

# Those “Impossible Citizens”: Civil Resistant in 19th Century New England

by Carl Watner

*Baltimore, Maryland*

Most libertarians view civil disobedience or resistance to the State differently than members of the general public. Many people, of a variety of persuasions, recognize the right of the individual to resort to self-defense when attacked or threatened by the criminal. In the libertarian view, and by libertarian definition, *only* the criminal resorts to the initiation of force against the peaceful and the innocent. Where the libertarian and the non-libertarian part company is over the criminality of State initiated compulsion. To the libertarian, the whole State apparatus is criminal. Relying on taxation for its very existence, it obtains its income by threatening or using force to collect its revenues—not by relying on voluntary subscriptions or mutual trade. The inference, for libertarians at least, is that it is right to oppose both the common criminal and the State, since both aggress against individual rights. Hence the libertarian proclivity for and interest in civil disobedience.<sup>1</sup>

Historically libertarians have not been the only people opposed to the State, although they may have been the only group to have branded the State as illegitimate and criminal to its core. Religious groups, such as the early Christians and Quakers, were attacked by the States within which they lived. Conscientious objectors have long opposed State policy and their opposition has not always been limited to conscription and the refusal to pay taxes to support governmental wars. Those with conscientious scruples have resisted compulsory vaccination, compulsory schooling of their children, and even rejected the use of government money.<sup>2</sup> Such groups and the individuals composing them have never initiated aggression against their neighbors. They were peaceful dissenters who did not conform to the demands of their government. Every act of aggression against their lives or property implied an injustice. Whether they chose to react non-violently, such as the non-resistant, William Lloyd Garrison, or whether they chose to offer active resistance, such as the forceful John Brown, they all in their own way were resisting demands of coercive governments.

The best known civil resistent of 19th Century New England was Henry David Thoreau (1817–1862). For several years, Thoreau did not voluntarily pay his taxes, even under protest; rather he resisted the State by not paying his taxes at all. “The impressive thing about Thoreau’s dealing with the State is that he did not stop with theorizing but acted.” “He not only objected to the law, he made himself an object for the law to deal with.”<sup>3</sup>

In his essay, “On The Duty of Civil Disobedience,” Thoreau relates the story of his own tax resistance. During the 1840’s, state law in Massachusetts imposed on every male inhabitant above the age of 20 an annual poll tax assessment, subject to a maximum tax of \$1.50. The poll tax was simply a source of revenue for the State. If a person should neglect or refuse to pay his tax, the tax collector was authorized to seize the property of the delinquent, or in the absence of sufficient property, the tax collector was empowered to seize the body of the debtor and commit him to prison, there to remain until he shall have paid the tax and the charges of commitment and imprisonment. The latter is exactly what happened to Thoreau on either July 23 or July 24, 1846.<sup>4</sup> As he related in *Walden*: “One afternoon, near the end of the first summer, when I went to the village to get a shoe from the cobbler’s, I was seized and put into jail, because, as I have elsewhere related, I did not pay a tax to, or recognize the authority of the State. . . .”<sup>5</sup> Thoreau was not desirous of being a bad neighbor, but rather only being a bad subject of the State. As he said, “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 effect of my allegiance.”<sup>6</sup>

Thoreau had one earlier encounter with the city authorities of Concord, Massachusetts, in 1840, when he had refused to pay “a certain sum toward the support of a clergyman whose preaching my father attended, but never I myself.” He demanded that his name be removed from the church tax rolls and at the suggestion of the town selectmen, he filed a statement with them saying: “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.” If he had known how to name them all, Thoreau adds that he would have appended a list of all the societies to which he did not belong.<sup>7</sup> Thoreau no more wished to be a member of any society that he did not voluntarily join, than he wished to be a citizen of the State without his consent. “To be strictly just,” the authority of government “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.”<sup>8</sup> Further, Thoreau recognized the right to rebel against injustice: “All men recognize the right of revolution: that is, the right to refuse allegiance to and to resist the government, when its tyranny or inefficiency are great and unendurable.”<sup>9</sup>

The essay "On The Duty of Civil Disobedience" shows that Thoreau's opposition to government was both on general principles and on specific issues. Of the latter, he repeatedly asserts his abolitionist and anti-war views:

I cannot for an instant recognize that political organization as *my* government which is the slaves government also. . . . [W]hen the friction comes to have its machine, and oppression and robbery are organized, I say let us not have such 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 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.<sup>10</sup>

Thoreau realized that majorities ruled over minorities because they are physically the strongest, but that did not prevent him from advocating the rights of the minority and even individual secession from government: "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. . . ." <sup>11</sup> "Why do they not dissolve . . . the union between themselves and the State,—and refuse to pay their quota into its Treasury?"<sup>12</sup>

Being concerned with his own self-respect and personal integrity, Thoreau queried: "Must the citizen ever for a moment resign his conscience to the legislator?" And he answered, "I think we should be men first and subjects afterwards. It is not desirable to cultivate a respect for law so much as for the right. The only obligation I have the right to assume, is to do at any time what I think right."<sup>13</sup> For Thoreau,

There is a higher law than civil law—the law of conscience—and that when the laws are in conflict it is the citizen's duty to obey the voice . . . within rather than that of the civil authorities without. If he will go to prison rather than obey an evil law, he will through his courage and his martyrdom arouse the conscience of the people "en masse" and through their resistance they will clog the machinery of tyranny by filling the courts and jails and thus bringing about the repeal of the offensive law.<sup>14</sup>

