[illegible] anxious [illegible]. A to legislative interference? The greatest law characters [illegible] he has determined unanimously it was not, in which the legislature acquiesced.—I repeat this in order it may bear on the mind of an honorable gentleman from Virginia (Mr. Randolph) who is now in his seat.—When a petition not many weeks past was before this house, the subject matter of which had received a previous judicial decision, he rose from his chair and expressed an anxious wish the house would not interfere with the decision of a court. Now, sir, the bill upon your table is well assimilated; the judges of Virginia have unanimously decided on its unconstitutionality, and it is known nine tenths if not all the judges of the United States are of the same opinion, and nothing but the mere form of a record is necessary to make the cases the same.—I therefore should presume if consistency is to characterise the legislative proceedings of the honorable gentleman, he must withdraw his support from the bill upon your table. Sir, it is a principle universally acknowledged that no man shall be a judge in his own cause, once you transfer the judicial power to courts under the influence and controul of a legislature you frustrate the important object of an impartial administration of justice. I consider the judicial department as the protector of the constitution; it stands between the people and the legislature to check the abuse of a trust committed to them; it is its particular province to determine the constitutionality of all laws—the case may arise wherein it will become the duty of the judiciary to decide between the legislature and the President, should the judges be dependent on either great apprehensions might exist, they would lean to that side on which their dependency rested—And should the legislature and executive unite to invade this constitution, we should be left without a tribunal to give an impartial and disinterested decision. Thus sir, you are dissenting with the only check to the oppression of an uncontrouled and unlimited power.

And thus this fair and beautiful fabric, so much admired, by being deprived of its greatest ornament and best support, in consequence of this night's decision, before to-morrow's sun fulfills his usual course, will, I fear, vanish from your view.

On the amendments proposed to the bill received from the Senate, entituled "An act to repeal certain acts respecting the organization of the courts of the United States.

TUESDAY, March 2. 1802.

Mr. Eustis. In the negative given to the several amendments, which have been offered, I perceive a determination to pass the bill in its present form. This I regret. I have voted for those amendments from a conviction that they were proper and necessary, and that others ought to be made before the bill should pass—that the defects of the old system be supplied at the same time and by the same act which abolishes the present system.

Satisfied in my own mind of the constitutional right to pass the bill, I have hitherto been silent on that and every other part of the subject: but as two of my honourable colleagues have brought the sentiments of Massachusetts into the scale of the unconstitutionality, I may be permitted to state one fact expressive of the ideas which have prevailed in that state. Several years past and when no party spirit mingled itself with the consideration, repeated attempts were made to abolish the whole set of inferior courts, and to establish circuit courts in their stead. A bill for this purpose passed one branch of the legislature after a long discussion, was considered and debated in the other branch; an election intervened; the subject was again revived, and I have never heard that the constitutional right was called in question. The judges of these courts, of our supreme court, and the judges of the courts of the United States, hold their offices by the same tenure; the cases are similar; and so far as my information extends, the sentiment which prevailed in the legislature pervaded the state. Had this house been equally free from the spirit of party, I cannot believe this objection would have arisen to such an height. Confining themselves to the use of terms, and under the influence of other circumstances, gentlemen appear to me to be wrought up to a zeal, which has beguiled their judgements. With a proper respect for those who differ from me, I am perfectly satisfied of the constitutional right to abridge or abolish, as well as to extend and establish courts, as the public good or the public necessity shall require. For the soundness of this doctrine, without a comment on the constitution, without opening it in this place, I should be willing to trust to the construction which would be given by the common sense of the people of the United States, and to rest my reputation on their decision.

The doctrine contended for by some gentlemen, is so foreign to the meaning and fair construction of the instrument, so fatal to a primary and elementary principle, and ultimately and in its consequences so destructive to the very independence of the judiciary, for which they contend, that I would consent to pass the bill, imperfect as it is, was there no other way to repel it. But this is not necessary; the constitutional question was decided by the vote of the last evening.

The right having been established, in what manner should it be exercised? Not on ordinary occasions or for light causes. A high and solemn discretion should preside over and direct its use. Is this an occasion which requires it? On what ground is the bill on your table predicated? On a conviction that the courts, as established by the law of the last session, are not required by the wants or circumstances of the country—that the provisions therein made are unnecessary and burthensome to the people; and that they ought therefore to be reduced. This the bill is intended to effect; it abolishes the present and revives and restores the past system. But the system revived is allowed to be materially defective. The judges of the supreme court have not been able to comply with the duties required of them. The association of the supreme with the district judges has occasioned a want of uniformity of decision, and an increased uncertainty of the law, different judges being called to preside in the same court, and often over different stages of the same cause; whole terms have failed; legislative acts have been repeatedly found necessary to continue action.

