

“The Constitution is the Evil”:
A Note on Henry David Thoreau’s
Political Attitude

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I

Henry Miller is known especially among young readers as the author of erotic literary works such as *Tropic of Cancer* (1934), *Tropic of Capricorn* (1939), *Plexus* (1953), *Nexus* (1960), and so on. In 1952 he published *The Books in My Life*, in which he expounded his reading and discussed the writers whose books had interested him. At the end of the book he gave a list of 100 books that had influenced him. The list is very interesting in itself, but to my surprise, and I believe to many others', there included is Henry David Thoreau's "*Civil Disobedience* and Other Reform Papers."¹ For in *The Books in My Life* Miller's reactions to Thoreau were not much developed. But actually the *obscene* Henry Miller showed not a little interest in Henry David Thoreau. And it was in Miller's preface attached to *Life Without Principle: Three Essays by Henry David Thoreau* published in 1946, that Miller discussed Thoreau to some extent.²

In the Preface Miller says, "There are barely a half-dozen names in the history of America which have meaning for me. Thoreau's is one of them." (HM, p. 162) In this book published in 1946 he included,

besides the title essay "Life Without Principle," two other essays, "Civil Disobedience" and "A Plea for Captain John Brown." Just one hundred years previously, that is, on a July evening in 1846, Thoreau was put in jail for refusing to pay his poll tax for some years. I do not know whether or not Henry Miller published Thoreau's book in order to commemorate the one hundredth anniversary of Thoreau's imprisonment. But Miller did say in the following words:

The very notion of *Civil Disobedience* is now unthinkable. . . . In our country a man who dared to imitate Thoreau's behavior with regard to any crucial issue of the day would undoubtedly be sent to prison for life. (HM, p. 163)

Miller's words were written, we must recollect, long before the Civil Rights Movements of the late 50's and 60's or the Anti-Vietnam Movements of the 60's, in which the people's direct participation in political problems played a great part. But Miller discussed Thoreau as if Thoreau had indicated some kind of change to be expected in America:

Like Emerson and Whitman, he pointed out the right road—the hard road. . . . As a people we chose differently. And we are now reaping the fruits of our choice. . . . We have become victims of the times; we look backward with longing and regret. It is too late now to change, we think. But it is not. As individuals, as men, it is never too late to change. That is precisely what these sturdy forerunners of ours were emphasizing all their lives. (HM, p. 164)

Obviously Miller emphasizes individualism of Thoreau, as well as that of Emerson and Whitman. They all established their own individualism

by reacting to the various problems of their time.

In another place of this preface, Miller makes further comments on Thoreau as an individualist. "He was the sort of person," says Miller,

who, if there were more of his kind, would soon cause governments to become non-existent. This, to my mind, is the highest type of man a community can produce. And that is why I have an unbounded respect and admiration for Thoreau. (HM, pp. 162-3)

As is shown in these words of Henry Miller's, the point is the nature of Thoreau's individualism. In what follows I will examine two of Thoreau's political essays and elucidate his individualistic attitude toward various political problems of his days, such as slavery, the Mexican War, etc. And I will study the context in which he dared to express such an audacious idea as "the Constitution is the Evil." What was Thoreau's attitude toward government and toward law? This is the question, it seems to me, posed to us by Thoreau to be explained in the year of the 200th anniversary of the U. S. Constitution.

II

Thoreau's famous political essay, usually called "Civil Disobedience," was originally a lecture delivered in Concord early in 1848 and the title was "The Rights and Duties of the Individual in relation to Government." This title seems to me to express more faithfully what Thoreau wanted to say in this essay.³

What with anti-slavery movements and with Mexican problems the American society of his time, i.e., the late 1830's, 40's, and 50's. was rather restless. And while Thoreau wanted to live a simple life as much

away from the daily concerns of the society as possible, he had long been keenly aware of various reform movements including anti-slavery activities. In Thoreau's household lived a Mrs. Ward, his aunt's friend, and her daughter, who had become charter members when the Women's Anti-Slavery Society was formed in Concord in 1837. And they had been joined by Mrs. Thoreau and both her daughters. "It was unquestionably the Wards, mother and daughter," says Walter Harding in *The Days of Henry Thoreau*, "who aroused the interest of the Thoreau family in the anti-slavery movement."⁴

The U. S. had fallen into bad terms with Mexico before the independence of Texas. There had been, and were then, many problems between the two countries: the pending American claims against Mexico arising from injuries to and property losses of Americans in the Mexican revolutions; the independence and the annexation of Texas to the U. S. (especially the annexation seemed to Mexico almost equivalent to a declaration of war); boundary issues between Mexico and Texas; and the purchase of Oregon, California, and New Mexico.

