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I have reviewed this completed senior honors thesis with this student and certify that it is a project commensurate with honors level undergraduate research in this field.

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Comments (Optional):

This needs a thoroughgoing revision. No time, however, to do it.

BW

**Benjamin Austin & America:
Establishing a Character**

James Kirkland

May 6, 1820 - Boston, Massachusetts

“It has this day become our melancholy duty to announce the decease of the Hon. BENJAMIN AUSTIN, a steadfast, undeviating republican - a consistent patriot and politician - and a worthy, honest, and upright man. The best talents of the deceased have been, for more than forty years, devoted to the promotion of the political interests of his fellow citizens, during which time he has kept a watchful eye over their liberties.”

Boston Independent Chronicle

Benjamin Austin Jr., born in 1752, was the son of a local merchant in Boston. His father and his older brother Jonathan, born in 1744, were both active in politics. Benjamin “drank deeply” from his brother’s political ideals.¹ In fact, Jonathan was a courier for Benjamin Franklin during the Revolution and delivered secret messages to anti-war sympathizers in the British Parliament. On the tenth anniversary of the signing of the Declaration of Independence in 1786, Jonathan Austin delivered Boston’s commemorative address where he shared his vision of “virtue and patriotism” leading America to greatness among the powers of the earth. “Our constellation will brighten in the political hemisphere, and the radiance of our stars sparkle with increasing lustre.”²

Benjamin shared many political beliefs with his brother. They were both anti-federalist republicans who believed deeply that the republic should be preserved at all costs. Most of the historical record that remains concerning Benjamin’s political beliefs exists in the form of articles published in Boston newspapers, most notably the *Independent Chronicle*. The purpose of this essay is to tell the story of the American republic establishing a character through the eyes of Benjamin Austin, primarily through

¹ William L. Welch. “The Virtuous Republic of Benjamin Austin Jr.” *Locus*. 1995 8(1): p. 39.

² Jonathan L. Austin. *An Oration, Delivered July 4, 1786*. Boston, 1786: 4, 7, 15, 17. (Cited indirectly through Welch p.26.)

his many contributions to the *Independent Chronicle* under the pen names of “Candidus”, “Honestus”, and “Old South”.

Common practice in America for several decades after the Revolution was to “discuss public issues through anonymous articles published in the local newspaper.”³ This practice has continued to the present day in the form of letters to the editor, which are now signed by the authors. Of course, the *Federalist Papers* was first published in this form, only later to be edited and reprinted in pamphlet form.⁴ From his first writings in the 1780s until his death, Austin was a devoted and unswerving contributor to the *Independent Chronicle*, which was printed on Monday and Thursday of every week. The four page anti-federalist newspaper which sold for three dollars, grew steadily as one of Boston’s Newspapers/Advertisers during the late 18th Century, and by 1820 included up to eight pages. As the *Independent Chronicle* matured, so did the country, and so did the writings of Benjamin Austin.

“It was at an early period in our history that MR. AUSTIN boldly expressed the cause of Republicanism.”

Obituary of Benjamin Austin, May 6, 1820, Boston Independent Chronicle

Austin entered one of the most notable early debates in 1785, when the Tea Assembly, or Sans Souci Club, was organized in Boston as a gathering place for playing cards, dancing, and general jollity. Charles Warren, in his article “Samuel Adams and the Sans Souci Club in 1785,” wrote, “It is well known that, during the War and especially after its close, those men who had been most closely associated with the early Revolutionary movement were extremely apprehensive, and even despondent, over the

³ Erwin C. Surrency, “The Pernicious Practice of Law - A Comment.” *The American Journal of Legal History*. 1969 13: p. 241.

⁴ Austin also reprinted some of his more popular and favorite series of press articles into pamphlet form, including the “Observations” to which he added a prefatory address.

rapid increase in luxury of living, of extravagant expenditures, and of freedom of manners.”⁵ Men such as Washington, John Adams, and other “old Republicans” feared that the country was “in danger of ruin” because too many citizens were “imitating the Britons in every idle amusement and expensive frippery” which would cause “the destruction of a young country”.⁶ The Boston Tea Assembly operated as follows:

Both card playing and dancing were indulged in. Each male subscriber received one ticket for himself and two for ladies. The hall was to close promptly at midnight. There were twenty card tables; at which no bet over one quarter of a dollar was to be allowed; tea, coffee, and chocolate were served free, and wine, negus, punch, and lemonade on payment.⁷