What then is to be done? At the same time that you restore the one and abolish the other, that which is restored ought to be amended and rendered competent: the act should carry on the face of it its own justification. But, say gentlemen, we will first repeal the existing law, abolish the present system, and afterwards by another bill, we will provide for the defects of the old. One of my honorable colleagues believes neither to be perfect, but that the old is preferable to the new. This belief will justify his voting for the bill. Perfection is not to be expected. But what is the fact? By passing the bill, as it now stands, we take away a system too competent, and restore one superior in principle, but practically defective. To justify the change, that which is restored ought to be rendered competent to the due administration of justice, or we may be accused of legislating for men and not for measures. One honorable gentleman objects to amending this bill, because amendments were not permitted by the last congress to be made to the act which is now intended to be repealed. This surely is not a good reason. The gentleman would not have us pursue a line of conduct which he, on a former occasion, disapproved.

It is objected that in attempting to amend, the bill may be lost. How can it be lost? Will it not be under a constant controul of the majority? If there be danger of losing the bill, there is greater danger of losing the necessary amendments after the bill is past. Should this be the case, what is hazarded? the imputation of having abolished the present system because you had the power, or because you had the will, or from some motive not honourable or satisfactory. If the repealing act, on the other hand, restores the old system, superior in principle, competent to the due administration of justice, and free from objection (and I would amend it until every reasonable objection was satisfied) what is the impression? You have abolished a system, which was unnecessary and burthensome, and have restored another and a better in its place. You shut the mouths of *your* enemies; you command the public confidence.

Let the true reason be assigned. The patience of the house is exhausted. They have seen two weeks wasted in a wild deviation from the subject. Far from a wish to revive, I would throw a veil of oblivion over the past, impenetrable, if possible, to the eye of a discerning people: too long already has the public repose been disturbed by altercations within these walls. Let them cease. Let us recollect that we owe something to the community—to ourselves. For once let us bring our prejudices and passions to the altar of our country.

Let the bill rest on the table for a few days, until the necessary amendments can be prepared. In the mean time let the other business of the session go on. Take the collected wisdom of the house, take the assistance of the minority. Gentlemen say they cannot be confided in, as they have declared the act unconstitutional. Make the trial. If they refuse their aid they give you a triumph; if they discover a disposition to embarrass, take the business out of their hands and complete it. Much has been said of public sentiment. Sir, the people of this country are weary of professions. They require the evidence of facts to satisfy them. They ought, in my opinion, to have that evidence in the present case: this bill ought to carry on the face of it *unequivocal evidence of the good faith* with which it is enacted; in forming this opinion, I acknowledge that I look beyond the walls of this house.

This is the course which an honorable gentleman from Virginia has stated his wish that the business should have taken at first. This is the course it ought to have taken, and which it ought now to take; it is not too late.

With perfect confidence in the sincerity of gentlemen, who tell us that the amendments will be made in a supplementary bill; I have also learned, from some small experience, that there is no certainty for the future, especially in public bodies. Gentlemen cannot command or engage for others. After the bill is passed, I am very apprehensive the amendments may be disagreed to, and finally lost. As no hazard is required, so none ought to be incurred.

This has been my view of the subject from its first origin. Every day has confirmed me that it was a just view. It has governed my conduct hitherto, and will direct the vote I shall finally give.

From the Boston Independent Chronicle.

To the People of Massachusetts—On the repeal of the Excises.

IF any one measure adopted by the present administration have a claim to pre-eminence in the public estimation, it is the repealing of the *Excise Laws*, or as they are more generally termed *the Internal Taxes.* Among the best proofs of this truth, is the intemperate railing of the opposition. They levied these taxes. If it was right to lay them, it was wrong to abolish them. Their characters are at issue; and like desperate gamesters, they stake the last remnant of their reputation to retrieve the whole. In the sound and truly federal policy of abolishing this complicated, unequal and oppressive system of Excise, (when rightly understood) they anticipate the last and fatal blow to their expiring influence. Hence their desperate efforts to misrepresent one of the plainest transactions, which can be offered to common understandings.

