

Civil Disobedience



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Foreword by Connor Boyack



Libertas Institute
Salt Lake City, Utah

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LIBERTAS PRESS

770 E. MAIN STREET, SUITE 255

LEHI, UT 84043

Civil Disobedience / Henry David Thoreau — 1st ed.

First printing, June 2014

Cover Design by Ben Jenkins

Manufactured in the United States of America

For bulk orders, send inquiries to: info@libertasutah.org

ISBN-13: 978-0-9892912-3-1



DEDICATED TO
EDWARD SNOWDEN

FOR DOING
WHAT WAS RIGHT

“The most foolish notion of all is the belief that everything is just which is found in the customs or laws of nations. Would that be true, even if these laws had been enacted by tyrants?”

“What of the many deadly, the many pestilential statutes which nations put in force? These no more deserve to be called laws than the rules a band of robbers might pass in their assembly. For if ignorant and unskillful men have prescribed deadly poisons instead of healing drugs, these cannot possibly be called physicians’ prescriptions; neither in a nation can a statute of any sort be called a law, even though the nation, in spite of being a ruinous regulation, has accepted it.”

—Cicero

Foreword

by Connor Boyack

Americans know Henry David Thoreau as the author of *Walden*, a narrative published in 1854 detailing the author's life at Walden Pond, on property owned by his friend Ralph Waldo Emerson near Concord, Massachusetts. Thoreau spent two years living a social experiment, escaping what he called "over-civilization" in search of the "raw" and "savage delight" of the wilderness.

"I went to the woods because I wished to live deliberately," Thoreau writes. "I wanted to live deep and suck out all the marrow of life—to live so sturdily and Spartan-like as to put to rout all that was not life..." The experiment was, in effect, an attempt to transform Emerson's theoretical Transcendentalism—the belief that people are at their best when they are self-reliant and independent, rising above society and its institutions—into a practical, daily lifestyle.

"To be a philosopher," he explained in *Walden*, "is not merely to have subtle thoughts, nor even to found a school, but so to love wisdom as to live according to its dictates, a life of simplicity, independence, magnanimity and trust. It is to solve some of the problems of life, not only theoretically, but practically."

This intellectual fidelity to basic principles found application in every aspect of his life, including his interaction with government. One year into his two-year experiment, the local tax collector confronted Thoreau and asked him to pay six years of delinquent poll taxes. Thoreau refused, due to his opposition to the Mexican-

American War and slavery, and was subsequently incarcerated.

“Must the citizen... resign his conscience to the legislator?” he asked in the essay now called “Civil Disobedience.” “Why has every man a conscience then? I think that we should be men first, and subjects afterward.” Thoreau’s distinction was made even clearer: “It is not desirable to cultivate a respect for the law, so much as for the right.” To Thoreau, laws were only worthy of respect and allegiance when they did not violate one’s conscience—when they were *right*.

Thoreau pondered why so many people obey laws without questioning them to consider whether they were just. He also explored why some still obey laws even when they think they are wrong. This is no small matter of importance—for example, over 260 million people were killed *by agents of their own government* in the 20th century alone. Throughout history people have submitted to, and carried out, the decrees of dictators and despots. The tragic history of the world is one of deference to, and abuse of, political authority.

And it’s not just active combat in which we observe this truth. Consider the tens of thousands of employees of the federal government who knew that the National Security Agency was spying on innocent Americans. These employees had clearance by which to receive such confidential information, and yet they all remained complicit in invading the privacy of their fellow citizens. More disturbingly—and unsurprisingly, Thoreau might say—they continued to show up for work after Edward Snowden brought these activities to the public’s attention and heightened our collective awareness of, and objection to, the NSA’s work. Do they believe that their actions are just? For those who do not, why don’t they quit? Why haven’t dozens more followed in Snowden’s footsteps?

Thoreau's objections seem almost laughable in comparison to the size and scope of government today. "I meet this American government... face to face, once a year—no more—in the person of its tax gatherer," he wrote. And even then, he was faithful enough to his conscience that he did not rationalize its violation simply because it was infrequent or relatively minor. In our day, interactions with the government are far more numerous and invasive. Police officers invade our homes using military tactics and tools, often harming or killing innocent people or pets. IRS agents shake down the public for far more than a comparatively petty poll tax; combining income, sales, property, gas, social security, and other taxes, the average U.S. citizen pays around one-third of his income to the state. Various federal agencies dictate what is and is not acceptable to ingest, depriving needy people of the medications and substances they require. Bureaucrats oversee occupational licensure processes in which the state requires a permission slip in order to work. It imprisons people who have not violated any person's rights simply because they have acted contrary to a legislative edict. This list could continue to the point of filling volumes—but you get the picture.

"Unjust laws exist," Thoreau observed, asking "shall we be content to obey them, or shall we endeavor to amend them, and obey them until we have succeeded, or shall we transgress them at once?" How do you respond? Read that question again and think about it for a minute.

Perhaps you'll reply that the costs of defying the law are too high—that as an individual you would risk jail time, or that a group effort might lead to open conflict, including bloodshed. To you, Thoreau responds: "Is there not a sort of bloodshed when the conscience is wounded? Through this wound a man's real manhood

and immortality flow out, and he bleeds to an everlasting death. I see this blood flowing now.” Armed hostilities are a fearful thing, but Thoreau encourages us to think of the souls dying each day on the battlefield of life by acting contrary to what they know to be right.

Thoreau was not an anarchist; he did not oppose authority as a rule. Rather, he opposed injustice. A just government, he wrote, “must have the sanction and consent of the governed. It can have no pure right over my person and property but what I concede to it.” His essay notes how the American colonists rebelled against their mother country and, as an application of the philosophy behind their actions, discusses when rebellion is justified—a question as relevant in our modern age as it was in Thoreau’s time.

We have also included a few brief essays in this book, including one by Howard Zinn, an American historian and activist. Its message is synonymous with Thoreau’s: society’s problem today, according to Zinn, is not civil disobedience but civil *obedience*. To get back to the founding principles, as articulated in the Declaration of Independence, Zinn argues that “we are going to need to go outside the law, to stop obeying the laws that demand killing or that allocate wealth the way it has been done, or that put people in jail for petty technical offenses and keep other people out of jail for enormous crimes.” Unjust laws, both authors would argue, are not worthy of support.

Thoreau was only jailed for one evening; a relative paid his “debt” to the state and thus freed him—despite Thoreau’s objections. Returned to his social experiment—he would argue that the incarceration was not an interruption, but part of it—children in the nearby area asked Thoreau to hunt for huckleberries with them. It was one of his favorite pastimes. He joined them,

and enjoyed the experience. He was in nature, living. Standing on one of Concord's highest hills, presumably soaking in the surrounding sights, we imagine Thoreau looking around him with a chuckle as he observes in his essay that "the state was nowhere to be seen."

Some are so intoxicated by the state—its mandates, its promises, its provisions—that they could never fathom being so disconnected as Thoreau sought to become. Some are "so completely within the institution" of the state that they "never distinctly and nakedly behold it," he says. Few realize that this raw power is as unjust as it is, and violates the consciences of so many. "They are wont to forget," writes Thoreau, "that the world is not governed by policy and expediency." Government, in essence, does not make the world go 'round.

It seems like a simple statement, yet we must wonder with Thoreau why more people do not live according to their consciences. Why are people willing to do through the state what they are unwilling to do to their neighbors directly? "There are nine hundred and ninety-nine patrons of virtue to one virtuous man," says the author, "but it is easier to deal with the real possessor of a thing than with the temporary guardian of it." It's not enough to talk about liberty or rage against the machine; those who wish to be free should not tolerate being partially free.

Step away from the "over-civilization" and you'll notice, with Thoreau, that the state is nowhere to be seen. His call to action is ours: act like it.

Civil Disobedience

Henry David Thoreau

I heartily accept the motto, “That government is best which governs least”; and I should like to see it acted up to more rapidly and systematically. Carried out, it finally amounts to this, which also I believe—“That government is best which governs not at all”; and when men are prepared for it, that will be the kind of government which they will have.

Government is at best but an expedient; but most governments are usually, and all governments are sometimes, inexpedient. The objections which have been brought against a standing army—and they are many and weighty, and deserve to prevail—may also at last be brought against a standing government. The standing army is only an arm of the standing government. The government itself, which is only the mode that the people have chosen to execute their will, is equally liable to be abused and perverted before the people can act through it. Witness the present Mexican war,¹ the work of comparatively a few individuals using the standing government as their tool—for, in the outset, the people would not have consented to this measure.

This American government—what is it but a tradition, though a recent one, endeavoring to transmit itself unimpaired to posterity, but each instant losing some of its integrity? It has not the vitality and force of a single living man, for a single man can bend it to his will. It is a sort of wooden gun to the people themselves. But it is not

¹ U.S.-Mexican War (1846-1848); abolitionists considered it an effort to extend slavery into former Mexican territory.

the less necessary for this, for the people must have some complicated machinery or other, and hear its din, to satisfy that idea of government which they have. Governments show thus how successfully men can be imposed on, even impose on themselves, for their own advantage. It is excellent, we must all allow. Yet this government never of itself furthered any enterprise, but by the alacrity with which it got out of its way. *It* does not keep the country free. *It* does not settle the West. *It* does not educate. The character inherent in the American people has done all that has been accomplished, and it would have done somewhat more if the government had not sometimes got in its way. For government is an expedient by which men would fain succeed in letting one another alone and, as has been said, when it is most expedient, the governed are most let alone by it. Trade and commerce, if they were not made of India rubber,² would never manage to bounce over the obstacles which legislators are continually putting in their way, and if one were to judge these men wholly by the effects of their actions, and not partly by their intentions, they would deserve to be classed and punished with those mischievous persons who put obstructions on the railroads.

But, to speak practically and as a citizen, unlike those who call themselves no-government men,³ I ask for, not *at once* no government, but at once a better government. Let every man make known what kind of government would command his respect, and that will be one step toward obtaining it.

After all, the practical reason why, when the

² Made from the latex of tropical plants, “India” because it came from the West Indies, and “rubber” from its early use as an eraser.

³ Anarchists, many of whom came from Massachusetts.

power is once in the hands of the people, a majority are permitted—and for a long period continue—to rule is not because they are most likely to be in the right, nor because this seems fairest to the minority, but because they are physically the strongest. But a government in which the majority rule in all cases cannot be based on justice, even as far as men understand it. Can there not be a government in which majorities do not virtually decide right and wrong, but conscience?—in which majorities decide only those questions to which the rule of expediency is applicable? Must the citizen ever for a moment, or in the least degree, resign his conscience to the legislator? Why has every man a conscience, then? I think that we should be men first, and subjects afterward. It is not desirable to cultivate a respect for the law, so much as for the right. The only obligation which I have a right to assume is to do at any time what I think right.

It is truly enough said that a corporation has no conscience; but a corporation of conscientious men is a corporation *with* a conscience. Law never made men a whit more just and, by means of their respect for it, even the well disposed are daily made the agents of injustice. A common and natural result of an undue respect for law is that you may see a file of soldiers, colonel, captain, corporal, privates, powder-monkeys,⁴ and all, marching in admirable order over hill and dale to the wars, against their wills—ay, against their common sense and consciences—which makes it very steep marching indeed, and produces a palpitation of the heart. They have no doubt that it is a damnable business in which they are concerned; they are all peaceably inclined. Now, what are they? Men at all? Or small movable forts and

⁴ Boys who carry gunpowder for soldiers.

magazines at the service of some unscrupulous man in power? Visit the Navy Yard, and behold a marine, such a man as an American government can make, or such as it can make a man with its black arts—a mere shadow and reminiscence of humanity, a man laid out alive and standing, and already, as one may say, buried under arms with funeral accompaniments, though it may be

“Not a drum was heard, not a funeral note,
As his corse to the rampart we hurried;
Not a soldier discharged his farewell shot
O’er the grave where our hero we buried.”⁵

The mass of men serve the state thus, not as men mainly, but as machines, with their bodies. They are the standing army, and the militia, jailers, constables, *posse comitatus*,⁶ etc. In most cases there is no free exercise whatever of the judgment or of the moral sense, but they put themselves on a level with wood and earth and stones—and wooden men can perhaps be manufactured that will serve the purpose as well. Such command no more respect than men of straw or a lump of dirt. They have the same sort of worth only as horses and dogs. Yet such as these even are commonly esteemed good citizens. Others, as most legislators, politicians, lawyers, ministers, and office-holders, serve the state chiefly with their heads, and as they rarely make any moral distinctions, they are as likely to serve the devil, without *intending* it, as God. A very few, as heroes, patriots, martyrs, reformers in the great sense, and *men*, serve the state with their consciences also, and so necessarily resist it for the most part—and they are commonly treated as enemies by it. A wise man will only be useful as a man,

⁵ Charles Wolfe (1791-1823) *The Burial of Sir John Morre at Corunna*.