There were many people who had welcomed the expansion of the U. S. territory to Oregon, regarding the expansion and the increase of national power as "manifest destiny." But, on the other hand, there were also many people who were against the forceful expansion of the U. S. territory and the spread of slavery there. To many abolitionists the vice of slaveholding and the Mexican War were almost synonymous. For they worried about the admission of slavery in the territories to be acquired.

Thoreau did not pay a poll tax for some years to express his sense of dissatisfaction toward the government for what it had done and was

doing with the slavery and the Mexican problem. But Thoreau's refusal of paying the poll tax and his imprisonment were not without precedent. For about three years before Thoreau spent a night in jail, Amos Bronson Alcott (1799-1888), one of the Transcendentalists around Emerson, had been arrested for not paying his poll tax. The poll tax was then a uniform tax collected from each person. It was levied, as a prerequisite to voting; hence its name poll tax. This tax was practically repealed, or abandoned, by the Twenty-fourth Amendment of 1964.

Before going on to examine "Civil Disobedience," which is based on Thoreau's imprisonment, let me briefly glance at Thoreau's "Herald of Freedom" published in 1844 in the Spring issue of *The Dial*, a magazine of the Transcendentalists. It is an article about a weekly newspaper called "Herald of Freedom," edited by Nathaniel Peabody Rogers and famous for its abolitionist attitude. The Thoreau household read this newspaper, and Thoreau wrote about it by way of introducing and praising its critical attitude toward various social problems. Of the editor Thoreau said:

We do not know of another notable and public instance of such pure, youthful, and hearty indignation at all *wrong*. . . His clean attachment to the *right*, however, sanctions the severest rebuke we have read. . . Nor was slavery always a somber theme with him, but invested with the colors of his wit and fancy, and an *evil* to be abolished by other means than sorrow and bitterness of complaint.⁵ (Italics mine)

Of these words of Thoreau's what interests me most is such words as *wrong*, *right*, and *evil*. Thoreau's words are highly charged as if

they suggest something absolute. Judging from the phraseology of New England abolitionists of his days, and from the norm with which they attacked slaveholding, many of them seemed to have laid the foundation of criticism on the higher moral law. James Russell Lowell, for example, said in one of his poems, "The Present Crisis":

Once to every man and nation comes the moment to decide,
 In the strife of *Truth* with *Falsehood*, for the *good* or *evil* side. . . .
 Though the cause of *Evil* prosper, yet 't is *Truth* alone is strong,
 And . . . I see around her throng
 Troops of beautiful, tall angels, to enshield her from all *wrong*.⁶
(Italics mine)

And when Emerson lectured, in 1851, on the Fugitive Slave Act enacted in 1850. he called it "an immoral law."⁷ The authority Emerson's judgment was based on was Higher Law. "A few months ago," Emerson said, "in my dismay at hearing that the Higher Law was reckoned a good joke in the courts, I took pains to look into a few law-books." And he enumerates the names of great jurists who affirmed the principle that immoral laws are void on the basis of Higher Law. Emerson then cites a passage from William Blackstone (1723-80). a famous English jurist and law-scholar, who admitted "the sovereignty antecedent to any positive precept, of the law of Nature," among whose principles are, "that we should live on, should hurt nobody, and should render unto every one his due, etc." Or, Emerson said again: "the inconsistency of slavery with the principles on which the world is built guarantees its downfall."

