

Courtesy of the Bostonian Society.

Benjamin Austin, Jr., as painted in late life by Ethan Allen Greenwood. This portrait, of which the City of Boston owns a copy, hangs in the Old State House.

BENJAMIN AUSTIN, JR.'S STRUGGLE WITH THE LAWYERS

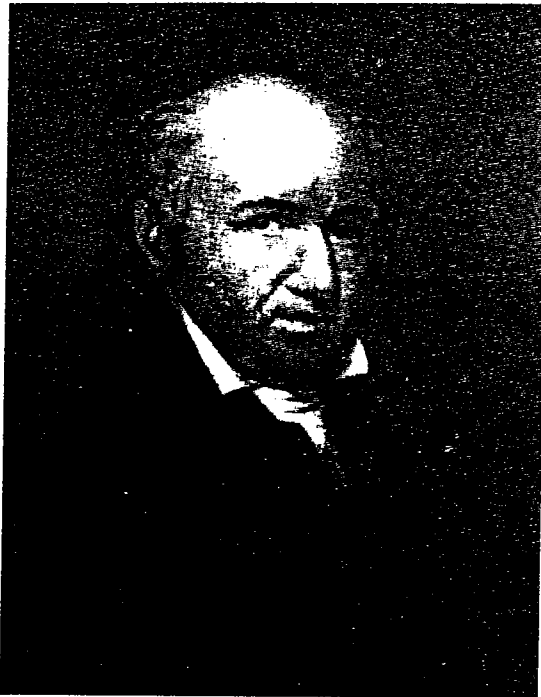
by Frederic Grant, Jr.

The historians Samuel Eliot Morison and Charles Warren, both of whom studied the Boston newspapers of the early years of the Republic, agreed that "never has political partisanship been so virulent, or language so vituperative," as that which appeared in the papers during the years of struggle between the Federalists and the Republicans.¹ A notable early engagement in that long and wide-ranging contest, public agitation for the total abolition of the lawyers, took place in Massachusetts in 1786. In that year a young Republican politician, Benjamin Austin, Jr., contributed a number of letters to the Boston newspapers under the signature of "Honestus," on "the pernicious practice of the law." His writings, and the stern remedy sought, provoked a furious letter-debate, which ran to some 150 letters in the Boston

EDITOR'S NOTE:

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From the Mass. L.Q., 1953.

Isaac Parker, Justice of the Supreme Judicial Court, presided at the trial of Thomas O. Selfridge for killing Charles Austin.

newspapers of that year. This debate is important as an extended early statement of objections to and defenses of the American bar, and also as one of the inspirations of Shays' Rebellion, a rising of agrarian debtors in western Massachusetts, which broke out with the forcible closing of the courts at Northampton that summer. The recent memory of Shays' Rebellion, which persuaded many people of the need for a stronger central government, hung over the deliberations of the men who drafted the United States Constitution the following year.² The writer of the letters signed "Honestus" had a long career nettling the Boston bar, both as a political writer and as a politician. The history of his struggle with the lawyers may help modern lawyers keep present-day attacks on the profession in perspective.

The would-be scourge of the lawyers was born in 1752, the younger son of Benjamin Austin, a prosperous Boston ropemaker who was both a town leader and a political ally of Samuel Adams. The young Austin introduced himself to the field of newspaper-debate with pseudonymous writings for the Adams cause, first on the state of trade, as

"Friend to Commerce," and later on the subject of the tories, as "Brutus."³ A man of strongly felt opinions, which he rarely felt constrained to keep private, Austin flourished in the angry print debates of his day. His letters as "Honestus" appear to have launched Austin's political career, as he was first elected to the Massachusetts Senate the following year. He was returned to the Senate each year from 1789 to 1794, and in 1796, and he held other public positions, including a Presidential appointment as Loan Commissioner for Massachusetts from Thomas Jefferson.⁴ Through his life Austin was a prolific writer and advocate for the Republican cause, notably as "Old South" and "The Examiner" in the *Independent Chronicle*. The frequency of and length of time over which Austin's writings appear in that newspaper serves to credit the suggestion that he had served as an editor of the *Independent Chronicle*, "one of the great guns of Democracy in the days of Jefferson and Adams."⁵

The reasons for Benjamin Austin, Jr.'s attack on the lawyers as "Honestus," and for his subsequent writings against the profession, lie in his political beliefs, his evident goals in politics, his personality, and the practices of lawyers in the 1780s. As significant as Austin's 1786 demand for the "annihilation" of the profession is his gradual retreat from that position over time, despite insistence that he would retract nothing. In a letter of early 1787 denouncing Shays' Rebellion, "Honestus" said that he stood by his earlier words. "My sentiments have ever been uniform, having never ADDRESSED a Sun in its Meridian, and RECANTED when the luminary began to decline."⁶ Yet a moderation over time is impossible to miss, through the several revised versions of his political pamphlet of 1786, *Observations on the Pernicious Practice of the Law*. The call for "annihilation" of the lawyers in the 1786 edition, and their "abolition" in the 1814 edition, is softened to "regulation" in the well-known pamphlet of 1819. The "Honestus" of 1819 would no longer abolish the bar.

