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On being sentenced: constitution and conviction in Thoreau's "Civil Disobedience"

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In "Civil Disobedience", Thoreau writes:

I have paid no poll-tax for six years. I was put into a jail once, 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 (Thoreau, 1983/1849, p. 402).

Thoreau had refused to pay the Massachusetts tax on the grounds of his opposition to the Mexican War and to slavery – specifically to the Fugitive Slave Law. He was, to his displeasure, released after only one night because someone, his aunt, in fact, had quietly paid on his behalf. But his refusal to pay the tax, and willingness to face the prison sentence, has become an emblem of civil disobedience, and his essay of this name soon became highly influential. Following Thoreau's death, the term began to circulate in tracts and sermons opposing slavery, while in the 20th century the principle it enshrined was adopted in Mahatma Gandhi's notion of *satyagraha*, and subsequently in civil rights movements, most notably in the United States and in South Africa.

In fact, Thoreau's account of his night in jail is far from disturbing. He liked the décor – a simple room with white-washed walls and plain furniture, more congenial to Thoreau than the increasing affluence and opulence of the houses of the Concord townsfolk. And he found his cell-mate agreeable, an intelligent man, who perhaps had fallen asleep, drunk in a barn, and whose pipe had perhaps started the fire that caused the burning down of the barn for which he had been prosecuted. He goes so far as to say that such a prison-cell is "the only house in a slave State in which a free man can abide

with honor”: “Under a government which imprisons unjustly, the true place for a just man is also a prison” (p. 398).

How are we to weigh these words and actions? There is a note of irony here, of course – irony not because what Thoreau says is not true but because his response to these conditions is a reversal of their intended effect, while his political gesture reverses the opposition of prison and civilian life. This is just one of the numerous sites where Thoreau identifies the townsfolk as imprisoned in their lives, docile subjects *avant la lettre*. Here, in the opening pages of *Walden*, we find Thoreau declaring his intentions:

I would fain say something, not so much concerning the Chinese and Sandwich Islanders as you who read these pages, who are said to live in New England, something about your condition, especially your outward condition or circumstances in this world, in this town, what it is, whether it is necessary that it be as bad as it is, whether it cannot be improved as well as not. I have travelled a great deal in Concord; and everywhere, in shops, and offices, and fields, the inhabitants have appeared to me to be doing penance in remarkable ways (Thoreau, 1983/1954, p. 46).

The weight of money worries, meanness, and envy lead to lives that are a slow dying. People begin digging their graves as soon as they are born. And so, he continues,

I sometimes wonder that we can be so frivolous, I may almost say, as to attend to the gross but somewhat foreign form of servitude called Negro Slavery, there are so many keen and subtle masters that enslave both north and south. It is hard to have a southern overseer; it is worse to have a northern one; but worst of all when you are the slave-driver of yourself. Talk of a divinity in man! . . . The mass of men lead lives of quiet desperation (pp. 49-50).

Thoreau sometimes provokes the reader by professing a *lack* of concern for slavery in the Caribbean, wilfully offending the sensibility of decent, right-thinking people, and Emerson before him had expressed himself in similar ways. But the aversion that lying behind these seemingly outrageous remarks is to a politics of good causes, which might be little more than a further buttress to the hubris of bourgeois life. Thoreau is explicit as to how our duty might more reasonably be conceived:

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 (Thoreau, 1983/1849, p. 393).

To pay the poll-tax would then be to fall short of washing his hands of his government's involvement in the Mexican War and its complicity in the Fugitive Slave Law, and for this he is prepared to go to jail.

