NAYS—82

Austin
Beloff
Benson
Borski
Brown
Clark, B. D.
Cochran
Cohen
Cole
DeMedio
DeWeese
Dawida
Dombrowski
Duffy
Earley
Farr
Gallagher
Game
Gatski
George, C.
Goebel
Goodman
Grabowski
Gray
Greenfield
Harper
Hoeftel
Irvis
Itkin
Knight
Kolter
Kowalshyn
Kukovich
Laughlin
Lesco-vitz
Lettman
Levin
Mccall
Mclntyre
McMonagle
Manderino
Michlovic
Milenovich
Mrkonjic
Mullen
Murphy
Novak
O'Brien, B. F.
Oliver
Petracca
Phillips
Pievsky
Fisella
Pratt
Pucciarelli
Punt
Rappaport
Rasco
Reed
Rhodes
Richardson
Rieder
Ritter
Schmit
Seventy
Shnuk
Steighe
Stewart
Sweet
Taylor, F.
Trello
Wachob
Wargo
Zitterman

NOT VOTING—9

Donatucci, R.
Dumas
Giammarco
Hutchinson, A.
Johnson, J. J.
Jones
Koch
Koufax
Lukert
Lukert
Melnyk
Mckinley
Mclntyre
Mccall
McMonagle
Manderino
Milenovich
Miller
Moeilmann
Mowery
Mrkonjic
Mullen
Murphy
Nahill
Novak
O'Brien, B. F.
Oliver
Petracca
Phillips
Pievsky
Pratt
Pucciarelli
Punt
Rappaport
Rasco
Reed
Rhodes

EXCUSED—6

Barber
Cappabianca
Helfrick
Maiale
Weidner
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
Anderson
Armstrong
Arty
Austin
Belardi
Beloff
Benett
Berson
Bittie
Borski
Bower
Foster, W. W.
Foster, Jr., A.
Fredin
Fryer
Gallaher
Gallen
Gamble
Gannon
Gatski
Geesey
Geist
George, C.
Livengood
Lynch, E. R.
McCall
McKelvey
McMonagle
McVerry
Mackowski
Manderino
Mannmiller
Michevic
Micozie
Rocks
Ryan
Salvatore
Scheaffer
Schmit
Serafini
Seventy
Shipnik
Sieminsky
Siriani
Smith, E. H.
Smith, L. E.

Brandt
Brown
Burd
Burns
Callagirone
Cesar
Chess
Cimini
Civera
Clark, B. D.
Clark, M. R.
Cochran
Cohen
Cole
DeMedio
DeWeese
Dawida
Dombrowski
Duffy
Earley
Farr
Gallagher
Game
Gatski
George, C.
Goebel
Goodman
Grabowski
Gray
Greenfield
Harper
Hoeftel
Irvis
Itkin
Knight
Kolter
Kowalshyn
Kukovich
Laughlin
Lesco-vitz
Lettman
Levin
Mccall
Mclntyre
McMonagle
Manderino
Michlovic
Milenovich
Mrkonjic
Mullen
Murphy
Novak
O'Brien, B. F.
Oliver
Petracca
Phillips
Pievsky
Fisella
Pratt
Pucciarelli
Punt
Rappaport
Rasco
Reed
Rhodes

NAYS—0

NOT VOTING—16

Donatucci, R.
Dumas
Giammarco
Hutchinson, A.
Johnson, J. J.
Jones
Koch
Koufax
Lukert
Mclntyre
Mckinley
Mccall
McMonagle
Manderino
Milenovich
Miller
Moeilmann
Mowery
Mrkonjic
Mullen
Murphy
Nahill
Novak
O'Brien, B. F.
Oliver
Petracca
Phillips
Pievsky
Pratt
Pucciarelli
Punt
Rappaport
Rasco
Reed
Rhodes

EXCUSED—6

Barber
Cappabianca
Helfrick
Maiale
Weidner
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

(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 roads 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 public service facilities; accident investigation; the operation, maintenance and repair of and safety on public highways and roads; 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 service 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 X1 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 adding the 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 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 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. Tadonio.