On January 15, 1785, Samuel Adams, writing as “The Observer” in the *Boston Massachusetts Centinel*, began a public debate in Boston regarding the existence of the newly founded Tea Assembly. “We are exchanging prudence, virtue and economy, for those glaring spectres luxury, prodigality and profligacy. We are prostituting our glory as a people; for new modes of pleasure, ruinous in their experience, injurious to virtue, and totally detrimental to the well being of society.”⁸

Criticism of Adams was immediate as he was labeled the “Censor of the age”.⁹ Under the pseudonym “Candidus”, Austin entered into the debate to defend Adams, writing that the Assembly was “a very *dangerous and destructive institution*” associated with “the long established courts of *Europe* . . . to be attended with the most fatal consequences.” Austin then addressed all Americans: “We, my countrymen, have a character to *establish*, which must become respectable in the world by our well regulated

⁵ Charles Warren, “Samuel Adams and the Sans Souci Club in 1785”. *Proceedings of the Massachusetts Historical Society*, LX. Boston, 1927. p. 319.

⁶ Ibid., p. 320.

⁷ Ibid., p. 322.

⁸ *Boston Massachusetts Centinel*, January 15, 1785. Following Adams’ article was an attachment stating that “When the Tea Assembly was introduced in New York, the populace were so enraged, they went in a body, burst open the doors, threw water on the floor, and obliged them to break up.”

⁹ *Independent Chronicle*, January 20, 1785.

government, national manners, and our attention to those *republican principles* which gave us our INDEPENDENT STATION.”¹⁰ Austin also believed that the club represented class divisions and inequality. One criticism of Adams had been that the Assembly allowed “pleasures [Adams] was not *qualified* to enjoy”.¹¹ Such allusions to class superiority infuriated Austin, and he was always quick to point out the relationship between these remarks and their confluence with British custom, of which he was quite wary. He warned that “from the settlement of this country to the present day, there has been a party attached to the interest of Britain, in opposition to the liberties of America.”¹²

The debate over the Tea Assembly eventually became “the victim of its own triviality.”¹³ Warren writes that the episode “while intrinsically trivial, affords striking illumination on the social and political conditions prevailing in the years of the transition between the Revolutionary War and the foundation of the National Government, conditions giving rise to the first genuine political parties in this Commonwealth.”¹⁴ The episode also marked the beginning of Austin’s struggle to “keep a watchful eye” over the progress of a young republic searching to “*establish* a character” - no matter how insignificant or “trivial” an affair may have seemed.¹⁵

“He never during the darkest period of our political rise and progress, swerved from the uniform support of sound principles.”

Obituary of Benjamin Austin, May 6, 1820, Boston Independent Chronicle

¹⁰ Ibid., January 27, 1785.

¹¹ *Boston Massachusetts Centinel*, January 19, 1785. Note: The word “qualified” was not italicized in the original, but by the author of this work, for the purpose of emphasis.

¹² *Independent Chronicle*, September 25, 1800. The “party” Austin referred to was the Federalist party, which he also termed the Essex Junto, or American British Faction.

¹³ Welch, p. 26.

¹⁴ Warren, p. 319.

¹⁵ *Independent Chronicle*, May 6, 1820 (1st quotation); Ibid., January 27, 1785 (2nd quotation)

**“Is it not a disgrace to a free republic that the citizens should DREAD appealing to
the laws of their country?”**

Benjamin Austin as “Honestus”, March 9, 1786, Boston Independent Chronicle

In 1786, a debate ensued in the Boston press regarding the practices of local attorneys “as court cases multiplied as a result of the state’s bad post-war economy, and only the lawyers seemed to prosper.”¹⁶ “Free Republican” wrote in the *Independent Chronicle*, “as the science of 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

Austin was quick to reply to “Free Republican” under the pen name “Honestus” in an article entitled “Observations, Etc.”. He began by noting that his observations were meant to apply to attorneys “*in general*” as an “order” of men, rather than as individuals. He then wrote:

If this “order” of men are permitted to go on in their career, without some check from the *Legislature*, that *the ruin of the Commonwealth is inevitable* . . . When a body of men take upon themselves a *profession*, it becomes the duty of the *government* to examine upon what principles they practice . . . [in order to protect] the welfare and security of the Commonwealth, this ‘order’ of men should be ANNIHILATED.¹⁸

Austin provides several reasons for these “observations”. He asks in the case of a merchant dispute why Americans should “engage lawyers who are wholly unacquainted with all mercantile concerns.” Some of these men have been employed “as AGENTS for British merchants, factor, etc”, and this is dangerous to the republic. Men are often

¹⁶ Welch, p. 28.

¹⁷ *Independent Chronicle*, January 26, 1786.