Obviously, Lowell and Emerson, as well as Thoreau, based the criteria of judgment on their belief in the natural law, or higher law,

which is considered to be superior to enacted legislation, deriving its validity from Justice, or Truth, or Right Reason. The secular emphasis on "unalienable Rights," as is shown in "The Declaration of Independence," is also based on the belief in the natural law. Therefore, as Richard Drinnon said, "in his [Thoreau's] day the doctrine of a fundamental law still covered Massachusetts like a ground fog."⁸

This emphatic reliance on the higher law is eloquently reflected in his "Civil Disobedience." When Thoreau said, "action from principle,—and the perception and the performance of *right*,—changes things and relations,"⁹ or, "the only obligation which I have a right to assume is to do at any time what I think *right*" (p. 65), what he meant by the word *right* was morally satisfactory from the point of view of the higher law.¹⁰

From this emphasis on a higher law, or "right" as a corollary of this law, come axiomatically two basic ideas of Thoreau's; one, an emphasis on individual conscience, and the other, an idea of legislation and government as an expedient. And the latter is followed by the minimization of majority decision.

As I said above, when Thoreau lectured on "The Rights and Duties of the Individual" early in 1848 the United States had already committed itself to the war with Mexico. Therefore, Thoreau's criticism of the government in the lecture and in the essay was double-headed. Thoreau began the essay "Civil Disobedience" with the famous Franklin-Jefferson idea; "That government is best which governs least" (p. 63). Thoreau says he heartily accepts this motto, but immediately adds to this the following: "That government is best which governs not at all." According to Thoreau government is only "the mode which the

people have chosen to execute their will" (p. 63). In other words, government should exist for the sake of people's convenience. In Thoreau's idea, therefore, government is "at best but an expedient" (p. 63). The implication of this is that he does not want to have a government, that is, does not feel the absolute necessity of the existence of a government, if he can do without it. For government is "liable to be abused and perverted before the people can act through it" (p. 63). As these words show, he made light of government, and some critics thought that Thoreau was an anarchist.¹¹ Indeed he did say that government is an expedient, but he did not say that government is unnecessary. He said:

to speak practically and as a citizen. unlike those who call themselves no-government men, I ask for, not at once no government, but *at once* a better government. (p. 64)

What, then, is the better government? Obviously, from Thoreau's point of view, the American government, which still allowed slaveholding in Southern states, and was about to admit slavery in the newly acquired territories, and started war with Mexico,—such a government cannot be a good government. It was indeed a bad government. He said:

I cannot for an instant recognize that political organization as *my* government which is the *slave's* government also. (p. 67)

He did neither want to have such a "slave's government" nor cooperate with such a bad government. That is why he refused to pay his poll tax. In his opinion the good government is the one which is governed by "conscience." The implication of this is that he does not admit

political realism nor relativism, but relies only on Justice, or Truth, toward which conscience is oriented. Nor does he want to acknowledge the majority rule because the majority are most likely not to be in the right.

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? (p. 65)

It is worthy of note that his objection to slavery and the Mexican War led not only to the disobedience to the government which committed itself to these evils and to the denial of the majority decision, but also to criticisms against legislators, lawyers, and laws. Thoreau says rather bitterly: "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" (p. 65). Of the legislators, Thoreau said:

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. (p. 64)

Thoreau admitted that statesmen and legislators "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, he goes on to add immediately, "they are wont to forget that the world is not governed by policy and expediency" (p. 87). Speaking about Daniel Webster, a famous politician and a senator of Massachusetts of his day, Thoreau conceded that "he is always strong,

original, and, above all, practical," but Thoreau would not accept the lawyer's realistic attitude and said: "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 concerned chiefly to reveal the justice that may consist with wrong-doing. (p. 87)

The criteria on the bases of which Thoreau worked out these attacks and denunciations is again "Truth," as is observable in his criticism against Webster, who finally gave sanction to the Mexican War and later to the Fugitive Slave Act. That capital lettered Truth can be replaced by such ideas as capital lettered Justice or, to use Thoreau's word, "absolute goodness" (p. 69). Such frequently used words as "a wise man" (p. 69), "wise minority" (p. 69), an "honest man" (pp. 67, 75), "a just man" (p. 76), and an "independent, intelligent, and respectable man" (p. 70)—they all mean a person who is not only aware of the "Truth" but tries to live by it. To repeat again, Thoreau's criteria is the Truth of the absolute, higher law.