Nor was Thoreau the only New Englander of his time to have this attitude towards natural law and conscience. Thoreau's refusal to pay his poll tax was not the first such episode of tax resistance in Massachusetts. There were at least two earlier precedents involving people known to Thoreau. A. Bronson Alcott (1799–1888) was a well-known school teacher, writer and transcendentalist. His English associate in Fruitlands, their co-operative farm, Charles Lane, supported Alcott in his tax resistance and also became a resistant himself. Lane had arrived from England in October 1842, with the purpose of visiting Alcott. Within a month of his arrival on American soil,

Lane had begun advocating abolitionism, the overthrow of the American "slave" government and the immediate secession of every right-minded man.<sup>15</sup> Lane's arrest occurred near the end of 1843, and was described by Emerson in his letter of December 17, 1843 to Margaret Fuller: "Mr. Lane was here lately again for two or three days having been arrested for his taxes as he stopped with the Harvard Stage at the tavern. He declined bringing any friend to answer for him and was put into jail. Rockwood Hoar heard of it and paid the debt and when I came home from seeing you in Boston I found him at my house."<sup>16</sup> Lane strenuously objected to the use of the general warrant which was used to arrest him and Alcott, and later Thoreau. Tax delinquents were treated more harshly than debtors of private creditors and there was no legal appeal possible from imprisonment for failure to pay one's taxes. Thoreau, too, protested against this arbitrary law of imprisonment:

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 of, and determined only by the discretion of those who placed him there; . . .<sup>17</sup>

Bronson Alcott was the first to protest. On January 17, 1843, he was arrested (but not committed) for failure to pay his 1842 poll tax. His own *Journals* for this year have been lost, but fortunately there is a very clear description of his resistance which appeared in a letter written by Lane and published in William Lloyd Garrison's *Liberator* on January 27, 1843.<sup>18</sup> Lane insisted in his letter to the *Liberator* that Alcott's resistance "does not rest upon the plea of poverty" but on a moral opposition to coercive taxation. Under the title of "State Slavery—The Imprisonment of A. Bronson Alcott—Dawn of Liberty," Lane wrote:

It is often said, that in a condition of society where one is obliged to let pass so much that is immoral, it is not worthwhile to undergo so much inconvenience as close imprisonment on account of State prosecution.

Very different to this however has been the feeling of A. Bronson Alcott, of Concord; and being convinced that the payment of the town tax involved principles and practices most degrading and injurious to man, he had long determined not to be a voluntary party to its continuance. Last year by the leniency of the collector in prepaying the \$1.50 the question was not brought to issue. . . .

This year a collector was appointed who could execute the law and although no doubt it went hard with him to snatch a man from his home, from his wife, from the provision and education of his little children, in which latter he found Mr. Alcott serenely engaged, he nevertheless did it. He witnessed with his own eyes the little hasty preparations . . . , the packing of a few personal conveniences to ward off the inclemencies of the season, and yet, with no higher authority than the general warrant in

his pocket, which without particular investigation, trial, or inquiry hands over the liberty of every townsman to his discretion, he took a fellow citizen . . . to a long commitment.

To the country jail, therefore, Mr. Alcott went, or rather was forced by the benignant State and its delicate instrument. . . .

Having worked up to this point, it appears that the enemy's courage failed. The constable-collector, having brought his victim to the jail, the next step was to find the jailer who was not at home. The prisoner, of course, waited patiently; and nearly after 2 hours had been thus passed, the constable announced that he no longer had the right to detain his captive. On inquiring how that happened, he said that both the tax and costs had been paid. To the question, by whom the payment had been made, he replied by naming a gentleman who may be regarded and who would willingly be regarded as the very personification of the State.

In these facts, humble as the individual and the circumstances may appear, we have a wide and deep subject for reflection. . . . This act of non-resistance, you will perceive, does not rest on the plea of poverty. For Mr. Alcott has always supplied some poor neighbor with food and clothing to a much higher amount than the tax. Neither is it wholly based on the iniquitous purposes to which the money when collected is applied. For part of it is devoted to education and education has not found a heartier friend in the world than Bronson Alcott. But it is founded on the moral instinct which forbids every moral being, to be a party, either actively or permissively, to the destructive principles of power and might over peace and love.

Suppose the tax were levied by the town . . . and the full value on the amount were to be returned the next day to each payer in bread. Would it not be a sacred duty in every man, in the virtuous integrity of his nature, to deny such a proceeding? Doubtless it would. All but the meanest souls would thereby be raised to dis-annex themselves from the false and tyrannous assumption, that the human will is to be subject to the brute force which the majority may set up. It is only tolerated by public opinion because the fact is not yet perceived that all the true purposes of the corporate state may as easily be carried out on the revolutionary principle, as all the true purposes of the collective church. Every one can see that the Church is wrong when it comes to men with the Bible in one hand and the sword in the other. And is it not equally diabolical for the State to do so? The name is of small importance. When Church and State are divorced by public opinion, they may still carry on an adulterous intercourse.

Then look at the peculiar law in this case. When a debtor is imprisoned by an ordinary creditor, he can be bailed out, and have considerable liberty to employ himself, preserve his health, and the like. But the impersonal town is an inexorable monster and permits not his debtor to quit the prison walls. He is treated as a convicted felon. No trial, no jury is permitted him.

