but that as a law of the United States in their federal capacity, it has no validity. Since, if it had, of the different common laws in the United States, which should we adopt? Or should we take the common law of England, of a monarchy, founded upon an hereditary nobility & a great hierarchy, unsuited to the genius of a republican government? But, Sir, such unhappily is the difference between men out of power, and men in power, that, if we are to believe the representations made at the last session of Congress, by a member from Connecticut, (*Mr. Dana*) the correctness of which I presume no man would have the hardihood to doubt, prosecutions for libels at common law have been entertained in the courts of the United States against citizens, and consequently have been carried on by the attorneys for the districts wherein such prosecutions commenced. Yes, Sir, such is the difference between men in power and men out of power; such the difference between profession and practice: and yet, to my infinite surprise, this awful truth, this fact, which never came to my knowledge before, appeared scarcely to excite a sensation either in this assembly or the public, in the men who were most clamorous against the sedition law. Yes, Sir, we did execrate, and most justly execrate, the sedition law. I for one had as thorough a contempt for some of those who fell under its penalties, as the judge who inflicted them. The question was not whether James Thompson Callender was not an infamous libeller, any more than the famous Middlesex question was whether John Wilkes was an infamous character; but it was a question as to the deprivation of the birthright of the citizen in one case, and the subject in the other—and the people wisely discriminated between the persons who were the subjects of prosecution and their own best and dearest interests. We said that Congress had no right to pass any law at all on the subject. It cannot be denied, that if we are to have a federal law of libel, that which permits the truth to be given in evidence is as good as any. It was not to the nature of the law that we objected, but to the having a federal law of libel at all; though indeed, Sir, the permission to give the truth in evidence is but an idle mockery when we consider that the officer, whose duty it is to provide an impartial jury, is but the breath of the nostrils of the prosecutor. You ought to recollect that in all cases where the government becomes a party, whether *pro* or *con*, you too often have an administration of politics, instead of an administration of law and justice. It is true, that the constitution does declare that Congress shall make no law abridging the freedom of speech or of the press; but if Congress, or the courts below, can at once saddle us with the common law of England, there is no necessity for prohibiting the abridgement of the freedom of speech, or of the press. We know what the common law of England is—an unlimited licence to print, and an almost equally unlimited licence to punish. This restriction of the constitution therefore is wholly nugatory, if the courts are permitted to entertain prosecutions for libels. Sir, that the present chief magistrate of the United States should permit an attorney of the United States to hold his office one second after having commenced a prosecution in a court of common law for a libel, is what I will not believe—for he could not do it without libelling, by that act of omission, the fairest page of the history of his own life, to wit, his celebrated report made in the session of the Virginia assembly, which commenced in December, 1799. But I am willing to have some better security than the disposition of any Executive, for what I conceive one of the highest, proudest attributes of American freemen. I know it may be said, as it once was, when the writ of habeas corpus was set at defiance, that for as much as the right is contained in the constitution and supported by it, all legislative provision on that subject would be mere work of supererogation—and yet, Sir, who has heard of any recovery under the constitution for the violation of the best, dearest, most invaluable right of a citizen? In fact, take away the writ of habeas corpus to morrow, and I would not give a pinch of snuff for our constitution; for without it every man may be imprisoned at pleasure. Government might possibly demand a forced loan, with which, if the citizen did not comply, he might be carried to jail.—There is no free government where this wonderful contrivance, this best hope of man, this sheet-anchor of freedom, the writ of habeas corpus is not found. And yet we may be told that, as the freedom of the speech and press is secured by the constitution, all legislative provision on the subject is not merely superfluity, but not respectful to the constitution: And so our citizens are to go on to be prosecuted at common law; and when they get no remedy, they are told their rights are guaranteed by the constitution—but receive no satisfaction. I therefore think it would be a very wise provision on our part, at this time, to prevent a recurrence of similar cases, guarding against the future by woeful experience, a school in which it is said a fool himself must learn, although he will learn in no other—and, as far as that epithet may be considered as applying to myself, I do most candidly confess that I have been compelled to learn from this school—for when the gentleman from South-Carolina uttered that brilliant declamation in order to induce this House to re-enact the sedition law, and hang it over their heads as a shield from prosecution, I really thought it a mere speech for the people, for I had no conception that a court of the United States would ever entertain a prosecution for libel at common law. I therefore submit to you the following resolution, premising, before I conclude, that my object will be, finding the constitution inert on this subject, as it only contains an acknowledgment of the right, to administer wholesome fine and imprisonment to those who shall hereafter undertake to carry on such prosecutions.