If put against Truth, or Justice, or "absolute goodness," the government and government's policies are the expedient. The expedient or expediency means some situation or thing that is "suitable, convenient, or adapted to the circumstances" or "to the actual situation." It is the product of realism and relativism. Something expedient may not be intrinsically right or just, but may be permissible because it is inevitable, convenient, or adapted to the actual situation. To Thoreau government is an expedient, and many of its policies and laws are also

expedient.

In this connection let me cite a superb metaphor used in Herman Melville's novel *Pierre*, that is, "Chronometricals and Horologicals." Chronometricals mean Greenwich standard times and Horologicals mean local times such as the time we have in Japan, or Eastern Standard Time of the U. S. These local times are different from the standard, absolute Greenwich time, but they are suitable and convenient in each place of the earth. In Melville's *Pierre* we find the following passage:

Now in an artificial world like ours, the soul of man is further removed from its God and the Heavenly Truth, than the chronometer carried to China, is from Greenwich. And, as that chronometer, if at all accurate, will pronounce it to be 12 o'clock high-noon, when the China local watches say, perhaps, it is 12 o'clock midnight; so the chronometric soul, if in this world true to its great Greenwich in the other, will always, in its so-called intuitions of right and wrong, be contradicting the mere local standards and watch-maker's brains of this earth.¹²

To apply this metaphor, the standard Thoreau relied upon may be called chronometric time, that is, Greenwich time, the absolute, standard time. And Thoreau's soul is the chronometric soul. On the other hand, the government with her policies and laws is horologic. She observes the local time. No wonder, then, a lag, a discrepancy, and contradictions between the two.

In applying his chronometric soul to the American situations of his day, Thoreau, it seems to me, went to excess. To him even the Bible and the Constitution did not represent Greenwich time and therefore were not the last resort.

They who know of no purer sources of truth, who have traced up its stream no higher, stand, and wisely 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. (p. 88)

When Thoreau made reference to the Bible, he might have been thinking of the abolitionists who were making anti-slavery activities on the basis of Christian humanism such as Henry Ward Beecher. But in our context what interests us most is that to Thoreau the then U. S. Constitution could not escape his sharp criticism. For it gives sanction, though by implication, and not by explicit statement, to slaves as private property in Southern states where slavery had been previously held.

In a passage Thoreau began his criticism of the Constitution and the political institutions first with ironic appraisal:

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. (Italics mine) (p. 86)

But Thoreau then goes on to apply a higher point of view and says:

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? (p. 86)

Everyone can easily note that Thoreau's criticism is lacking in

concrete details nor does he try to deal with the technicalities of the Constitution. The only point he raised is that the Constitution does not say anything about paying respect to the opinion of a minority. In one passage he said:

A man has not everything to do, but something; and because he can not 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. (p. 74)

Obviously he is referring to the Constitution of Massachusetts, but the implication is that the U. S. Constitution is evil because it does not say anything about how to respect the opinion of a minority. To Thoreau a majority does not mean much. It is simply a majority tyranny. Rather a conscientious minority is important. Furthermore, the Constitution does not explicitly say anything to prohibit the evil of slavery. On the contrary, it implicitly admitted slaveholding as a vested right. Hence his criticism from the point of view of the Chronometric soul.

William Lloyd Garrison (1805-1879) and Wendell Phillips (1811-1884), both notable abolitionists, declaimed against the Constitution with regard to slavery. Wendell Phillips, it is reported, bitterly criticized the Constitution in his lecture given at Concord Lyceum in 1845.¹³ However, Thoreau's primary objective in this essay, "Civil Disobedience," was not the proposal of an Amendment, but the personal declaration of refusal of allegiance to the State of Massachusetts and the proposal of "a peaceable revolution" (p. 76) of non-cooperation to

the government.