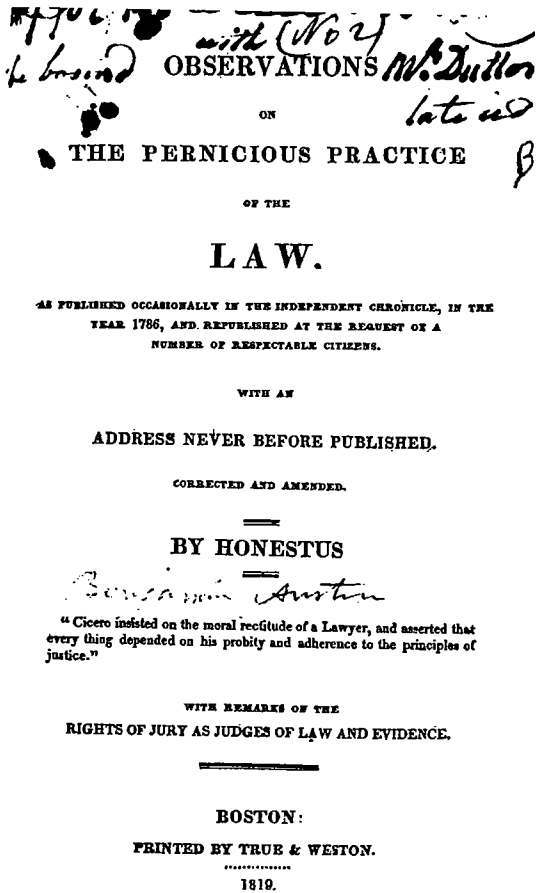
The principal explanation for Austin's extreme initial position, and for his gradual change in succeeding years, lies in his strong, egalitarian Republican political beliefs. Benjamin Austin, Jr. was engaged in a lifelong struggle against the forces of privilege, which he saw as allied in the Federalist cause. Austin placed his confidence squarely with the people, and he regarded the activities of the

moneyed and influential classes with suspicion. He opposed powerful, centralized government, in favor of a simpler one, which would be closer to the governed. Austin's political ideas are marked by the distrust of growth and uneasiness over rapid development that mark the thought of a number of aging members of America's revolutionary genera-

tion. In his efforts for law reform Austin was true to these ideals, seeking simplification of the laws and the elimination of a body of men who appeared to hinder, rather than promote, justice. His vision of the new society did not include lawyers. Austin's position was essentially conservative and in conflict with the growing complexity of the American nation. When his efforts as "Honestus" appeared to bear fruit in social upheaval, Austin held to his belief in the Republic and defended the new structure of society. While he ultimately recognized that lawyers were needed in such a complex society, Austin always maintained that reform of the legal system was needed.

According to his opponents, Austin agitated against the lawyers purely for political advantage, so that he could make a name as a champion of the people.⁷ Other advocates for the lawyers, however, admitted that the period of the 1780s had seen some dreadful excesses by the weaker members of the bar.⁸ Austin claims that these excesses disappeared over the next thirty years.⁹ This development, along with Austin's success as a politician, may explain the gradual softening of "Honestus'" position over time.

In addition to his political ambition, high Republican ideals, and anger at the conduct of the lawyers, Austin's personality naturally inclined him toward controversy. He is reported to have been an inspired and fiery speaker, and in his writing he enjoys running *ad hominum* battles with his adversaries, although he always would insist that he noticed "every individual in his *political* character."¹⁰ Austin had at least one public clash with his highly successful older brother, a "row" about the family pew in the First Church, "which greatly irked the church."¹¹ In 1792 he so provoked Benjamin Russell, the editor of the *Federalist Columbian Centinel*, that Russell cursed Austin and spat in his face in the middle of State Street. Austin brought suit for this affront, and the meagre twenty shilling recovery he received for injury to feelings and honor became only another subject for derision by his enemies.¹² Probably most infuriating of all to substantial local citizens was Austin's response to efforts in 1792-1793 to establish a Boston police force. He maintained that such a force would "destroy the liberties of the people," create a "chain of Aristocratic influence," and that the resulting tax burden would be thrown entirely on the poor. He engineered the proposal's defeat at a town meeting at



Courtesy of the Social Law Library.