Many are the points worthy of consideration involved in this uncouth, barbaric, unchristian state of the law; and I earnestly trust you will not allow the occasion to escape your enlightened and benevolent pen, nor fail to inform the public at large of the facts.

Yours, sincerely,  
C[harles]. L[ane].

Concord, Mass. January 16, 1843

The tax is traditionally said to have been paid by Squire Samuel Hoar, the first citizen of the town.<sup>19</sup> Both Thoreau and Emerson preserved their reaction to Alcott's bravado. Thoreau, in a letter to Emerson, wrote:

I suppose they have told you how near Alcott went to jail; but I can add a good anecdote to the rest. When Staples [the tax-collector] came to collect Mrs. Ward's taxes, my sister Helen asked him what he thought Mr. Alcott meant—what his idea was—and Sam Answered, "I vum believe it was nothing but principle, for I never heerd a man talk honester."<sup>20</sup>

Emerson, for his part, wrote in his *Journal* for 1843:

Alcott thought he could find as good grounds for quarrel in the State tax as Socrates did in the edicts of the judges. Then I said, "Be consistent, and never more put an apple or kernel of corn into your mouth. Would you feed the Devil?" Say boldly "I will not any longer belong to this double-faced, equivocating, mixed, jesuitical Universe."<sup>21</sup>

Mrs. Alcott noted in her own *Journal* for January 17, 1843 that it was a day of some excitement, "as Mr. Alcott had refused to pay his town tax and they had gone through the form of taking him to jail. After waiting some time to be committed, he was told that it was paid by a friend. Thus we were spared the affliction of his absence and he the triumph of suffering for his principles."<sup>22</sup>

Alcott, in spite of his earlier experience, was still resisting payment of the poll tax in 1846. In his *Journal* for May 4th of that year, he noted that Staples was threatening to advertise his land to pay for the tax. Alcott still rejected the State for forcing itself upon "the freedom of the free-born and the wisest bearing is to over-bear, let it have its own way, the private person never going out of his way to meet it. It shall put its hand into a person's pocket if it will, but I shall not put mine there on its behalf."<sup>23</sup> Later that same year when Staples arrested Thoreau, Alcott wrote that he had an "earnest talk with Emerson dealing with the civil powers and institutions." In Alcott's words, "E[mer]son thought it mean and skulking and in bad taste," for Thoreau to have refused to pay his taxes.<sup>24</sup>

Alcott and Lane were involved in a co-operative farm and reforming venture known as Fruitlands, near Harvard, Massachusetts, during 1844–1845. Among the individuals congregated at the Fruitlands farm was another civil resistant by the name of "Old Jew" Palmer or Joseph Palmer of "No Town." In November 1840, both Alcott and Palmer had been present at a gathering of religious reformers, known as the Chardon Street Convention. At one session, there was an outcry over Palmer's beard. Alcott rose to inquire, "in the first place, whether in the opinion of the assembly there was anything in the essential nature of a beard which prevented its wearer from

becoming a Christian, and secondly, he wished to know if they had really come to discuss beards or rather, as he supposed, certain other fundamental questions."<sup>25</sup> Palmer's claim to fame as a civil resistanant was his absolute insistence on wearing a full beard in an age when beards were ridiculed and worn only by Jews.

Palmer himself had fought in the War of 1812 and he had an eccentric character, but was steadfast and upright and immovable when it came to his principles. "Wearing a beard became a fixed idea with him, and neither the law of the land nor the admonitions of the church could make him falter in his determination to claim freedom of action in this respect."<sup>26</sup> His nickname, "Old Jew" Palmer, was no reflection on his religious affiliation, but only showed the bigotry of his persecutors. His farm at "No Town" was very successful and was located on a tract of land which lay outside of Fitchburg and Leominster, Massachusetts. As it belonged to no township, and was untaxed, it came to be known as "No Town." "So when he married the widow Tenney rumors circulated through Fitchburg that the marriage was not legal because he did not publish the banns at the meeting house at "No Town." But investigation proved the marriage legal because he had published the banns in his own handwriting on a large piece of paper which he had tacked to the trunk of a fine old pine tree which grew near his home."<sup>27</sup>

One day Palmer was attacked by four men, intent to shave off his beard. With the aid of an old jack-knife he carried, Palmer was able to thwart his assailants. However afterwards he was "arrested for committing an unprovoked assault and ordered by Justice Brigham to pay a fine, which he refused to do, as he claimed to be acting for maintenance of a principle." He was thrown into jail and lodged with the debtors where he remained for over a year. When once asked why he wore his beard, "he said he would tell if any one could tell him why some men would, from 52 to 365 times a year, scrape their face from their nose to their neck."<sup>28</sup> He refused to pay his fine, although he was a man of property and he far outstayed his sentence. He refused to leave the jail because he thought he was being cheated on his upkeep, which he had to pay out of his own pocket. "The sheriff and jailers, tired of having him there, begged him to leave. Even his mother, Margaret Palmer, wrote to him 'Not to be so set.' But nothing could move him. He said they had put him in there and they would have to take him out, as he would not walk out. They finally carried him out in his chair and placed it on the sidewalk."<sup>29</sup> On his tombstone in the old North Leominster graveyard is said to be the carving of the head of an old man with a flowing beard and underneath it the inscription: "Joseph Palmer, died October 30, 1875—Persecuted for Wearing the Beard."