Unfortunately, however, both his lecture and the printed essay did not cause much response in his time. No one could calculate in 1849 that this essay would be widely read outside the United States and, long after his death, in the United States. Among the avid foreign readers of this essay we find, to name only a few, Leo Tolstoy of Russia and Mahatma Gandhi of India. In the United States, as is well-known, Emma Goldman, the Russian-born anarchist, Upton Sinclair, and many black people, especially Martin Luther King, were sympathetic to Thoreau's non-cooperation tactics.¹⁴

III

In 1850 the Fugitive Slave Act was effected as a compromise after various debates. Slaves running away from their owners had to be arrested and returned to their owners. This was implied in the 3rd paragraph of Section 2 of Article IV of the Constitution and the Fugitive Slave Law of 1793 had authorized the claimant, or his agent, to arrest the runaway in any state or the territories northwest or south of the Ohio River and prove orally or by affidavit before a judge or a magistrate that the fugitive owed service as claimed. Upon this the official issued a certificate to the applicant for removing the fugitive to the state or territory from which he had fled. But in the free states like Massachusetts the application of this law was lenient. However, by the new law of 1850 the treatment of fugitive slaves even in the free states became more exacting. The new law added United States commissioners to the usual courts to issue warrants for the arrest of fugitives and certificates for their removal to the states or territories

from which they had escaped. The commissioner received \$10 for issuing a warrant, but only \$5 for discharging the slave. And those who were concealing or rescuing a fugitive were liable to a fine of \$1,000, or six months' imprisonment. The new law produced an era of hunting slaves and kidnapping persons of doubtful identity. It also created some vigilance committees, provoked abolitionists, increased underground railroad operations, and stimulated, it is reported, Mrs. Stowe to write *Uncle Tom's Cabin*.

In February, 1851, abolitionists in Concord successfully helped a fugitive slave from Virginia run away from his pursuers perhaps through the aid of the local underground railroad agency. However, in April, 1851, Thomas Sims of Georgia, who had come to Boston as a stowaway, was sent back as a fugitive slave by the order of a Federal commissioner. And on May 24, 1854, Anthony Burns, a fugitive slave from Virginia, was arrested in Boston and abolitionists tried to free him but in vain. Burns's case drew people's keen interests and a great crowd marched toward the courthouse where he was to be given verdict, but the crowd were dispersed by the military forces of the State when something like insurrection was threatened to happen.

On July 4, 1854, the Massachusetts Anti-Slavery Society held a convention at Framingham, Mass. At this meeting William Lloyd Garrison, editor of *The Liberator*, an abolitionist newspaper, and an avid activist himself, burned a copy of the Constitution to symbolize his protest against the protection it afforded slavery.¹⁵ On that occasion Thoreau was also one of the speakers and delivered a lecture, "Slavery in Massachusetts." This lecture was published in *The Liberator* of July 21, and *New York Tribune*, edited by Horace Greeley, published it

again on August 2, and Thoreau's essay was read by a wider circle of readers than the previous essay.

In this essay, "Slavery in Massachusetts," Thoreau made references to Sim's and Burns's cases and criticized severely the Fugitive Slave Act of 1850, attacking the federal slave Commissioner Loring, the Governor of Massachusetts, the Mayor of Boston, and the military people, who all helped to carry out the Fugitive Slave Act. Newspapers also, which did not object expressly to the arrest of the fugitives, could not escape Thoreau's severe attack. Indignantly Thoreau observed:

Covered with disgrace, the State has sat down coolly to try for their lives and liberties the men who attempted to do its duty for it. And this is called *justice!* . . . While the Governor, and the Mayor, and countless officers of the Commonwealth, are at large, the champions of liberty are imprisoned. (p. 105)

Even the courts where legal decisions were given were also the target of Thoreau's ironic attack:

I do not wish to believe that the courts were made for fair weather, and for very civil cases merely,—but think of leaving it to any court in the land to decide whether more than three millions of people, in this case, a sixth part of a nation, have a right to be freemen or not! But it has been to the courts of *justice*, so called,—to the Supreme Court of the land—and, as you all know, recognizing no authority but the Constitution, it has decided that the three millions are, and shall continue to be, slaves. (pp. 97-98)

It is obvious again that the idea of Higher Law is implied in this

attack. Thoreau never forgot to suggest to make an earnest and vigorous "assault" on the press which has a wide influence. And he called by name those newspapers which did not explicitly criticize the Fugitive Slave Law and the carrying back of slave Sims, and asked the "free men of New England" "to refrain from purchasing and reading these sheets" (p. 101).