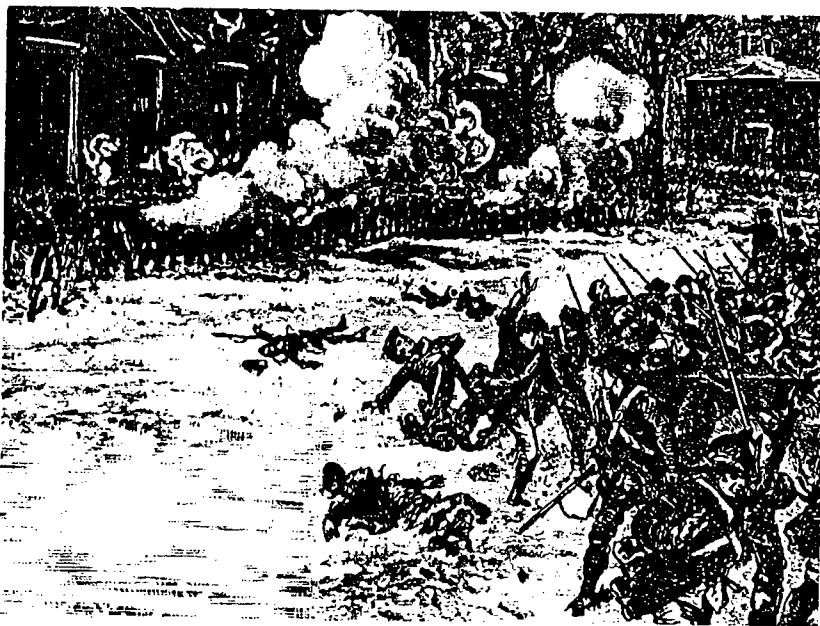
Title page of the 1819 version of the *Observations on the Pernicious Practice of the Law*. This pamphlet collection of "Honestus'" newspaper essays, which has been reprinted, is both the most moderate and best-known of Benjamin Austin, Jr.'s writings on the law.

Faneuil Hall. John Quincy Adams wrote in disgust that the session had been flooded with seven hundred men, "who looked as if they had been collected from all the Jails on the continent, with Ben. Austin like another Jack Cade at their head."¹³

Austin's life-long struggle with the lawyers began in 1786, a year of exceptional economic troubles. The State of Massachusetts was suffering greatly from heavy public debt, taxation, and slow trade, although suits to collect private debts provided considerable unpopular work for lawyers. In 1784 in Hampshire County every fourth man faced a suit for debt. In the three years from 1784 to 1786 the Supreme Judicial Court handled 3,800 cases for the recognizance of debts that had been upheld by the Courts of Common Pleas.¹⁴ A writer in the *Massachusetts Centinel* commented on the attraction that the practice of law exerted on the young under these conditions. "The profession of Law in this state is very much crowded; one fourth part of the number of attorneys now in practice, would be amply sufficient for all the business there is done. Still young gentlemen are crowding into the profession, as though they thought the whole community, would live by practicing Law."¹⁵ The unpopularity of the

"young pettifoggers" with which "we abound" is plain in the newspapers of the winter of 1785 to 1786.¹⁶ When "The Free Republican" offered an approval of the profession in January of 1786, he must have expected a response. "Wherefore, as the science of the law is intricate and perplexing, and cannot be obtained but by long and steady application, professors and practicers of it, seem a necessary order in a free republic."¹⁷

"Honestus," a pseudonym that Austin had used before for other topics, came forward a month later to deny "The Free Republican's" claim, and to seek hard measures against the practice of law.¹⁸ "That no Lawyers be admitted to speak in Court, and the 'order' be abolished, as being not only a USELESS, but a DANGEROUS body to the Republic." Austin opened with a severe charge to support the harsh measure sought, claiming that "many" practitioners sought to "perplex and embarrass every judicial proceeding," strove to render "intricate even the most evident principles of law," studied "every method to entrap those who are acting upon the unguarded sentiments of honour and equity," and stood ready to take advantage of "the lenity and indulgence of an honest creditor," with the end of depriving that



From Butterfield's
The American Past.

Complaints about the law and the economy became action with the outbreak of Shays' Rebellion in August 1786. The writings of "Honestus" have long been blamed for the rebellion, which was suppressed shortly after the rebels' unsuccessful attack on the Springfield arsenal in January 1787.