"*Resolved*, That a committee be appointed to enquire whether any and what prosecutions have been entertained by the courts of the United States for libels at common law, and to report such provisions as in their opinion may be necessary for securing the freedom of speech & of the press."

*Mr. Dana* said perhaps that the resolution, as now expressed, did not go to the whole extent to which the gentleman intended. That prosecutions had been instituted for supposed slanders or for supposed seditious words, was unquestionable. For two, three or four years past, prosecutions of this character had been pending in the circuit court of the United States in the district of Connecticut. That some of the prosecutions attempted to establish the imputation of crime against individuals, and in cases not comprehended under the provisions of the statute so much reprobated under the name of the sedition act, was unquestionable. Prior to the institution of these prosecutions, however, from an apprehension of what might be done by men who had professed much zeal for liberty, but not in practice given stronger instances of regard for it than those who professed less, in the state of Connecticut a bill was introduced into the legislature for securing the freedom of the press. That bill consisted of one section, which was copied from the reprobated sedition act—that very section which provided that the truth should be given in evidence; and it was called an act for securing the freedom of the press. And before any prosecutions were instituted, when only a district judge presided in the court, that judge declared that he should consider the act of the state of Connecticut relative to giving the truth in evidence, as binding on the federal court in that state. This was the opinion of one judge; there was some question how it would be ultimately decided before a full court. Such a law formed a more abundant protection against any persecution which might be directed against individuals under the form of a prosecution, than any professions whatever. In the state of Connecticut (said Mr. Dana) there is one further security—that our jurors are designated by lot. The names of freeholders selected by certain officers in the towns are put into a box, and then selected by lot. There have been seven or eight prosecutions commenced, I scarcely know for what, whether for libellous or seditious words—against clergymen, and public preachers, for words uttered by them; and very considerable expences have been incurred by them. But I cannot say that any man ever suffered any farther than this; that they were at a very great expence in defending themselves. They had a great security in one respect: that the talents of the bar were against these prosecutions; and there was such a peculiar talent of going backwards in the prosecution, that the suits generally went out of court with a *nolle prosequi*, from some error in the indictment, some defect in professional skill, or some error in clerkship. The only case in which there seemed to be any possibility of conviction, was one in which a question was made as to the power of the court to take cognizance of the subject. The question was on the prosecution of a printer there for publishing what had appeared with perfect safety in another state. The judges declared themselves divided in opinion on the question of jurisdiction. That diversity of opinion was certified and the question expected to be brought before the supreme court last February. On applying to the judge I found that the clerk of the circuit court had not forwarded the certificate, and of course the case did not come up here as expected. I suppose that the whole thing will die without any noise. Another reason why the persons in Connecticut were not disposed to make very much noise about it while prosecutions were depending, was, that the state was not a large one; that it could not be supposed to be in great favor at the palace. It was supposed, sir, (whether correctly or not I will not undertake to say, but I rather incline to the opinion that it was an erroneous supposition) considering the manner in which appointments were made in that state, and under the belief that it was through the means of certain influential characters that the district attorney did institute those prosecutions with the approbation of the administration of the United States. This was an opinion in the state; and, supposing the influence of the Executive to be exerted, they felt that it would be in vain to make much clamor, and rather chose to contend alone against it. As the prosecutions are now at an end, I think it very desirable that the subject should be investigated. As respects the district attorney's not being removed, I do not think that he is much to be censured in this case. I am not certain that he acted altogether on his own opinion. I rather suppose that he was impelled by the influence of certain persons who are generally supposed to have the chief weight in appointments under the United States in that state and who are therefore by some called the *council of appointment*; and I suppose that the district attorney could scarcely oppose the will and pleasure of these gentlemen. I very much question, therefore, whether any peculiar degree of fault is to be attributed to him, except his putting the United States to so much expence without ever bringing the question to a decision. This, sir, is about the general state of the business. As it cannot be said that the court has in fact *entertained* the prosecutions and some of them have been dismissed, the substitution of the word *institute* instead of entertained, may accomplish the gentlemen's wishes.

*Mr. Randolph* consented to the amendment.

(*Sketch to be continued.*)

Mr. *Randolph's* resolution having been agreed to without opposition, he laid on the table the following:

"*Resolved*, That provision ought to be made by law to secure the right to an impartial jury, in all cases, civil and criminal, maintained in the courts of the United States."

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*Friday, May 26*

*Mr. Weakley*, a member from Tennessee, appeared and took his seat.

*Mr. Morrow* offered two resolutions on the subject of public lands and the commissioners of Kaskaskias; which were agreed to.