⁶ A group empowered to uphold the law; a sheriff’s posse.

and will not submit to be “clay,” and “stop a hole to keep the wind away,”⁷ but leave that office to his dust at least:

“I am too high-born to be propertied,
To be a secondary at control,
Or useful serving-man and instrument
To any sovereign state throughout the world.”⁸

He who gives himself entirely to his fellow men appears to them useless and selfish, but he who gives himself partially to them is pronounced a benefactor and philanthropist.

How does it become a man to behave toward this American government today? I answer that he cannot, without disgrace, be associated with it. I cannot for an instant recognize that political organization as *my* government which is the *slave’s* government also.⁹

All men recognize the right of revolution—that is, the right to refuse allegiance to (and to resist) the government when its tyranny or its inefficiency are great and unendurable. But almost all say that such is not the case now. But such was the case, they think, in the Revolution of ‘75.¹⁰ If one were to tell me that this was a bad government because it taxed certain foreign commodities brought to its ports, it is most probable that I should not make an ado about it, for I can do without them. All machines have their friction, and possibly this does enough good to counterbalance the evil. At any rate, it is a great evil to make a stir about it. But when the friction comes to have its machine, and oppression and robbery are organized, I say, let us not have such

⁷ Shakespeare (1564-1616) from *Hamlet*.

⁸ Shakespeare, from *King John*.

⁹ As an abolitionist, Thoreau strongly objected to slavery’s legal protection in certain states.

¹⁰ The American Revolution began in Lexington & Concord in 1775.

a machine any longer. In other words, when a sixth of the population of a nation which has undertaken to be the refuge of liberty are slaves, and a whole country is unjustly overrun and conquered by a foreign army, and subjected to military law, I think that it is not too soon for honest men to rebel and revolutionize. What makes this duty the more urgent is the fact that the country so overrun is not our own, but ours is the invading army.¹¹

Paley, a common authority with many on moral questions, in his chapter on the “Duty of Submission to Civil Government,” resolves all civil obligation into expediency, and he proceeds to say that “so long as the interest of the whole society requires it—that is, so long as the established government cannot be resisted or changed without public inconveniency—it is the will of God that the established government be obeyed, and no longer. This principle being admitted, the justice of every particular case of resistance is reduced to a computation of the quantity of the danger and grievance on the one side, and of the probability and expense of redressing it on the other.”¹² Of this, he says, every man shall judge for himself.

But Paley appears never to have contemplated those cases to which the rule of expediency does not apply, in which a people, as well as an individual, must do justice—cost what it may. If I have unjustly wrested a plank from a drowning man, I must restore it to him though I drown myself. This, according to Paley, would be inconvenient. But he that would save his life, in such a

¹¹ A reference to slavery in the United States and to the invasion of Mexico by the United States.

¹² William Paley (1743-1805), English theologian and philosopher, from *Principles of Moral and Political Philosophy*, 1785.

case, shall lose it.¹³ This people must cease to hold slaves, and to make war on Mexico, though it cost them their existence as a people.

In their practice, nations agree with Paley; but does any one think that Massachusetts does exactly what is right at the present crisis?

“A drab of state, a cloth-o’-silver slut,

To have her train borne up, and her soul trail in the dirt.”¹⁴

Practically speaking, the opponents to a reform in Massachusetts are not a hundred thousand politicians at the South, but a hundred thousand merchants and farmers here, who are more interested in commerce and agriculture than they are in humanity, and are not prepared to do justice to the slave and to Mexico, *cost what it may*. I quarrel not with far-off foes, but with those who, near at home, co-operate with—and do the bidding of—those far away, and without whom the latter would be harmless. We are accustomed to say that the mass of men are unprepared, but improvement is slow, because the few are not materially wiser or better than the many. It is not so important that many should be as good as you, as that there be some absolute goodness somewhere; for that will leaven the whole lump.¹⁵

There are thousands who are *in opinion* opposed to slavery and to the war, who yet in effect do nothing to put an end to them; who, esteeming themselves children of Washington and Franklin, sit down with their hands in their pockets and say that they know not what to do, and do nothing; who even postpone the question of

¹³ “He that findeth his life shall lose it...” —Matthew 10:39.

¹⁴ Cyril Tourneur (1575-1626), *The Revengers Tragadie*.

¹⁵ “...a little leaven leaveneth the whole lump” —1 Corinthians 5:6.

freedom to the question of free-trade, and quietly read the prices-current¹⁶ along with the latest advices from Mexico, after dinner, and, it may be, fall asleep over them both. What is the price-current of an honest man and patriot today? They hesitate, and they regret, and sometimes they petition—but they do nothing in earnest and with effect. They will wait, well disposed, for others to remedy the evil, that they may no longer have it to regret. At most they give only a cheap vote, and a feeble countenance and Godspeed, to the right, as it goes by them. There are nine hundred and ninety-nine patrons of virtue to one virtuous man; but it is easier to deal with the real possessor of a thing than with the temporary guardian of it.

All voting is a sort of gaming, like checkers or backgammon, with a slight moral tinge to it—a playing with right and wrong, with moral questions; and betting naturally accompanies it. The character of the voters is not staked. I cast my vote, perchance, as I think right, but I am not vitally concerned that that right should prevail. I am willing to leave it to the majority. Its obligation, therefore, never exceeds that of expediency. Even voting *for the right* is *doing* nothing for it. It is only expressing to men feebly your desire that it should prevail. A wise man will not leave the right to the mercy of chance, nor wish it to prevail through the power of the majority. There is but little virtue in the action of masses of men. When the majority shall at length vote for the abolition of slavery, it will be because they are indifferent to slavery, or because there is but little slavery left to be abolished by their vote. *They* will then be the only slaves. Only *his* vote can hasten

¹⁶ A list of the prevailing prices of merchandise, stocks, specie, bills of exchange, etc.

the abolition of slavery who asserts his own freedom by his vote.

I hear of a convention to be held at Baltimore, or elsewhere, for the selection of a candidate for the Presidency, made up chiefly of editors, and men who are politicians by profession; but I think, what is it to any independent, intelligent, and respectable man what decision they may come to? Shall we not have the advantage of his wisdom and honesty, nevertheless? Can we not count upon some independent votes? Are there not many individuals in the country who do not attend conventions? But no: I find that the respectable man, so called, has immediately drifted from his position, and despairs of his country, when his country has more reason to despair of him. He forthwith adopts one of the candidates thus selected as the only *available* one, thus proving that he is himself *available* for any purposes of the demagogue. His vote is of no more worth than that of any unprincipled foreigner or hireling native, who may have been bought.

Oh for a man who is a *man*, and, as my neighbor says, has a bone in his back which you cannot pass your hand through! Our statistics are at fault; the population has been returned too large. How many *men* are there to a square thousand miles in this country? Hardly one. Does not America offer any inducement for men to settle here? The American has dwindled into an Odd Fellow¹⁷—one who may be known by the development of his organ of gregariousness, and a manifest lack of intellect and cheerful self-reliance; whose first and chief concern, on coming into the world, is to see that the almshouses are

¹⁷ A member of the Independent Order of Odd Fellows, a fraternal organization originating in England in the mid-1700s.

in good repair; and, before yet he has lawfully donned the virile garb, to collect a fund for the support of the widows and orphans that may be; who, in short ventures to live only by the aid of the Mutual Insurance company, which has promised to bury him decently.

It is not a man's duty, as a matter of course, to devote himself to the eradication of any—even the most enormous—wrong. He may still properly have other concerns to engage him, but it is his duty, at least, to wash his hands of it, and, if he gives it no thought longer, not to give it practically his support. If I devote myself to other pursuits and contemplations, I must first see, at least, that I do not pursue them sitting upon another man's shoulders. I must get off him first, that he may pursue his contemplations too. See what gross inconsistency is tolerated. I have heard some of my townsmen say, "I should like to have them order me out to help put down an insurrection of the slaves, or to march to Mexico—see if I would go!" And yet these very men have each, directly by their allegiance, and so indirectly, at least, by their money, furnished a substitute. The soldier is applauded who refuses to serve in an unjust war by those who do not refuse to sustain the unjust government which makes the war; is applauded by those whose own act and authority he disregards and sets at naught—as if the state were penitent to that degree that it hired one to scourge it while it sinned, but not to that degree that it left off sinning for a moment. Thus, under the name of Order and Civil Government, we are all made at last to pay homage to and support our own meanness. After the first blush of sin comes its indifference, and from immoral it becomes, as it were, *unmoral*, and not quite unnecessary to that life which we have made.

The broadest and most prevalent error requires the most disinterested virtue to sustain it. The slight reproach to which the virtue of patriotism is commonly liable, the noble are most likely to incur. Those who, while they disapprove of the character and measures of a government, yield to it their allegiance and support are undoubtedly its most conscientious supporters, and so frequently the most serious obstacles to reform. Some are petitioning the State to dissolve the Union,¹⁸ to disregard the requisitions of the President. Why do they not dissolve it themselves—the union between themselves and the State—and refuse to pay their quota into its treasury? Do not they stand in the same relation to the State, that the State does to the Union? And have not the same reasons prevented the State from resisting the Union, which have prevented them from resisting the State?

How can a man be satisfied to entertain an opinion merely, and enjoy it? Is there any enjoyment in it, if his opinion is that he is aggrieved? If you are cheated out of a single dollar by your neighbor, you do not rest satisfied with knowing that you are cheated, or with saying that you are cheated, or even with petitioning him to pay you your due; but you take effectual steps at once to obtain the full amount, and see that you are never cheated again. Action from principle—the perception and the performance of right—changes things and relations; it is essentially revolutionary, and does not consist wholly with anything which was. It not only divides states and churches, it divides families—ay, it divides the *individual*, separating the diabolical in him from the divine.

¹⁸ “No Union with Slaveholders” had become a popular abolitionist slogan.

Unjust laws exist; shall we be content to obey them, or shall we endeavor to amend them, and obey them until we have succeeded, or shall we transgress them at once? Men generally, under such a government as this, think that they ought to wait until they have persuaded the majority to alter them. They think that, if they should resist, the remedy would be worse than the evil. But it is the fault of the government itself that the remedy *is* worse than the evil. *It* makes it worse. Why is it not more apt to anticipate and provide for reform? Why does it not cherish its wise minority? Why does it cry and resist before it is hurt? Why does it not encourage its citizens to be on the alert to point out its faults, and *do* better than it would have them? Why does it always crucify Christ, and excommunicate Copernicus and Luther, and pronounce Washington and Franklin rebels?

One would think that a deliberate and practical denial of its authority was the only offense never contemplated by government; else, why has it not assigned its definite, its suitable and proportionate, penalty? If a man who has no property refuses but once to earn nine shillings for the State, he is put in prison for a period unlimited by any law that I know, and determined only by the discretion of those who placed him there. But if he should steal ninety times nine shillings from the State, he is soon permitted to go at large again.

If the injustice is part of the necessary friction of the machine of government, let it go, let it go; perchance it will wear smooth—certainly the machine will wear out. If the injustice has a spring, or a pulley, or a rope, or a crank, exclusively for itself, then perhaps you may consider whether the remedy will not be worse than

the evil. But if it is of such a nature that it requires you to be the agent of injustice to another, then, I say, break the law. Let your life be a counter friction to stop the machine. What I have to do is to see, at any rate, that I do not lend myself to the wrong which I condemn.

