

# Supplement to the AMERICAN,

AND

## COMMERCIAL DAILY ADVERTISER.

FRIDAY MORNING, OCTOBER 14, 1803.

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AND

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### FOR THE AMERICAN

In your paper of the 28th September you published the following paragraphs from the LONDON-TIMES.

"Suppose each boat on an average contained 33 soldiers, with all their requisites and navigators. Each of these boats must occupy a length of between 16 and 20 feet at least, and breadth of between 20 and 25 feet at least, for as they are all boats impelled by oars, there is the breadth of the boat, and the extent of the oars beyond the side. There must be likewise a certain space allowed for the working of these boats which must be a head, and along side of each other, that they may keep clear. I shall suppose, therefore, under all these considerations, that for three boats, which convey 100 men only, the space of 100 feet square may be computed necessary, on the average; which is but a reasonable space. Consequently, the boats to transport

600,000 men will occupy about 11 1/4 square miles, 70,000 men, 13 1/2 square miles, 100,000 men, 19 do.

Therefore, the whole sea, from Calais to Dover, would be covered by them except two miles in length, and an equal space in breadth.

"100 feet square, the space which he calculates to be sufficient for three boats and their complement of men, will give an area of three hundred thirteen millions, three hundred twenty thousand square feet: then if 10000 square feet give room for 100 soldiers what will 313,622,000 square feet give? that will yield three millions, one hundred thirty three thousand, three hundred and twenty men—so much for the calculator's error respecting the eleven & quarter square miles. His other calculations are equally erroneous. He was led into that error by ignorance or design. If the first, he is very excusable; for if the boats were to be fixed in a straight line allowing 100 feet in length for three of them, they would then hold in that string of eleven and one quarter miles 59400 men; and were that string to be only thirty feet wide it would want some fraction of being one square mile.—His calculation respecting 19 square miles is also wrong, for that space agreeably to his own data would contain five millions, two hundred ninety six thousand, eight hundred and ninety six men, and each man could enjoy ten feet square of boat and sea room.

"Another of his paragraphs begins thus: 'The Country is so intersected with canals, ditches and hedges that it is like the out works of a fortification,' &c. this puts me in mind of the complaint which the British made to Doctor Franklin, respecting the militia at the battle of Lexington, firing at the king's troops from behind stone walls and hedges; the Doctor asked them very laconically, 'had not these stone walls two sides?'

All these British calculations are of a piece with the 100,000 men embodied in London and Westminster!!!

A. B.

From the NATIONAL INTELLIGENCER.

### Concerning the Washington and Jefferson Judiciary System.

The present government of the United States, (legislative and executive) has been most vehemently attacked upon the subject of the judiciary department. What have they done? In the year 1789, the first judiciary law and the first judiciary system of the United States was framed by Mr. Adams, Mr. Elsworth, governor Strong, judge Patterson, Mr. Vining, doctor Johnson, judge Bassett, Mr. King, governor J. Henry, Mr. Carroll, Mr. R. H. Lee, governor Johnston and Mr. Few in the Senate. Mr. Elsworth was the draughtsman of the first judiciary law, passed in the presidency of, and approved by Washington. The Adams judiciary law of 1801, deprived the judges of the supreme

court of the United States, of their right and power of original jurisdiction in nearly all matters affecting the persons of the citizens and of private foreigners, and nearly in all matters relating to private property, private contracts, commercial transactions, &c. also in cases where the United States are a party; and in short nearly the whole of their power to hold jury trials, and to entertain originally private and criminal suits: That law, in fact, deprived them of the powers, offices and duties of judges of the circuit courts of the United States. It left them only judges of the appellate court in federal and private cases, and judges of the court for certain public cases. Thus did the judiciary act of the legislature of 1801, with the approbation of president Adams, abrogate the body and substance of the powers, duties and offices of the judges under the judiciary system of the United States, as it was formed, adopted and established by the Washington administration. The exception against the judiciary law of the United States and against the Jefferson administration is, that they abrogated this alteration of the Washington judiciary system of 1789, by the restoration of their circuit and original powers, duties and offices to Messrs. Marshall, Cushing, Paterson, Chase, Washington and Moore.

It is a part of the powers and duties of the legislature to give a right constitution to the courts of law. If one legislature could deprive the present judges though appointed for life, of the far greater part of their powers, or in other words of their respective offices, the question occurs whether another legislature could not and ought not to restore those powers to them in their original form, substance and extent. Had any of the six supreme judges died or resigned after the Adams judiciary law of 1801, the restoration of the Washington system into the hands of the judges appointed for life under it would have become impracticable; but happily for the constitution they all remained alive to be restored to the places to which they had been commissioned for life. If the principles on which the arguments against the last repealing law are found to be sound, this reasoning as to the Washington system and the original judges is conceived to be irrefragable.

The power to modify the courts of law, was exercised with a strong hand by the framers of the Adams law of 1801, in the case of the six judges of the supreme court of the United States already stated. But in the cases of the district judges in the several states, a no less strong hand was applied by the framers of that act, for they deprived all those sixteen district judges of their powers, duties and offices as judges of the circuit courts of the United States. This was done by the new modelling of the Washington circuit courts. Thus did the Adams system of 1801, turn all the judges of the circuit courts of the United States off the bench, up into the supreme court, or down into the district courts.

