

HOUSE.....No. 4.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, JANUARY 7, 1833.

On motion of Mr. Whittemore of Cambridge, it was Ordered, that a Message be sent to the Senate, requesting that body to transmit to this House, the Amendment to the Constitution proposed and adopted by the last Legislature, in respect to the Third Article of the Bill of Rights, together with the accompanying papers: and Mr. Whittemore was charged with the said Message.

ATTEST,

L. S. CUSHING, *Clerk.*

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, JANUARY 8, 1833.

Ordered, That the Article of Amendment to the Constitution in the Third Article of the Bill of Rights, proposed and adopted by the last Legislature, and referred to the present, be committed to

Messrs. WHITTEMORE of CAMBRIDGE,

“ CHURCHILL of PITTSFIELD,

“ WELLS of ROWE,

“ STRONG of NORTHAMPTON,

“ AVERY of WILBRAHAM,

“ DAVIS of NORTHBOROUGH,

“ FARNSWORTH of HAVERHILL,

“ WILKINSON of BOSTON,

“ RUGGLES of MILTON,

“ BATES of ABINGTON,

“ KENT of PAWTUCKET,

“ FISH of FALMOUTH,

“ THAXTER of EDGARTOWN, and

“ BAXTER of NANTUCKET.

ATTEST,

L. S. CUSHING, *Clerk.*

REPORT.

The Committee to whom was referred the Article of Amendment to the Constitution, which passed both branches of the preceding Legislature, in the manner prescribed by the Constitution, have attended to the subject assigned them, and beg leave to submit the following Report:—

The Committee have not been able to ascertain, that any change of opinion has taken place among the citizens of the Commonwealth, since the adjournment of the last Legislature, unfavorable to the Amendment of the Third Article of the Bill of Rights; but they believe, on the contrary, that the conviction has become more general that it is expedient the Amendment should take place.

It appeared to the Committee that the original parishes in many towns, which have the legal power to tax all such as do not sign off to other societies, have of late declined to make use of that power, from the belief that compulsory taxation is injurious to the cause of religion, and to the best interests of the parishes; and in many cases where the laws founded on the Third Article of the Bill of Rights have been carried into effect, the result has been to exasperate the citizens, to create disgust against the institutions of religion, to injure the original parishes themselves, and to lead to intrigue and cunning to evade the effect of the laws.

The Committee cannot fail to press upon the House the consideration of the unequal operation of these laws. They have no effect in the city of Boston, and the large towns, and it would be hazardous to attempt to carry

them into effect in these places. It seems to your Committee perfectly reasonable to grant the petitions from the inhabitants of the smaller towns, when they ask only what is now fully enjoyed in the city and large towns.

Your Committee are clearly of opinion, that 'the happiness of the people, and the good order and preservation of the civil government,' will be better promoted by the proposed Amendment, than by the original Third Article itself. Religion has the strongest effect where it is made a concern of the heart, and the conscience; but this compulsory taxation can in no wise promote. The benefit of religion to the State depends entirely on its being left to its unrestrained influence on mankind. We cannot by legal enactments increase its power; they tend only to excite prejudice against it, and thus shield men against its influence. In this manner the benefit of religion, in a civil point of view, is entirely lost.

All that the government can with propriety do, is to protect the citizen in his religious rights, and leave religion to its own energy on the human heart for its support. And if pure religion be not wholly powerless, it will induce the people to make abundant provision for public instructions in piety, religion, and morality. It is believed that the proposed Article of Amendment asserts and preserves the religious rights of the people, and leaves the support of religion where it should be left, to the voluntary efforts of the citizens.

Your Committee have no doubt, that a large proportion of the citizens of the Commonwealth are in favor of the Amendment of the Third Article of the Bill of Rights. If the proposed Amendment should be rejected, it would only *delay* for a short time, it would not *defeat* the intentions of the citizens; and this delay would be the occa-

sion, not only of much disappointment and vexation, but also of much additional expense to the Commonwealth.

It is a satisfaction to the Committee to reflect, that the people themselves, in their primary assemblies, will have the ultimate action on this subject. After they have been striving for nearly half a century to produce an essential alteration in the Third Article of the Bill of Rights, it is believed to be the duty of this Legislature to give them an opportunity to have an action on the subject. It is universally conceded that they are the supreme power in the Commonwealth. If *they* do not approve the proposed Amendment, they will not receive it, even though every member, both of the House and Senate, should vote for its passage. But if they are, as is unquestionably the case, in favor of the Amendment, who can be for a moment unwilling that it shall go into full operation? Your Committee cannot conceive, therefore, that there is the least danger in passing the proposed Article of Amendment. On the contrary, they think it safe and judicious. They believe the people expect it, and that there could not be a more favorable time for this essential alteration of the Constitution to take place.

For these reasons your Committee respectfully recommend, that the Resolve and Article of Amendment receive the early attention of the House, and that said Article of Amendment be adopted.

For the Committee,

THOS. WHITTEMORE, *Chairman.*

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Commonwealth of Massachusetts.

IN GENERAL COURT, A. D. 1832.

Resolved, By both Houses, the same being agreed to by a majority of the Senators, and by two thirds of the members of the House of Representatives present and voting thereon, that it is proper and expedient to alter and amend the Constitution of this Commonwealth, by adopting the subjoined article of amendment, and that the same, as thus agreed to, be entered on the journals of the two Houses, with the yeas and nays taken thereon, and referred to the General Court next to be chosen, and that the same be published, to the end that if agreed to by the General Court next to be chosen in the manner provided by the Constitution, it may be submitted to the people for their ratification, in order that it may become a part of the Constitution of this Commonwealth.

ARTICLE OF AMENDMENT.

Instead of the Third Article of the Bill of Rights the following modification and amendment thereof is substituted.

As the Public Worship of God and instructions in Piety, Religion and Morality, promote the happiness and prosperity of a people and the security of a Republican Government:—Therefore, the several religious societies of this Commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their Pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses: And all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice, declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract, which may be thereafter made or entered into by such society: And all religious sects and denominations demeaning themselves peaceably, and as good citizens of the Commonwealth, shall be equally under the protection of the law: And no subordination of any one sect or denomination to another, shall ever be established by law.

IN HOUSE OF REPRESENTATIVES, Feb. 10, 1832.

The foregoing Resolution and Article of Amendment to the Constitution, having been passed and adopted in this House, two thirds of the members present, and voting thereon, having voted in the affirmative, the same are accordingly sent to the Senate.

W. B. CALHOUN, *Speaker*.

IN SENATE, March 9, 1832.

The foregoing Resolve and Article of Amendment, having been agreed to by the Senate, a majority of the members present, and voting thereon, the same, agreeably to the provisions of the Constitution, are referred to the General Court next to be chosen.

WILLIAM THORNDIKE, *President*.