"honest man . . . of three quarters of his property." He asked the people of the state to instruct their representatives to vote for the abolition of the "order" of lawyers, for a law to make arbitrations binding, and for the elimination of the English Common Law in favor of American codes, which would be comprehensible to the citizen, who would in the future handle his own case.¹⁹

Austin's stand was promptly challenged on both substantive and personal grounds. The defenders of the lawyers knew their enemy and attacked him directly, addressing him as "Ben," and suggesting that the purpose of his drive was to improve the political position of his family.²⁰ While Austin, and his trade as ropemaker, received considerable direct attention, a second target was found in the person of John Gardiner. The claim was made that Gardiner, Boston's only Temple Bar-trained lawyer, had prepared the attack on the lawyers for Samuel Adams, "who afterwards worked them up, and then sent them to another person who polished the whole and published the same under the signature of *Honestus*." This Gardiner denied, as "Barebones," but the denial was limited, noting that neither he nor his son (who had been rejected in his application to study with the Suffolk bar in 1784) "hath any good reasons to venerate the unjustifiable combinations and practices of the *self-created legislature*, known by the name of the *Bar-meeting*," and that far from being responsible for pending legislation to abolish the Courts of Common Pleas, rather he had drawn up reform legislation of his own, "which may appear in due time."²¹ Gardiner, who had served as an assistant to Lord Mansfield and as Attorney General on the island of Saint Christopher, was highly unpopular in Boston as the local who had trained abroad and dreamt of reform.²² He had no love for the Suffolk bar and every reason to help Austin. Gardiner's probable role in the writing of the letters of "Honestus" explains knowledge of the law which Austin had to have acquired somehow. The presence of a number of "Honestus'" arguments and proposals in Gardiner's reform plan, which he introduced to hornet-like opposition in 1790, also argues a connection.²³

"Honestus" fundamental position was anti-lawyer and pro-judiciary. It was challenged from several angles. Several writers addressed his insistence that he attacked the "general practice" of the "Order" only, his recognition that there had been and were

lawyers "of high esteem and confidence," and maintained that Austin's remedy was out of proportion to conceded limited abuses. "Let us retain the *employment*, but destroy the *evils* of it."²⁴ There was a mighty clash over "Honestus'" contentions about excessive fees, and ridicule of the idea of the common citizen presenting his own case. "But if a person should behave with awkwardness, and foolishly attempt a business to which he should prove to be totally lost, who would blame us if we chanced to smile?"²⁵ Suggestion of the adoption of a code of laws, "a plain concise system, calculated upon the *plainest principles*, and agreeable to our Republican government," was met with claims that it would neither improve the laws nor reduce their bulk, while costing a great deal to implement.²⁶ Republican confidence in the judiciary, a foundation of Austin's design for the elimination of the lawyers, was repeatedly challenged by advocates of the bar as a necessary balancing force. "A Twig of the Branch" chose not "to lay much stress upon their liability to bribes," rather stressing the judiciary's liability to error, motives to mislead the jury, and the problem that an enlarged body of judges would involve "all the inconveniences of a professional order."²⁷

What proved to be "Honestus'" greatest problem was a divided constituency. As the advocate for the "annihilation" of the bar, he spoke for the interests of both debtor and creditor, upset as both were with the apparent good fortune of the middleman in their mutual disputes. Austin's call to arms speaks explicitly of "the lenity and indulgence of an honest creditor," which through the agency of a crafty lawyer might cost that "honest man" some "three quarters of his property." On the other hand, as a Republican spokesman for the poor and laboring classes, he spoke for their rather different grievances against the lawyers. Austin in his role as advocate for the poor raised questions that are still heard today. "Can the poor man (who cannot pay any of this 'order') receive *equal advantage* with the rich, while such a body of men exist, who stand ready to speak on *any subject*, and like mercenary troops, can be hired to support any cause for the consideration of a large reward? Will not the rich opponent *overpower* the poor man, by the greatness of his gifts to the lawyers?"²⁸ The debtors were uninterested in law reforms which would facilitate collections by their creditors. The political mood shifted far past what Austin desired when his calls

for political reforms were rejected, and notices abusing him in the newspapers took the form of funeral notices.

YESTERDAY

Expired,

The presumptuous, contemptible
Modern THERSITES, alias Honestus.

His death was occasioned by a violent kick a
posteriori which precipitated him HEADLONG

from the stilts of

VISIONARY POPULARITY,

Whereby in the fall he fractur'd the

Empty bubble of his cranium,

and crush'd

His crazy frame.

Let

This be a warning to madmen of his cast not to
climb without placing their ladders on a

Sure foundation.

