

HOUSE OF REPRESENTATIVES.

Debate on a motion to reconsider the question...

TUESDAY, DECEMBER 26.

Mr. Sewall was in favour of re-considering the question; not that he wished the business crowded upon the house; he had no objection to a fortnight, or longer, being given. Gentlemen, in their observations on this subject, had recurred to the proceedings of last Congress, which had nothing to do with the present question, and argued as if there were a law forbidding merchants to arm their vessels; whereas there was no such thing, because he never could consider executive directions as law. It was true the President of the United States had forbidden the arming of vessels, except for the East-India and African trade; but there were no regulations to prevent impositions in this respect, and nothing was more easy than for vessels to clear out for those places, and to go to others, and if they did so, they were subject at present to no forfeiture. It was proper, therefore, that Congress should come to some determination on the subject, and say whether merchants had a right to arm, or not, and under what restrictions; as, at present, the whole burthen was improperly thrown upon the President. Whilst the business remained upon its present footing, circumstances might arise which would be very unpleasant. For instance, if a merchant were to sue a collector for carrying into effect the orders of the executive, it would be impossible for any judge to find a decision upon those orders. Nothing, Mr. S. said, could be gathered from the proceedings of last Congress, as the present bill was intended merely to regulate a right which the merchants already possessed of arming their vessels, so as to prevent hostile aggressions. There was nothing in this measure, he said, which could give offence to our masters, even if we were colonies of France, or of Great-Britain. All that was intended was a defence against pirates, whom no country would own; for, if a restitution was asked for, on account of losses sustained by them, it would be said by France or Great-Britain, "we know them not, you ought to defend yourselves against them." As to the observation of the gentleman from Virginia, that our merchants would continue to acquiesce in the present state of things, it might be so; but he thought they had a just claim upon the United States. He believed they were generally unwilling to arm, except under the regulations of the United States; but they ought not to take advantage of this acquiescence, and say to them, without concern, "you should go to sea and run your risks as usual." Under these disadvantages, he did not think they should. As to our present situation with respect to France, he did not think it ought to be alluded to, as the proposed regulations, as had before been observed, were not intended to operate against them, or any other nation, but against the pirates committed by order of Victor Hugues, or any other marauder, who may set up his authority in that quarter of the world. So desirous were the merchants of having a defence against this description of vessels, that since they could not carry out real guns, they have lately resorted to the carrying of wooden guns, that they might at least have the appearance of defence upon their vessels. He thought to be obliged to have recourse to this practice, was derogatory to the honour of the nation.

Mr. Dana said, it was not very liberal to ascribe to the committee who reported this bill, motives which they themselves did not avow. If he did not mistake the gentleman from Virginia (Mr. Nicholas) he had said that this bill was calculated to mislead the passions of our citizens, and prepare them for war. The committee had not stated any thing of this kind. They had stated an evil to exist, and proposed a remedy. The depredations which had been committed upon our commerce by pirates, unauthorized by any government, were notorious; and that we had a right to defend ourselves against them, was admitted on all hands; but there was a necessity for the interference of Congress in the business, and, for this purpose, the present bill was reported. The measures proposed had been spoken of as measures of hostility; they were no such thing; he would not adopt any measures now, that he would not adopt in a state of profound peace, and the present bill was no more than a part of our general system for the regulation of the conduct of our merchants. Mr. D. alluded to the order which had been issued by the late and present President in relation to the subject of arming, and shewed the necessity there was for an interference of Congress. He did not think this question was decided the last session. But it was said, that this subject would interfere with the negotiat... now carrying on with the French republic. This was a strange argument indeed. What were the principles laid down by France with respect to this country. They say "they will respect treaties, when it is their interest to do so." He, therefore, supposed it would be as much for the interest of France to be at peace with us, if our vessels were armed, as if they were not. There was another principle. They will "respect our rights, when we know how to make them respected."—Could this regulation, therefore, weaken that respect? He thought not. To postpone

the question, from such a motive, would be humiliating. It would be saying, we dare not take any measures of defence against the marauders on our coast, lest we should give offence to a foreign power. He hoped they should not be thus influenced.