To shew, in the strongest light possible, the unreserved manner in which the legislature of 1801, with the consent of president Adams, exercised a controul over the constitutions of the courts and over the offices of the judges appointed during good behavior, and of course (with good behaviour) for life, the 24th section of Mr. Adams's judiciary law need only be examined. As it will not be credited, that Mr. Jefferson and the legislature of 1801-2, could be censured by any man, who passed or contemned that 24th section, its own words (as in page 242 vol. 5 U. S. laws) are given: "And be it further enacted, that the district courts of the United States, in and for the districts of Tennessee and Kentucky shall be and are hereby abolished; and that all and singular the powers, authority and jurisdiction of the said courts (that is the whole powers and offices of the two annihilated District judges of Kentucky and Tennessee) shall be and hereby are vested in and shall be exercised by the circuit courts, by this act directed to be holden, in and for the districts of East Tennessee, West Tennessee and Kentucky respectively, within the limits of their respective jurisdictions; and that the circuit judges to be appointed for the sixth circuit, aforesaid severally shall be invested with possess and exercise all and singular the powers,

now vested by law in the district judges of the United States."—That is, the new circuit judges were invested with the very and proper offices of which the district judges were deprived.

After a calm and attentive perusal of this 24th section of Adams's judiciary law of February 1801, whereby two judgeships for life are abolished, let this honest and judicious nation pass its high sentence on those, who declare it to have been unconstitutional in the Jefferson judiciary to restore those two district judges to their seats in the district and circuit courts, and the six supreme judges to their seats in the circuit courts, according to the Washington judiciary law of September 1789.

### JURICOLA.

From the American Daily Advertiser.

[In our paper of the 10th of August last, [see American of August 9.] we inserted an extract from the Charleston Courier respecting the Vision and Death of LORD LYTTLETON. Having since seen several manuscript accounts of the same events, differing materially from that publication, but which appeared to be very incorrectly copied, we have sought for, and obtained, the original writing from which they had been transcribed, and now present a faithful copy of it to our readers.—The original (at present in our possession) is in the hand writing of Mrs. M—K—, a lady distinguished in the literary world for her piety and her learning, and for her dispute with the celebrated Dr. JOHNSON, on the right of private judgement in matters of religion. Admiral WOLSELEY, who was with Lord Lyttleton when these extraordinary events occurred, verbally narrated to Mrs. K—, who wrote them down, in his presence, for Mr. W—S— of this city, who was in England in the year 1798.]

### "A BRIEF ACCOUNT OF THE DEATH OF THE LATE LORD LYTTLETON.

"Some time about fifteen or eighteen years since (dates not just recollected) Lord Lyttleton, on the fifth day of the week, came down to breakfast with his family, consisting of the widow Flood and three young women his cousins, all of them of doubtful character. He said he had had, that night, a very frightful vision:—that a lady had appeared to him—that she opened the curtains of his bed, and bid him prepare himself for death. He started up in terror—incoherently saying—'What shall I not live three days? to which she replied—'No, you will not live above three days'—and vanished. This awful account frightened the women and they fell a crying; he, though secretly agitated, pretended to disregard the matter—laughing at their credulous folly and professing to have no sort of belief or apprehension about it. Soon after Admiral Wolseley and a gentleman his cousin, of the name of Fortescue, came in, and he related, jocosely, what he told as above;—they listened, but pondered it in their minds—so did his attendant Valet. However the subject changed—he proposed going with his ladies on seventh day (that is the last day of the visionary prediction) to his country seat at Pitt's place, near Epsom, and offered the two gentlemen his chariot to follow them to dinner there on that day.—They agreed to the proposal—went there accordingly, and joined in great, real or at least affected, jollity at the festive board; Lyttleton being more than usually loquacious and desultory in his conversation—reciting the probable remarks that would of course be made whenever the news of his death should be announced. Among his gaieties, perceiving the women to be languid & gloomy, he took one of them and danced a minuet with her—then taking out his watch and going up to the win-

dow—"Look you here, it is now nine o'clock, according to the vision 'I have but three hours to live—but don't you mind this Madame Flood—never fear—we'll jockey the ghost 'I warrant you.'"

Still continuing in this seeming gaiety till eleven, he called for candles to go to bed—an hour unusually early with him, as he used to sit up as long as he could keep his companions about him—but his pretence to retire was because he had planned for the party to ride to breakfast early at Epsom and spend the day riding to survey the adjacent country. Soon after his retreat, the women took their candles and went off;—the two gentlemen were determined to sit in the parlour till the three predicted days were fully over, and got some Negus to comfort themselves. In about half an-hour after eleven, they received the sudden shock of a loud scream from the stair case, uttering these words—"He's dead?—Oh my Lord is dead!" Instantly running up stairs, they found him in bed—fallen back and struggling; the Admiral put his hand to him, which the dying man grasped with such vehemence that it was painful to endure;—but he spake no more—his eyes were turned up and fixed.—They pierced the jugular vein; but no blood issued, and he was totally dead about one quarter of an hour before midnight!