Concerned as Palmer was with his beard, he was also a temperance advocate and an abolitionist. The abolition of slavery and the cessation of

government support to the slave system was of great concern to nearly all the New England resisters. Particularly annoying to them was the enforcement of the Fugitive Slave Law of 1793 and 1850. When Boston was forced to aid in the return of the fugitive slave, Sims, in 1851, Alcott wondered in his *Journal*, if, "It would not be a handsome piece of honor and justice to withhold the payment of the assessment for this item of the tax-bill when it shall be claimed by the municipality. . . . I am tempted to try it. Certainly the prison could not be put to better use than the holding of honest men, to the discredit of unrighteous laws."<sup>30</sup> A few years later, Alcott displayed his courage and fidelity to principle when he risked his life entering the Boston Court House, which was under siege by a mob. At the time, the fugitive slave, Anthony Burns, was under the protective custody of the government (pending his return to the South) and an unsuccessful attempt was being made to rescue him.<sup>31</sup> Of the personalities mentioned so far, only Thoreau and Emerson were not outright abolitionists. Nor was Emerson a civil resister, although he did go so far as to advocate that judges and magistrates interpret the law and Constitution for themselves. This was also a favorite theme of Thoreau's. Emerson concluded "not merely that the Fugitive Slave Law was to be disobeyed by those who felt it to be immoral, but that the official interpreters and executives were bound to make and enforce righteous laws of their own; . . . . The first duty of a judge was to read the law in accordance with equity, and if it jarred with equity, to disown the law."<sup>32</sup>

The anti-slavery and abolition movements had a long tradition of resistance and opposition to government. From the beginning of the abolition movement the question of violence was significant.<sup>33</sup> How was the movement to express its opposition and what course of action were the slaves and abolitionists to follow? By the late 1830's, the movement in America had answered this question and had split into two distinct factions. One radical faction, led by William Lloyd Garrison, called for the immediate abolition of slavery, non-participation in government, and non-resistance. However for many abolitionists, gradual emancipation, office holding and voting, and the use of force in self-defense were legitimate and a question of expediency only. Those led by Garrison, on the other hand, realized that slavery was

not the casual temporary seizure by the Southerners of a few million of Negroes, but the ancient and universal recognition, contrary to the Christian teaching, of the right of coercion on the part of certain people in regard to certain others. A pretext for recognizing this right has always been that men regarded it as possible to eradicate or diminish evil by brute force, i.e., also by evil. Having once realized this fallacy, Garrison put forward against slavery neither the suffering of the slaves, nor the cruelty of the slaveholders, nor the social equality of men, but the eternal Christian law of refraining from opposing evil by violence,

i.e., of "non-resistance". Garrison understood that which most advanced among the fighters of slavery did not understand: that the only irrefutable argument against slavery is the denial of the right of any man over the liberty of another under any conditions whatsoever. . . . Garrison understanding that the slavery of the Negroes was only a particular instance of universal coercion, put forward a general principle with which it was impossible not to agree—the principle that under no pretext has any man the right to dominate, i.e., to use coercion over his fellows. Garrison did not so much insist on the right to be free as he denied the right of any man whatsoever, or any body of men, forcibly to coerce another man in any way.<sup>34</sup>

These non-resistant abolitionists were the pacifists of the 19th Century peace movement. Garrison led a splinter group away from the American Peace Society, and in Boston, on September 20, 1838, they formed the New England Non-Resistance Society. The key clause in their constitution was that

The members of this society agree . . . that no man or body of men . . . have a right to take the life of man as a penalty for transgression, that no one who professes to have the spirit of Christ, can consistently sue a man at law for redress of injuries, or thrust any evildoer into prison, or fill any office which he would come under obligation to execute penal enactments—or take part in military service—or acknowledge allegiance to any human government—or justify any man in fighting in defense of property, liberty, life or religion; that he cannot engage in or countenance any plot to revolutionize or change by physical violence any government however corrupt or oppressive.<sup>35</sup>

The term "non-resistance" which was chosen to identify Garrison and his followers was derived from Christ's injunction to individuals not to resist evil.<sup>36</sup> In 1835, when threatened by a Boston mob, Garrison had proclaimed his fidelity to this ideal: "I will perish sooner than raise my hand against any man, even in self-defense, and let none of my friends resort to violence for my protection."<sup>37</sup> Garrison and his followers realized that if a slaveholder once became a non-resistant, he could never again strike a slave, never resort to that law of violence by which a slave was compelled to labor and in which the relation of master and slave originated and by which it must continually be sustained.<sup>38</sup>

Personal non-violence, however, was only one aspect of Garrisonian non-resistance. Those who deplored Garrison's view of government, dubbed him and his followers as "no-government" men. To renounce all manifestations of government, as the Garrisonian non-resistance men did, was to make them quasi-anarchists or "no-government" men. "Actually the Garrisonian non-resistants resented and disclaimed the name of 'no-governmentism.' They insisted that they were striving for and placing themselves under the only true and effective government, the government of God. They main-

tained that they opposed not government, but human pretensions to govern."<sup>39</sup> Thoreau had used the term and had made the distinction that what he called for was not "no-government" but a better government.<sup>40</sup> Thoreau recognized the right of self-defense and violent revolution, contrary to the position of the non-resistants. Thoreau had taken the affirmative position in a debate with Alcott before the Concord Lyceum in January 1841, on the question: "Is it ever proper to offer forcible resistance?"<sup>41</sup> Despite this difference with the non-resistants, Thoreau agreed with their position on non-participation in government. He invited all public officers and tax collectors to "Resign your office," and concluded that "When the subject has refused allegiance and the officer has resigned his office, then the revolution is accomplished."<sup>42</sup> The non-resistant agitation for resignation had little effect, for as late as 1854, Thoreau still doubted if there were a judge in the entire state of Massachusetts who was prepared to resign his office and get his living innocently whenever it was required of him to enforce the Fugitive Slave Law.<sup>43</sup>