Mr. Thatcher said, he did not rise to invoke the genius of America, or any other genius. He did not believe in any genius. He wished to call the attention of the house to the question, which he thought they had forgotten; for he believed, any one coming into the house, in the course of the debate, might have guessed for forty years and not found it out. The question was, whether the former vote should be re-considered. It was immaterial whether a passion for France or any other strong passion, had overruled reason and influenced the vote. It was sufficient that two or three persons had stated themselves as mistaken in their vote, to wish the question to be re-considered. If this were the question, he did not see what they had to do with the war in Europe, or with the negotiations carrying on with France; but, as it had been the practice to abandon the question, and raise other subjects, he would take the liberty of following the example which had been set, by remarking upon what had been said. [The Speaker signified to Mr. T. that, in doing so, he would be out of order, and having expressed his intention, the deviation could not be admitted.] Mr. T. however, continued to make some observations on what had fallen from the gentleman from N. Carolina (Mr. M'Dowell) as to the proposed measure having effect upon the negotiation. This, he shewed, to be next to impossible, as we were expecting to hear from our negotiators every day, and they could not hear of the proceedings of congress on this subject for two months to come. The question, said he, is to arm against rovers and pirates, and surely gentlemen would not say that the Terrible Republic were a set of rovers and pirates; but they must say so, if they said this bill was against them. He believed France respected itself too much to say this bill was intended against her. The gentleman from Virginia (Mr. Nicholas) had said there was no change in the situation of things since last session; but he believed there was this change, as it respected commerce; we were now more assured than ever, that the chief of the depredations committed upon our commerce were committed by unauthorized marauders. M. T. concluded with reading an extract from the President's speech, as conveying his sentiments with respect to the disadjusted affairs of Europe, the general want of morality, and religion, and the consequent uncertainty of permanent peace.

Mr. Baldwin said, if the original question had now been whether the consideration of this subject should be postponed for three or four weeks, he should have felt himself indifferent as to the issue. But it was with regret he saw the question brought back for consideration. The gentleman last up had spoken of three gentlemen having been mistaken, and wishing to change their votes. He heard but of one, as the gentleman who seconded the motion, did it only that the mover might have an opportunity of voting as he wished. He did not think, therefore, that this was a sufficient ground for reconsideration of the vote which had been taken. When the house voted upon a question, without argument, it must be supposed they voted from conviction. A motion for the reconsidering of a subject was not a favorite motion; since a repetition of such motions would make it next to impossible to proceed with the public business. The question of arming or not arming, he said, would yet come before them in a variety of shapes, before the bill could be matured, that there was no necessity of arresting it in its present stage. He himself expected that when the first Monday in February was moved, some of the committee who reported the bill, would have proposed a shorter time; but, when they did not be supposed they thus argued, "We have considered the subject for four or five weeks; we will give other gentlemen the same time." And he believed, if they so judged, it was the best course which could be taken; for the longer time there was given for confiding and maturing the subject, the greater probability there would be of coming to a speedy and proper decision.

Mr. J. Williams was in favour of re-considering the vote. The act of 1794, he said had been differently construed, and the sooner congress determined the true construction the better. To put off the subject for five weeks, would occasion considerable loss to the merchants, as they did not know what events might arise. If the subject was not acted upon till the first Monday in February it would be the first of March before the act was passed, and the first of April before it could be known at the extreme parts of the union. He himself was undetermined whether it was right to authorize merchants to arm or not, but he did not wish the question so long postponed, he wished to have it decided.

Mr. N. Smith said, as the reasons which influenced his vote, had not been stated by any other member, he would take the liberty of stating them. He should vote against the re-consideration, though he agreed with gentlemen who were in favour of the bill. He thought the measure a perfectly neutral one, and such as no foreign nation had a right to take umbrage at; but those gentlemen must agree with him, that it was not likely the measure would be silently adopted, or without a lengthy and full discussion. It was idle to say, that because the measure was only intended to operate against pirates, there was no occasion to introduce any Foreign nation into the discussion. It was certain, that whenever the subject was discussed, our situation with respect to Foreign powers, would certainly form a part of the debate, and this it was he dreaded. He believed it might do much mischief. He, therefore, differed with those gentlemen who wished to get into the dis-

ussion, and who did not seem to want an immediate decision; he should have no objection to the decision, but, he wished, for the present, to avoid the discussion. Before the session closed, he should think it necessary to decide upon a measure of this kind; but he wished to see further before the business was entered upon; he was, therefore, against re-considering the question.