As for adopting the ways which the State has provided for remedying the evil, I know not of such ways. They take too much time, and a man's life will be gone. I have other affairs to attend to. I came into this world, not chiefly to make this a good place to live in, but to live in it, be it good or bad. A man has not everything to do, but something—and because he cannot do *everything*, it is not necessary that he should do *something* wrong. It is not my business to be petitioning the Governor or the Legislature any more than it is theirs to petition me, and if they should not hear my petition, what should I do then? But in this case the State has provided no way; its very Constitution is the evil. This may seem to be harsh and stubborn and unconciliatory, but it is to treat with the utmost kindness and consideration the only spirit that can appreciate or deserves it. So is a change for the better, like birth and death which convulse the body.

I do not hesitate to say that those who call themselves abolitionists should at once effectually withdraw their support, both in person and property, from the government of Massachusetts, and not wait till they constitute a majority of one, before they suffer the right to prevail through them. I think that it is enough if they have God on their side, without waiting for that other one. Moreover, any man more right than his neighbors constitutes a majority of one already.

I meet this American government, or its representative, the State government, directly, and face to face, once a year—no more—in the person of its

tax-gatherer.¹⁹ This is the only mode in which a man situated as I am necessarily meets it, and it then says, distinctly: Recognize me. And the simplest, the most effectual—and, in the present posture of affairs, the most indispensable—mode of treating with it on this head—of expressing your little satisfaction with and love for it—is to deny it then. My civil neighbor, the tax-gatherer, is the very man I have to deal with—for it is, after all, with men and not with parchment that I quarrel—and he has voluntarily chosen to be an agent of the government. How shall he ever know well what he is and does as an officer of the government, or as a man, until he is obliged to consider whether he shall treat me, his neighbor, for whom he has respect, as a neighbor and well-disposed man, or as a maniac and disturber of the peace, and see if he can get over this obstruction to his neighborliness without a ruder and more impetuous thought or speech corresponding with his action?

I know this well, that if one thousand, if one hundred, if ten men whom I could name—if ten *honest* men only—ay, if *one* HONEST man, in this State of Massachusetts, *ceasing to hold slaves*, were actually to withdraw from this co-partnership and be locked up in the county jail therefor, it would be the abolition of slavery in America. For it matters not how small the beginning may seem to be; what is once well done is done forever. But we love better to talk about it—that, we say, is our mission. Reform keeps many scores of newspapers in its service, but not one man. If my esteemed neighbor, the State's ambassador,²⁰ who will

¹⁹ Sam Staples, local constable and tax collector in Concord.

²⁰ Samuel Hoar of Concord, sent by the Massachusetts legislature to South Carolina to protest the impoundment of free black sailors, was forced to leave. His daughter was a close friend of the Emersons and a childhood friend of Thoreau.

devote his days to the settlement of the question of human rights in the Council Chamber, instead of being threatened with the prisons of Carolina, were to sit down the prisoner of Massachusetts, that State which is so anxious to foist the sin of slavery upon her sister—though at present she can discover only an act of inhospitality to be the ground of a quarrel with her—the Legislature would not wholly waive the subject the following winter.

Under a government that imprisons any unjustly, the true place for a just man is also a prison. The proper place today—the only place which Massachusetts has provided for her freer and less desponding spirits—is in her prisons, to be put out and locked out of the State by her own act, as they have already put themselves out by their principles. It is there that the fugitive slave, and the Mexican prisoner on parole, and the Indian come to plead the wrongs of his race, should find them; on that separate, but more free and honorable ground, where the State places those who are not *with* her, but *against* her—the only house in a slave State in which a free man can abide with honor. If any think that their influence would be lost there, and their voices no longer afflict the ear of the State—that they would not be as an enemy within its walls—they do not know by how much truth is stronger than error, nor how much more eloquently and effectively he can combat injustice who has experienced a little in his own person.

Cast your whole vote, not a strip of paper merely, but your whole influence. A minority is powerless while it conforms to the majority—it is not even a minority then—but it is irresistible when it clogs by its whole weight. If the alternative is to keep all just men in prison, or give up war and slavery, the State will not hesitate which to choose. If a thousand men were not to pay their

tax bills this year, that would not be as violent and bloody a measure as it would be to pay them and enable the State to commit violence and shed innocent blood. This is, in fact, the definition of a peaceable revolution, if any such is possible. If the tax-gatherer, or any other public officer, asks me, as one has done, "But what shall I do?" my answer is, "If you really wish to do anything, resign your office." When the subject has refused allegiance, and the officer has resigned his office, then the revolution is accomplished. But even suppose blood should flow. Is there not a sort of bloodshed when the conscience is wounded? Through this wound a man's real manhood and immortality flow out, and he bleeds to an everlasting death. I see this blood flowing now.

I have contemplated the imprisonment of the offender, rather than the seizure of his goods—though both will serve the same purpose—because they who assert the purest right, and consequently are most dangerous to a corrupt State, commonly have not spent much time in accumulating property. To such the State renders comparatively small service, and a slight tax is wont to appear exorbitant, particularly if they are obliged to earn it by special labor with their hands. If there were one who lived wholly without the use of money, the State itself would hesitate to demand it of him. But the rich man—not to make any invidious comparison—is always sold to the institution which makes him rich. Absolutely speaking, the more money, the less virtue; for money comes between a man and his objects, and obtains them for him—and it was certainly no great virtue to obtain it. It puts to rest many questions which he would otherwise be taxed to answer, while the only new question which it puts is the hard but superfluous one: how to spend it. Thus his moral ground is taken from under his feet.

The opportunities of living are diminished in proportion as what are called the “means” are increased. The best thing a man can do for his culture when he is rich is to endeavor to carry out those schemes which he entertained when he was poor. Christ answered the Herodians according to their condition. “Show me the tribute money,” said he, and one took a penny out of his pocket. If you use money which has the image of Caesar on it, and which he has made current and valuable—that is, *if you are men of the State* and gladly enjoy the advantages of Caesar’s government, then pay him back some of his own when he demands it. “Render therefore to Caesar that which is Caesar’s, and to God those things which are God’s”²¹—leaving them no wiser than before as to which was which, for they did not wish to know.

When I converse with the freest of my neighbors, I perceive that—whatever they may say about the magnitude and seriousness of the question, and their regard for the public tranquility—the long and the short of the matter is that they cannot spare the protection of the existing government, and they dread the consequences to their property and families of disobedience to it. For my own part, I should not like to think that I ever rely on the protection of the State. But, if I deny the authority of the State when it presents its tax bill, it will soon take and waste all my property, and so harass me and my children without end. This is hard. This makes it impossible for a man to live honestly, and at the same time comfortably in outward respects. It will not be worth the while to accumulate property—that would be sure to go again. You must hire or squat somewhere, and raise but a small crop, and eat that soon. You must live within yourself,

²¹ Matthew 22:19-22.

and depend upon yourself always tucked up and ready for a start, and not have many affairs. A man may grow rich in Turkey even, if he will be in all respects a good subject of the Turkish government. Confucius said, "If a state is governed by the principles of reason, poverty and misery are subjects of shame; if a state is not governed by the principles of reason, riches and honors are the subjects of shame." No: until I want the protection of Massachusetts to be extended to me in some distant Southern port, where my liberty is endangered, or until I am bent solely on building up an estate at home by peaceful enterprise, I can afford to refuse allegiance to Massachusetts, and her right to my property and life. It costs me less in every sense to incur the penalty of disobedience to the State than it would to obey. I should feel as if I were worth less in that case.

Some years ago, the State met me in behalf of the Church, and commanded me to pay a certain sum toward the support of a clergyman whose preaching my father attended, but never I myself. "Pay," it said, "or be locked up in the jail." I declined to pay. But, unfortunately, another man saw fit to pay it. I did not see why the schoolmaster should be taxed to support the priest, and not the priest the schoolmaster—I was not the State's schoolmaster, but I supported myself by voluntary subscription. I did not see why the lyceum²² should not present its tax bill, and have the State to back its demand as well as the Church. However, at the request of the selectmen, I condescended to make some such statement as this in writing: "Know all men by these presents, that I, Henry Thoreau, do not wish to be regarded as a member of any incorporated society which I have not joined."

²² A hall where public lectures are held.

This I gave to the town clerk, and he has it. The State, having thus learned that I did not wish to be regarded as a member of that church, has never made a like demand on me since—though it said that it must adhere to its original presumption that time. If I had known how to name them, I should then have signed off in detail from all the societies which I never signed on to; but I did not know where to find a complete list.

I have paid no poll tax for six years. I was put into a jail once on this account for one night and, as I stood considering the walls of solid stone, two or three feet thick, the door of wood and iron, a foot thick, and the iron grating which strained the light, I could not help being struck with the foolishness of that institution which treated me as if I were mere flesh and blood and bones, to be locked up. I wondered that it should have concluded at length that this was the best use it could put me to, and had never thought to avail itself of my services in some way. I saw that, if there was a wall of stone between me and my townsmen, there was a still more difficult one to climb or break through, before they could get to be as free as I was. I did not for a moment feel confined, and the walls seemed a great waste of stone and mortar. I felt as if I alone of all my townsmen had paid my tax. They plainly did not know how to treat me, but behaved like persons who are underbred. In every threat and in every compliment there was a blunder; for they thought that my chief desire was to stand the other side of that stone wall. I could not but smile to see how industriously they locked the door on my meditations, which followed them out again without let or hindrance, and they were really all that was dangerous. As they could not reach me, they had resolved to punish my body, just as boys, if they cannot come at some person

against whom they have a spite, will abuse his dog. I saw that the State was half-witted, that it was timid as a lone woman with her silver spoons, and that it did not know its friends from its foes—and I lost all my remaining respect for it, and pitied it.

Thus the State never intentionally confronts a man's sense—intellectual or moral—but only his body, his senses. It is not armed with superior wit or honesty, but with superior physical strength. I was not born to be forced. I will breathe after my own fashion. Let us see who is the strongest. What force has a multitude? They only can force me who obey a higher law than I. They force me to become like themselves. I do not hear of *men* being *forced* to have this way or that by masses of men. What sort of life is that to live? When I meet a government that says to me, "Your money or your life," why should I be in haste to give it my money? It may be in a great strait, and not know what to do—I cannot help that. It must help itself, do as I do. It is not worth the while to snivel about it. I am not responsible for the successful working of the machinery of society. I am not the son of the engineer. I perceive that, when an acorn and a chestnut fall side by side, the one does not remain inert to make way for the other, but both obey their own laws, and spring and grow and flourish as best they can, till one, perchance, overshadows and destroys the other. If a plant cannot live according to its nature, it dies; and so a man.

The night in prison was novel and interesting enough. The prisoners in their shirt sleeves were enjoying a chat and the evening air in the doorway when I entered. But the jailer said, "Come, boys, it is time to lock up" and so they dispersed, and I heard the sound of their steps returning into the hollow apartments. My roommate was

introduced to me by the jailer as "a first-rate fellow and a clever man." When the door was locked, he showed me where to hang my hat and how he managed matters there. The rooms were whitewashed once a month and this one, at least, was the whitest, most simply furnished, and probably the neatest apartment in the town. He naturally wanted to know where I came from and what brought me there, and, when I had told him, I asked him in my turn how he came there, presuming him to be an honest man, of course—and, as the world goes, I believe he was. "Why," said he, "they accuse me of burning a barn; but I never did it." As near as I could discover, he had probably gone to bed in a barn when drunk and smoked his pipe there; and so a barn was burnt. He had the reputation of being a clever man, had been there some three months waiting for his trial to come on, and would have to wait as much longer; but he was quite domesticated and contented, since he got his board for nothing, and thought that he was well treated.

He occupied one window, and I the other, and I saw that if one stayed there long, his principal business would be to look out the window. I had soon read all the tracts that were left there, and examined where former prisoners had broken out, and where a grate had been sawed off, and heard the history of the various occupants of that room—for I found that even here there was a history and a gossip which never circulated beyond the walls of the jail. Probably this is the only house in the town where verses are composed which are afterward printed in a circular form, but not published. I was shown quite a long list of verses that were composed by some young men who had been detected in an attempt to escape, who avenged themselves by singing them.

I pumped my fellow-prisoner as dry as I could,

for fear I should never see him again; but at length he showed me which was my bed, and left me to blow out the lamp.

