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Chaplains.

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CHAPLAINS.

MARCH 13, 1850.

Mr. JAMES THOMPSON, from the Committee on the Judiciary, made the following

REPORT:

The Committee on the Judiciary, to whom were referred the memorials of citizens of several of the States of the United States, praying that the office of chaplain in the army, navy, at West Point, at Indian stations, and in both houses of Congress, be abolished, respectfully report:

That they have had the subject under consideration, and, after careful investigation, are not prepared to come to the conclusion indicated as desired by the memorialists. The constitution, in express terms, confers upon Congress the power "to raise and support armies," and to "provide for and support a navy," and "to make rules for the government and regulation of the land and naval forces." It is silent in regard to their construction. The officers and materiel to constitute these branches of the public service, were left with those who should exercise the power of creating them. No enumeration of officers or of their functions is given, and no specification in relation thereto is made, excepting only, that the President of the United States be commander-in-chief. That they were to be constituted upon the rules and articles of war, and regulations of naval service known and understood at the time, seems to be a necessary implication, without resorting to which, they could not be constituted at all—subject, however, to the necessary qualification that in nothing should they transcend the limitations and guaranties of the constitution itself. Without going out of the history of our own country, it may be remarked that, during the war of the Revolution, and in the armies of that eventful period, the office of chaplain existed, was maintained, and discharged its appropriate functions, at the public expense. No jealousy seemed to exist in regard to it as "an establishment" of religion at that day; and we learn from the history of the times, that the heroes of the revolutionary army regarded it with the consideration due to its position and functions as such. Having thus existed prior to the adoption of the constitution, can it well be doubted that, in the absence of all enumeration on the subject of the officers necessary to constitute an army, it was as fully within the power of Congress to provide for the appointment of chaplains as that of surgeons, or any of the numerous employés in the medical staff? To "raise and support armies," and to "provide and maintain a navy," are very general grants; but their execution does not rest entirely on implica-

tion either, as the constitution expressly provides that Congress shall have power "to make all laws which shall be necessary and proper to carry into execution the foregoing powers." The right to create the office is clear of difficulty, unless it infringes upon a prohibition contained in the first amendment to the constitution. The amendment just referred to contains this clause: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." It is obvious that the end to be secured by this wise and proper provision was entire freedom of conscience; and the evil to be avoided was the recurrence of that system which might arise on the ruins of such freedom—commending itself, not by the virtues it might teach, but by the secular fear that should induce obedience to it. Such systems had existed, and had exerted over mankind their baleful and retarding influence; and men had yielded obedience to them, rather in conformity to law than the dictates of conscience. Against such systems our ancestors had ever struggled, and the constitution but perpetuates their sentiments, in the insurmountable barrier it interposes against them. There can be no religious "establishment" without a disregard of its provisions; and any approximation towards it would be struck down by the spirit of religious tolerance, as necessary to purity of faith, as freedom of conscience to liberty itself. But in thus jealously guarding against the existence of laws "respecting an establishment of religion," it cannot justly be inferred that religion should not exist, and be regarded and respected where it might be, without injury to the entire tolerance guaranteed. "An establishment" of religion is something defined, distinctive, and wearing the same form and peculiarities everywhere, and by whomsoever administered. It admits of no diversity in feature or substance; and those who enter its temples to minister at its altars, must first be measured by, and come up to its standards. It conforms to the sentiment of no votary: all who embrace it must believe it, if they would be its disciples.

Does the employment of chaplains in the army and navy, as practised in our service, exhibit any of the characteristics of a religious establishment, or present the appearance of any tendency thereto? There is no standard of faith to be measured by, or form of worship that must be followed. Practice has required that they be simply ministers of the gospel. They are as diverse in opinions almost as the theatres of their respective employment are various. Of the thirty employed at present in the army, almost every prevalent Christian creed has its representative. No standard is required as a prerequisite for appointment but that already noticed. We might refer the question to the numerous and respectable memorialists themselves, whether there is anything like an establishment, or a tendency in that direction, in the practice thus stated? It seems to your committee that the answer could not but be in the negative. Nor can there be a probability, while our government continues to be administered by the people, through their agents, frequently appointed and frequently changed, that any one denomination of religion will ever gain an ascendancy, in the appointment of these officers, in advance of its numerical force, over any others in the country. In this connexion, it may also be remarked—and we do so with pleasure—that the very jealousy of the admixture of secular and sacred things, in the halls of legislation, evinced by the petitioners, argues the great security that the constitutional prohibition possesses, should it ever be in danger of a real attack.

Your committee do not mean to elaborate the expediency of the practice. It has been long in use and well known to the people. We find an article of war adopted in Congress in September, 1776, by which it is provided that "every chaplain who is commissioned to a regiment, company, or troop, or garrison, who shall absent himself from the said regiment, company, troop, or garrison, (excepting in case of sickness or leave of absence,) shall be brought to a court-martial and fined not exceeding one month's pay, besides the loss of his pay during his absence, or be discharged, as the said court-martial shall judge most proper." Thus it was established, and remained on this footing, in the revolutionary army. By the act of March, 1791, "for raising and adding another regiment to the military establishment," the office is again recognised and provided for; so it was in 1812, and has so continued ever since.