His funeral, we are informed, will be

PRIVATE;

For having justly incurr'd the contempt

Of

All ranks of men,

He has not a friend to mourn, no

Not even

A faithful cur

To—lift up his leg

Over his

Grave.²⁹

The outbreak of Shays' Rebellion in August, two months after "Honestus" had offered his last comments of 1786 on the lawyers, put his agitation in a bad light, and brought even more harsh comments from his critics.³⁰ Austin's silence during the second half of the year appears to have been more a matter of impossibility than disinclination, for letters during the duration and after his reappearance accuse him of having travelled to England during the period (probably on business connected with his ropewalk). "Anti'-Honestus" asked in September 1786, "Where is their *Goliath in mischief, Honestus?* Gone to receive an award from *their leaden king.*"³¹ When "Honestus" did reappear in print, to denounce the "daring outrages" of the rebellion in early 1787, he was met with the charge of having been abroad at the hour of crisis. "Suffolk" mused that "Honestus" ought to have considered a more moderate tone before, but observed that "it is said to be an Englishman's policy to think a day too late: and perhaps you acquired this after-wit from your residence in the English climate."³²

However strong the language of his opponents, Austin still had a determined public following. Election to the state senate just months after his letters of early 1787 shows public acceptance of his insistence that his charges had been responsibly stated, and his reiteration that while the laws are "a blessing," the lawyers, "according to the present prevailing practice, are a CURSE."³³ Through the remaining years of his public life and writings Austin's relations with the lawyers did not improve. Typical of his later writings was a column in which



Courtesy of the Social Law Library.

The Independent Chronicle, which Austin may have edited, was the primary vehicle for his pseudonymous writings on public topics. Masthead of the issue of June 21, 1804, in which "The Examiner" mocked the founding of the Social Law Library.

From the Mass. L.Q., 1953.



Thomas O. Selfridge and Charles Austin met before the Old State House, in which Selfridge had his office, just three years after this view was painted.

"The Examiner" noted the festive meeting which had marked the founding of the Social Law Library in 1804. Austin viewed the establishment of a law library, when lawyers already had "numberless volumes sufficient to embarrass every question in law," as unnecessary and a sure sign of devious purposes. "Whether we have not already *law quibbles* enough, without ransacking the tombs of the Henries, is a question which every well disposed citizen will answer in the affirmative." He ridiculed toasts offered at the dinner.

It is true, we have one specimen of wit, exemplified in this toast - "The *Common Law* to our people - the *Civil Law* to our friends, and the *Canon Law* to our enemies." - This I acknowledge has a little spice of humor, at the first appearance: but it partakes of a hostile threat, which may not in the end prove very salutary to society. Do you mean gentlemen, to try the *people* by the "*Common Law*," and not by the *Statute Laws* - To judge your friends by the *Civil Law*, and destroy your enemies with the *CANNON LAW*? that is, *blow their brains out* - alas, HONESTUS, what will be your fate!!! If this is *Law wit*, the Lord deliver the people from participating in the entertainment.

Austin voiced approval of one dinner toast, that "all lawyers may become honest men," but expressed doubts. "We heartily join you in this request to heaven, but remember, gentlemen, it contains more reason than wit."³⁴

It is unfortunate to record that "Honestus" did meet such a fate two years later, when a dispute between Austin and a Federalist lawyer resulted in the lawyer, Thomas O. Selfridge, shooting Austin's son dead in the middle of State Street. This was "Bloody Monday," an event which led to a well-publicized trial and a lasting memory which has been compared to that of the Sacco-Vanzetti trial in this century. The senior Austin, as Chairman of the local Democratic Committee, accused a lawyer of having solicited business in the suit being brought against the Committee by an unpaid tavernkeeper. There was a hot disagreement as to whether Austin had named Selfridge as that lawyer. Austin denied even the knowledge that he was the lawyer, and offered witnesses. Selfridge produced Abraham Babcock, the tavernkeeper's agent, who maintained that Austin had named Selfridge to him.³⁵