It was like traveling into a far country, such as I had never expected to behold, to lie there for one night. It seemed to me that I never had heard the town clock strike before, nor the evening sounds of the village, for we slept with the windows open, which were inside the grating. It was to see my native village in the light of the Middle Ages, and our Concord was turned into a Rhine stream, and visions of knights and castles passed before me. They were the voices of old burghers²³ that I heard in the streets. I was an involuntary spectator and auditor of whatever was done and said in the kitchen of the adjacent village inn—a wholly new and rare experience to me. It was a closer view of my native town. I was fairly inside of it. I never had seen its institutions before. This is one of its peculiar institutions, for it is a shire town. I began to comprehend what its inhabitants were about.

In the morning, our breakfasts were put through the hole in the door, in small oblong-square tin pans, made to fit, and holding a pint of chocolate with brown bread and an iron spoon. When they called for the vessels again, I was green enough to return what bread I had left, but my comrade seized it and said that I should lay that up for lunch or dinner. Soon after he was let out to work at haying in a neighboring field, whither he went every day, and would not be back till noon; so he bade me good day, saying that he doubted if he should see me again.

When I came out of prison—for some one interfered, and paid that tax—I did not perceive that great changes had taken place on the common, such

²³ A citizen of a borough or town.

as he observed who went in a youth and emerged a tottering and gray-headed man; and yet a change had to my eyes come over the scene—the town, and State, and country—greater than any that mere time could effect. I saw yet more distinctly the State in which I lived. I saw to what extent the people among whom I lived could be trusted as good neighbors and friends; that their friendship was for summer weather only; that they did not greatly propose to do right; that they were a distinct race from me by their prejudices and superstitions, as the Chinamen and Malays are; that in their sacrifices to humanity, they ran no risks, not even to their property; that after all they were not so noble but they treated the thief as he had treated them, and hoped, by a certain outward observance and a few prayers, and by walking in a particular straight though useless path from time to time, to save their souls. This may be to judge my neighbors harshly; for I believe that many of them are not aware that they have such an institution as the jail in their village.

It was formerly the custom in our village, when a poor debtor came out of jail, for his acquaintances to salute him, looking through their fingers that were crossed to represent the grating of a jail window, "How do ye do?" My neighbors did not thus salute me, but first looked at me, and then at one another, as if I had returned from a long journey. I was put into jail as I was going to the shoemaker's to get a shoe that was mended. When I was let out the next morning I proceeded to finish my errand, and, having put on my mended shoe, joined a huckleberry party who were impatient to put themselves under my conduct; and in half an hour—for the horse was soon tackled—was in the midst of a huckleberry field, on one of our highest hills, two miles off, and then

the State was nowhere to be seen.

This is the whole history of “My Prisons.”²⁴

I have never declined paying the highway tax, because I am as desirous of being a good neighbor as I am of being a bad subject; and as for supporting schools, I am doing my part to educate my fellow countrymen now. It is for no particular item in the tax bill that I refuse to pay it. I simply wish to refuse allegiance to the State, to withdraw and stand aloof from it effectually. I do not care to trace the course of my dollar, if I could, till it buys a man or a musket to shoot one with—the dollar is innocent—but I am concerned to trace the effects of my allegiance. In fact, I quietly declare war with the State, after my fashion, though I will still make what use and get what advantage of her I can, as is usual in such cases.

If others pay the tax which is demanded of me, from a sympathy with the State, they do but what they have already done in their own case, or rather they abet injustice to a greater extent than the State requires. If they pay the tax from a mistaken interest in the individual taxed, to save his property, or prevent his going to jail, it is because they have not considered wisely how far they let their private feelings interfere with the public good.

This, then, is my position at present. But one cannot be too much on his guard in such a case, lest his action be biased by obstinacy or an undue regard for the opinions of men. Let him see that he does only what belongs to himself and to the hour.

I think sometimes, Why, this people mean well; they are only ignorant; they would do better if they knew how; why give your neighbors this pain to treat you as

²⁴ A reference to *Le Mie Prigioni* by Silvio Pellico (1789-1854) about his eight years as a political prisoner.

they are not inclined to? But I think, again, This is no reason why I should do as they do, or permit others to suffer much greater pain of a different kind. Again, I sometimes say to myself, When many millions of men, without heat, without ill will, without personal feeling of any kind, demand of you a few shillings only, without the possibility, such is their constitution, of retracting or altering their present demand, and without the possibility, on your side, of appeal to any other millions, why expose yourself to this overwhelming brute force? You do not resist cold and hunger, the winds and the waves, thus obstinately; you quietly submit to a thousand similar necessities. You do not put your head into the fire.

But just in proportion as I regard this as not wholly a brute force, but partly a human force, and consider that I have relations to those millions as to so many millions of men, and not of mere brute or inanimate things, I see that appeal is possible, first and instantaneously, from them to the Maker of them, and, secondly, from them to themselves. But, if I put my head deliberately into the fire, there is no appeal to fire or to the Maker of fire, and I have only myself to blame. If I could convince myself that I have any right to be satisfied with men as they are, and to treat them accordingly, and not according, in some respects, to my requisitions and expectations of what they and I ought to be, then, like a good Mussulman²⁵ and fatalist, I should endeavor to be satisfied with things as they are, and say it is the will of God. And, above all, there is this difference between resisting this and a purely brute or natural force, that I can resist this with some effect; but I cannot expect, like Orpheus, to change the nature of the rocks and trees and beasts.

²⁵ A Muslim.

I do not wish to quarrel with any man or nation. I do not wish to split hairs, to make fine distinctions, or set myself up as better than my neighbors. I seek rather, I may say, even an excuse for conforming to the laws of the land. I am but too ready to conform to them. Indeed, I have reason to suspect myself on this head; and each year, as the tax gatherer comes round, I find myself disposed to review the acts and position of the general and State governments, and the spirit of the people, to discover a pretext for conformity.

“We must affect our country as our parents,
And if at any time we alienate
Our love or industry from doing it honor,
We must respect effects and teach the soul
Matter of conscience and religion,
And not desire of rule or benefit.”²⁶

I believe that the State will soon be able to take all my work of this sort out of my hands, and then I shall be no better a patriot than my fellow countrymen. Seen from a lower point of view, the Constitution, with all its faults, is very good; the law and the courts are very respectable; even this State and this American government are, in many respects, very admirable and rare things, to be thankful for, such as a great many have described them. But seen from a point of view a little higher, they are what I have described them; seen from a higher still, and the highest, who shall say what they are, or that they are worth looking at or thinking of at all?

However, the government does not concern me much, and I shall bestow the fewest possible thoughts on it. It is not many moments that I live under a government, even in this world. If a man is thought-free,

²⁶ George Peele (1557-1597), *Battle of Alcazar*.

fancy-free, imagination-free, that which is *not* never for a long time appearing *to be* to him, unwise rulers or reformers cannot fatally interrupt him.

I know that most men think differently from myself, but those whose lives are by profession devoted to the study of these or kindred subjects content me as little as any. Statesmen and legislators, standing so completely within the institution, never distinctly and nakedly behold it. They speak of moving society, but have no resting place without it. They may be men of a certain experience and discrimination, and have no doubt invented ingenious and even useful systems, for which we sincerely thank them—but all their wit and usefulness lie within certain not very wide limits. They are wont to forget that the world is not governed by policy and expediency.

Webster²⁷ never goes behind government, and so cannot speak with authority about it. His words are wisdom to those legislators who contemplate no essential reform in the existing government, but for thinkers, and those who legislate for all time, he never once glances at the subject. I know of those whose serene and wise speculations on this theme would soon reveal the limits of his mind's range and hospitality. Yet, compared with the cheap professions of most reformers, and the still cheaper wisdom and eloquence of politicians in general, his are almost the only sensible and valuable words, and we thank Heaven for him. Comparatively, he is always strong, original, and, above all, practical. Still, his quality is not wisdom, but prudence. The lawyer's truth is not truth, but consistency or a consistent expediency. Truth is always in harmony with herself, and is not

²⁷ Daniel Webster, a U.S. Senator from Massachusetts.

concerned chiefly to reveal the justice that may consist with wrongdoing. He well deserves to be called, as he has been called, the Defender of the Constitution. There are really no blows to be given by him but defensive ones. He is not a leader, but a follower. His leaders are the men of '87.²⁸ "I have never made an effort," he says, "and never propose to make an effort; I have never countenanced an effort, and never mean to countenance an effort, to disturb the arrangement as originally made, by which the various States came into the Union." Still thinking of the sanction that the Constitution gives to slavery, he says, "Because it was a part of the original compact—let it stand." Notwithstanding his special acuteness and ability, he is unable to take a fact out of its merely political relations, and behold it as it lies absolutely to be disposed of by the intellect—what, for instance, it behooves a man to do here in America today with regard to slavery, but ventures, or is driven, to make some such desperate answer as the following, while professing to speak absolutely, and as a private man—from which what new and singular code of social duties might be inferred? "The manner," says he, "in which the governments of those States where slavery exists are to regulate it is for their own consideration, under their responsibility to their constituents, to the general laws of propriety, humanity, and justice, and to God. Associations formed elsewhere, springing from a feeling of humanity, or any other cause, have nothing whatever to do with it. They have never received any encouragement from me, and they never will."

They who know of no purer sources of truth, who have traced up its stream no higher, stand, and wisely

²⁸ The framers of the U.S. Constitution in 1787.

stand, by the Bible and the Constitution, and drink at it there with reverence and humility. But they who behold where it comes trickling into this lake, or that pool, gird up their loins once more and continue their pilgrimage toward its fountainhead.

No man with a genius for legislation has appeared in America. They are rare in the history of the world. There are orators, politicians, and eloquent men by the thousand, but the speaker has not yet opened his mouth to speak who is capable of settling the much-vexed questions of the day. We love eloquence for its own sake, and not for any truth that it may utter, or any heroism it may inspire. Our legislators have not yet learned the comparative value of free trade and of freedom, of union, and of rectitude, to a nation. They have no genius or talent for comparatively humble questions of taxation and finance, commerce and manufacturers and agriculture. If we were left solely to the wordy wit of legislators in Congress for our guidance, uncorrected by the seasonable experience and the effectual complaints of the people, America would not long retain her rank among the nations. For eighteen hundred years, though perchance I have no right to say it, the New Testament has been written—yet where is the legislator who has wisdom and practical talent enough to avail himself of the light which it sheds on the science of legislation?

The authority of government, even such as I am willing to submit to—for I will cheerfully obey those who know and can do better than I, and in many things even those who neither know nor can do so well—is still an impure one; to be strictly just, it must have the sanction and consent of the governed. It can have no pure right over my person and property but what I concede to it. The progress from an absolute to a limited monarchy,

from a limited monarchy to a democracy, is a progress toward a true respect for the individual. Even the Chinese philosopher was wise enough to regard the individual as the basis of the empire. Is a democracy, such as we know it, the last improvement possible in government? Is it not possible to take a step further towards recognizing and organizing the rights of man? There will never be a really free and enlightened State until the State comes to recognize the individual as a higher and independent power, from which all its own power and authority are derived, and treats him accordingly. I please myself with imagining a State at least which can afford to be just to all men, and to treat the individual with respect as a neighbor, which even would not think it inconsistent with its own repose if a few were to live aloof from it, not meddling with it, nor embraced by it, who fulfilled all the duties of neighbors and fellow-men. A State which bore this kind of fruit, and suffered it to drop off as fast as it ripened, would prepare the way for a still more perfect and glorious State, which also I have imagined, but not yet anywhere seen.

The Problem is Civil Obedience

An abridgement of a lecture
given by Howard Zinn in 1970

I start from the supposition that the world is topsy-turvy, that things are all wrong, that the wrong people are in jail and the wrong people are out of jail, that the wrong people are in power and the wrong people are out of power, that the wealth is distributed in this country and the world in such a way as not simply to require small reform but to require a drastic reallocation of wealth. I start from the supposition that we don't have to say too much about this because all we have to do is think about the state of the world today and realize that things are all upside down. Daniel Berrigan is in jail—a Catholic priest, a poet who opposes the war—and J. Edgar Hoover is free, you see. David Dellinger, who has opposed war ever since he was this high and who has used all of his energy and passion against it, is in danger of going to jail. The men who are responsible for the My Lai massacre are not on trial; they are in Washington serving various functions, primary and subordinate, that have to do with the unleashing of massacres, which surprise them when they occur. At Kent State University four students were killed by the National Guard and students were indicted. In every city in this country, when demonstrations take place, the protesters, whether they have demonstrated or not, whatever they have done, are assaulted and clubbed by police, and then they are arrested for assaulting a police officer.