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
Biddle Gannon McKelvey
Brown Geesey McVerry
Cesaris Geist Miller
Chesn Gladeck Nahill
Cimini Gruppo Noye
Clark, M. R. Hagarty O'Brien, D. M.
Cornell Halverson Perzel
Cunningham Hayes, J., S. Peterson
Dietz Johnson, E. G. Phillips
Dor Klingman Polite
Durham Knepper Pott
Fischer Lehr Pun
Fisher Levi Pyles

NAYS—127

Alden Foster, W. W. Livengood
Anderson Fryer Lynch, E. R.
Armstrong Gallagher McCall
Austin Gallen McIntyre
Belardi Gamble McMahon
Beloff Gatski Mackowski
Bennett George, C. Madigan
Berson George, M. H. Manderino
Borski Goebel Mannheimer
Bowser Goodman Michlovic
Brandt Grabowski Miccozzi
Burke Gray Milanovich
Burns Greenfield Moehlmann
Calagna Greco Mowery
Civera Harper Mrkonich
Clark, B. D. Hasay Mullen
Coehorn Hoeffel Murphy
Cohen Honaman Novak
Cole Hutchinson, A. O'Brien, R. F.
Coslett Hutchinson, W. O'Donnell
Cowell Irvis Oliver
DeMedio Itkin Petrarca
DeVerter Kanuck Piccola
DeWeese Knight Pivicky
DiCarlo Kolter Pistella
Dawida Kowalyshyn Pitts
Dininni Kukovich Pratt
Dombrowski Lasheing Pucciarelli
Duffy Laughlin Rappaport
Dumas Lecozvit Racso
Earley Letterman Rhodes
Fay Levine Richardson

NOT VOTING—12

Davies Johnson, J. J. Shadding
Donatucci, R Jones Williams
Fred Freund Rodgers
Gianmarco Schweder

EXCUSED—6

Barber Helfrick Maiale
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. DAvis. 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 some person 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 legislation 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, 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?

| Yeas—113 |
|-----------------|-----------------|-----------------|
| Alden | Freind | Lewis | Salvatore |
| Anderson | Fryer | Lynch, E. R. | Scheaffer |
| Armstrong | Gallen | McKelvey | Serafini |
| Ary | Gannon | McVerry | Sieminski |
| Belardi | Geesey | Mackowski | Sirianni |
| Bennett | Geist | Madigan | Smith, E. H. |
| Bittle | George, C. | Mammiller | Smith, L. E. |
| Bowser | George, M. H. | Michlovic | Spencer |
| Brandt | Gladeck | Micozzi | Spitz |
| Brown | Grabowski | Miller | Stairs |
| Burd | Greco | Mohlmann | Stilgher |
| Burns | Gruppo | Mowery | Sweet |
| Cessar | Hagarty | Nahill | Swift |
| Cimini | Halverson | Noye | Taddionio |
| Civera | Hasay | O'Brien, D. M. | Taylor, E. Z. |
| Clark, M. R. | Hayes, Jr, S. | Perzel | Telek |
| Cornell | Hoeffel | Peterson | Thomas |
| Coslett | Honaman | Phillips | Vroom |
| Cunningham | Hutchinson, W. | Piccola | Wachob |
| DeVerter | Itkin | Pitts | Wess |
| Dietz | Johnson, E. G. | Polite | Wenger |
| Dininno | Kanuck | Pott | Wilson |
| Dorr | Klingaman | Pratt | Wilt |
| Durham | Kneppe | Punt | Wright, Jr., J. |
| Earley | Lashinger | Pyles | Yohn |
| Fischer | Lehr | Rasco | Zeller |
| Fisher | Lescovitz | Ritter | Zord |
| Foster, W. W. | Levi | Rocks | Zwikl |

| Nays—68 |
|-----------------|-----------------|-----------------|
| Austin | Gamble | McIntyre | Richardson |
| Beloff | Gatski | McMonagle | Rieger |
| Berson | Goebel | Mandelino | Schmitt |
| Borski | Goodman | Milanovich | Seventy |
| Callagrinone | Gray | Mekonic | Shupnik |
| Chess | Greenfield | Mullen | Stewart |
| Clark, B. D. | Cochrane | Murphy | Street |
| Cochrane | Hutchinson, A. | Novak | Stuban |
| Cohen | Irving | O'Brien, B. F. | Taylor, F. |
| Cole | Knight | O'Donnell | Trello |
| Cowell | Kolter | Oliver | Wargo |
| DeMedico | Kovalshyn | Petrarca | White |
| DeWeese | Kukovich | Pevsky | Wright, D. R. |
| Dawida | Laughlin | Pistella | Yahner |
| Dombrowski | Lettermann | Rappaport | Weinberg |
| Duffy | Levin | Reed | Seltzer, L. |
| Fee | Livingston | Rhodes | Speaker |
| Gallagher | McCall | | |

NOT VOTING—14

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<tr>
<td>DeCarlo</td>
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<td>Davies</td>
<td>Johnson, J. J.</td>
<td>Ryan</td>
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<td>Donatoucci, R.</td>
<td>Jones</td>
<td>Schwedler</td>
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EXCUSED—6
Barber Helfrick Maiale Weidner
Cappianna 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 limit 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