*PRESIDENT'S MESSAGE.*

On motion of *Mr. J. G. Jackson*, the House resolved itself into a committee of the whole on the state of the union, to whom was referred the President's message, *Mr. PITKIN* in chair; and several resolutions were offered by *Mr. J. G. Jackson*, agreed to by the committee and reported to the House as follows:

1. *Resolved*, That so much of the message of the President of the United States as relates to our relations with foreign nations, be referred to a select committee.

[The gentlemen who compose this committee are Messrs. J. G. Jackson, Macon, T. Moore, Moseley, Quincy, Troup, Johnson, Fisk and Anderson.]

2. That so much as relates to a revision of our commercial laws for the purpose of protecting and fostering the manufactures of the United States be referred to the committee of Commerce and Manufactures.

3. That so much as relates to the modification of the military and naval establishments of the U. S. be referred to a select committee.

[The gentlemen who compose this committee are Messrs. Cutts, Basset, Milnor, Sawyer, Hale, & J. Brown.]

4. That so much as relates to the fortification of our seaport towns, be referred to a select committee.

[The gentleman who form this committee are Messrs. Burwell, Kenedy, Key, Geo. Smith, P. B. Porter, Gardner, and W. Chamberlin.]

5. That so much as relates to the revenue and expenditures of the U. States be referred to the committee of Ways and Means.

*Mr. Randolph*, coming into the House after these resolutions were agreed to, for various reasons which he stated, moved that the committee on the third resolution be discharged from the consideration of so much of the message as relates to our military establishments, with a view to refer the subject to a distinct committee, that the military and naval affairs should not be blended in the same committee.—Motion agreed to, and a committee appointed on so much of the message as relates to our military establishments, consisting of Messrs. Nelson, Dawson, Champion, Lyon, Taylor, Livermore, and Franklin.]

*Mr. Randolph* then moved to discharge the committee of the whole House on the state of the union from the further consideration of his resolution on the subject of the reduction of the army. The motion was agreed to, and, after some conversation as to the mode of disposing of it, it was referred to the committee just appointed on our military establishment.

*Mr. Pickman* moved that the petitions of a number of collectors, presented at the last session, on the subject of the duty on salt and a bounty to fishing vessels, be referred to the committee of Commerce and Manufactures.—Agreed to.

*Mr. Lewis* presented the petition of sundry persons praying that a turnpike road may be established from the city of Washington, on the most direct route, to Baltimore.—Referred.

*Mr. M'Kim* presented the petition of a number of hatters of Baltimore, praying that a duty may be laid on imported hats.—Referred

*Mr. Van Horn* moved that the committee on the District of Columbia be instructed to enquire what amendments are necessary in the act concerning the District of Columbia. He stated his object to be to obtain an amendment of the judiciary system of the district.—Motion agreed to.

*GUN-BOATS.*

*Mr. Pitkin* observed that by a report received yesterday from the Navy Department, the House were informed of the state and condition of most of the frigates and other armed vessels of the United States. The House had heretofore, from calls made on the Secretary of the Navy had information laid before them of the expence of building and repairing these frigates and other armed vessels; but never, to his recollection, had any statement from the Department of the expense of building the gun-boats or any account of their actual expence while in service been laid before them. Various *estimates* had been made of their expence while in service; but the House never had before them any statement of the *actual expence*. For the purpose of obtaining this information he asked leave to move

"That the Secretary of the Navy be directed to lay before the House a statement of the number of gun-boats which have been built, and the expence of building the same; also of the number employed in actual service, the time they have been employed and their expence while in actual service."

This motion, after some conversation between Messrs. Dawson, Dana, Pitkin, Lyon, Bacon and W. Alston, was agreed to without a division.

*VOTE OF APPROBATION.*

*Mr. Randolph*, after some prefatory remarks, which shall appear in course, offered the following resolution:

"*Resolved*, That the promptitude and frankness with which the President of the United States has met the overtures of the government of Great Britain towards a restoration of harmony and free commercial intercourse between the two nations, meets the approbation of this House."

The House agreed to consider the motion.

*Mr. Bacon* moved to amend it by adding at the end of it the words—"*and furnishes an additional proof of the spirit of accommodation on the part of the government of the United States, which has at no time been intermitted.*"

*Mr. Bacon* then moved that the resolution and amendment be referred to a committee of the whole.

*Mr. J. G. Jackson* made a motion which superseded *Mr. Bacon's*, to postpone it indefinitely.

To this motion *Mr. Randolph* objected at considerable length, and Messrs. Holland, J. G. Jackson, and Findley replied.

When, after a debate of three hours or upwards, a motion was made to *adjourn* and carried.