All you have to do is read the Soledad letters of George Jackson, who was sentenced to one year to life, of which he spent ten years, for a seventy-dollar robbery of a filling station. And then there is the U.S. Senator who is alleged to keep 185,000 dollars a year, or something like that, on the oil depletion allowance. One is theft; the other is legislation. Something is wrong, something is terribly wrong when we ship 10,000 bombs full of nerve gas across the country, and drop them in somebody else's swimming pool so as not to trouble our own. So you lose your perspective after a while. If you don't think, if you just listen to TV and read scholarly things, you actually begin to think that things are not so bad, or that just little things are wrong. But you have to get a little detached, and then come back and look at the world, and you are horrified. So we have to start from that supposition—that things are really topsy-turvy.

And our topic *is* topsy-turvy: civil disobedience. As soon as you say the topic is civil disobedience, you are saying our problem is civil disobedience. That is not our problem.... Our problem is civil *obedience*. Our problem is the numbers of people all over the world who have obeyed the dictates of the leaders of their government and have gone to war, and millions have been killed because of this obedience. And our problem is that scene in *All Quiet on the Western Front* where the schoolboys march off dutifully in a line to war. Our problem is that people are obedient all over the world, in the face of poverty and starvation and stupidity, and war and cruelty. Our problem is that people are obedient while the jails are full of petty thieves, and all the while the grand thieves are running the country. That's our problem. We recognize this for Nazi Germany. We know that the problem there was obedience, that the people

obeyed Hitler. People obeyed—that was wrong. They should have challenged, and they should have resisted; if we were only there, we would have showed them. Even in Stalin's Russia we can understand that; people are obedient, all these herd-like people.

Well, that is our topic—that is our problem: civil obedience. Law is very important. We are talking about obedience to law—law, this marvelous invention of modern times, which we attribute to Western civilization, and which we talk about proudly. The rule of law, oh, how wonderful, all these courses in Western civilization all over the land. Remember those bad old days when people were exploited by feudalism? Everything was terrible in the Middle Ages, but now we have Western civilization—the rule of law. The rule of law has regularized and maximized the injustice that existed before the rule of law, that is what the rule of law has done. Let us start looking at the rule of law realistically, not with that metaphysical complacency with which we always examined it before.

When in all the nations of the world the rule of law is the darling of the leaders and the plague of the people, we ought to begin to recognize this. We have to transcend these national boundaries in our thinking. Nixon and Brezhnev have much more in common with one another than we have with Nixon. J. Edgar Hoover has far more in common with the head of the Soviet secret police than he has with us. It's the international dedication to law and order that binds the leaders of all countries in a comradely bond. That's why we are always surprised when they get together—they smile, they shake hands, they smoke cigars. They really like one another no matter what they say. It's like the Republican and Democratic parties, who claim that it's going to make a terrible

difference if one or the other wins, yet they are all the same. Basically, it is us against them.

We are asked, "What if everyone disobeyed the law?" But a better question is, "What if everyone obeyed the law?" And the answer to that question is much easier to come by, because we have a lot of empirical evidence about what happens if everyone obeys the law, or if even most people obey the law. What happens is what has happened—what is happening. Why do people revere the law? And we all do; even I have to fight it, for it was put into my bones at an early age when I was a Cub Scout. One reason we revere the law is its ambivalence. In the modern world we deal with phrases and words that have multiple meanings, like "national security." Oh, yes, we must do this for national security! Well, what does that mean? Whose national security? Where? When? Why? We don't bother to answer those questions, or even to ask them.

It's a strange thing, we think that law brings order. Law doesn't. How do we know that law does not bring order? Look around us. We live under the rules of law. Notice how much order we have? People say we have to worry about civil disobedience because it will lead to anarchy. Take a look at the present world in which the rule of law obtains. This is the closest to what is called anarchy in the popular mind—confusion, chaos, international banditry. The only order that is really worth anything does not come through the enforcement of law, it comes through the establishment of a society which is just and in which harmonious relationships are established and in which you need a minimum of regulation to create decent sets of arrangements among people. But the order based on law and on the force of

law is the order of the totalitarian state, and it inevitably leads either to total injustice or to rebellion—eventually, in other words, to very great disorder.

We all grow up with the notion that the law is holy. They asked Daniel Berrigan's mother what she thought of her son's breaking the law. He burned draft records—one of the most violent acts of this century—to protest the war, for which he was sentenced to prison, as criminals should be. They asked his mother who is in her eighties, what she thought of her son's breaking the law. And she looked straight into the interviewer's face, and she said, "It's not God's law." Now we forget that. There is nothing sacred about the law. Think of who makes laws. The law is not made by God—it is made by Strom Thurmond. If you have any notion about the sanctity and loveliness and reverence for the law, look at the legislators around the country who make the laws. Sit in on the sessions of the state legislatures. Sit in on Congress, for these are the people who make the laws which we are then supposed to revere.

All of this is done with such propriety as to fool us. This is the problem. In the old days, things were confused; you didn't know. Now you know. It is all down there in the books. Now we go through due process. Now the same things happen as happened before, except that we've gone through the right procedures. In Boston a policeman walked into a hospital ward and fired five times at a black man who had snapped a towel at his arm—and killed him. A hearing was held. The judge decided that the policeman was justified because if he didn't do it, he would lose the respect of his fellow officers. Well, that is what is known as due process—that is, the guy didn't get away with it. We went through the proper procedures, and everything was set up. The decorum, the propriety of the law fools us.

The nation then, was founded on disrespect for the law, and then came the Constitution and the notion of stability which Madison and Hamilton liked. But then we found in certain crucial times in our history that the legal framework did not suffice, and in order to end slavery we had to go outside the legal framework, as we had to do at the time of the American Revolution or the Civil War. The union had to go outside the legal framework in order to establish certain rights in the 1930s. And in this time, which may be more critical than the Revolution or the Civil War, the problems are so horrendous as to require us to go outside the legal framework in order to make a statement, to resist, to begin to establish the kind of institutions and relationships which a decent society should have. No, not just tearing things down; building things up. But even if you build things up that you are not supposed to build up—you try to build up a people's park, that's not tearing down a system; you are building something up, but you are doing it illegally—the militia comes in and drives you out. That is the form that civil disobedience is going to take more and more, people trying to build a new society in the midst of the old.

But what about voting and elections? Civil disobedience—we don't need that much of it, we are told, because we can go through the electoral system. And by now we should have learned, but maybe we haven't, for we grew up with the notion that the voting booth is a sacred place, almost like a confessional. You walk into the voting booth and you come out and they snap your picture and then put it in the papers with a beatific smile on your face. You've just voted; that is democracy. But if you even read what the political scientists say about the voting process, you find that the voting process is a sham. Totalitarian states love voting. You get people to the polls and they register their approval. I know there is a

difference—they have one party and we have two parties. We have one more party than they have, you see.

What we are trying to do, I assume, is really to get back to the principles and aims and spirit of the Declaration of Independence. This spirit is resistance to illegitimate authority and to forces that deprive people of their life and liberty and right to pursue happiness, and therefore under these conditions, it urges the right to alter or abolish their current form of government—and the stress had been on *abolish*. But to establish the principles of the Declaration of Independence, we are going to need to go outside the law, to stop obeying the laws that demand killing or that allocate wealth the way it has been done, or that put people in jail for petty technical offenses and keep other people out of jail for enormous crimes.

My hope is that this kind of spirit will take place not just in this country but in other countries because they all need it. People in all countries need the spirit of disobedience to the state, which is not a metaphysical thing but a thing of force and wealth. And we need a kind of declaration of interdependence among people in all countries of the world who are striving for the same thing.

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Why I'm Teaching My Son To Break the Law

By J.D. Tuccille

In 1858, hundreds of residents of Oberlin and Wellington, Ohio—many of them students and faculty at Oberlin College—surrounded Wadsworth's Hotel, in Wellington, in which law enforcement officers and slavehunters held a fugitive slave named John Price, under the authority of the Fugitive Slave Act. After a brief standoff, the armed crowd stormed the hotel and overpowered the captors. Price was freed and transported to safety in Canada. I know these details because my son recently borrowed from the library *The Price of Freedom*, a book about the Oberlin-Wellington Rescue, as the incident is called. My wife and I used it as a starting point for telling our seven-year-old why we don't expect him to obey the law—that laws and the governments that pass them are often evil. We expect him, instead, to stand up for his rights and those of others, and to do good, even if that means breaking the law.

Our insistence on putting right before the law isn't a new position. I've always liked Ralph Waldo Emerson's sentiment that "Good men must not obey the laws too well." That's a well-known quote, but it comes from a longer essay in which he wrote:

Republics abound in young civilians, who believe that the laws make the city, that grave modifications of the policy and modes of living, and employments of the population, that commerce, education, and religion, may

be voted in or out; and that any measure, though it were absurd, may be imposed on a people, if only you can get sufficient voices to make it a law. But the wise know that foolish legislation is a rope of sand, which perishes in the twisting ...

Rope of sand the law may be, but it can strangle unlucky people on the receiving end long before it perishes. John Price could well have ended up with not just the law, but a *real* rope, around his neck, just because he wanted to exercise the natural freedom to which he was entitled by birth as a sapient being.

John Price ended his life as a free man because he was willing to defy laws that said he was nothing but the property of other people, to be disposed of as they wished. He got a nice helping hand in maintaining his freedom from other people who were willing to not only defy laws that would compel them to collaborate in Price's bondage, but to beat the hell out of government agents charged with enforcing those laws.

Emerson would likely have approved. His son reported years later that, upon learning that his children were writing school compositions about building houses, he told them, "you must be sure to say that no house nowadays is perfect without having a nook where a fugitive slave can be safely hidden away."

Much influenced by Emerson, but more down to Earth, Henry David Thoreau went to jail (however briefly) for refusing to pay tax to support the Mexican War. In an essay now known as "Civil Disobedience," he wrote:

Must the citizen ever for a moment, or in the least degree, resign his conscience to the legislator? Why has every man a conscience then? I think that we should be men first, and subjects afterward. It is not desirable to

cultivate a respect for the law, so much as for the right. The only obligation which I have a right to assume is to do at any time what I think right.

This is the same essay in which Thoreau famously stated, “that government is best which governs not at all.” Government was not an institution he held in high regard. He fretted that soldiers, police, and other officials “serve the state thus, not as men mainly, but as machines” and that “in most cases there is no free exercise whatever of the judgment or of the moral sense; but they put themselves on a level with wood and earth and stones.”

Ours being a more academic and less poetic age, Thoreau’s sentiments are likely to be captured these days as embodying the divide between Lawrence Kohlberg’s stages of moral development.¹ Specifically, they mark the difference between conventional thinkers who believe the law is due obedience because somehow it defines morality, and post-conventional thinkers who believe that higher principles take precedence over the law.

Yeah, I prefer Emerson and Thoreau, too.

Personally, I would say that I love liberty more than any other value, and I don’t give a damn if my neighbors or the state disagree. I will be free, and I’m willing to help others be free, if they want my assistance. Screw any laws to the contrary. I don’t think social psychologist Jonathan Haidt would be surprised at my attitude. According to him, that’s what makes libertarians tick.² And that’s what my wife and I are trying to pass on to our son.

¹ A psychological theory which holds that moral reasoning, the basis for ethical behavior, has six identifiable developmental stages.

² Iyer R, Koleva S, Graham J, Ditto P, Haidt J Understanding Libertarian Morality: The Psychological Dispositions of Self-Identified Libertarians.

Slavery and the Mexican War are, thankfully, dead issues in this country, but that doesn't mean there's any shortage of objectionable restrictions and mandates laid upon us by law and the government. Taxes, nanny-state restrictions, business regulations, drug laws... all beg for defiance. The Fugitive Slave Law may no longer command Americans to do evil, but "safety" rules would have physicians and mental health professionals snitch on their patients. And there's always another military adventure, someplace, on which politicians want to expend other people's blood and money.