The immediate objective of this essay was of course to attack the Fugitive Slave Act of 1850 and then to induce people to neglect this law. But different from the "Civil Disobedience" what he proposed in this essay was to "let the State dissolve her union with the slaveholder" (p. 104):

She [Massachusetts] may wriggle and hesitate, and ask leave to read the Constitution once more; but she can find no respectable law or precedent which sanctions the continuance of such a union for an instant.

However, the separation of Massachusetts from the slave-holding states should be considered inconsistent with Thoreau's belief in the Higher Law. For the separation implies the disseverance of the slave-holding states from the Union and leaves the evil of slavery in these states to remain as it is. But we must recall the fact that this lecture and the essay were addressed to the people of Massachusetts. However, what was more important, it seems to me, is the suggestion which Thoreau offered immediately after the sentence quoted above. "Let each inhabitant of the State," says Thoreau, "dissolve his union with her, as long as she delays to do her duty" (p. 104). This is a step forward from the passive refusal of cooperation in "Civil Disobedience" to the

positive disseverance of the individual from the state.

As in "Civil Disobedience," the criteria on which Thoreau grounded his moral judgment was again a higher law:

Whoever has discerned truth, has received his commission from a higher source than the chiefest justice in the world, who can discern only law. (p. 98)

Compared with the higher law, the institutional laws fall short of absolute righteousness and may therefore be defective. And "the law will never make men free," says Thoreau, "it is men who have got to make the law free" (p. 98). And we find in this essay the same ideas that we find in "Civil Disobedience" such as wise, honest men and expedience, and the same attitude towards majority and the Constitution:

Will mankind never learn that policy is not morality—that it never secures any moral right, but considers merely what is expedient? . . . What is wanted is men, not of policy, but of probity—who recognize a higher law than the Constitution, or the decision of majority. (p. 104)

What Thoreau emphasized most is, as this passage shows, not the democratic man, but the conscientious individual. "The fate of the country does not depend," says Thoreau, "on how you vote at the polls, . . . but on what kind of man you drop from your chamber into the street every morning" (p. 104).

IV

Thoreau was not a politician. Nor was he a lawyer. Neither was

he a social activist. He did not propose any powerful, concrete anti-slavery policy nor technical legal procedure which the people are to adopt. He was lacking in any realistic approach to the problems of slavery. Even in the case of the notorious Fugitive Slave Act, Thoreau disregarded the problem of legal technicality and constitutionality. What he questioned was the spirit behind this law, that is, the acknowledgment of slave-holding. From the point of view of a higher law, slavery is, needless to say, a serious evil, and any law or policy which permits slavery even implicitly is to Thoreau an evil. And even if the Constitution does not acknowledge the slavery explicitly, if it does accept the fact of slave-holding, or if it can be interpreted that way, then to Thoreau the Constitution is evil. Henry Adams, who knew well the political procedures, once said in his *Education* that "in practice, such trifles as contradictions in principle are easily set aside; the faculty of ignoring them makes the practical man."¹⁶ In this sense Thoreau was far from the practical man. He was too particular about principles and could not discard the contradictions in principle. And his criticism of the Constitution is the least practical.

And again, different from Wendell Phillips and William Lloyd Garrison, Thoreau was not a dramatic performer nor a persuasive agitator. Different from other semi-professional social activists, Thoreau was more of a meditative, conscientious man, and as he said in "Civil Disobedience" that we should be men first, and subjects afterward (p. 65), he wanted to be first of all a wise, honest man who is well aware of a higher law. Thoreau was an individualist in that he put more emphasis on individual awakening rather than organized activities or political actions. In this, it seems to me, lies the reason that Henry

Miller admired and respected Thoreau, as I pointed out at the beginning of this paper.