Mr. Otis replied to some remarks which had been made upon what fell from him, and justified what he had before said, and the warmth which he felt on the occasion, as natural. He concluded by observing, that it was necessary to cheer the spirits of the people by a measure of this kind; to raise the expectations of the merchants, and not to drive commerce, which came mourning into that House, to despair; but if their hands were to be tied, and no protection was to be given to trade, the merchants should be informed of their determination as soon as possible; and told that, though they draw from them millions of dollars a year in support of the revenue, yet they will not attend to their grievances until within a few weeks of the close of the session, when, perhaps, sufficient time will not remain to carry any measure which may be proposed, into a law.

Mr. Pinckney said, as he was not a member of the House during the last session, he hoped he should be excused in wishing to enter into an earlier discussion of this question than other gentlemen seemed to wish. This, though he was not in the House at the last session, he had observed the proceedings of it; and though some of the motions for arming were negatived, there were others of a defensive nature agreed to; such as the holding in readiness 80,000 militia, the appropriation for repairing the forts and harbours, &c. which were not thought at the time, to be at all offensive to any Foreign nation; and he was of opinion with those gentlemen who believed that a law authorizing our merchants to arm their vessels, could not afford any Foreign nation just cause of offence. He was not surprised that his colleague (Mr. Harper) should be of a different opinion, because he did not think so favourably of that nation, as many other gentlemen did; but he was surprised to hear gentlemen who thought more favourably of that nation, consider the measure as operating wholly against them. Surely means of self-defence could not be means of offence. Nor could gentlemen say that the French nation was the only nation which committed offences upon our trade. He had heard it said that another nation had lately captured an equal, if not a greater number of our vessels, than they had done. Besides, as the measure was intended more against unlawful plunderers, than regular seizures, he could not conceive how it could be supposed to give offence to any particular nation, or affect any existing negotiation. The only point to be determined, then, was when the bill should be committed. He thought the gentleman from Virginia (Mr. Nicholas) had carried his idea too far, when he said, because this country was not prepared for war, they ought not to discuss this question. He thought there were certain times when every free nation ought to be prepared for war. He meant when the measure of injuries had arrived at such a pitch, that it could not be longer borne. In such a case a nation ought to meet the calamities of war, rather than to submit to farther oppressions. If the proposed measure, therefore, puts us in a better state for war, it was a recommendation of it, as Strength, and not Weakness, was the best preservative against war; as, if a people were prepared for war, nations would be careful how they insulted them. He wished, therefore, to put this country into that situation as soon as possible. To postpone the question so long a time as had been proposed, would be a very unusual measure. It would look like a wish to get rid of it altogether. Whatever might be the issue of the negotiation, he said, we ought to put ourselves in some posture of defence for our trade; for, whether there were peace or war in Europe, there could be no objection to the arming of our merchantmen in the way proposed. He hoped therefore, the discussion would not be postponed longer than the second Monday in January.

Mr. Allen observed, that it had been asserted that there had been no change in our political situation since the last session.—There was one, he said. It could not then be determined whether the decree of the 2d of March was really genuine, or whether the letter of Merlo to our Consul was really authorized by the Government of that country. Now the facts could not be doubted.—Mr. A. said, it had been intimated that the friends of this measure, would be glad to frustrate the negotiation with France. He did not believe any such intention was harboured in the House. The postponement proposed, instead of being four weeks, as it had been called, he said would be 41 days.

Mr. Harper again explained the reasons of his vote. He differed from the gentleman last up with respect to the reality of papers he mentioned. He believed they were last session generally believed to be genuine.

Mr. S. Smith said, he had been present when the former vote was taken, he should have been opposed to the discussion being postponed to so distant a day, but as the house had come to decision on the subject, he should vote against the question's being re-considered. He did not consider the bill before them as giving the merchants the privilege to arm their vessels, but as restricting vessels armed from doing mischief.

He insisted upon it merchants had a right to arm by law, notwithstanding the Proclamation of the President, which he was bold to say, he considered as illegal.

The question for a re-consideration of the former vote, (which was carried 40 to 37) was negatived 44 to 38.

THURSDAY—DECEMBER 28.