All office holding and voting were proscribed under the non-resistant philosophy. The principle of democratic control of government through majority rule came under attack, too. Since no group of human beings could rightfully coerce others, it was wrong for the majority of voters to enforce their choices on a minority. In the *Liberator* of September 28, 1838, Garrison protested against participation in any government:

As every human government is upheld by physical force and its laws are enforced virtually at the point of the bayonet, we cannot hold any office which imposes upon its incumbent the obligation to compel men to do right on pain of imprisonment or death. We therefore voluntarily exclude ourselves from every legislative and judicial body and repudiate all human politics, worldly honor, and stations of authority. If we cannot occupy a seat in the legislature, or on the bench, neither can we elect others to act as our substitutes in such capacity.<sup>44</sup>

Henry Clarke Wright, abolitionist, non-resistant, and associate of Garrison, held a similar view:

It is wrong to hold an office in which we must consent to be vested with life-taking or war-making powers or to come under an obligation to use it. . . . It is wrong to vote for others to office which it is wrong for us to hold. We must look to the character of the office itself and not to the candidate or measures he proposes, however good these may be. To exercise the franchise even to effect the abolition of slavery would be wrong, would be to *vote for murder to prevent theft*.<sup>45</sup>

Wright based much of his argument on the implied threat of force behind the ballot. He claimed that every vote carried with it the threat of war, of a bullet, if one did not abide by the desires of the majority. "A bullet is in every

ballot; and when the ballot is cast in to the box, the bullet goes in with it. They are inseparable as the government is now constituted. . . . The ballot box is the first step—the gallows or the battlefield the last; and whosoever takes the first must take the last. There is no consistent or honest stopping place between them.”<sup>46</sup>

In spite of their non-participation stance, the non-resistants did not develop a stand against the payment of taxes. “All the New England non-resistants, from Garrison on down, complied with Caesar’s demands.”<sup>47</sup> Tax-paying was seen as submission to compulsion exerted by the government, much as a non-resistant might submit to a burglar. Therefore tax-paying, in their eyes, was non-resistance. Garrison and his followers excused themselves with the argument that since they paid their taxes against their will, they were not guilty of disobedience and stayed within the legal limits in expressing opposition to government. “As for taxes, it is only our voluntary acts for which we are responsible. When did government ever trust tax-paying to the voluntary good will of its subjects? When it does, non-resistants will refuse to pay.”<sup>48</sup> Only Alcott of the leading abolitionists went so far as to suffer arrest or imprisonment rather than pay his tax.<sup>49</sup>

Non-resistants such as Garrison and Wright were somewhat perplexed by John Brown’s raid on Harper’s Ferry. On the one hand, they hated the institution of slavery. On the other, they rejected the use of violence in any form to secure any end, however agreeable. Regardless of their pacifist stance, both sympathized with Brown’s violent effort. Speaking at a protest meeting in Boston, on the day of Brown’s execution, Garrison said:

I am a non-resistant—a believer in the inviolability of human life under all circumstances; I, therefore, in the name of God disarm John Brown and every slave in the South. But I do not stop there; if I did I should be a monster. I also disarm in the name of God every slaveholder and tyrant in the world. . . . I am a non-resistant, and I not only desire, but have labored unremittingly to effect the peaceful abolition of slavery . . . yet as a peace man—an “ultra” peace man—I am prepared to say: “Success to every slave insurrection in the South, and in every slave country.” I do not see how I compromise or stain my peace profession in making that declaration. Whenever there is a contest between the oppressed and the oppressor . . . God knows that my heart must be with the oppressed and against the oppressor. . . . I thank God when men who believe in the right and duty of wielding carnal weapons are so far advanced that they will take those weapons out of the scale of despotism, and throw them into the scale of freedom.<sup>50</sup>

Wright wrote a pamphlet shortly after John Brown’s execution entitled, *No Rights, No Duties: Or, Slaveholders, As Such, Have No Rights, Slaves As Such Owe No Duties. An Answer To A Letter From Hon. Henry Wilson, Touching Resistance To Slaveholders Being The Right And Duty Of The Slaves, And Of The People Of The States Of The North.*<sup>51</sup>

The thesis he presented was simple. Slaves have no obligations at all to their masters, who good or bad, deserve no more respect or consideration than a gang of pirates or kidnappers. Freedom must be won by the slaves themselves in alliance with their sympathizers among white freemen—by all and every means that the latter would feel justified in using against “burglars, incendiaries, and highway robbers” who might threaten them. “It is the duty of the people and States of the North to invade slaveholding States to free the slaves, and annihilate the power that enslaves them.” There are but two sides in the conflict to break up these kidnapping, piratical hordes of the South, called States. . . . You must fight for liberty or slavery—for the pirates or their victims.<sup>52</sup>