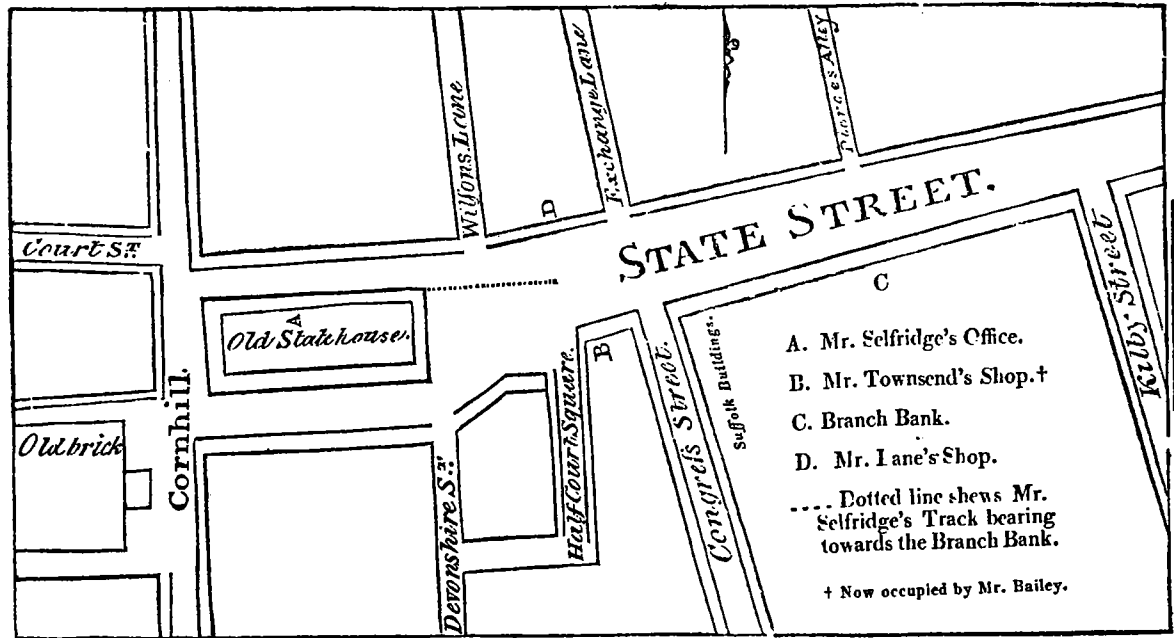
Austin's son Charles, "only eighteen years of age and about to graduate from Harvard College," was in Boston the morning of Monday, August 4, 1806, the day the two men inserted newspaper notices about each other. Selfridge published "Benjamin Austin, loan officer" as "a coward, a liar and a scoundrel," and Austin acknowledged this "insolent and false publication," offering "the facts, on which his impertinence is founded" to "any gentleman" who might want to know them. The young Austin went for a drink and bought himself a stout hickory stick in the morning. Selfridge, who had been told that Austin was sending a bully after him, carried his pistol when he went out of his Old State House office onto State Street at Noon. Charles Austin, to whom

his father denied having "said a word . . . on the subject of the dispute, or the publication," strode out and met Selfridge in the middle of the street, and hit him on the head with his stick. The lawyer had noted "the rapid and furious approach of the deceased, with a large cane uplifted," and wrote later "that his whole visage denoted the most desperate intentions." Selfridge drew his pistol and fired at Austin as he was struck a second time, and was hit a few more times before the young man weakened and collapsed, to die shortly of a shot in the throat.³⁶

Benjamin Austin is said to have exclaimed, on hearing of the death of his son, "Good God! Is this the work of federalism?" The exclamation is typical of politicized reaction to the event, and to the trial that followed, in which the lawyer who shot the son of the man who would have "annihilated" the lawyers was acquitted as having shot in self-defense. Many of the greats of the day were involved in the

trial, which followed delivery of an indictment against Selfridge by a grand jury headed by Thomas Handasyd Perkins. James Sullivan, the Attorney General and Austin's sometime political ally, prosecuted, and Selfridge's successful defense was handled by two of the premier lawyers of the day, Christopher Gore and Samuel Dexter. "The venerable Paul Revere, foreman of the trial jury, and the trial judge Isaac Parker, were Federalists, and the jury is said to have been, too." Reaction in the streets of Boston on the day of the shooting had been frenzied, obliging Selfridge to accept a jail cell, "to elude the fury of democracy," and news of acquittal brought an even angrier reaction, one source recounting that "mobs infested the town, burning effigies, libelling jurors and judges, and threatening murder."³⁷

While the killing of Charles Austin on State Street has remained locally famous, Benjamin Austin's



From Trial of Thomas O. Selfridge.

Thomas O. Selfridge's path, to the point at which he was accosted by Charles Austin, is marked on the map published with the report of his trial.

historical fame is based largely on later editions of the political pamphlet he put together in 1786. *Observations on the Pernicious Practice of the Law*, by "Honestus," a collection of Austin's first ten essays on the law, was originally published to put his writings in convenient form for use in the legislative drive to abolish the lawyers. This pamphlet is almost entirely faithful to the original letters.³⁸ When in 1814 the Republican elder statesman decided to reprint the collection, he chose to delete some of the more harsh language of the original. In a "Prefatory Address to Candid Readers," he denied any political purpose to the republication. "They are now offered to the candid consideration of the public, merely to gratify the curiosity of many respectable citizens, who are desirous to peruse writings which, for so many years, have retained a peculiar celebrity." He would not retract his words, but did include a striking sentence in the "Prefatory Address," denying any enmity against the lawyers, and taking "this opportunity to acknowledge his high respect to many of this fraternity."³⁹