¹⁸ *Ibid.*, March 9, 1786.

reduced to the state of “submitting to the *extortion of* official fees without any remedy.” Lawyers are “*too apt* to delay the business while there is any prospect of further profit.” Eventually, “*no man will be able to apply the laws without mortgaging a certain part of his estate to a lawyer.*” Instead, Austin suggested that the courts create a “*fee table*” that would ensure people of their property.¹⁹

Austin wrote that “the ‘order’” should be “abolished, as being not only a USELESS, but a DANGEROUS body to the republic.” However, he did offer an alternative system. “The *Law and Evidence*, are all the essentials required, and are not the JUDGES competent for these purposes?” He requests that “some ACTS should be passed, *declaring that all cases left to reference in future, the decision of the Referees should be binding on the parties*” without the use of lawyers.²⁰ Judges could try cases with the “utmost impartiality” as they would depend on “neither party for their salary.” “Two lawyers disputing cannot alter the *established principles* of law, though they may by *art and chicanery* bewilder a judge.”²¹ He asked, “Is there one case, that absolutely requires the assistance of this ‘order’?”²²

Austin went on to write a series of articles on the subject of lawyers, expounding on the points made in his initial article, “Observations, Etc.”. The collective series of articles became known as “Observations on the Pernicious Practice of the Law”, by Honestus. The series produced many provocative statements regarding the need for lawyers, the court system, and the law in general. A recurring theme that seemed to have motivate Austin was the idea that “*when a people cannot appeal with safety to the laws of their country, they are absolute slaves.*”²³

¹⁹ Ibid., March 23, 1786.

²⁰ Ibid., March 9, 1786.

²¹ Ibid., March 23, 1786.

²² Ibid., March 9, 1786

²³ Ibid., March 23, 1786.

Questions regarding the “order” and its relationship to the Legislature were also raised by Austin:

Look into every public department, and WHO DO WE FIND? Are not individuals of this “order” exercising their influence within every important circle? . . . Is it not contrary to every principle of propriety to admit men to *make laws*, who are living upon the *practice* of them?

Austin also warned that the system of law was too similar to that of the British system.:

*We have reduced the whole body of English laws into our courts; Why should these states be governed by British laws? . . . Can the monarchical and aristocratical institutions of England, be consistent with the republican principle of our constitution?*²⁴

The basis of Austin’s proposed system was that men should represent themselves in court and have a decent understanding of the law. With evidence and a judge to explain the law to the jury, there would be no need for lawyers. “*A man who does not chose to give his plea in person, or writing, may employ a friend for this purpose, and the Judges should take this account in its simple facts, and deliver it to the jury.*”²⁵ It was Austin’s belief that “Men of leisure, and of *real abilities*, would apply themselves to the study, and would make themselves such proficient . . . as to qualify themselves for the important station of JUDGES.”²⁶

By 1819, Benjamin had revised his view of the “order” of lawyers. The articles known as the “Observation on the Pernicious Practice of the Law” were published in pamphlet form with a new prefatory address by its author. He notes that “the circumstances under which they first appeared, are different from what they are at present.” The practice had become “more congenial to the happiness of society”, and the

²⁴ Ibid., March 23, 1786. (both quotations)

²⁵ Ibid., May 18, 1786.

²⁶ Ibid., March 23, 1786.

study of law is “highly honorable.” He requested that the readers substitute the word “regulation” for the word “ABOLITION”.

Through his several writings pertaining to the profession of law, Austin inculcated more direct citizen involvement in the judicial process. His belief in the abilities of his fellow man, and his concern for the liberties of the citizens of Boston as well as the entire republic, were apparent in every word.

“It was his strict adherence to political opinions, maturely formed and chastened by experience, that incurred him the character of an *inflexible* probist.”

Obituary of Benjamin Austin, May 6, 1820, Boston Independent Chronicle

In 1799, over a decade after the end of the “Honestus” writings, Austin appeared again in the *Chronicle* as “Old South”, a name under which he would write for the next twenty years of his life. The issues addressed by “Old South” were many: federalist issues, the French Revolution, British customs, religion, standing army, the Constitution, elections, and Thomas Jefferson. The debates over these issues, no matter how small or large, clearly showed Benjamin’s interest in the republic and his vast knowledge of public policy. The writings were also great examples of his contributions to the establishment of a national character.