In 1859, almost immediately after John Brown's attack at the federal arsenal at Harpers Ferry, Thoreau gave a lecture on John Brown, known as "A Plea for Captain John Brown." In this lecture he tried to "correct the tone and the statements of the newspapers, and of my countrymen generally, respecting his character and actions" (p. 111). He wanted to refute the descriptions of John Brown's character and his action in such words as "dangerous," "insane" (p. 119), "misguided" (p. 122). "crazed", and "deluded" (p. 123), etc. According to Thoreau's interpretation, which is based again on his belief in the higher law, John Brown was acting "in obedience to an infinitely higher command" (p. 119), and was in that sense "a superior man" (p. 125).

In May, 1862, Thoreau died and I do not know if Thoreau heard the song, "John Brown's body lies a-mouldering in the grave, but his soul is marching on." Thoreau's death was eight months before the Emancipation Proclamation, and three years and seven months before the Ratification of the Thirteenth Amendment by which slavery in the United States was abolished. In other words, he was dead before his criticism of the Constitution successfully bore fruit as the Thirteenth Amendment. But ironically, he could criticize the Constitution because his freedom of speech was protected by the Constitution itself.

Notes

This article is based upon my paper read at Sapporo Seminar in American Studies held on August 24-29, 1987 at Hokkaido University.

- 1 Appendix I "The Hundred Books Which Influenced Me Most," *The Books in My Life* (London: Peter Owen, 1961), p. 319.

- 2 Preface to *Life Without Principle: Three Essays by Henry David Thoreau* (Stanford: James Ladd Delkin, 1946); reissued in Henry Miller, *Stand Still Like the Hummingbird* (Norfolk, Conn.: James Laughlin, 1962), and in Walter Harding (ed.), *Thoreau: A Century of Criticism* (Dallas: Southern Methodist Univ. Press, c1954), pp. 162-170. Subsequent quotations are from Harding's edition and page numbers are given in the text preceded with HM like the following: (HM, p. 162).
- 3 This lecture was first delivered on January 26, 1848, and was printed in *Aesthetic Paper*, May 1849, as "Resistance to Civil Government." Its more widely known title "Civil Disobedience" was given posthumously in the edition of 1866. In my present article I used for the sake of convenience the title of "Civil Disobedience" but the quotations are from "Resistance to Civil Government" collected in *Reform Papers*, ed. Wendell Glick, "The Writings of Henry D. Thoreau" (Princeton: Princeton Univ. Press, 1973).
- 4 Walter Harding, *The Days of Henry Thoreau* (New York: Alfred A. Knopf, 1966), p. 74.
- 5 Henry D. Thoreau, *Reform Papers*, p. 49. Hereafter quotations from Thoreau will be given in the text.
- 6 *The American Poets 1800-1900*, ed. Edwin H. Cady (Glenview, Ill.: Scott, Foresman, 1966), p. 214.
- 7 R. W. Emerson, *The Complete Writings of Ralph Waldo Emerson*, Vol. II (New York: Wm. H. Wise, 1930), p. 1150. The quotations that follow in this paragraph are from p. 1151 & p. 1166.
- 8 Richard Drinnon, "Thoreau's Politics of The Upright Man," in *The Recognition of Henry David Thoreau, Selected Criticism Since 1848*, ed. Wendell Glick (Ann Arbor: The Univ. of Michigan Press, 1969), p. 367.
- 9 *Reform Papers*, p. 72. See note 3 above.
- 10 For the meaning of "Natural Law" and "Higher Law" see *International Encyclopedia of the Social Sciences*.
- 11 In Michael Meyer's study of Thoreau's political reputation in America there have been more than ten people who discussed Thoreau as an anarchist. See his *Several More Lives to Live* (Westport, Conn.: Greenwood Press, 1977).
- 12 Herman Melville, *Pierre: or, the Ambiguities* (New York: Hendricks House, 1962), p. 248.

- 13 Bartholow V. Crawford, *Henry David Thoreau: Representative Selections* (New York: American Book Co., c1934), p. xxxiv
- 14 See Frederick B. Tolles's commentary to "Henry David Thoreau: *Civil Disobedience*," *An American Primer*, ed. Daniel J. Boorstin (Chicago: The University of Chicago Press, 1966), pp. 337-340.
- 15 Harding, *The Days*, p. 318.
- 16 Henry Adams, *The Education of Henry Adams*, "The Library of America" (New York: Literary Classics of the United States, Inc., 1983), p. 763.