Thus has it been introduced, and its propriety rests, we think, on many considerations that establish that propriety, beyond the reach of all just criticism, much less of just condemnation. Were the office abolished, the soldier or sailor might with more than a show of plausibility complain that the "free exercise" of religion was denied him; that his constitutional rights were infringed. The nature of his employment and the necessity of discipline are such that he is not at liberty to go and enjoy the "free exercise thereof," as the constitution provides. He must remain at his post. Thus might he be deprived of the opportunity that all others not similarly engaged enjoy; and he might be heard with justice and reason to complain, if the opportunity to attend religious worship was not provided for him through the medium of the office in question.

But nothing will serve to illustrate the propriety and expediency of the measure so well, as to consider it in regard to the foreign service of the army and navy. Portions of our naval forces are at all times on some distant coast—often on stations where not only the language of the people is strange, but their rites are abhorrent. He often finds himself where no holy day or Christian service would ever remind him of his distant home in a Christian land, were it not for the provision the government has kindly made for him. Would it not be a privation to deprive him of it? Could it benefit him to do so? If he heard no sound of the gospel in language familiar to his ears, and in forms well suited to his understanding, would he be a better soldier or more obedient sailor? The experience of the service will not answer these questions in the affirmative.

But recently it has been the lot of our country to be engaged in a foreign war, in which it became necessary to send her citizen-soldiers into an enemy's country. The language of the people, their customs and modes of worship, were alike strangers to them. Besides, all were enemies—the priest no less so than the people; and, however much desired or necessary to morals and discipline the administration of the unostentatious religion of our own country, its advantages would have been entirely foregone, had not the government justly provided for its ministrations, under such circumstances. To have refused this, would have placed our fellow-citizens on a very different footing from the rest of their countrymen, and would have been esteemed as a great privation by many, if not by all good soldiers. The spirit of Christianity has ever had a tendency to mitigate the rigors of war, if as yet it has not been entirely able to prevent it; to lead to acts of charity and kindness; and to humanize the heart. It was true philanthropy, therefore, to introduce this mitigating in-

fluence where, of all other places, its fruits were to be most beneficially realized, namely, into the army and navy; and to abolish it, in this Christian age of the world, would seem like retrograding rather than advancing in civilization. While much good and no perceptible evil has resulted from the practice; while no constitutional prohibition exists in relation to it, and no tendency to a "religious establishment" is discernable under it; while diversity of faith is tolerated as freely as the constitutional requirement, in the minister, as well as in those for whom he officiates; and while the expense is so small as not to be felt by any one,—your committee do not think it necessary to interfere with the office of chaplain, as it exists at present in the army and navy. In the last-named branch of the service, the number of chaplains is twenty-four.

In regard to the office of chaplain at West Point, it is only necessary to remark that this institution is part of the military establishment of the United States; and, the discipline being the same, a similar necessity exists for the office of chaplain within it (if not to a greater extent) as in the army at military posts exclusively. The chaplain in that institution is also one of its professors.

The petitioners also pray for its abolition at "Indian stations." On inquiry of the Indian Bureau, it has been ascertained that no such office exists at such stations, and that when clergymen are employed at such points it is as teachers of schools only.

They also ask for the abolition of the office of chaplain to the houses of Congress. The propriety and necessity for their employment at the Capitol does not, perhaps, stand upon an equal footing in some respects with that of the services already referred to. The constitutional right to appoint such officers, and to pay them, on the part of the respective houses, will admit, we think, of no doubt. It is provided in section 2 of article 1 of the constitution, among other things, that "the House of Representatives shall choose their speaker and other officers," &c.; and in section 3 of the same article, that "the Senate shall choose their other officers," (the presiding officer being the Vice President of the United States,) "and a president *pro tempore*." Under these provisions, the respective houses have at all times appointed all and every officer and employé deemed proper or necessary. Time and usage have given sanction to the employment of chaplains. The Congress of 1775, that met in Carpenter's Hall, had their chaplain; and their successor in 1776 seemed to sanction by their practice that it was "not unbecoming" that the custom should be continued. So in 1789, in the first Congress under the constitution, chaplains were elected, and it is believed have so continued to be ever since. A due regard for religion is the sentiment of our country; and in accordance with this sentiment, an acknowledgment on behalf of the people of this happy land of their gratitude to Divine Providence for liberty, freedom of conscience, and national prosperity, at the instance of some eminently spiritual and good man, chosen by their representatives, has received their sanction for many years, as peculiarly proper and right. And who will say it is wrong? Nor has the selection ever been sectarian. A joint rule of the two houses requires that both shall not be of the same denomination of Christians; and this rule is strictly observed. Directly the opposite of an "establishment" of religion is thus clearly evinced by the practice of the houses of Congress in regard to this office. The salary of each of the chaplains thus appointed is \$500 per annum, making an aggregate of

\$1,000. As a burden on the treasury, it is certainly very light, and could not, if apportioned among the people, be more than the two-hundredth part of a cent to each one of them.

Your committee, from this brief examination of the prayer of the numerous and respectable petitioners, cannot come to the conclusion desired by them, and recommend the adoption of the following resolution:

Resolved, That the committee be discharged from the further consideration of the subject.