The Admiral, to this account, gave me the following remarkable particulars:—That at the distance of 30 miles from Pitt's place, where this melancholy scene happened, there lived a gentleman—one of the libertine companions of Lord Lyttleton; and they had so settled, that which ever of them died first the survivor should receive one thousand pounds. On this very night (being in bed and asleep previously) he rang his bell about one o'clock with great violence. His Valet de Chambre ran to him with all speed, and the following dialogue ensued, as nearly as can be recollected—

Servant. Dear Sir, what is the matter?

Master. [Sitting up in the bed, with a countenance full of horror] Oh John! Lord Lyttleton is dead?

Servant. How can that be—we have heard nothing but that he is alive and well.

Master. No, no—I awoke just now on hearing the curtains undrawn, and at the foot of the bed—stood Lord Lyttleton as plain as ever I saw him in my life. He looked ghastly, and said—"All is over with me! You have won the thousand pounds"—and instantly vanished! Get a horse, and go this moment to Pitt's place—you may perhaps get intelligence of him there.

In consequence of these orders, the Servant arrived about seven in the morning—told the Admiral and family the above particulars, and hastened back to his agitated master.

From the Aurora.

The release of Mr. Getchell, the citizen of the United States, pressed out of the sloop Highland, is a proof that he has been unlawfully seized, & detained from his family and business. The sloop was an American bottom, in the coasting trade, with Military stores for the U. States, bound to the seat of our national Government. Mr. Getchell is the father of a family, which has been deeply afflicted. If our ships of war were to press Americans in Philadelphia as they press Americans on their coasts, or Englishmen on our coasts, or Englishmen in Cuxhaven, as they pressed Americans, their government would certainly be loud in their complaints. We see from the conduct of Mr. Rumbold, that the official representation of our consul, Mr. Forbes, is affected to be treated as improper and ill-timed. It has been said here, that Mr. Forbes must be a man of improper political sentiments, or he would not have interfered. If America witness a continuance of such conduct, it will tend justly to alienate her from the

government of Great Britain. It is our right to have our vessels exempted from search for any thing but enemies property, the persons of enemies, and goods contraband of war.—Neither the law of nations nor our treaty with England, justifies a British captain of a ship of war, in searching an American vessel for any other kind of object, than those three. They are not allowed by the law of nations, or by treaty to search American vessels for Englishmen, much less for Americans. This country feels every form of tyranny exercised upon it, & the whole nation participate with its maritime citizens seized under those circumstances. It is true that war and all other harsh measures are desired by the people to be avoided, but many remedies occur, for consideration their minds, such as negotiations.

A law to prohibit all intercourse with any such commander of a foreign vessel or his vessel, until restoration of our citizen and double damages shall be made and paid.

An action of damages in our courts against such commander, or if an action will not lie there, then in England.

The suspension of the execution of the consuls on the expiration of the treaty; Or if we have no treaty of commerce or even if we have one;

Declining to receive a minister until certain provision on this subject shall be made;

Seizure of a foreigner of the offending nation and compelling him to maintain our seized citizen and his family until restored and to indemnify him in double damages.

It may be observed, that these would be strong measures, but surely a remedy must be had for the unlawful seizure of our citizens in our own vessels, and for the interruption of our commerce and navigation, by taking away Englishmen willingly and lawfully bound to us for the voyage. Englishmen hold Americans to their contracts and Americans must hold Englishmen to their contracts. Both sets of contractors should stand or fall together. Government wish to impair the obligations of our contracts with Englishmen. The English should not wish to impair the obligations of their contracts with us. An English officer must take care at his peril, not to put our property in vessels and cargoes at risk by taking any contracted seamen of our vessel out. If he may take one, he may take all. If he takes sailors, he may take officers and passengers. The British may thus interrupt our voyages, and throw the trade of the world into the hands of their own people. It will be suspected that this is a part of their design. It will have the worst effect upon their standing in this country. They treat us with peculiar indignity and hardship in this respect. They do not so act towards any other neutral nation. They say they cannot distinguish Americans from Englishmen. They let them leave all men untouched whom they cannot prove to be Englishmen. It is insufferable for an American to be seized on suspicion of his being an Englishman.—It is a palpable and monstrous tyranny, for which if continued Great Britain will sustain a resentment daily increasing in this country.

An English writer, on the subject of commerce, says, "It is a very serious question, whether we ought to take the French, Dutch and Spanish colonies, to be given up in a flourishing state at a peace, after absorbing so much British capital in their cultivation and government, and considering the thousands of our most promising countrymen to whom they prove a grave. It would, perhaps, be better to receive their produce, offering neutrality to all these colonies in their intercourse with our islands, but affording them no other species of neutrality and holding them blockaded in every other sense. Thus, we would preserve our capital for our own possessions, which would be the medium of the supply and communication with these colonies; and the expense of the government of the latter would be saved as well as the lives of troops and settlers."

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