In this pamphlet, Wright advocated the revolutionary doctrines practiced by Brown and preached by Thoreau and Lysander Spooner. Thoreau, in his final years, was heavily influenced by the activities of John Brown, whom he had met. “At the news of John Brown’s capture, Thoreau was on fire, arguing with his neighbors, giving speeches, and generally supporting the course of action John Brown had chosen.”<sup>53</sup> Thoreau specifically approved of the Harper’s Ferry raid and remarked in his address, “A Plea for Captain John Brown”:

It was his [Brown’s] peculiar doctrine that a man has a perfect right to interfere by force with the slaveholder, in order to rescue the slave. I agree with him. Those who are continually shocked by slavery have some right to be shocked by the violent death of the slaveholder, but no others. Such will be more shocked by his life than by his death. I shall not be forward to think him mistaken in his method who quickest succeeds to liberate the slave. I speak for the slave when I say that I prefer the philanthropy of Captain Brown to that philanthropy which neither shoots nor liberates me. . . . We preserve the so-called peace of our community by deeds of petty violence everyday. Look at the policeman’s billy and handcuffs! Look at the jail! Look at the gallows! . . . I think I know that the mass of my countrymen think that the only righteous use of Sharp’s rifles and revolvers is to fight duels with them when we are insulted by other nations or to hunt Indians or shoot fugitive slaves with them, or the like. I think that for once the Sharp’s rifles and revolvers were employed in a righteous cause. The tools were in the hands of one who could use them.<sup>54</sup>

Several days before his execution, Brown was asked what he had in mind when he made his attack on Harper’s Ferry arsenal. Brown answered: “I knew there were a great many guns there that would be of service to me, and if I could conquer Virginia the balance of the Southern states could nearly conquer themselves, there being such a large number of slaves in them.”<sup>55</sup> According to the Chatham Constitution of May 1858, Brown intended no offensive warfare against the South, but only to restore the inherent rights of the Negroes there. “Not revolution, but justice, not aggression but defense.”<sup>56</sup>

Had Brown and his men been successful, they would have implemented the designs of Lysander Spooner's "Plan for the Abolition of Slavery." This manifesto was printed in the summer of 1858, and included a notice to the "Non-Slaveholders of the South." Brown was familiar with Spooner and the two had met in Boston sometime between May 10 and June 2, 1859. At that time, Brown requested that Spooner cease circulation of his broadsides since their further publication might embarrass Brown's future plans. After the failure of the raid at Harper's Ferry, Spooner's "Plan" was published in a New York newspaper and was described as Gerrit Smith's blueprint for Brown's expedition. In a subsequent suit for libel, Smith (using Spooner as his attorney) settled the case out of court. The Spooner manifesto offers a highly consistent rationale for Brown's attack, but Spooner in later correspondence made it very clear that Brown knew nothing of it until after it was printed.<sup>57</sup> The two men arrived at the same conclusions independently, reasoning from the common premise that one was legitimately entitled to come to the assistance of the slave and forcibly resist the oppression of the slaveholder.

Spooner's reasoning was based on the following four principles:

1. That the slaves have a natural right to their liberty.
2. That they have a natural right to compensation (so far as the property of the Slaveholders and their abettors can compensate them) for the wrongs they have suffered.
3. That so long as the government under which they live refuse to give them liberty or compensation they have the right to take it by stratagem or force.
4. That it is the duty of all, who can, to assist them in such an enterprise.<sup>58</sup>

Based on these premises, Spooner urged that all political institutions of the slaveholder be spurned and ignored. In their place should be established government which recognizes slaveholding as a crime and which grants to the slaves civil actions for damages for the wrongs already committed against them. The slaves should be recognized as the rightful owners of the plantations they had worked, which would be awarded to them for the damages they had already suffered. The non-slaveholders of the South were also encouraged to form vigilance committees or leagues of freedom, whose duty it should be to see that justice was done to the slaves and that punishment was meted out to the slaveholders.

Realizing that some might object to the distribution of the slaveholders' property to their slaves, Spooner wrote:

Perhaps some may say that this taking of property by the Slaves would be stealing, and should not be encouraged. The answer is that it would not be stealing, it would be simply taking justice into their own hands

and redressing their own wrongs. The State of Slavery is a state of war. In this case it is a just war, on the part of the negroes—a war for liberty and a recompense for injuries and necessity justified them in carrying it on by the only means their oppressors have left to them. In war, the plunder of enemies is as legitimate as the killing of them, and stratagem is as legitimate as open force. The right of the slaves, therefore, in this war, to take property is as clear as their right to take life, and their right to do it secretly is as clear as their right to do it openly. And as this will probably be their most effective mode of operation for the present, they ought to be taught, encouraged, and assisted to do it to the utmost so long as they are unable to meet their enemies in the open field. And to call this taking of property, stealing is as false and unjust as it would be to call the taking of life in just war, murder.<sup>59</sup>

Spencer's reasoning rested on the recognition of the slave's rightful claim to personal liberty as well as to reparations for having been a slave. To achieve liberty and compensation required that the slaves escape from their masters and form guerrilla bands, and assemble the means to sustain themselves in war against the slaveholders. "These bands could do a good work of kidnapping individual slaveholders, holding them as hostages for the good behavior of whites remaining on the plantation, compelling them to execute deeds of emancipation, and conveyances of their property to their slaves."<sup>60</sup> If the property of the slaveholder could not be converted to the use of the slaves, then Spencer advised its destruction. Spencer suggested that the white non-slaveholders of the South abandon their present governments: "Pay not taxes to their government, if you can either resist them or evade them; as witness and juror give no testimony and no verdicts in support of any slaveholding claims."

