

## Document 61

### House of Representatives, Returned Bill

21, 23 Feb. 1811 *Annals* 22:982--85, 995, 997

[21 Feb.]

A Message was received from the President of the United States, by Mr. Edward Coles, his Secretary, who, by command of the President, returned to the House the bill passed by the two Houses entitled "An act incorporating the Protestant Episcopal Church in the town of Alexandria, in the District of Columbia," and presented to the President for his approbation and signature, on Thursday the fourteenth instant, to which bill the President having made objections, the same were also delivered in by the said Secretary, who then withdrew.

The objections were read, and ordered to be entered at large on the Journal, as follows:

*To the House of Representatives of the United States:*

James Madison

February 21, 1811.

Mr. Bassett suggested the reference of the Message to a select committee.

The Speaker conceived that the article on the Constitution on this subject required that the House should proceed to a reconsideration of the bill.

On motion of Mr. Pitkin, the House proceeded to reconsider the bill.

The Message was again read, as also was the following clause of the Constitution:

"Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and, if approved by two-thirds of that House, it shall become a law."

Mr. Randolph asked whether a motion for indefinite postponement would, in the opinion of the Speaker, lie in this case?

The Speaker believed not.

The following article of the Constitution was then read by request:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Mr. Bassett said, though the Constitution had prescribed a reconsideration of the bill when returned, the mode of reconsideration was not prescribed; and it might as well be by reference to a select committee as in any other mode. The bill might, perhaps, be amended. Of their power to amend it in its present stage, however, he was not certain.

Mr. Smilie conceived the Constitution peremptorily to require an immediate decision.

Mr. Pitkin said, that this question was new to him. He had no idea that the Constitution precluded Congress from passing laws to incorporate religious societies for the purpose of enabling them to hold property, &c. He had always held the Constitution to intend to prevent the establishment of a National Church, such as the Church of England--a refusal to subscribe to the tenets of which was to exclude a citizen from office, &c. Desiring time for reflection, he therefore wished the bill to lie on the table for further consideration.

Mr. Pickman said, it appeared to him that the bill was not an important one, a refusal to pass which would be productive of any serious injury; and yet, that a full discussion of the principles it involved would occupy the whole of the remainder of the session. If two-thirds of the House were to refuse to proceed to a reconsideration, the bill would be *ipso facto* at an end; and this he thought would be the best course, &c., considering all the circumstances.

Mr. Wheaton said he differed widely from his colleague (Mr. Pickman) as to the importance of the bill now under consideration. He did not imagine that they were to assume the objections of the President to be valid, and of course to dismiss the bill. They had a duty to perform as well as the President. He had performed his duty in the case presented for consideration. And would gentlemen assume it as a correct position because the bill was objected to by the President that the House ought not to act understandingly? This was not a correct principle. In his view the objections made by the President to this bill were altogether futile. Mr. W. said he did not consider this bill any infringement of the Constitution. If it was, both branches of the Legislature, since the commencement of the Government, had been guilty of such infringement. It could not be said, indeed, that they had been guilty of doing much about religion; but they had at every session appointed Chaplains, to be of different denominations, to interchange weekly between the two Houses. Now, if a bill for regulating the funds of a religious society could be an infringement of the Constitution, the two Houses had so far infringed it by electing, paying or contracting with their Chaplains; for so far it established two different denominations of religion. Mr. W. deemed this question of very great consequence. Were the people of this District never to have any religion? Was it to be entirely excluded from these ten miles square? He should be afraid to come if that were to be the case. The want of time was no sufficient reason against giving this subject a mature consideration. What was done ought to be well done. For these reasons he was in favor of the bill lying on the table.

Mr. Macon quoted a precedent of the proceedings in a case similar to this in General Washington's Administration; in which the House, after a consideration of the Message, had come to the following resolution:

"Resolved, That to-morrow be assigned for the reconsideration of said bill, according to the Constitution of the United States."

He moved that the same resolution be now adopted.

Messrs. Lyon and Boyd were in favor of an immediate decision.

Mr. Southard wished a postponement to give him time to examine the bill. He was convinced that a bill might be passed for regulating the temporal concerns of a religious society, which would not violate the Constitution; but did not say, till he could examine whether this was such a bill or not.

Mr. Quincy quoted cases of laws which had passed the signature of the late President, which, in every material respect, appeared to him to contain the same provisions as this bill.

The motion of Mr. Macon was adopted without a division.

[23 Feb.]

The House resumed the reconsideration of the bill passed by the two Houses, entitled "An act incorporating the Protestant Episcopal Church, in the town of Alexandria, in the District of Columbia," which was presented for approbation on Thursday, the 14th instant, and returned by the President on the 21st instant, with objections.

The said bill was read at the Clerk's table.

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The President's objections were also again read; and, after debate, the question "That the House on reconsideration, do agree to pass the bill," was taken in the mode prescribed by the Constitution of the United States, and determined in the negative--yeas 29, nays 74.

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### **The Founders' Constitution**

Volume 5, Amendment I (Religion), Document 61

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