I sincerely hope that my son never has to run for his freedom in defiance of evil laws, like John Price. I also hope, at least a little, that he never has to beat the stuffing out of police officers, as did the residents of Oberlin and Wellington, to defend the freedom of another. But, if he does, I want him to do so without reservations.

If all my son does is live his life a little freer than the law allows, then we've done some good. A few regulations ignored and some paperwork tossed in the garbage can make the world a much easier place in which to live. Better yet, if he sits on a jury or two and stubbornly refuses to find any reason why he should convict some poor mark who was hauled in for owning a forbidden firearm or for ingesting the wrong chemicals. Jury nullification isn't illegal (yet), but it helps others escape punishment for doing things that are, but ought not be. No harm, no foul is a good rule for a juror, no matter what lawmakers say.

And, if he wants to go beyond that, and actively help people defy the prohibitions and authoritarian outrages of the years to come, he'll be cheered on by me, his mother, and perhaps even (depending on your views on the matter) an approving audience of spectral ancestors.

Our family has long experience with scoffing at the law.³ Purveying the forbidden or conveying the persecuted are honorable occupations, whether done for profit or out of personal commitment.

As I think our son has already come to appreciate, making the world freer is always right, especially when the law is wrong.

J.D. Tuccille is managing editor of Reason.com. This essay is reprinted with permission of Reason magazine.

³ The author's great-grandfather owned a restaurant that he used to offer customers contraband beverages during Prohibition.

Henry Thoreau and 'Civil Disobedience'

By Wendy McElroy

Henry David Thoreau was an introspective man, who wandered the woods surrounding the small village of Concord, Massachusetts, recording the daily growth of plants and the migration of birds in his ever-present journal. How, then, did he profoundly influence such political giants as Mohandas Gandhi and Martin Luther King Jr.? The answer lies in a brief essay that has been variously titled but which is most often referred to simply as "Civil Disobedience". Americans know Thoreau primarily as the author of *Walden*, but it is "Civil Disobedience" that established his reputation in the wider political world. It is one of the most influential political tracts ever written by an American.

"Civil Disobedience" is an analysis of the individual's relationship to the state that focuses on why men obey governmental law even when they believe it to be unjust. But "Civil Disobedience" is not an essay of abstract theory. It is Thoreau's extremely personal response to being imprisoned for breaking the law. Because he detested slavery and because tax revenues contributed to the support of it, Thoreau decided to become a tax rebel. There were no income taxes and Thoreau did not own enough land to worry about property taxes; but there was the hated poll tax – a capital tax levied equally on all adults within a community.

Thoreau declined to pay the tax and so, in July 1846, he was arrested and jailed. He was supposed to

remain in jail until a fine was paid which he also declined to pay. Without his knowledge or consent, however, relatives settled the “debt” and a disgruntled Thoreau was released after only one night. The incarceration may have been brief but it has had enduring effects through “Civil Disobedience.” To understand why the essay has exerted such powerful force over time, it is necessary to examine both Thoreau the man and the circumstances of his arrest.

Thoreau the man

Henry David Thoreau was born into a modest New England family. With a childhood surrounded by rivers, woods, and meadows, he became an avid student of nature. His friend and mentor, Ralph Waldo Emerson, offered the following psychological portrait:

He was bred to no profession; he never married; he lived alone; he never went to church; he never voted; he refused to pay a tax to the State; he ate no flesh; he drank no wine; he never knew the use of tobacco; and though a naturalist, he used neither trap nor gun. He chose, wisely no doubt for himself, to be the bachelor of thought and Nature.... No truer American existed than Thoreau.

If it is possible for one word to summarize a man, then that word would be the advice he offered in *Walden*: “Simplify, simplify.” Thoreau was a self-consciously simple man who organized his life around basic truths. He listened to the inner voice of his conscience, a voice all men possess but few men follow. As he explained in *Walden*,

To be a philosopher is not merely to have subtle thoughts, nor even to found a school, but so to love

wisdom as to live according to its dictates, a life of simplicity, independence, magnanimity and trust. It is to solve some of the problems of life, not only theoretically, but practically.

Thoreau's attempt to apply principles to his daily life is what led to his imprisonment and to "Civil Disobedience." Oddly enough, his contemporaries did not see him as a theorist or as a radical, viewing him instead as a naturalist. They either dismissed or ignored his political essays, including "Civil Disobedience." The only two books published in his lifetime, *Walden* (1845) and *A Week on the Concord and Merrimack Rivers* (1849); both dealt with nature, in which he loved to wander.

He did not have to wander far to find intellectual stimulation as well. During the early 19th century, New England was the center of an intellectual movement called Transcendentalism. In 1834, while Thoreau was a student at Harvard, the leading Transcendentalist moved into a substantial house at the outskirts of Concord, thus converting the village into the heart of this influential movement. That man was Ralph Waldo Emerson.

There has never been rigorous agreement on the definition of Transcendentalism, partly because Emerson refused to be systematic; but there are broad areas of agreement among Transcendentalists. As a philosophy, it emphasizes idealism rather than materialism; that is, it views the world as an expression of spirit and every individual as an expression of a common humanity. To be human is to be born with moral imperatives that are not learned from experience but which are discovered through introspection. Therefore, everyone must be free to act according to his conscience in order to find the truth buried within.

Although Emerson's focus on the individual must have appealed to Thoreau, there was an inherent tension between Thoreau's practical, earthy ways and the abstract quality of Transcendentalism. Thoreau wanted to incorporate principles into daily life; he wanted to taste and feel principles in the air around him. He wrote in *Walden*,

I went to the woods because I wished to live deliberately, to front only the essential facts of life, and see if I could not learn what it had to teach, and not, when I came to die, to discover that I had not lived. I did not wish to live what was not life, living is so dear; nor did I wish to practice resignation, unless it was quite necessary. I wanted to live deep and suck out all the marrow of life, to live so sturdily and Spartan-like as to put to rout all that was not life, to cut a broad swath and shave close, to drive life into a corner, and reduce it to its lowest terms, and, if it proved to be mean, why then to get the whole and genuine meanness of it, and publish its meanness to the world; or if it were sublime, to know it by experience, and to be able to give a true account of it.

Despite their differences, Thoreau was deeply influenced by Emerson, whom he met in 1837 through a mutual friend. Four years later, Thoreau moved into the Emerson home and assumed responsibility for many of the practical details of Emerson's life.

Transcendentalism became Thoreau's intellectual training ground. His first appearance in print was a poem entitled "Sympathy" published in the first issue of *The Dial*, a Transcendentalist paper. As Transcendentalists migrated to Concord, one by one, Thoreau was exposed to all facets of the movement and took his place in its inner circle. At Emerson's suggestion, he kept a daily journal, from which most of *Walden* was eventually culled.

But Thoreau still longed for a life both concrete and spiritual. He wanted to translate his thoughts into action. While Transcendentalists praised nature, Thoreau walked through it. Especially in his later years, Emerson seemed distant from Thoreau's lusty approach to life, which he described as "the doctrine of activity." Given this difference of approach, it is no wonder that Emerson did not embrace the ideas within "Civil Disobedience." Nor did he approve of Thoreau's refusal to pay taxes.

Imprisoned for a night

"Civil Disobedience" was Thoreau's response to his 1846 imprisonment for refusing to pay a poll tax that violated his conscience. He exclaimed in "Civil Disobedience,"

Must the citizen ever for a moment, or in the least degree, resign his conscience to the legislator? Why has every man a conscience then? I think that we should be men first, and subjects afterward. It is not desirable to cultivate a respect for the law, so much as for the right. The only obligation which I have a right to assume is to do at any time what I think right.

Imprisonment was Thoreau's first direct experience with state power and, in typical fashion, he analyzed it:

The State never intentionally confronts a man's sense, intellectual or moral, but only his body, his senses. It is not armed with superior wit or honesty, but with superior physical strength. I was not born to be forced. I will breathe after my own fashion. Let us see who is the strongest.

Prior to his arrest, Thoreau had lived a quiet, solitary life at Walden, an isolated pond in the woods about a mile and a half from Concord. He now returned to Walden to mull over two questions: (1) Why do some men obey laws without asking if the laws are just or unjust; and, (2) why do others obey laws they think are wrong?

In attempting to answer these questions, Thoreau's view of the state did not alter. It was that view, after all, which led him to prison in the first place. Judging by the rather dry, journalistic account of being in jail, his emotional reaction did not seem to alter significantly; he was not embittered by the experience. The main criticism he expressed was aimed at those who presumed to pay his fine, an act that the jailer said "made him mad as the devil."

Toward the men who were his jailers, Thoreau seems to have felt more disdain than anger, stating,

They plainly did not know how to treat me, but behaved like persons who are under-bred. In every threat and in every compliment there was a blunder; for they thought that my chief desire was to stand the other side of that stone wall.... I saw that the State was half-witted, that it was timid as a lone woman with her silver spoons, and that it did not know its friends from its foes, and I lost all my remaining respect for it, and pitied it.

It was the reaction of the townspeople of Concord, his neighbors, that distressed Thoreau and made him dissect the experience so as to understand their behavior. He ended his short, matter-of-fact account of his night in prison with a commentary on the townsfolk, which expressed how his eyes had been opened:

I saw to what extent the people among whom I lived could be trusted as good neighbors and friends; that their

friendship was for summer weather only; that they did not greatly propose to do right; that they were a distinct race from me by their prejudices and superstitions.

There is no cynicism in Thoreau's description of his neighbors, whom he admits he may be judging "harshly," since "many of them are not aware that they have such an institution as the jail in their village." Instead he was unsettled by the realization that there was a wall between him and the townsfolk, a wall to which Gandhi referred in an account of his second imprisonment in South Africa. Gandhi wrote,

Placed in a similar position for refusing his poll tax, the American citizen Thoreau expressed similar thought in 1849. Seeing the wall of the cell in which he was confined, made of solid stone 2 or 3 feet thick, and the door of wood and iron a foot thick, he said to himself, "If there were a wall of stone between me and my townsmen, there was still a more difficult one to climb or break through before they could get to be as free as I was."

Thoreau may have also brooded over the reaction of Emerson, who criticized the imprisonment as pointless. According to some accounts, Emerson visited Thoreau in jail and asked, "Henry, what are you doing in there?" Thoreau replied, "Waldo, the question is what are you doing out there?" Emerson was "out there" because he believed it was shortsighted to protest an isolated evil; society required an entire rebirth of spirituality.

Emerson missed the point of Thoreau's protest, which was not intended to reform society but was simply an act of conscience. If we do not distinguish right from wrong, Thoreau argued that we will eventually lose the capacity to make the distinction and become, instead, morally numb.

Near the end of his life, Thoreau was asked, "Have you made your peace with God?" He replied, "I did not know we had ever quarrelled." For Thoreau, that would have been the real cost of paying his poll tax; it would have meant quarreling with his own conscience, which was too close to quarreling with God.

"Civil Disobedience" ends on a happy note. After Thoreau's release and unpleasant experience with his neighbors, the children of Concord had brightened his mood by urging him to join a huckleberry hunt. Huckleberrying was one of Thoreau's valued pastimes and his skill at locating fruit-laden bushes made him a favorite with children. And, should a child stumble, spilling berries, he would kneel by the weeping child and explain that if children did not stumble, then berries would never scatter and grow into new bushes.

He ended his chronicle of prison,

[I] joined a huckleberry party, who were impatient to put themselves under my conduct; and in half an hour ... was in the midst of a huckleberry field, on one of our highest hills, two miles off, and then the State was nowhere to be seen.

Thus, Thoreau shed the experience of prison, but he could not shed the insight he had gained into his neighbors nor the questions that accompanied his new perspective. The text of "Civil Disobedience" constitutes the answer he discovered by listening to the "quiet voice within."

Although many Quaker writers had argued from conscience for civil disobedience against war and slavery, Henry David Thoreau's "Civil Disobedience" essay is not tied to a particular religion or to a specific issue. It

is a secular call for the inviolability of conscience on all issues, and this aspect may account for some of the essay's enduring legacy. The personal quality of "Civil Disobedience" also contributes to its impact, as the essay exudes sincerity more commonly found in diaries and correspondence than in political tracts.