Those whites who voluntarily assisted the slaveholders in keeping their slaves under subjection were the object of special attention by Spencer:

You are one of the main pillars of the Slave System. You stand ready to do all that vile and inhuman work which must be done by somebody but which the more decent slaveholders will themselves not do. . . . If you are thus indifferent as to whom you serve, we advise you henceforth to serve the slaves instead of their masters. Turn about and help the robbed to rob their robbers. The former can afford to pay you better than the latter. Help them to get possession of the property which is rightfully their due, and they can afford to give you liberal commission.<sup>61</sup>

Spencer's position on the right of the slaves to commission assistance based on a sharing of the proceeds of plunder realized from the just wars of the slaves against their masters may have been unique:

If it is right for the Slaves to take the property of their masters, to compensate their wrongs, it is right for you [the non-slaveholders of the South] to help them. . . . It will be perfectly easy for you, by combining with the slaves to put them in possession of the plantations on which

they labor, and of all the property upon them. They could afford to pay you well for doing them such a service. They could afford to let you share with them in the division of property taken.<sup>62</sup>

In his "Plan for the Abolition of Slavery" Spooner addressed himself to those Northerners who were willing to come to the aid of the slaves. Spooner recognized that "when a human being is set upon by a robber, ravisher, murderer, or tyrant of any kind, it is the duty of bystanders to go to his or her rescue by force, if need be. In general nothing will excuse men in the non-performance of this duty, except the pressure of higher duties (if there be such), inability to afford relief, or too great danger to themselves or others." Legislation notwithstanding, "it is the duty of the non-slaveholders of this country, in their private capacity as individuals,—without asking the permission or waiting the movements of the government—to go to the rescue of the Slaves from the hands of their oppressors."<sup>63</sup>

Private war against the slaveholders of the South was what Spooner advocated. It was John Brown, however, who put Spooner's reasoning into practice.

[I]n revolutions of this nature, it is necessary that private individuals should take the first step. The tea must be thrown overboard, the Bastille must be torn down, the first gun must be fired, by private persons, before a new government can be organized or the old one will be forced to adopt the measures which the insurgents have in view.<sup>64</sup>

No one could have been more radical or daring than John Brown in calling for the abolition of slavery. In 1859, Spooner was still committed to favoring some type of government. As the Civil War progressed, Spooner continued to spin out the implications of his natural law reasoning. By the late 1860's he had carried his natural rights theory to its infinitely radical conclusion: individualist anarchism.<sup>65</sup>

Even prior to the Civil War, Spooner had offered strong theoretical support to disobedience to the State. He believed that if one is coerced, if one lives under a tyranny, then one is fully justified in resorting to force in return or in disobeying government law. He maintained that private war was a form of individual self-defense and that force in response to force was always justified. As part of his theory, Spooner recognized a higher law than State law; that natural justice supersedes State legislation and the results of State jurisprudence. If the Fugitive Slave Law commanded the return of the slaves, then it was wrong because it contradicted natural law, and it must be disobeyed. Eventually Spooner arrived at the conclusion that all (State) legislation was a crime, an absurdity, and a usurpation.

Both Spooner and Thoreau were "impossible citizens," who judged the State and all its laws for themselves and acted according to the dictates of their own consciences rather than according to the demands of the State. It

is interesting to note the similarity between the thinking of Spooner and Thoreau. As contemporaries, Spooner preceded Thoreau in actively opposing the State. Spooner openly challenged the requirements of the Massachusetts legislature concerning admittance to the State Bar in 1833. In 1844, he had operated a private mail company in contravention of the federal laws imposing a government monopoly on mail delivery. Spooner relied on a strict construction of the Constitution and a theory of natural rights and natural justice to defend his behavior. With the same theories he also defended active rebellion against the State and eventually came to deny its authority. Thoreau went to jail to offer testimony to his convictions. He supported John Brown's attempt to free the slaves in Virginia. He advocated peaceful revolution, whereby the masses withdrew their support from the State. Thoreau was one of the first to draw attention to the duty of civil disobedience. He placed primary emphasis on loyalty to one's conscience and natural law rather than to the State. As "impossible citizens," libertarians and civil resisters today would be hard pressed to match the daring, the determination, and the quality of resistance that we have found in 19th Century New England.

