnik
Bennett	George, C.	Madigan	Sirrianni
Berson	George, M. H.	Manderino	Smith, E. H.
Borski	Goebel	Manmiller	Smith, L. E.
Bowser	Goodman	Michlovic	Spitz
Brandt	Grabowski	Micozzie	Stairs
Burd	Gray	Milanovich	Steighner
Burns	Greenfield	Moehlmann	Stewart
Caltagirone	Grieco	Mowery	Street
Civera	Harper	Mrkoncic	Stuban
Clark, B. D.	Hasay	Mullen	Sweet
Cochran	Hoeffel	Murphy	Swift
Cohen	Honaman	Novak	Taylor, E. Z.
Cole	Hutchinson, A.	O'Brien, B. F.	Taylor, F.
Coslett	Hutchinson, W.	O'Donnell	Trello
Cowell	Irvic	Oliver	Wachob
DeMedio	Itkin	Petrarca	Wargo
DeVertter	Kanuck	Piccola	Wass
DeWeese	Knight	Pievsky	Wenger
DiCarlo	Kolter	Pistella	White
Dawida	Kowalyszyn	Pitts	Wilt
Dininni	Kukovich	Pratt	Wright, D. R.
Dombrowski	Lashinger	Pucciarelli	Yahner
Duffy	Laughlin	Rappaport	Yohn
Dumas	Lescovitz	Rasco	Zitterman
Earley	Letterman	Rhodes	Zwikl
Fee	Levin	Richardson	

NOT VOTING—12

Davies	Johnson, J. J.	Shadding	Seltzer,
Donatucci, R.	Jones	Williams	Speaker
Freind	Rodgers	Wilson	
Giammarco	Schweder		

EXCUSED—6

Barber	Helfrick	Maiale	Weidner
Cappabianca	McClatchy		

Less than the majority required by the Constitution having voted in the affirmative, the question was determined in the negative and the amendments were declared not germane.

On the question recurring,

Will the House agree to the bill on third consideration?

Bill was agreed to.

REMARKS ON VOTE

The SPEAKER. Does the gentleman from Berks, Mr. Davies, wish to be recognized?

Mr. DAVIES. Mr. Speaker, I just wanted to be recognized that I failed to vote. I was out of my seat on the last vote on germaneness of amendment 7479 to SB 888. Had I been in my seat, I would have been recorded in the negative.

The SPEAKER. The gentleman's remarks will be spread upon the record.

CONSIDERATION OF SB 888 CONTINUED

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

The Chair recognizes the gentleman from Allegheny, Mr. Cowell.

Mr. COWELL. Mr. Speaker, I would like to interrogate someone who would be a proponent of this and would be able to explain the legislative intent. Mr. Speaker, perhaps I can interrogate the majority leader. He might be able to shed some light.

The SPEAKER. The majority leader indicates he will stand for interrogation. The gentleman may proceed.

Mr. COWELL. The question is: Is it the intent of this legislation, as you understand it, to take effect next year, that is, assuming that we pass it in this session, and that early in the 1981 session the legislature will act, and that it will be approved by the voters at our public referendum in May of 1981? Is it your understanding and intention that this would take effect, become operational, during 1981?

Mr. RYAN. Yes, if everyone approves it along the line.

Mr. COWELL. Well, Mr. Speaker, let me proceed with my question just a little bit further then because I have two different kinds of explanations. One, in the State Government Committee, which was similar to yours, but a different explanation in our own caucus came from some individuals who said that would not be possible. It is assumed that this is necessitated by the possibility that the Federal Government will not certify the census results until possibly January 1, 1981.

Mr. RYAN. It is my understanding that they have an obligation to report the census results by January 1, 1981. If they do not make the report until that date, then our commission need not be brought into being until the following calendar year. With this amendment going in, it would permit it to be created in the same calendar year.

Mr. COWELL. Okay, I would like to look at the timing sequence that is spelled out in the proposed legislation. Let us assume that the report is filed on January 1, 1981. The proposed legislation says that 60 days following the official reporting of the census, the four members shall be certified;

those will be the four legislative members; which would mean by March 1 they would have to be certified. It further says on line 12 of page 2 that within 45 days after they are certified, they are going to pick a fifth member. That takes us up somewhere to the middle of April. And it further says around line 18 of page 2 that if the four members fail to select that fifth member by the middle of April, then the Supreme Court will have another 30 days to identify that fifth person, and that takes us into the middle of May. My question is: If this language is not going to be approved by the voters of Pennsylvania until sometime towards the middle or late portion of May, can we properly assume that this sequence can be effective, and what would the actual schedule be? We are, obviously, going to miss these dates if it is not approved by the voters until the middle of May?