The Federalists were described by Austin as self-seeking, devious, British sympathizing politicians in favor of higher taxes, standing armies, class divisions, and religious intolerance. He was known to refer to federalists as the Essex Junto and the American British Faction. In late 1799, a report in Boston implied that there existed a self-appointed committee which tried to influence local politics and government. Upon hearing the report, Austin took to the press. The federalists “have for a number of years past, been active in bearing down every man, who dared to act or even think contrary to their opinion.” The members of this committee ought to be known to the public as they

constitute a “system of terror.” “Let us then, fellow-citizens, hereafter be jealous of these violators of our freedom under the mark of EXCLUSIVE FEDERALISM.”²⁷ The federalists were constantly referring to anti-federalists as “opposers to government” and “disorganizers”. But Austin reminds them that “The Tories were high *prerogative men* and stilted themselves *friends to government and friends to order*. The Hancock’s, Warren’s, Washington, etc. were called *opposers of government* and ‘disorganizers’”.²⁸

Austin was also critical of the federalist plan to make a treaty with Britain. “A young government like America, to ally itself with Britain, is of all things the most absurd and ridiculous.”²⁹ Many Americans during the period of the early republic were still quite skeptical about a relationship with Britain. In fact, they were careful of *any* association with Britain. Benjamin captures this sentiment in several words regarding taxation in an article written as a comment on the life of Gen. Washington. Because of war debts, “the system adopted in the United States, has introduced a kind of financeering policy, in a great deal familiar with that practiced in England . . . [Wealthy] people enjoy life while veterans go door to door for crumbs that fell from the rich man’s table.”

Washington and his colleagues also opposed a standing army, yet the federalists established one anyway. Austin writes:

Would it be satisfactory to posterity, when they find the weight of taxes increasing, to be told, that we had raised, during a time of peace, and when the militia were in the most respectable situation, a standing body of troops?³⁰

Higher taxes and standing armies were, after all, two of the many reasons for which the republic pursued its “Independent Station” to begin with.

²⁷ Ibid., December 16, 1799.

²⁸ Ibid., October 9, 1800.

²⁹ Ibid., November 24, 1800.

³⁰ Ibid., January 13, 1800.

“Old South” also made very clear his position on the war in France, and suggested that his opinion be shared by the rest of America. “The present contest in Europe is not merely as it respects France, and the combined powers, but as it relates to the great principles of Monarchy and Republicanism, throughout the world.” On England, Austin writes, “after having annihilated the flame in Europe, will they not exert their invigorated energies to obliterate every trait in America, which bears its image or superscription?” How could the leaders of France and England be reconciled to our government “when the principles of our revolution had roused the subjects of the former to *dethrone his predecessor*?” “Where,” asks Austin, “is the American who can view with indifference the ultimate question” of the war in France?³¹

Federalists were apparently on the other side of the French issue. “Federalists have proposed standing armies, higher taxes, favored the treaty, and now denounce Republicanism by striking down the Jacobin cause,” wrote Austin. “Every attempt to restore the liberties of Mankind, or to check the progress of arbitrary power, is now stilted Jacobinism.”³²

“His well-known probity induced the now respectable JEFFERSON, to appoint him, unsolicited, Commissioner of the Loans of the Commonwealth.”

Obituary of Benjamin Austin, May 6, 1820, Boston Independent Chronicle

“Let not the enemies of our INDEPENDENCE, blast the man who penned the immortal DECLARATION.”

Benjamin Austin as “Old South”, September 18, 1800, Boston Independent Chronicle

³¹ Ibid., December 23, 1799.

³² Ibid., March 27, 1800.

During the period leading up to the presidential election of 1800, “Old South” began writing on what would become his most popular subject - presidential candidate Thomas Jefferson. For almost a year preceding the election, Austin appeared in the *Chronicle* with regularity on the average of close to one article a week. In these works, he did his best to defend Jefferson from criticism and to promote him for the office of president. After the election, Austin bounded the articles pertaining to Jefferson and published them in pamphlet form under the title *Constitutional Republicanism in opposition to Fallacious Federalism*.³³ So impressed with Austin was Jefferson that Austin was appointed to public office. Occasional correspondence between the two lasted for the remainder of their lives. The following paragraphs by no means do Austin’s work justice, but provide some highlights from his writing.

“Old South” constantly addressed another writer by the name of “Jeffersoniad” in his articles. After “Jeffersoniad” had denounced Jefferson for being a deist, Austin retorted, “The columnist of Mr. Jefferson, who has vindicated *religious tolerance*, and at the same time, are glorifying a man who has stabbed to the vitals the most sacred bonds both of the Christian and moral system.” Austin goes further to say that “Jeffersoniad” is attempting “to bring us within the vortex of British Government, and to copy all the expensive systems which have nearly bankrupted the nation - such are the men who oppose Mr. Jefferson.”³⁴

Benjamin would later defend Jefferson in comparison to his opponent, Gen. Hamilton, who displayed, through a biography, many immoral acts. “The *decay of religion* and the *prevalence of immorality*, are become the theme of the opponents of Mr. Jefferson.” In continuing his argument, Austin put the issue into much broader terms, writing that “*Religious test, under the management of a national establishment, have been the most destructive engine against the pursuit of the gospel,*” and that “a man’s

³³ Welch, p. 37.