But I asked how we are to weigh this, aware of the fact that the range of examples Marianna Papastephanou has encouraged us to consider include those in which great suffering, terror, and even death are involved, most notably the death of Socrates at the inauguration of philosophy. Should we not entertain the thought that there is, by comparison, something disturbingly bourgeois about Thoreau's little protest and his marking of this in the essay. Are these no more than relatively mild extensions of a protected, armchair preoccupation? I am reminded of a scene in Oliver Stone's *Platoon* in which the young captain, Charlie Sheen, is speaking to a black soldier about how he has come to be in Vietnam, there in the awful heat, risking his life. How come he is here and not at home in college somewhere? The words of the Sheen character run something like this: "I saw my middle-class friends going off to college and avoiding the draft, while the kids from the poor neighbourhoods were being sent to fight the war. And I thought this isn't right. I wanted to go to join them." "Hell, man," the soldier replies, "you gotta be middle-class to think like that!" Of course, we can be too quick in this respect too, and this would be to disavow the immense influence of Thoreau's actions – the night in jail, "Civil Disobedience", and his writings elsewhere, most notably *Walden* itself. But I wanted at least to register a degree of hesitancy in taking this as an echo from the prison cell. The significance of Thoreau for present purposes lies in a slightly different place. This is one that will bring us closer to philosophy's potential intervention in educating humanity, its offering of the "learning experiences of a positively meant disorientation, a disruption of a routinized, automatic course of thought," to quote words that frame our present symposium. Certainly Thoreau undertakes his philosophizing as an experiment in living, and in this the question of voice becomes paramount.

Consider the following remark in "Civil Disobedience" on the subject of voting:

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. . . (pp. 391-392).

A vote is originally (etymologically) a voice, an association that Thoreau seems to exploit when he writes: "Cast your whole vote, not a strip of paper merely, but your whole influence" (p. 398). So what then is character, and what voice? Thoreau is advocating civil disobedience, defining a "peaceable revolution", but with the important rider "if any such is possible", and with the following dark admonition:

But even suppose blood should flow. Is there not a sort of blood shed 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 (p. 399).

Thoreau seems in part here to be anticipating the Civil War, but the imagery evokes something more pervasive of what he will see as our condition. Take the following remark, bracing or chilling, from *Walden*, about how we might face (up to) our condition, about what that condition might be:

If you stand right fronting and face to face to a fact, you will see the sun glimmer on both its surfaces, as if it were a cimeter, and feel its sweet edge dividing you through the heart and marrow, and so you will happily conclude your mortal career (Thoreau, 1983/1954, p. 142).

The extremity of this image has connotations that reverberate through Thoreau's text: in the symbolism of his hoeing of his bean-field, cutting and dividing the soil in order to inseminate it, and in the doubling of this as a trope for the semiotic movement of Thoreau's pen across the blank page; in thoughts of circumcision, redoubled in the multiple examples of crisis – of the snake sloughing its skin, or of Thoreau's own daily immersion in the lake ("It was a religious exercise"); perhaps in a sexual symbolism too. But its greatest significance is to be taken more literally: that to recognise a fact, to find words for it, is inevitably to do a certain violence, as one sees or expresses this side and not that side, impossible to see or say all at the same time. This is our *condition*, which is as much as to say that this is the way we word (-dit-) our world together (con-).

Thoreau invites attention to his words in multiple ways. Let's take an example. Following a string of questions that he wishes his experiment in living to pose to his neighbours, concerning especially the economy of their lives, he remarks: "I try my neighbours with such questions." Now the sentence bears reading again. Thoreau is *irritating* his neighbours by insisting on these matters as he does - he is, we might say, a very trying person. But he is also putting them *on trial*. That it takes a second reading to see this shows the way that the book imparts an ethics of reading. Indeed the third chapter is called "Reading", and Thoreau will phrase the experience of words that has just been illustrated in terms of the acquiring of the "father tongue" – "a reserved and select expression, too significant to be heard by the ear, which we must be born again in order to speak" (p. 46). We saw earlier that Thoreau is addressing readers who are "said to live in New England", which might, depending upon where one places the stress, be a comment on the naming of this new world or a questioning of whether his readers are alive at all! The ambiguity is there in the *written* text; it is obscured when we say the words.

There is no doubt then that Thoreau wants us to dwell on such terms as "condition" and "constitution", remembering of course the American Constitution, and he is reiterating or recuperating here the Socratic thought that our city is a city of words. Hence, he is retrieving words that are of foundational importance:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable

Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. (July 4 1776, Unanimous Declaration of the thirteen united States of America).