Mr. RYAN. Mr. Speaker, I frankly do not remember your question, but I will try to answer the sense of the question as I recall it. It is true, as I understand the bill and the timing, that there is a problem which you very properly point out. There is a question as to whether or not the passage of this amendment by us could be considered in the nature of an emergency amendment not requiring the time frame that you have posed. The other part of my answer, I suggest, is maybe the more practical approach. We do not know and, from what I am told, no staff members have said with any degree of certitude what the answer to this would be. But we are harming no one by going ahead and passing this now, because if it does not work this time, it will work in 10 years. It is something that should be done in either event. By passage of this now in time to advertise prior to the November election, we are at least that step beyond.

Now, I know Mr. Itkin some time ago was urging that this be adopted, and I believe he had done some research and had been in consultation, if I am not mistaken, with some of the congressional delegationists, in my mind, who had asked that we go ahead and move this. I do not know all the answers to it, Mr. Speaker. I know that we harm no one by going ahead. It is something that should be done. If possible, it will be effective in time for the 1980 census and the reapportionment under it, and, if not, it at least is on the books correcting what is otherwise a deficiency in our existing law with respect to reapportionment.

Mr. COWELL. Well, Mr. Speaker, if I could ask one other question and then you raise the point in your answer, again, obviously my understanding and interpretation of this is that it would not be helpful in 1981 or for reapportionment prior to the 1982 election. It might well be fine for 1990 but not helpful in the immediate future. But you raised the question of emergency constitutional amendment, and that is the first time I have heard that raised. It was not raised during the deliberations of the State Government Committee meeting. That, of course, would change the process of adopting the constitutional amendment. Has this been identified by anyone as an emergency constitutional amendment that would permit us to forego the necessity of the next session passing similar legislation before it would go before the voters?

Mr. RYAN. No, I did not hear about it either until Mr. Irvis said, you know, maybe we could do this. So I cannot give you a straight answer on that one either, other than to say that we just discussed it a moment ago, and it again is the kind of thing that we can look into. If it is something that we need, then we are going to have to spend the time to further refine it. I am suggesting that no harm is done whatsoever by the adoption of this, and it may very well be that a great deal of good will be done by it.

On the question recurring,

Shall the bill pass finally?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—113

Alden	Freind	Lewis	Salvatore
Anderson	Fryer	Lynch, E. R.	Scheaffer
Armstrong	Gallen	McKelvey	Serafini
Arty	Gannon	McVerry	Sieminski
Belardi	Geesey	Mackowski	Sirianni
Bennett	Geist	Madigan	Smith, E. H.
Bittle	George, C.	Manmiller	Smith, L. E.
Bowser	George, M. H.	Michlovic	Spencer
Brandt	Gladeck	Micozzie	Spitz
Brown	Grabowski	Miller	Stairs
Burd	Grieco	Moehlmann	Steighner
Burns	Gruppo	Mowery	Sweet
Cessar	Hagarty	Nahill	Swift
Cimini	Halverson	Noye	Taddonio
Civera	Hasay	O'Brien, D. M.	Taylor, E. Z.
Clark, M. R.	Hayes, Jr., S.	Perzel	Telek
Cornell	Hoeffel	Peterson	Thomas
Coslett	Honaman	Phillips	Vroon
Cunningham	Hutchinson, W.	Piccola	Wachob
DeVerter	Itkin	Pitts	Wass
Dietz	Johnson, E. G.	Polite	Wenger
Dininni	Kanuck	Pott	Wilson
Dorr	Klingaman	Pratt	Wilt
Durham	Knepper	Punt	Wright, Jr., J.
Earley	Lashinger	Pyles	Yohn
Fischer	Lehr	Rasco	Zeller
Fisher	Lescovitz	Ritter	Zord
Foster, W. W.	Levi	Rocks	Zwikl
Foster, Jr., A.			

NAYS—68

Austin	Gamble	McIntyre	Richardson
Beloff	Gatski	McMonagle	Rieger
Berson	Goebel	Manderino	Schmitt
Borski	Goodman	Milanovich	Seventy
Caltagirone	Gray	Mrkonic	Shupnik
Chess	Greenfield	Mullen	Stewart
Clark, B. D.	Harper	Murphy	Street
Cochran	Hutchinson, A.	Novak	Stuban
Cohen	Irvis	O'Brien, B. F.	Taylor, F.
Cole	Knight	O'Donnell	Trello
Cowell	Kolter	Oliver	Wargo
DeMedio	Kowalyszyn	Petrarca	White
DeWeese	Kukovich	Pievsky	Wright, D. R.
Dawida	Laughlin	Pistella	Yahner
Dombrowski	Letterman	Rappaport	
Duffy	Levin	Reed	Seltzer,
Fee	Livengood	Rhodes	Speaker
Gallagher	McCall		

NOT VOTING—14

DiCarlo	Giammarco	Rodgers	Shadding
Davies	Johnson, J. J.	Ryan	Williams
Donatucci, R.	Jones	Schweder	Zitterman
Dumas	Pucciarelli		

EXCUSED—6

Barber Helfrick Maiale Weidner
Cappabianca McClatchy

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same without amendment.