In 1819 Austin, now in his sixty-seventh year, accepted the Republican nomination for Lieutenant Governor, on a ticket headed by Benjamin Crowinshield. The candidate's continued writings in the *Independent Chronicle*, as well as campaign literature which flatly stated Austin's authorship of "Honestus," "Old South," and "The Examiner," provoked bitter comment.⁴⁰ One "fair and impartial" review of the candidates for office described Austin as a "gentleman long the object of calumny and abuse, and particularly by some *Lawyers*, because he once had the courage to arraign their conduct before the public."⁴¹ "Verbum Sapiente" noted the continuing anger of the lawyers about the writings of "Honestus." "Poor fellows, they can't forget them." He suggested that republication would have a salutary effect. "We believe if Honestus was again published it would prove a great check to many recent practices."⁴²

While Austin lost at the polls in 1819, his candidacy did directly result in the preparation of the last and best-known edition of the *Observations on the Pernicious Practice of the Law*, "corrected and amended." This was a greatly toned down version of the original collection, and it was offered for sale in September 1819 at twenty cents, a "small price" designed to "enable every citizen to

become a purchaser."⁴³ Printing variations and the large number of extant copies suggest that it was reprinted and widely read, a response to be expected given stimulated popular interest in the law in the year of the great decisions in *McCulloch v. Maryland*, *Dartmouth College v. Woodward*, and *Sturges v. Crowninshield*.⁴⁴ While Austin chose to remove the statement of "high respect" which appeared in the 1814 pamphlet, the edition of 1819 was gentle by contrast with both earlier versions of his writings on the law. Sentences had been toned down, whole paragraphs had been struck, and certain highly controversial claims, notably those made with regard to a sample "bill of costs," were removed entirely. The original call for "annihilation" was now one for "regulation," and references to the "order" of lawyers now generally read "some lawyers." "Honestus" no longer sought the abolition of the bar.

On May 6, 1820 the *Independent Chronicle* carried a black bordered announcement of "the death of the Hon. BENJAMIN AUSTIN, a steadfast, undeviating republican." In a number of ways his passing serves to mark Boston's transition from town to city, and the nation's nineteenth century transformation into modern commercial state. Benjamin Austin, Jr. was, as Samuel Eliot Morison has observed, "essentially a conservative."⁴⁵ He was born and was active in a small coastal town, and is typical of a number of members of America's revolutionary generation who had difficulty with the new nation's rapid development. His proposals for law reform, supplemented as they doubtless were by the ideas of John Gardiner, were motivated by a desire to preserve a less complex society from the encroachments of modernity and growth. In this spirit he sought to free Americans from the grasp of British precedents, to promote the creation of a simplified American code law, and to insure that the citizen would be free to handle his own case. Austin's original championing of two interests (debtor and creditor) in the agitation against the lawyers produced a result that clearly demonstrated the important role of lawyers in resolving potentially disruptive clashes of interests in a complex society. The course of his later writings demonstrates an understanding that as a society develops, so a bar of quality is needed to work in that society. Austin would surely have choked on the admission, and have vigorously argued for a very limited correct

role, yet it remains clear that by the end of his life "Honestus" had agreed with "The Free Republican," that lawyers "seem a necessary order" in our complex free republic.