³⁴ *Independent Chronicle*, August 14, 1800.

religion is like his food, the test must suit his conscience, as the latter does his stomach.”³⁵

“Old South” also noted Hamilton as the “*responsible agent*” for raising the army. It is dangerous when one man obtains so much power.

His influence has been such, as to force the government into this unnecessary measure, contrary to the wishes and recommendations of the President . . . where is the American, who even thought, that within so few years after the adoption of the Federal Constitution, that the government of the United States would have been so far prostrated to the ambition of one man?³⁶

Austin blamed the federalists for this occurrence, and accused Hamilton of being a British agent. He warned Americans, “The main object of establishing this army, was to crush every domestic opposition, and eventually to *give a government to this country by force.*” He pleaded to the spirits of Hancock, Warren, and Montgomery: “if in the Region of bliss, the concerns of your country arrest your attention, how must the pleasures of Heaven be allayed to learn the abasement of your country! How much indignation fire your souls.” Speaking to the entire republic, Austin wrote, “A government moving within the sphere of an explicit Constitution, ought to rise superior to the intrigue of any particular members of society.”³⁷

Yet another electoral issue arose when a caucus in Congress convened, voted, and suggested to the people of the republic to vote for Adams and Pinckney. Austin was quick to question the action. “There appears of late a deep design to sap the Elections of the People, by the various manoeuvres of a particular set of men.” He warns the public that “these circumstances . . . ought to be checked in their early stages; otherwise it will

³⁵ Ibid., September 1, 1800.

³⁶ Ibid., November 20, 1800.

³⁷ Ibid., December 4, 1800.

become an *acknowledged right* in the Legislature, to control the Elections.” If this is the case, then “we may as well burn the Constitution”, and submit to the “individuals in Congress.” Then Benjamin Austin made one of the most moving and eloquent statements of his career:

The Constitution yet stands a sacred pledge of the Liberties of America . . . It is the ark of political safety, and may the vengeance of heaven pursue the man, who dares touch it with unhallowed hands . . . The Freedom of Election is the palladium of Liberty, and while we exercise this right, we may defy the power of tyrants, and the intrigues of faction. The People of the United States place themselves on this mount, and on its permanent basis they rest the happiness of society.”³⁸

He then addressed anyone of an opposing opinion: “May the mark of CAIN, be honorary, in comparison with yours.”

Austin was excited with the results of Jefferson’s successful election, and his faith in the republic was strengthened. “We trust in Heaven, that the designers of this British faction are frustrated, and that the snare is broken and we have escaped.”³⁹ “Let us wait with patience, and the new administration, we may expect, will promote the happiness and prosperity of America.”⁴⁰

“No man in the United States, whose philanthropy has led him to espouse *the causes of the people* has more severely experienced the bitterness of liberal and aristocratic persecution, than Mr. Austin.”

Obituary of Benjamin Austin, May 6, 1820, Boston Independent Chronicle

³⁸ Ibid., October 16, 1800.

³⁹ Ibid., December 29, 1800.

⁴⁰ Ibid., December 25, 1800.

Austin would eventually serve the state of Massachusetts and the people of Boston as an elected state senator. He would also serve on the Boston Board of Selectmen, of which he was a member at the time of his death. But his greatest contributions to society were exhibited in newspapers and will forever exist as his legacy to the republic. It is true that Austin received much criticism for his views over his many years as a contributor to the *Boston Independent Chronicle*. But he was always quick to respond with thorough statements - many of which not only addressed local concerns, but broader issues of the entire republic. Historian William Welch calls Austin “a local man of national vision” and writes that he could have quite possibly been the “last of the revolutionary republicans.”⁴¹ From tea clubs to the courtroom, and from local lawyers to national elections, Benjamin Austin was always on duty as the guardian of republican principles, keeping a “watchful eye” over the “liberties” of the people, and helping to “establish” a national “character”.

“Though his useful labors have now ceased, and he is numbered with the dead: *God* will his public usefulness and private worth long be remembered by those who have known him.”

Obituary of Benjamin Austin, May 6, 1820, Boston Independent Chronicle

⁴¹ Welch, p. 39.

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