The opening sentence of "Civil Disobedience" sets the tone by paraphrasing the motto of *The United States Magazine and Democratic Review* – "That government is best which governs least." Then Thoreau carries this logic one step further:

Carried out, it finally amounts to this, which also I believe, – "That government is best which governs not at all;" and when men are prepared for it, that will be the kind of government which they will have. Government is at best but an expedient....

After what appears to be a call for anarchism, Thoreau pulls back and dissociates himself from "no-government men." Speaking in practical terms and "as a citizen," he states, "I ask for, not at once no government, but at once a better government."

Whatever his position on government, one point is clear: Thoreau denies the right of any government to automatic and unthinking obedience. Obedience should be earned and it should be withheld from an unjust government. To drive this point home, "Civil Disobedience" dwells on how the Founding Fathers rebelled against an unjust government, which raises the question of when rebellion is justified.

To answer, Thoreau compares government to a machine and the problems of government to "friction." Friction is normal to a machine so that its mere presence

cannot justify revolution. But open rebellion does become justified in two cases: first, when the friction comes to have its own machine, that is, when the injustice is no longer occasional but a major characteristic; and, second, when the machine demands that people cooperate with injustice. Thoreau declared that, if the government “requires you to be the agent of injustice to another, then, I say, break the law. Let your life be a counter friction to stop the machine.”

Conscience vs. the collective

This is the key to Thoreau’s political philosophy. The individual is the final judge of right and wrong. More than this, since only individuals act, only individuals can act unjustly. When the government knocks on the door, it is an individual in the form of a postman or tax collector whose hand hits the wood. Before Thoreau’s imprisonment, when a confused taxman had wondered aloud about how to handle his refusal to pay, Thoreau had advised, “Resign.” If a man chose to be an agent of injustice, then Thoreau insisted on confronting him with the fact that he was making a choice. As Thoreau explained,

[It] is, after all, with men and not with parchment that I quarrel, – and he has voluntarily chosen to be an agent of the government.

But if government is “the voice of the people,” as it is often called, shouldn’t that voice be heeded? Thoreau admits that government may express the will of the majority but it may also express nothing more than the will of elite politicians. Even a good form of government

is “liable to be abused and perverted before the people can act through it.” Moreover, even if a government did express the voice of the people, this fact would not compel the obedience of individuals who disagree with what is being said. The majority may be powerful but it is not necessarily right. What, then, is the proper relationship between the individual and the government?

Perhaps the best description of Thoreau’s ideal relationship occurs in his description of “a really free and enlightened State” that recognizes “the individual as a higher and independent power, from which all its own power and authority are derived.” It is a state that “can afford to be just to all men, and to treat the individual with respect as a neighbor,” allowing those who did not embrace it to live “aloof.”

War and slavery

According to Thoreau, the government of his day did not come close to this ideal for two basic reasons: slavery and the Mexican-American war. It is important to remember that, although Thoreau’s imprisonment was a protest against slavery, “Civil Disobedience” was written after the outbreak of the Mexican-American war and protests both slavery and war. In fact, the opening paragraph of the essay mentions the war while saying nothing of slavery.

“Civil Disobedience” portrays the Mexican-American war as an evil comparable to slavery. The 1840s expressed a spirit of expansion called “Manifest Destiny”—the idea that it was the destiny of Americans to expand across the continent, civilizing the wilderness and the natives as they went. Part of the expansion was an annexation of Texas, which sparked a war with

Mexico, which also claimed the area. The annexation was doubly offensive to Thoreau because it permitted slavery in the new territory.

Moreover, the domestic consequences of the conflict deeply disturbed him. Taxes soared; the country assumed a military air. Thoreau was horrified to learn that some of his neighbors actively supported the war. He was perplexed by those who did not support the war but who financed it through the taxes they paid. After all, he considered the war to be “the work of comparatively a few individuals using the standing government as their tool.” Without cooperation from the people, “a few individuals” would not succeed in wielding that tool.

Blind obedience to the state

In fact, the cooperation of the tool itself—the standing army—is required. Thoreau wonders about the psychology of men who would fight a war and, perhaps, kill others out of obedience. He concludes that soldiers, by virtue of their absolute obedience to the state, become somewhat less than human. He writes, “Now, what are they? Men at all? or small movable forts and magazines, at the service of some unscrupulous man in power? Visit the Navy-Yard, and behold a marine, such a man as an American government can make, or such as it can make a man with its black arts—a mere shadow and reminiscence of humanity.” This is how “the mass of men” employed by the state render service to it, “not as men mainly, but as machines, with their bodies.” In doing so, the men relinquish the free exercise of their moral sense and, so “put themselves on a level with wood and earth and stones.”

Thoreau asks, How does it become a man to behave toward the American government today? I answer, that he cannot without disgrace be associated with it. But his “well-meaning” neighbors—even those who were opposed to slavery and the Mexican-American war—did associate with and obey the American government. Thoreau ascribes their behavior to ignorance and concludes, “They would do better if they knew how.” The problem remains, however, why do people like Emerson—who cannot be called ignorant—render any obedience to laws with which they disagree?

One reason is obvious: the people who believe they need a government are willing to accept an imperfect one. Such people, Thoreau explains, accept government as a “necessary evil.” Other people support government out of self-interest; Thoreau specifically mentions merchants and farmers in Massachusetts who profit from the war and from slavery.

Still others obey because they fear the consequences of disobedience. This is the neighbor who says, “If I deny the authority of the State when it presents its tax-bill, it will soon take and waste all my property, and so harass me and my children without end.” Thoreau knows that his neighbor is correct in his assessment of what may happen. “When I converse with the freest of my neighbors,” he writes,

I perceive that ... they dread the consequences to their property and families of disobedience.... This is hard. This makes it impossible for a man to live honestly, and at the same time comfortably, in outward respects.

By his own lights, Thoreau was fortunate in this respect. He had neither property to be seized nor

children to go hungry. Accordingly, he did not criticize men who reluctantly obeyed an unjust law out of fear for their families. Thoreau's criticism is aimed at the form of obedience that springs from a genuine respect for the authority of the state. This obedience says, "The law is the law and should be respected regardless of content." Through such attitudes, otherwise good men become agents of injustice.

Thoreau dissects the notion that "the law is the law and should be respected." For one thing, not all laws are equal. Some exist for no other reason than to protect the government—for example, laws against tax evasion or contempt of court. Such laws often have more severe penalties than those that protect individuals against violence.

Moreover, the proscribed penalties for denying government's authority are often so vague and sweeping as to invite arbitrary sentences from the court. Lawyers and the courts are part of the state's defensive machinery.

Thoreau concludes,

The lawyer's truth is not Truth, but consistency or a consistent expediency.... He well deserves to be called ... the Defender of the Constitution.... Still thinking of the sanction which the Constitution gives to slavery, he says, "Because it was part of the original compact, – let it stand." [He] is unable to take a fact out of its merely political relations....

Such courts offer no protection to Thoreau, who refuses to respect their authority. But he takes his refusal one step further. He not only rejects unjust laws but also the men who enact them. He withdraws his support from politicians who "rarely make any moral distinctions

[and] are as likely to serve the Devil, without intending it, as God.”

Thoreau’s use of the word “intending” is significant. Even well-intentioned politicians stand so completely within the institution of government that they never distinctly and nakedly behold it. Whatever they intend, they serve the government’s ends.

Thoreau’s disdain for politicians may seem a logical extension of his disrespect for “the law” but many reformers disrespected the law without holding lawmakers personally responsible. The viewpoint of such people overlooked the role of “choice,” Thoreau argues. Every politician who enacts a law chooses to do so; every agent who enforces a law chooses to do so. If officials create or enforce a law with which they disagree, then they have surrendered their conscience to the state and should be held personally responsible for that decision.

Holding politicians personally responsible is not the last step in Thoreau’s withdrawal of support. He denies the authority of government itself. Again, rejecting politicians may logically seem to imply the rejection of government; but, again, many reformers rejected politicians without rejecting politics. Thoreau holds such reformers personally responsible as well.

Those who, while they disapprove of the character and measures of a government, yield to it their allegiance and support are undoubtedly its most conscientious supporters, and so frequently the most serious obstacles to reform.

The problem with reformers

Thoreau specifically addresses fellow abolitionists who called for the immediate cessation of slavery. Instead

of petitioning the government to dissolve the Union with slaveholders, Thoreau believed those reformers should dissolve “the union between themselves and the State—and refuse to pay their quota into its treasury.” Petitions only strengthened the authority of the government by recognizing its authority and honoring the will of the majority. “[Any] man more right than his neighbors constitutes a majority of one already,” he observes.

The reformers who petition government for permission “love better to talk” about justice than to act on it. Thus, Thoreau concludes, “Reform keeps many scores of newspapers in its service, but not one man.” To men who prefer a safe strategy, voting becomes a substitute for action and politics becomes a sort of game, like checkers or backgammon, only with a slight moral tinge.

To Thoreau, anyone willing to leave moral decisions to the will of the majority is not really concerned that right should prevail. When resisting the poll tax, he did not consult the majority; he acted. If he had allowed the majority to decide whether or not he should pay, by his own standards he would have shown no regard for what is right.

Moreover, Thoreau considers voting to be a poor vehicle for reform because voting follows real change; it does not precede or cause it. “When the majority shall at length vote for the abolition of slavery,” he writes, “it will be because they are indifferent to slavery, or because there is but little slavery left to be abolished by their vote.” As for the other means that the state provides for changes to itself, they are extraordinarily slow. Thoreau notes, “They take too much time, and a man’s life will be gone.”

A duty to resist?

Does this mean men have a duty to pitch their life against an unjust state?

“Civil Disobedience” speaks to the individual’s right to resist the state but Thoreau does not consider disobedience to be an overriding duty. He understands that men are involved in the business of living and he thinks this is proper even for a dogged reformer like himself. He writes, “I came into this world, not chiefly to make this a good place to live in, but to live in it, be it good or bad.” First and foremost, he clearly stated, people should live their lives.

This is a crucial distinction. If a man is fortunate enough to be in circumstances that resemble Thoreau’s huckleberry field, “where the state was nowhere to be seen,” then he has no duty to seek it out but should, instead, go about the business of living. Thoreau defied the state only when it knocked on his door and demanded his money in support of an institution he considered to be unjust—slavery. Thereafter, when the state ignored him, Thoreau ignored it, even though his neighbors were taxed around him.

Thus, although “Civil Disobedience” is sometimes entitled “On the Duty of Civil Disobedience,” the latter is somewhat misleading. Indeed, the word “duty” may have derived from the essay’s critique and rejection of a chapter from William Paley’s book *Principles of Moral and Political Philosophy*. That chapter is entitled “Duty of Submission to Civil Government.”

According to Thoreau’s interpretation of the 18th-century philosopher, Paley argues that all civil obligations derive from expediency. Since Thoreau attempts to show the opposite—that civil obedience is morally grounded—the title “On the Duty of Civil Disobedience” may have played on Paley’s title.

Nevertheless, Civil Disobedience does not espouse a duty to seek out the state for confrontation, to protest a

wrong done to your neighbor, or even to resist the state in matters that do not violate conscience, such as buying a postage stamp.

The only political duty of a man is to correct any injustice he directly causes and to deny his cooperation to other injustice. This is the conclusion at which “Civil Disobedience” arrives. “If I have unjustly wrested a plank from a drowning man, I must restore it to him though I drown myself...”

...If I devote myself to other pursuits and contemplations, I must first see, at least, that I do not pursue them sitting upon another man’s shoulders. I must get off him first, that he may pursue his contemplations too.

In short, Thoreau believed the state should never rank above the individual conscience or the business of living. But if the state demands a person’s first allegiance by asking him to violate his conscience and participate in an injustice, the person should disobey—not through violence but by removing his cooperation.

Thoreau’s legacy

Thoreau’s political theories were not well known during his own time. They were usually presented as lectures to small audiences or as articles buried in small-circulation periodicals. “Civil Disobedience”, for example, was first rendered as a lecture at the Concord Meeting Hall. In 1849, it was published under the title “Resistance to Civil Government” in the first and only issue of Boston Aesthetic Papers.

After Thoreau's death, his sister Sophia prepared his uncollected works for posthumous publication in multiple volumes by Ticknor and Fields. The political essays were held until last and, even then, they appeared to be added on to the volume entitled *A Yankee in Canada with Anti-Slavery and Reform Papers* (1866). It included "Civil Disobedience," which had been retitled "On the Duty of Civil Disobedience."