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*Saturday, May 27.*

On motion of Mr. *Basset*, a committee was appointed to act with such committee as may be appointed by the Senate on their part to enquire and report what business was necessary to be done before the close of the present session.

On motion of *Mr. Burwell*,

*Resolved*, That the President of the United States be requested to cause the Secretary of War to lay before the House an estimate of the sum necessary to complete the fortifications commenced and contemplated; and also the amount of deficiency of appropriations heretofore made for this object.

SWEDISH AND PORTUGUESE VESSELS.

On motion of Mr. *Newton*, with the consent of Mr. *Randolph*, the unfinished business of yesterday (the resolution on the subject of the late negotiation) was ordered to lie on the table; and

The House resolved itself into a committee of the whole, Mr. MACON in the chair, on the bill respecting the ships and vessels of subjects of foreign nations with whom commercial intercourse is permitted; which having gone thro' the committee of the whole was ordered to be engrossed for a third reading; and afterwards passed without objection.

VOTE OF APPROBATION.

*Mr. Randolph* called for the consideration of the unfinished business of yesterday; and on the question, will the House resume the consideration of the subject, the House divided 54 to 54; and the Speaker voting in the negative, the motion was lost.—Mr. Randolph subsequently gave notice that he should call it up every day during the session if he had an opportunity, and require the yeas and nays each time, unless the House should agree to take it up.

The House proceeded to the choice of a chaplain, on motion of Mr. Stanford. On the first ballot, Mr. Pickman reported that there were for Mr. Jesse Lee 55, Obadiah Brown 43, Mr. Laurie 15, and for others 6. On the second ballot the Rev. Jesse Lee having 70 out of 114 votes, was declared to be elected.

SEDITION LAW.

Mr. *Stanford* proposed the following resolution:

*Resolved*, That the committee appointed to enquire into what prosecutions for libels at common law have been instituted before the courts of the United States, be instructed to enquire what prosecutions for libels have been instituted before the courts of the United States under the second section of the act entitled an act in addition to an act entitled an act for the punishment of certain crimes against the U. States, passed the 17th day of July, 1798, and into the expediency of remunerating the sufferers under such prosecutions.

Mr. *Sawyer* moved to amend it by adding the words "and that the committee also enquire whether any and what private compensation has been made to such suffering persons."—Negatived without a division.

Mr. *Ross* moved the following amendment: "and also to enquire whether any and what compensation and remuneration should be made to persons who suffered or were punished in consequence of opposition to the act to lay and collect a direct tax in the United States."

After debate,

*Mr. Rhea (T.)* moved that the further consideration of the subject be postponed indefinitely.—Motion carried by Yeas and Nays, 63 to 50.

[Debate hereafter.]

RULES AND ARTICLES OF WAR.

Mr. *Randolph* offered the following resolution, prefacing it with remarks at some length on the subject of the present rules for the government of the army:

*Resolved*, That a committee be appointed to take into consideration the act, entitled "An act for establishing rules and articles for the government of the armies of the U. S." and report whether any and what alterations it is expedient to make in the same; with leave to report by bill or otherwise.

The motion was agreed to without opposition.

And, after rescinding the rule under which the House meets at *ten* o'clock intsead of 11, the House adjourned.

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COMMUNICATION.

Mr. Randolph's observations on Wednesday the 24th of May, as reported in the National Intelligencer of Friday the 26th, have been much misunderstood. Among other misapprehensions, the reporter is mistaken in supposing that Mr. R. spoke "of Gen. *Wilkinson* and Col. Burr as the Pope and the Pretender." Mr. Randolph did not pronounce Gen W's name! neither did he say that "we shall have no more alarms of treason and no more terrors of rebellion"—but that "we shall have no more enforcing embargo laws, no more bills for suspending the writ of habeas corpus, no more *new editions of the law of treason*." These are some of the most prominent mistakes in that report.

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Sir David Dundas is appointed Commander in Chief of the British army.

The following changes, we are advised by the London prints, are to take place in the British ministry:

Sir James Pulteney to retire from the office of Secretary at War, and to be succeeded by the right hon. Charles Long.

Mr. Sturges Bourne, to succeed Mr. Long as Paymaster of the forces.

Mr. Bourne's successor, as a Lord of the Treasury, is not yet appointed.

A new expedition, under the command of Sir Authur Wellesley, was about to sail to Portugal for its defence.

A Congress is to be held on the banks of the Inn, where the Emperors Francis and Napoleon are to meet.

A treaty is said to have been concluded between France and Persia, by which the latter is to cede to France an Island in the Persian Gulph.