REMARKS ON VOTES

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Hayes and I forgot to vote on SB 888. We would be in the affirmative.

Mr. S. E. HAYES. I was quicker than the majority leader. I did vote, sir, but please record the majority leader in the affirmative.

The SPEAKER. The remarks of the gentlemen will be spread upon the record.

The Chair recognizes the gentleman from Lackawanna, Mr. Zitterman.

Mr. ZITTERMAN. Mr. Speaker, I would like to be recorded in the negative on SB 888, please.

The SPEAKER. The gentleman's remarks will be spread upon the record.

The Chair recognizes the gentleman from Berks, Mr. Davies.

Mr. DAVIES. I would like to be recorded in the affirmative on SB 888, Mr. Speaker.

The SPEAKER. The gentleman's remarks will be spread upon the record.

BILLS ON THIRD CONSIDERATION
CONTINUED

The House proceeded to third consideration of **SB 982, PN 1843**, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, authorizing special tax provisions for taxpayers in certain areas.

On the question,

Will the House agree to the bill on third consideration?

Mr. TADDONIO offered the following amendments:

Amend Title, page 1, lines 2 and 3, by striking out "authorizing special tax provisions for" in line 2, all of line 3 and inserting providing for spending limitations on the Commonwealth and its political subdivisions.

Amend Bill, page 1, lines 9 through 17, page 2, lines 1 through 6, by striking out all of said lines on said pages and inserting

That Article VIII be amended by adding a section to read:

§ 18. Spending limitations.

(a) Total spending by the Commonwealth shall not exceed the spending limit in any fiscal year. The spending limit for any fiscal year shall be equal to the spending during the immediately prior fiscal year, adjusted by the compound annual rate

of change for the two preceding years of the Personal Income by Place of Residence for Pennsylvania as defined and officially reported by the United States Department of Commerce.

(b) The General Assembly shall enact legislation restricting the annual growth in spending of each municipality and school district to an appropriate economic index adjusted for population growth and shall provide for changing such spending limited by a majority vote of the electorate of said municipality or school district.

(c) If the duty of paying any cost or any portion thereof shall be transferred from one level or unit of government to another the cost so transferred shall be deducted from the spending limit of the transferor and shall be added to the spending limit of the transferee.

(d) The Commonwealth shall not impose upon any unit of local government new programs or increase levels of service under existing programs unless the necessary cost thereof shall be fully funded by the Commonwealth.

(e) The Commonwealth's spending limit as provided in subsection (a) may be changed by the procedure outlined in section 1(a) of Article XI.

(f) The spending limit of the Commonwealth may be exceeded in any fiscal year for a presidentially declared emergency or major disaster. The spending limit may also be exceeded for other declared emergencies if the Governor so requests and the General Assembly approves by the affirmative vote of two-thirds of the members elected to each House. The excess spending authorized by exceeding the limit in this manner shall not be included in the computation base of the spending limit for any subsequent fiscal year.

(g) Future liabilities resulting from the adoption of or contracting for new or improved deferred compensation or benefits or pensions on or after the effective date of this amendment, shall be fully funded each year in accordance with an accepted advance funding actuarial method using actuarial assumptions and asset valuation methods.

(h) Total spending by the Commonwealth means all appropriations and authorizations from the General Fund and Motor License Fund and funds created after the effective date of this amendment, and shall exclude refunds, servicing of bonded indebtedness incurred prior to the effective date of this amendment and of voter approved bonded indebtedness, expenditures for funding the unfunded pension liabilities existing on the effective date of this amendment, and the spending of Federal funds, gifts or receipts restricted by laws in effect as of January 1, 1980. This section shall not be circumvented by creating additional spending programs in, or transferring spending from the General Fund or Motor License Fund to, existing special funds or restricted receipt accounts.

(i) The Commonwealth shall not impose taxes or spend revenues in excess of those imposed or spent during the fiscal year next following the date on which this amendment is adopted until the legislation required by subsection (b) has been enacted.

SCHEDULE

Section 18(a) of Article VIII shall be effective beginning with the first fiscal year commencing more than six months following approval of section 18 by the electorate.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Westmoreland, Mr. Taddonio.

Mr. TADDONIO. Mr. Speaker, this is an amendment to article VIII of the constitution, which changes the language in this amendment to that of HB 1 as it passed the House December 4. I would like to offer this amendment at this