Why were these essays published last? Possibly because they were not considered representative of Thoreau. Perhaps because many of them were written in response to specific events and, so, seemed dated. Or perhaps because their political slant was so unpopular that some reviewers of the volume wished they had died with the man.

In 1890, Henry Salt published a collection of Thoreau's political essays, including "Civil Disobedience." The book profoundly influenced a young lawyer in South Africa who was protesting that government's treatment of immigrant workers from India. The lawyer was Mohandas K. Gandhi. Gandhi found in Thoreau the techniques he would use in the subsequent struggle for Indian independence. Years later, he thanked the American people for Thoreau, saying,

You have given me a teacher in Thoreau, who furnished me through his essay on the "Duty of Civil Disobedience" scientific confirmation of what I was doing in South Africa.

By embracing Thoreau's message and by expanding the strategy of civil disobedience, Gandhi focused world attention on the shy Yankee philosopher who lived without real fame in his own nation, in his own time.

Thoreau's death went relatively unnoticed. In November 1860, he caught a severe cold that slowly deepened into consumption from which he never recovered. On May 6, 1862, at the age of 44, Henry David Thoreau died.

Months later, Emerson published a eulogy that concluded,

The country knows not yet, or in the least part, how great a son it has lost. His soul was made for the noblest society; he had in a short life exhausted the capabilities of this world; wherever there is knowledge, wherever there is virtue, wherever there is beauty, he will find a home.

As always, Thoreau said it more simply: "For joy I could embrace the earth. I shall delight to be buried in it."

Wendy Hart is author of The Art of Being Free. This essay is reprinted with permission of The Future of Freedom Foundation.

Civil Disobedience

By Peter Suber

Civil disobedience is a form of protest in which protestors deliberately violate a law. Classically, they violate the law they are protesting, such as segregation or draft laws, but sometimes they violate other laws which they find unobjectionable, such as trespass or traffic laws. Most activists who perform civil disobedience are scrupulously non-violent, and willingly accept legal penalties. The purpose of civil disobedience can be to publicize an unjust law or a just cause; to appeal to the conscience of the public; to force negotiation with recalcitrant officials; to “clog the machine” (in Thoreau’s phrase) with political prisoners; to get into court where one can challenge the constitutionality of a law; to exculpate oneself, or to put an end to one’s personal complicity in the injustice which flows from obedience to unjust law—or some combination of these. While civil disobedience in a broad sense is as old as the Hebrew midwives’ defiance of Pharaoh, most of the moral and legal theory surrounding it, as well as most of the instances in the street, have been inspired by Thoreau, Gandhi, and King. In this article we will focus on the moral arguments for and against its use in a democracy.

Objection: Civil disobedience cannot be justified in a democracy. Unjust laws made by a democratic legislature can be changed by a democratic legislature. The existence of lawful channels of change makes civil disobedience unnecessary.

Reply: Thoreau, who performed civil disobedience in a democracy, argued that sometimes the constitution

is the problem, not the solution. Moreover, legal channels can take too long, he argued, for he was born to live, not to lobby. His individualism gave him another answer: individuals are sovereign, especially in a democracy, and the government only holds its power by delegation from free individuals. Any individual may, then, elect to stand apart from the domain of law. Martin Luther King, Jr., who also performed civil disobedience in a democracy, asks us to look more closely at the legal channels of change. If they are open in theory, but closed or unfairly obstructed in practice, then the system is not democratic in the way needed to make civil disobedience unnecessary. Other activists have pointed out that if judicial review is one of the features of American democracy which is supposed to make civil disobedience unnecessary, then it ironically subverts this goal; for to obtain standing to bring an unjust statute to court for review, often a plaintiff must be arrested for violating it. Finally, the Nuremberg principles require disobedience to national laws or orders which violate international law, an overriding duty even in (perhaps especially in) a democracy.

Objection: Even if civil disobedience is sometimes justified in a democracy, activists must first exhaust the legal channels of change and turn to disobedience only as a last resort.

Reply: Legal channels can never be “exhausted”. Activists can always write another letter to their congressional delegation or to newspapers; they can always wait for another election and cast another vote. But justice delayed, King proclaimed, is justice denied. After a point, he argued, patience in fighting an injustice perpetuates the injustice, and this point had long since been passed in the 340 year struggle against

segregation in America. In the tradition which justifies civil disobedience by appeal to higher law, legal niceties count for relatively little. If God trumps Caesar to justify disobedience to unjust law, then God can trump Caesar to permit this disobedience sooner rather than later. In this tradition, A.J. Muste argued that to use legal channels to fight unjust laws is to participate in an evil machine, and to disguise dissent as conformity; this in turn corrupts the activist and discourages others by leading them to underestimate the numbers of their congeners.

Objection: We must obey the law under a contract with other members of our society. We have tacitly consented to the laws by residing in the state and enjoying its benefits.

Reply: Obviously this objection can be evaded by anyone who denies the social contract theory. But surprisingly many disobedient activists affirm that theory, making this an objection they must answer. Socrates makes this objection to Crito who is encouraging him to disobey the law by escaping from prison before he is executed. Thoreau and Gandhi both reply (as part of larger, more complex replies) that those who object deeply to the injustices committed by the state can, and should, relinquish the benefits they receive from the state by living a life of voluntary simplicity and poverty; this form of sacrifice is in effect to revoke one's tacit consent to obey the law. Another of Thoreau's replies is that consent to join a society and obey its laws must always be express, and never tacit. But even for Locke, whose social contract theory introduces the term "tacit consent," the theory permits disobedience, even revolution, if the state breaches its side of the contract. A reply from the natural law tradition, used by King, is

that an unjust law is not even a law, but a perversion of law (Augustine, Aquinas). Hence, consent to obey the laws does not extend to unjust laws. A reply made by many Blacks, women, and native Americans is that the duty to obey is a matter of degree; if they are not fully enfranchised members of American society, then they are not fully bound by its laws.

Objection: What if everybody did it? Civil disobedience fails Kant's universalizability test.

Reply: Most critics prefer to press this objection as a slippery slope argument; the objection then has descriptive and normative versions. In the descriptive version, one predicts that the example of disobedients will be imitated, increasing lawlessness and tending toward anarchy. In the normative version, one notes that if disobedience is justified for one group whose moral beliefs condemn the law, then it is justified for any group similarly situated, which is a recipe for anarchy.

The first reply, offered in seriousness by Thoreau and Gandhi, is that anarchy is not so bad an outcome. In fact, both depict anarchy as an ideal form of society. However, both are willing to put off the anarchical utopia for another day and fight in the meantime for improved laws; consequently, this strand of their thinking is often overlooked. Another reply is a variation on the first. Anarchy may be bad, but despotism is worse (Locke instead of Hobbes). If we face an iniquitous law, then we may permissibly disobey, and risk anarchy, in order to resist the tendency toward the greater evil of despotism. A.J. Muste extended this line of thinking to turn the slippery slope objection against itself. If we let the state conscript young men against their wills to fight immoral wars, then what will the state do next? For Muste, conscription puts us on a slippery slope toward

despotism, and obedience would bring us to the bottom.

Utilitarians observe that disobedience and obedience may both be harmful. The slippery slope objection falsely assumes that the former sort of harm always outweighs the latter. In the case of an iniquitous law, the harm of disobedience can be the lesser evil. This utilitarian reply is sometimes found to coexist with a complementary deontological reply, for example in Thoreau: one simply must not lend one's weight to an unjust cause.

Ronald Dworkin replies, in effect, that the descriptive version of the argument is false and the normative version irrelevant. There is no evidence that civil disobedience, even when tolerated by legal officials, leads to an increase in lawlessness. Moreover, rights trump utility. Since (for Dworkin) there is a strong right to disobey certain kinds of unjust laws, and since the slippery slope argument points only to the disutility of disobedience, this is a case of a right in conflict with utility; hence the right to disobey must prevail.

The normative version of the slippery slope argument has little force if the criteria used by activists permit some but not all disobedience. In Kant's language again, universalizability fails if the maxim of the action is "disobey a law whenever you disapprove of it," but it can succeed if instead the maxim is, "disobey when obedience would cause more harm than disobedience," or "disobey when a law is unjust in the following specific ways...." And it must be said, virtually all activists who practice civil disobedience follow criteria which endorse some, but not all, disobedience. King, for example, did not advocate indiscriminate disobedience; he advocated disobedience of unjust laws and obedience to the just. He articulated what he regarded as public, objective criteria which help us identify the unjust laws which may or

must be disobeyed, and the just laws which must obeyed. Any attempt to articulate the distinction between the two sorts of law is in effect an attempt to show that the slide down the slope can be halted, or that the maxim to disobey can be universalized.

King had a second reply, inspired by Gandhi: he deliberately made his example difficult to imitate. He pressed for negotiation before turning to disobedience; he underwent self-purification before every disobedient action; he accepted blows from police without retaliation; he accepted arrest and punishment. These tactical features of his actions had other purposes as well, but there is little doubt that they prevented onlookers from thinking that here was a criminal getting away with murder whose example could be imitated with profit.

The counter reply, made by Waldman and Storing is that the example of the careful disobedient will be imitated by the careless, and cannot be confined, especially if activists cloak their disobedient acts in the rhetoric of righteousness. If true, this instantly makes replies to the normative version of the slippery slope objection irrelevant. Caution in stating our criteria so that normatively we stop our slide far from the bottom does nothing to prevent the example from being misinterpreted or oversimplified by the less cautious. Scrupulosity in self-purification, courage in accepting blows, and sacrifice in accepting punishment do not stop the unscrupulous from being inspired by the example of disobedience as such.

One direct response, then, to the descriptive version held by Waldman and Storing comes from Rawls, who argued that civil disobedience can actually help to stabilize a community. It can be destabilizing if a very large number of people do it, but this rarely happens,

and when only a few do it, it can have the beneficial and stabilizing effect of nudging a society closer to its shared vision of justice.

Thoreau and Wasserstrom argue that while many in fact might be morally justified in disobeying, few in fact will actually disobey. For Thoreau and A.J. Muste, this inertia and docility in the general population are far larger problems than incipient anarchy.

Sometimes activists can point to the lawlessness of their opponents as the real concern. Thoreau claimed that the only harmful consequences of civil disobedience were triggered by the government's reaction to it. King painted white segregationists as the group most likely to precipitate anarchy, since it disobeyed desegregation laws without regard to their legitimacy or justice. Moreover, an activist need not be an anarchist to welcome widespread imitation. Thoreau ardently wished that all opponents of slavery would act on their convictions. He would regard a prediction of widespread imitation of his disobedience as an inducement to act, not as an objection. At this point, critics must be careful not to use the slippery slope objection inconsistently, by predicting anarchy to those who fear it, and inert indifference to those who fear that. On the other hand, activists who welcome imitation should probably do all they can to encourage this imitation; Thoreau did nothing of this kind until he wrote his extremely influential essay two years after he was arrested for withholding his poll tax.

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The Law

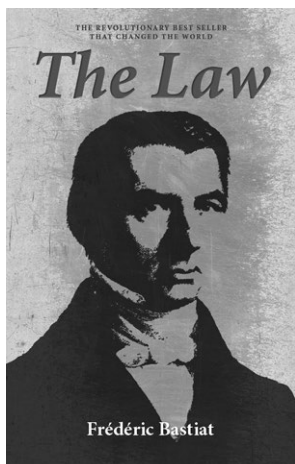
Frédéric Bastiat, a French political economist and contemporary of Thoreau's, would argue that civil disobedience is unnecessary in a system where the laws were founded upon justice. "Law is justice," he wrote in *The Law*. "In this proposition a simple and enduring government can be conceived. And I defy anyone to say how even the thought of revolution, of insurrection, of the slightest uprising could arise against a government whose organized force was confined only to suppressing injustice."

While Thoreau lightly touched upon what laws would be worth supporting, Bastiat dedicated the entirety of his famous work to addressing this important topic. If a person should defy unjust laws, which laws are *just*?

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“Must the citizen ever for a moment, or in the least degree, resign his conscience to the legislator? Why has every man a conscience, then? I think that we should be men first, and subjects afterward. It is not desirable to cultivate a respect for the law, so much as for the right.”



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