In order to form a correct judgment on this subject, it will be useful to cast a retrospective eye over the past. When the formation of a federal constitution was in contemplation, neither the delegates to the convention, nor the People who elected them, entertained an idea, that the Federal Government should be vested with the power of levying Taxes, excepting by *Impost.* Many intelligent Citizens were of opinion that even the Impost should be limited to five per cent. On his opposition to granting even this five per cent. impost, Mr. KING, our Minister at London, grounded his first popularity in Massachusetts; and so did Mr. STEPHEN HIGGINSON, of Boston. To lay Excises and Direct Taxes, was at that time deemed an important right, which ought to be reserved to the State Governments, and which was actually exercised by them. When a concurrent right to lay Excises and Direct Taxes was suggested, and actually inserted among the powers of the Federal Govenmet, it formed and was urged as an objection to the adoption to the Constitution.

INDEPENDENT of the general wish of the people, that this mode of Taxation should be reserved to the States exclusively, it was foreseen that two concurrent jurisdictions over the same sources of Revenue, were generally impolitic and inconsistent—that, after a conflict of influence, the stronger power would eventually prevail over the weaker; that the State Governments must yield to the Federal. Such has been the result of experiment. The state of Massachusetts repealed her Excise on carriages and licenses, soon after that of the Federal government came into operation, on the same articles.

In the power to "lay & collect excises," which was vested in the Federal government, men of political experience and discernment foresaw the circle of taxation extended, not merely to goods imported from foreign countries, but to every article of family use, whether foreign or domestic manufacture, and as a necessary consequence, they anticipated a host of officers, authorised to enter their manufactories, their work-shops and dwelling houses, every day and every hour of the day, to take account of their stock, and collect the taxes laid on their property, *without being accountable to the laws of the State. Here lay the root of their objection, the reasonable and well founded jealousy of a people who understand freedom in a practical sense.* To what extent this power might be carried, they could not know, but they did know, for experience had taught them, that nothing was so liable to be abused as power; and the power to place centinels and tax gatherers over their dwellings and occupations, with inquisitorial authority, was never palateable to the people of Massachusetts.

Another and not an unimportant consequence was foreseen, in the exercise of this power, a multiplication of officers, with a consequent increase of officers by the Federal Executive, must, in process of time, give to that Executive an influence not limited to the immediate object of appointments, incompatible with, & finally destructive of the elective franchise; an influence, which in its various and extensive effects, must tend to sap the foundation of government and render the Executive officers perpetual.

In answer to these objections, and to quiet these apprehensions, it was urged by the party, who assumed to themselves the character of Federalists, that the *Impost* was the great source of revenue, on which the Federal government would depend, and which would prove adequate to the national exigences—that *Excises* and *Direct Taxes* would never be resorted to, except in time of actual war, or on some equally pressing occasion. On such declarations, and in a zeal to establish a National government, the Republicans, who at that time (as well as the present) constituted three-fourths of the qualified voters in the State, gave assent and life to the Constitution.

The period in which the wary politician knows fear will subside, and public vigilence slumber, was scarcely suffered to elapse, when the excise system was ushered into being; and that in a time of peace, and without any apparent necessity. Like a culprit in good company, it was smuggled into our law-books, on the credit of its authenticator, meeting a cold civility from his friends, and the veto of a few honest men. Having been once established, the system has progressed in regular gradation, as fast as the apathy of the people and cupidity of the administration have dictated. How soon it would have been extended to every article which administers to the ease and comfort of life, may be conjectured from the rapid strides already made in our infant country, and the examples of countries further advanced in the modern art of taxation. How long the right of suffrage would have existed in purity, or in safety under the blighting influence of this single branch of executive patronage, we are no longer tortured to conjecture.

From this view of the subject, and with these consequences resulting from the system, a reformation was demanded, by the principles of civil liberty, and by the genius of the constitution. To reform was neither more nor less than to *abolish the taxes, by repealing every law which related to them.* It was necessary that the practice under the constitution should be brought back and rendered conformable to the sense and interpretation which was originally given it; to simplify the government, in order that the people might, through the administration, have one glimpse at "those manners, feelings and principles," for which they fought and bled, and by which they expected to be governed, when they adopted the constitution—that the *executive* should no longer derive an artificial support, which the constitution abhors—that hundreds of excise men who were eating the public bread, should return from habits of indolence, to eat the bread of their own labour—that *manufactures,* if they were not fostered by the government, should at least be freed from fetters; and above all, *that the elective franchise should be no longer adulterated by the poison of executive patronage.*