But as his civil disobedience indicates, this is a foundation that is not achieved once and for all. To echo Emerson, finding is founding, such that each act of speech contributes to our condition, our city of words, and this is a process crucial for the kind of independence that would merit the name. In Socrates' refusal to escape his fate, in Thoreau's refusal to pay tax, as in declarations of independence, we see such actions writ large. But it would be a mistake to conclude that our political responsibility must be confined to such terms. We are in a sense condemned to language, and to its violence in cutting and dividing our world, but our responsibility in this extends across everything we say and do. Here is Thoreau describing his preparations for building of his hut, but at the same time symbolically acknowledging our linguistic inheritance and the responsibility this casts us in:

Near the end of March, 1845, I borrowed an axe and went down to the woods by Walden Pond, nearest to where I intended to build my house, and began to cut down some tall arrowy white pines, still in their youth, for timber. It is difficult to begin without borrowing, but perhaps it is the most generous course thus to permit your fellow-men to have an interest in your enterprise. The owner of the axe, as he released it, said that it was the apple of his eye; but I returned it sharper than I received it (Thoreau, 1983/1954, p. 83).

We need to find in our words the points of crisis, whose sharpness is necessary for the building of the city. We must not just receive words and pass them down along the line. We must *turn* words, returning them to our fellow human beings but also finely turning them as on a lathe. To echo the vocabulary of counting and accounting that runs through the text (showing what counts for me and how I account for myself), we must return them with interest. This is part of the economy of living we need.

Thoreau is sentenced to prison for his failure to pay taxes. But is our condition not generally one of being sentenced? Sentenced by the words we (are condemned to) use? Thoreau is convicted for not paying his tax. But are we not to act and speak from our convictions, and in these are not we also convicted? The complex interconnections here, which a careful reading of our language seems to expose to us, are perhaps further aspects of that deconstruction of the opposition of prison and freedom that was noted above. I expressed earlier my concerns that there remained something

perhaps too bourgeois (“literary” is the word I might be inclined to use now) about attending to echoes from the prison cell in this way. But to deny the everyday responsibility of our words may also be to insulate us from something close to us, where we indulge instead a vicarious even prurient interest in experience more horrific and extreme. That surely would be something to regret.

I have come to these thoughts partly through reading Stanley Cavell’s remarkable “little book” *The Senses of Walden* (1992), which he wrote in a period of some six weeks in the summer of 1971, roughly in the middle of the sixteen years it took him to write *The Claim of Reason* (1979). In some ways that text, for anyone who knows *Walden*, may be a good entry into his work, for it seems to contain in microcosm so many of his broader philosophical themes. He wrote it at a time when the Vietnam War was nearing its dreadful denouement, and he wrote it in a sense of disgust and perhaps shame at his country’s interventions in East Asia. In its modest way it stands, like *Walden* and “Civil Disobedience”, as a voice of discontent about the world as it is and as an invocation of the world as it could or should be.

In this book, and in Cavell’s writings elsewhere, the question of the social contract is broached, with emphasis on the kind of paradox this contains. Society is based on a social contract, but that contract *has not happened*. Neither you nor I *have* consented – that is, there was never a time when we signed up to the contract on which our society is based. It was, in the myth, always there before us. But Cavell’s response is very far from a disavowal of responsibility, a claiming that one’s hands are clean. On the contrary, I give my consent in every moment, even, one might emphasise, in the words I habitually use. In a sense I am condemned to this, and the gestures of disobedience I may make, however exemplary and dangerous these may prove to be, will never fully exempt me from this responsibility. For there is no alternative – morally, politically, existentially – than to seek community with others, to test out in my words the world to which I can responsibly give my consent.

In the end then Thoreau’s importance is not to be understood as deriving from an overtly political gesture and a token night in jail. His deeper, more pervasive message has to do with our relation to our language and with a critical sharpening of our sense of ourselves as voiced, as necessarily sentenced, and as destined for conviction.

References

- Cavell, S. (1979) *The Claim of Reason: Wittgenstein, Skepticism, Morality, and Tragedy* (Oxford, Oxford University Press).
- Cavell, S. (1992) *The Senses of Walden* (Chicago, University of Chicago Press).
- Thoreau, H.D. (1834/1849) “Civil Disobedience”, in: *Walden and Civil Disobedience* (Harmondsworth, Penguin).
- Thoreau, H.D. (1834/1854) *Walden*, in: *Walden and Civil Disobedience* (Harmondsworth, Penguin).