### NOTES

1. For a critical analysis of the State see Benjamin Tucker, *Instead of a Book* (New York: B. Tucker, Publisher, 1893), especially his essay "The Relation of the State to the Individual." Also see Murray Rothbard, *For a New Liberty* (New York: Macmillan Co., 1973).
2. Mulford Sibley and Phillip Jacob, *Conscription of Conscience* (Ithaca: Cornell University Press, 1952), pp. 1-2.
3. Raymond Adams, "Thoreau's Sources for Resistance to Civil Government," 42 *Studies in Philology* (1945), p. 646.
4. John C. Broderick, "Thoreau, Alcott, and the Poll Tax," 53 *Studies in Philology* (1956), p. 614. Also see Henry Canby, *Thoreau*, (Boston: Houghton, Mifflin and Co., 1939), pp. 233-239 and 472-473.
5. Henry David Thoreau, *Walden and "On The Duty of Civil Disobedience"* (New York: New American Library, 1960), p. 118.
6. *Ibid.*, p. 236.
7. Walter Harding, *The Days of Henry Thoreau* (New York: Alfred Knopf, 1966), pp. 199-200. Also see Thoreau, *op. cit.*, p. 233.
8. Thoreau, *op. cit.*, p. 240.
9. *Ibid.*, p. 225.
10. *Ibid.*, pp. 224-225.
11. *Ibid.*, p. 229.
12. *Ibid.*, p. 228.
13. *Ibid.*, p. 229.
14. Harding, *op. cit.*, p. 207.
15. Odell Shepard, *Pedlar's Progress: The Life of Bronson Alcott* (Boston: Little Brown and Co., 1937), p. 345 and p. 353.
16. Ralph L. Rusk, ed., *The Letters of Ralph Waldo Emerson* (New York: Columbia University Press, 1939), III, 230.
17. Thoreau, *op. cit.*, p. 229.

18. *The Liberator* (January 27, 1843), p. 4.
19. F. B. Sanborn, *Bronson Alcott at Alcott House, England and Fruitlands, New England* (Cedar Rapids: The Torch Press, 1908), p. 47.
20. *Ibid.*, p. 45.
21. *Ibid.*, p. 49.
22. Odell Shepard, ed., *The Journals of Bronson Alcott* (Boston: Little Brown and Co., 1938), p. 151.
23. *Ibid.*, p. 179.
24. *Ibid.*, p. 183.
25. Shepard, *op. cit.*, p. 282.
26. Clara Endicott Sears, *Bronson Alcott's Fruitlands* (Boston: Houghton Mifflin and Co., 1915), p. 53.
27. *Ibid.*, p. 55.
28. *Ibid.*, p. 60.
29. *Ibid.*, p. 66.
30. Shepard, ed., *op. cit.*, p. 246.
31. Gilbert Seldes, *The Stammering Century* (New York: John Day and Co., 1928), p. 220.
32. James Elliot Cabot, *A Memoir of Ralph Waldo Emerson* (Boston: Houghton Mifflin and Co., 1887), II, 597-98.
33. John Demos, "The Anti-Slavery Movement and the Problem of Violent 'Means'," 37 *New England Quarterly* (1964), p. 501.
34. Fanny Garrison Villard, *William Lloyd Garrison on Non-Resistance* (New York: Nation Press, 1924), pp. 48-49.
35. Demos, *op. cit.*, p. 510.
36. Lewis Perry, *Radical Abolitionism-Anarchy and the Government of God in Antislavery Thought* (Ithaca: Cornell University Press, 1973), p. 57.
37. Villard, *op. cit.*, p. xi.
38. Demos, *op. cit.*, p. 512.
39. Perry, *loc. cit.*
40. Thoreau, *op. cit.*, p. 223.
41. Adams, *op. cit.*, pp. 647-649.
42. Thoreau, *op. cit.*, p. 231.
43. Henry David Thoreau, *The Writings of Henry David Thoreau*, "Slavery in Massachusetts" (New York: AMS Press, 1968), IV, 401.
44. Adams, *loc. cit.*
45. Peter Brock, *Pacifism in the United States* (Princeton: Princeton University Press, 1968), p. 599.
46. *Ibid.*, p. 600.
47. Brock, *loc. cit.*
48. Broderick, *op. cit.*, p. 617.
49. *Ibid.*, p. 617. Brock also comments on p. 600 that the anti-slavery movement did not "produce its Thoreaus to spend their night of lonely protest in the local jail or to endure the prolonged distrains suffered earlier by the Quakers during the Revolutionary War."
50. Brock, *op. cit.*, p. 683.
51. Henry C. Wright, *No Rights, No Duties* (Boston: Printed for the Author, 1860).
52. Brock, *op. cit.*, p. 684.
53. Gilman M. Ostrander, "Emerson, Thoreau, and John Brown," 53 *Studies in Philology* (1956), pp. 723-724.
54. *Writings of Henry David Thoreau*, IV, 433-434.
55. Jules Abels, *Man on Fire: John Brown and the Cause of Liberty* (New York: Macmillan Co., 1971), p. 242.
56. James Redpath, *The Public Life of John Brown* (Boston: Thayer and Eldridge, 1860), p. 233.
57. Charles Shively, ed., *The Collected Works of Lysander Spooner, Vol. IV—Anti-Slavery Writings* (Weston, Mass.: M & S Press, 1971). See pp. 4-7 of the "Introduction" to "A Plan for the Abolition of Slavery" and "To the Non-Slaveholders of the South."

58. Spooner, "To the Non-Slaveholders of the South," column 1.
59. *Ibid.*, column 1.
60. *Ibid.*, column 2. On this point Spooner adds that no objection could be made to the fact that deeds of emancipation and conveyances of property were made under duress. "[I]nasmuch as such contracts would be nothing more than justice; and men may rightfully be coerced to do justice," they could not be contested.
61. *Ibid.*, column 3.
62. *Ibid.*, column 3.
63. Spooner, "A Plan for the Abolition of Slavery," column 1.
64. *Ibid.*, column 3.
65. Murray Rothbard, "Introduction" to Lysander Spooner's *Natural Law of the Science of Justice*, *The Libertarian Forum* (September 1974), p. 1.