The Speaker laid before the house a letter

and report from the secretary of the Treasury, in pursuance of a resolution of the house of the 22d inst. relative to the claim of General Kosciuszko. The report states, that the accounts of the general were settled at the Treasury in 1784, when a certificate was issued to him for 12,280 dollars and 49-cents, bearing an interest of 6 per cent from the 1st January, 1784, which was stipulated by a resolution in February following, in common with the interest due to all the foreign officers, to be paid annually at Paris; that in May 1792, monies were granted by Congress to discharge the principal and interest of those debts, at which time it was supposed that all the officers had received their interest to the 1st January, 1789; but it now appears by the banker's account at Paris, that no interest had been received by General Kosciuszko for four years, viz. from 1785 to 1789. Sufficient funds to pay the interest from 1789 to '92, were in 1792 placed in Amsterdam, subject to the disposal of our minister at Paris, that by his direction a bill for the amount was remitted to Mr. Pinckney, in London; but pursuant to the direction of general Kosciuszko, Mr. P. wrote to the bankers at Amsterdam to remit the amount to Leipzig, or Dresden. Whether this request was complied with, is not known; general Kosciuszko says he never received it: it therefore lay subject to his disposal at Amsterdam, Leipzig or Dresden. That in September 1792, a notification was published, that provision had been made for paying the principal of the debt due to foreign officers, on application at the Treasury, after the 15th of October following, and that the interest upon their demands would cease after the last day of December in that year. That though the certificate issued to the general, is stated by him to have been lost or destroyed, yet the powers of the officers of the Treasury are competent to the payment of 12,280 dollars, 34 cents, the principal, and 2,947 dollars, 33 cents interest, for the years from 1785 to 1788, on receiving a bond of indemnification from the general; but that they cannot advance the interest supposed to have been transmitted to Leipzig or Dresden, though payment will be immediately made for any sum which may be hereafter drawn, and credited to the United States at Amsterdam; nor is it in the power of the treasury to allow any interest on the said principal, since the 1st of January 1793.

On motion of Mr. Dawson, this report was referred to a committee of the whole for Monday.

Mr. Varnum presented the petition of M. Landais, a French gentleman who served the United States at sea, during the war, praying for a settlement of a balance, which he states to be due to him.—Referred to the committee of claims.

Mr. W. Claiborne moved for the order of the day on the report upon the remonstrance and petition of the Legislature of Tennessee.

Mr. Coit hoped the subject might be deferred till to-morrow, as there was a fact referred to in the report, which he wished to have some information upon.

Upon the question being put, the motion was, however, carried, and the house accordingly resolved itself into a committee of the whole on the subject, Mr. Kittera in the chair, when the following report of the committee, was read:

"That, on investigating the causes of complaint contained in the said Remonstrance and Petition, it appears, that according to the boundary line between the Cherokee tribe of Indians and the inhabitants of the said state, which was extended by the Commissioners of the United States, pursuant to the treaty of Holston, in the course of the last Summer, the settlements and habitations of a considerable number of citizens of the said state, which heretofore were supposed to be on lands to which the Indians claim was, by that treaty, extinguished, appear to be within the Indian territory. That those inhabitants had been induced to believe that the lands which they occupied were not within the Indian boundary, in consequence of the late Governor of the South Western Territory having, in pursuance of directions from the Executive of the United States, caused a temporary line to be extended, by Commissioners appointed for that purpose. By which line the settlements above mentioned were included within the lands assigned to the Territory South West of the Ohio (now the State of Tennessee)."

"The committee likewise find, that there are divers other citizens of the said state who occupy lands, unquestionably within the Indian territory, as designated by the said treaty, which lands they possess by virtue of titles derived from the state of N. Carolina, previous to the cession of that territory, by the said state, to the general government, one condition of which cession was, that "all entries made by, or grants to "all and every person or persons whatsoever, agreeable to law, and within the "limits thereby intended to be ceded to the "United States, should have the same force "and effect as if such cession had not been "made; and that all and every right of "occupancy and preemption, and every other right, reserved by any act or acts, to "persons settled on and occupying lands "within the limits of the lands thereby intended to be ceded as aforesaid, should "continue to be in full force, in the same manner as if the cession had not been "made, and as conditions upon which the "said lands are ceded to the United States."

"The committee also are informed, that by the operation of the law, passed on the 10th day of May, 1796, for regulating the intercourse with the Indian tribes, which law has been carried into execution since the extension of the last line these citizens of the state of Tennessee have been compelled to abandon their habitations, and with their wives and their children were, by the late accounts from that country, encamped in the woods within the Tennessee line.