The administration who have had the courage to make this reformation, the executive who has discovered the virtue willingly to rest on its own basis, divested of artificial props of its own raising, are held up to you as objects of suspicion, if not of reproach! Pause, my countrymen, lay aside all resentments, banish party considerations, and ask yourselves what you have gained, and what you have lost? Four hundred excisemen have lost their places! Is this a cause of mourning for a nation of freemen? Four hundred objects of competition are removed. Is that prejudicial to the public tranquility? So many streams of executive patronage are dried up. Who but office-seekers have occasion to complain? What have the people lost? They are liberated from a system unfavourable to the cause of freedom. One million of dollars (the sum which may be fairly estimated as the amount of what the people paid directly or indirectly on account of these taxes) instead of being thus paid, is now retained in the pockets of those who have laboured for it, to be applied in their own way to their own uses—who is injured? let him speak. Is the public creditor defrauded? Does he not receive his interest punctually—his principle as soon as it becomes due? Has so ample provision ever before been made for the national debt? The price of the stocks answers every objection and silences every murmur on this head.

Is the "common defence" insufficient, or the "general welfare" unprovided for? Are not the frontiers well defended? Do you require larger garrisons on the sea-board? Is commerce unprotected? Farmers, merchants, manufacturers, mechanics, men of political science, answer these plain questions—then turn your attention to those who clamor; see who they are—mark well their characters and draw your own conclusions.

But, after all these are not the questions. It is to the *principle* that the opposition object. It is on the *principle,* that the republicans ground their justification. The theory with which the federalists really view the constitution, and their practice under it, proceeding step by step towards to a favourite point, are detected and reprobated. Their system of patronage and influence, we will not say their barter and sale of the right of suffrage, but we may be permitted to call it their *system of artificial influence, tending to corruption, is broken up.* Here is the wound given to ambition; a deadly wound, which rankles in the heart of faction, and envenoms the whole corps of aristocracy. Defeated, disappointed and exposed in their flattering project of introducing this aristocratic system of executive influence, under the specious guise of federalism, they are now attempting to divert your attention, fellow-citizens, from the great question between the two parties. Reluctant to meet the principle, and unable to defend it, they shun the discussion of its merits, and apply themselves to the avarice, to the weakness with which they know human nature abounds—they appeal to your prejudices, and would cover your judgment with delusion. With an effrontery unparalelled in the history of parties, they are endeavouring, by popular clamour and misrepresentations to disgust you with a free government of your own adoption, and divide you from the constituted authorities of your own choice. Attend to their objections, and in a moment their short-lived, shadowy influence will vanish like a dream. Their first and great objection is that all the revenues of the country, whether of impost, tonnage or excise, are not more than adequate to defray the national expences and provide for the public debt—that the internal duties ought not to have been abolished, because they were necessary to the payment of that debt. And yet, in the same moment, the same party propose a repeal of the duties on salt, on the low priced teas, and on sugar and coffee, amounting to a much larger sum!

If they did really believe that the internal taxes could not be dispensed with, could they be willing to repeal the duties on imported articles of greater amount? But say they, the duties on sugar, tea and coffee, fall on the poor—who laid those burthens on the poor? Who have from time to time increased these burthens on the poor? And who, if they had continued in power, would have still increased and extended them to every article of life, from the light of heaven admitted through our windows, to the hearth, which administers to our culinary wants? The men who have expended millions on armies and navies, who have given a premium of 8 per cent. for millions of dollars; under whose administration the public debt has been augmented at the rate of a million of dollars a year, during ten years of uncommon prosperity, and with a revenue in their hands of ten millions a year—the men who have forfeited the public confidence, and are now insidiously addressing your passions and courting your good opinion.

[*To be concluded*]

[*From an English Publication*]

A TRIBUTE *to the* MEMORY *of* MR. WAKEFIELD.

Literature has this month sustained a severe loss by the death of GILBERT WAKEFIELD, *B. A.* whom a fever carried off on September the 9th, in the 46th year of his age, to the unspeakable regret of his family and friends. A person in various respects so distinguished, is a proper subject for the contemplation of survivors; and he had deserved too well of the public not to be entitled to honourable and affectionate commemoration.

Mr. Wakefield, in "Memoirs of his own life," published in 1792, has informed the world of all the circumstances attending his education and passage through life down to that period, with a minuteness and frankness which render his work a very curious and entertaining piece of biography. I shall not make any transcripts from it, but, confining myself to a slight sketch of the leading events, shall take a view of his character and conduct which suggests itself to the reflexion of a friendly but not a prejudiced by-stander.

GILBERT WAKEFIELD was born on February 22, 1756, at Nottingham, of which town his father was one of the parochial clergy. An uncommon solidity and seriousness of disposition marked him from infancy, together with a power of application, and thirst after knowledge, which accelerated his progress in juvenile studies. In his grammatical course he passed under the tuition of several masters, the last and most re-