FOOTNOTES

- ¹ Morison, *Harrison Gray Otis* 275 (Boston, 1969).
- ² Szatmary, *Shays' Rebellion* (Amherst, 1980). Matz, "Lawyers and Shays' Rebellion," 21 *Boston Bar J.* 5 (February 1977).
- ³ Amory, 1 *Life of James Sullivan* 188 (Boston, 1859). "Austin, Benjamin, Jr.," *DAB* (1928).
- ⁴ *Ibid.*
- ⁵ Wilson, *The Aristocracy of Boston* 5 (Boston, 1848).
- ⁶ "Honestus," *Independent Chronicle* (hereafter "IC") Mar. 8, 1787.
- ⁷ "A Mechanick," *Massachusetts Centinel* (hereafter "MC") Apr. 12, 19, 1786. "Independant," *Boston Gazette* (hereafter "BG") May 1, 1786. "Honestus," *IC* May 4, 1786. "22d Chapter JUDGES," *Exchange Advertiser* (hereafter "EA") May 4, 1786.
- ⁸ "A Lawyer," *MC* May 3, 1786. "A Spectator," *MC* May 10, 1786.
- ⁹ "Honestus," *Observations on the Pernicious Practice of the Law* 4 (Boston: True & Weston, 1819). Reprinted at 13 *Am. J. Leg. Hist.* 241, 246 (1969).
- ¹⁰ Austin, *Constitutional Republicanism* 7 (Boston, 1803).
- ¹¹ Shipton, 16 *Sibley's Harvard Graduates* 306 (Boston, 1972).
- ¹² Selfridge, *A Correct Statement of the Whole Preliminary Controversy between Tho. O. Selfridge and Benj. Austin* 32, 48-50 (Charlestown, 1807).
- ¹³ "Austin, Benjamin, Jr.," *DAB*. Shipton, 379.
- ¹⁴ Smith, "Features of Shays' Rebellion," 5 *William and Mary Q.* 77 (1948). Kaplan, " 'Honestus' and the Annihilation of the Lawyers," 48 *South Atlantic Q.* 401, 403-404 (1949). Szatmary, 29-31. Hall, *Politics Without Parties* 192-193 (Pittsburgh, 1972).
- ¹⁵ "The Moral Entertainer," *MC* June 17, 1786.
- ¹⁶ "Slap Dash," *MC* Nov. 19, 1785.
- ¹⁷ "The Free Republican," *IC* Jan. 26, 1786.
- ¹⁸ "Honestus," *IC* Mar. 9, 1786. For an earlier appearance of "Honestus," see *IC* Feb. 2, 1786.
- ¹⁹ *Ibid.*
- ²⁰ "A Mechanick," *MC* Apr. 8, 12, 19, 22 & 26, 1786. "A Mariner," *EA* Apr. 27, 1786. "Independant," *BG* May 1, 1786. "22d Chapter JUDGES," *EA* May 4, 1786. "23rd Chapter JUDGES," *EA* May 11, 1786.
- ²¹ "Barebones," *American Herald* June 26, 1786.

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- Gawalt, *The Promise of Power* 83 (Westport, 1979). Amory, 188. "A Spectator," *American Herald* July 17, 1786. For biographical detail on John Gardiner's son, John Sylvester John Gardiner, see sketch in Quincy, *History of the Boston Athenaeum* 5-6 (Cambridge, 1851).
- ²² Gawalt, 83. Amory, 188.
- ²³ Gawalt, *Ibid.*
- ²⁴ "A Lawyer," *MC* Apr. 26, 1786.
- ²⁵ "A Lawyer," *MC* May 3, 1786.
- ²⁶ "Honestus," *IC* Apr. 20, 1786. "A Lawyer," *MC* Apr. 29, 1786.
- ²⁷ "A Twig of the Branch," *IC* Apr. 27, 1786.
- ²⁸ "Honestus," *IC* Apr. 13, 1786.
- ²⁹ Unsigned notice, *EA* May 11, 1786, page 3.
- ³⁰ "Markwell," *MC* Sept. 9, 1786. "Anti-Honestus," *MC* Sept. 16, 23, 1786.
- ³¹ "Anti-Honestus," *MC* Sept. 16, 1786.
- ³² "Suffolk," *IC* Jan. 18, 1787.
- ³³ "Honestus," *IC* Jan. 11, 25, Mar. 8, 1787.
- ³⁴ "The Examiner," *IC* June 21, 1804.
- ³⁵ Morison, 277-279. Lloyd & Caines, *Trial of Thomas O. Selfridge* 82, 84 (Boston, 1807). State Street Trust Co., *State Street Events* 41-43 (Boston, 1916).
- ³⁶ Morison, *Ibid.* Lloyd & Caines, 79, 87. State Street Trust Co., *Ibid.* Selfridge, 36-37.
- ³⁷ Selfridge, 35, 39. Morison, *Ibid.* State Street Trust Co., 43.
- ³⁸ "Honestus," *"Observations on the Pernicious Practice of the Law"* (Boston: Adams & Nourse, 1786).
- ³⁹ "Honestus," *Observations on the Pernicious Practice of the Law . . . With An Address Never Before Published* 61-62 (Boston: Joshua Belcher, 1814).
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- ⁴¹ "A fair and impartial statement of facts," *IC* Mar. 27, 1819.
- ⁴² "Verbum Sapiente," *IC* Mar. 20, 1819.
- ⁴³ Advertisement for "Honestus - On the Practice of the Law," *IC* Sept. 4, 1819, page 3. "Communication," *IC* Sept. 18, 1819. "Honestus," *Observations on the Pernicious Practice of the Law . . . With An Address Never Before Published. Corrected and Amended* (Boston: True & Weston, 1819). Reprinted at 13 *Am. J. Leg. Hist.* 241 (1969).
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- ⁴⁵ "Austin, Benjamin, Jr." *DAB.* □

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