"The committee therefore, in consideration of the premises, recommend, for the adoption of the house, the following resolution.

"Resolved, that the sum of _____ dollars be appropriated for the relief of such citizens of the state of Tennessee as have rights to lands within the said state, by virtue of the cession out of the state of North Carolina, and have made actual settlements thereon, and who have been deprived of the possession of the said lands by the operation of the act for regulating the intercourse with the Indian tribes. The said sum to be subject to the order of the President of the United States, to be expended under his direction, either in extinguishing the Indian claim to the above described lands, in case he shall deem it expedient to hold a treaty for that purpose, or be disposed of in such other manner as he shall deem best calculated to afford the persons herein described a temporary relief."

Mr. Coit said, the fact upon which he wanted information was that respecting the temporary line which was said to have been run. He wished to know what evidence the committee had before them on this subject.

Mr. Pinckney (the chairman of the select committee) said, that the testimony which they had received on this subject, was from the member from that district, which was corroborated by that of a member of the senate from that state, who said he had his information from the governor of the south-western territory himself. This circumstance was not particularly noticed in the application made to the secretary of war; only general information was called for, and he was silent as to this point.

Mr. Coit thought official information ought to have been had.

Mr. W. Claiborne said, he had applied to the Secretary at war on this subject, and received for answer from him, that his general report to the committee of the Senate contained all the information proper to be communicated; when, therefore, he found this information was not contained in the report, he supposed it was such as he did not think proper to communicate. The fact, he said, was well known in the state of Tennessee, and it was generally received opinion, that the line had been extended by the President. He himself was in habits of intimacy with the commissioners, and he had more than once heard the fact from them. He believed gentlemen from North-Carolina and Virginia were also acquainted with it. He did not, however, believe the fact essential. If it were a truth that there were citizens in the state of Tennessee who had been forced to abandon possessions fairly obtained from the state of N. Carolina, it was sufficient to warrant any measure which should be calculated to afford them immediate and adequate relief.

Mr. Pinckney was in hopes the testimony upon which the committee had acted, would have proved satisfactory to the gentleman from Connecticut, but he seemed to think they ought to have had official documents. If that gentleman had attended to the report of the Secretary of War, he would have seen that any farther application by them for information, would have been improper, as the Secretary there declared the business to be "of a mature exclusively executive" and that he there gave as much information on the subject as he thought necessary. If the evidence upon which the committee had acted, was not thought sufficient, the house would, of course, call for such other as they might think proper.

Mr. Mason had no objection to any other information being obtained. It might be, however, that the information communicated by the member of the Senate, was official, as one of those gentlemen had been in an official character.

Mr. Pinckney said the member of the Senate whom he had alluded to, was Mr. Jackson.

Mr. Blount had no doubt but the information required, might be obtained from the Secretary of War; and, if the committee were to rise, he should make a motion to that effect. He had himself been told that the line in question was run, by the commissioners who ran it; and he had been shewn by a gentleman who attended the running of it, the direction it took. How it happened that the Secretary of War had not mentioned it, he was at a loss to know.

Mr. Dayton (the Speaker) moved that the committee rise, in order to obtain the information required. It appeared to him that they had been premature in going into a committee of the whole. He recollected something of the line of experiment being run, and of the Indians being dissatisfied with it. He understood also, that in consequence of the dissatisfaction of the Indians, there was an additional allowance made to them. Of this, however, he was not very certain.

Mr. N. Smith hoped the committee would rise, in order that the information wanted might be obtained from the Secretary of War. He did not believe that the line of experiment was run by the direction of the Executive, because he did not think the Executive would direct any other line to be run than such as was prescribed by treaty. At the same time, he would not be understood to discredit the information given. Gentlemen did not say they knew the fact themselves, but that it was generally understood to be so. There were many things said to be understood, in that quarter, with respect to which the people ought to be undeceived. He believed this to be one of those things. He did not believe the Secretary of War had declined giving information as to this point, because it interfered with Executive business, as it was merely to know whether a certain thing had been done by Executive authority, or not. There were many things in the remonstrance and petition, with which the Executive conceived the legislature had nothing to do; but, as to the point in question, there could be no objection to giving the information required.