

AMERICAN CONSTITUTIONALISM  
VOLUME II: RIGHTS AND LIBERTIES  
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Supplementary Material

Chapter 5: The Jacksonian Era – Foundations/Sources/Slavery and Civil Disobedience

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Theodore Parker, “**The Law of God and the Statutes of Men**” (1854)<sup>1</sup>

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Theodore Parker (1810–60) was a Unitarian minister in Boston whose intellectual circle included William Lloyd Garrison, Ralph Waldo Emerson, and Elizabeth Cady Stanton. His 1854 sermon, “The Law of God and the Statutes of Men” called on religious believers to resist the federal Fugitive Slave Act of 1850, which required private individuals help recapture escaped slaves.

Parker was one of many anti-slavery northerners who championed active resistance to slavery. Henry David Thoreau, Parker’s Massachusetts neighbor, urged citizens to disobey laws that immorally protected human bondage. Thoreau’s most famous essay, “Civil Disobedience,” condemned persons who preferred to preserve good social relations to violating unjust laws. Thoreau’s “Slavery in Massachusetts” spoke directly on the obligation to disobey the Fugitive Slave Law.

*The judges and lawyers . . . and all men of expediency, try this case by a very low and incompetent standard. They consider, not whether the Fugitive Slave Law is right, but whether it is what they call constitutional. Is virtue constitutional, or vice? Is equity constitutional, or iniquity? In important moral and vital questions, like this, it is just as impertinent to ask whether a law is constitutional or not, as to ask whether it is profitable or not. They persist in being the servants of the worst of men, and not the servants of humanity. The question is, not whether you or your grandfather, seventy years ago, did not enter into an agreement to serve the Devil, and that service is not accordingly now due; but whether you will not now, for once and at last, serve God – in spite of your own past recreancy, or that of your ancestor – by obeying that eternal and only just CONSTITUTION, which He, and not any Jefferson or Adams, has written in your being.<sup>2</sup>*

*The excerpt from Parker’s sermon below urges northerners to violate the Fugitive Slave Act. Later in life, Theodore Parker supported John Brown’s more violent efforts to free slaves. Does the sermon below suggest any limitations to the duty to obey the natural law? Do any limits exist to the moral duty to free slaves?*

...  
Now see the relation of the individual to the Statutes of men. There is a natural duty to obey every statute which is just. It is so before the thing becomes a statute. The legislator makes a decree; it is a declaration that certain things must be done, or certain other things not done. If the things commanded are just, the statute does not make them just; does not make them any more morally obligatory than they were before. The legislator may make it very uncomfortable for me to disobey his command, when that is wicked; he cannot make it right for me to keep it when wicked. All the moral obligation depends on the justice of the statute, not on its legality; not on its constitutionality; but, on the fact that it is a part of the natural Law of God . . .

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<sup>1</sup> Excerpt from Theodore Parker, *Additional Speeches, Addresses, and Occasional Sermons*, vol. 2 (Boston, MA: Little, Brown and Co., 1855), 179.

<sup>2</sup> Henry David Thoreau, *The Writings of Henry David Thoreau: Cape Cod and Miscellanies*, vol. 4 (Boston, MA: Houghton Mifflin Company, 1893), 401.

Now then, as it is a moral duty to obey a just statute because it is just, so it is a moral duty to disobey any statute which is unjust. . . . Here in disobedience, there are two degrees. First, there is passive disobedience, non-obedience, the doing nothing for the statute; and second, there is active disobedience, which is resistance, the doing something, not for the statute, but something against it. Sometimes the moral duty is accomplished by the passive disobedience, doing nothing; sometimes, to accomplish the moral duty, it is requisite to resist, to do something against the statute. However, we are to resist wrong by right, not wrong by wrong.

There are many statutes which relate mainly to matters of convenience. They are rules of public conduct indeed, but only rules of prudence, not of morals. Such are the statutes declaring that a man shall not vote till twenty-one; that he shall drive his team on the right hand side of the street . . . It is necessary that there should be such rules of prudence as these; and while they do not offend the conscience every good man will respect them; it is not immoral to keep them.

...  
So the moral value of a statute is, that while it embodies justice it also represents the free conscience of the nation. Then also it is a monument of the nation's moral progress, showing how far it has got on. It is likewise a basis, for future progress, being a right rule for moral conduct. But when the statute only embodies injustice, and so violates the conscience, and is forced on men by bayonets, then its moral value is all gone; it is against the conscience. If the people consent to suffer it, it is because they are weak; and if they consent to obey it, it is because they are also wicked.

...  
I know very well it is commonly taught that it is the moral duty of the officers of government to execute every statute, and of the people to submit thereto, no matter how wicked the statute may be. This is the doctrine of the Supreme Court of the United States of America, of the Executive of the United States; I know very well it is the doctrine of the majority of the Legislature in both Houses of Congress; it is the doctrine of the churches of Commerce;—God be praised, it is not the doctrine of the churches of Christianity, and there are such in every denomination, in many a town; even in the great centers of commerce there are ministers of many denominations, earnest, faithful men, who swear openly that they will keep God's Law, come what will of man's statute. This is practical piety; the opposite is practical atheism. I have known some speculative atheists. I abhor their doctrines; but the speculative atheists that I have known, all recognize a Law higher than men's passions and calculations; the Law of some Power which makes the Universe and sways it for noble purposes and to a blessed end.

Then comes the doctrine:—while the statute is on the books it must be enforced. It is not only the right of the legislator to make any constitutional statute he pleases, but it is the moral and religious duty of the magistrate to enforce the statute; it is the duty of the people to obey. So in Pharaoh's time it was a moral duty to drown the babies in the Nile; in Darius' time to pray to King Darius, and him only; in Herod's time to massacre the children of Bethlehem; in Henry the Eighth's time to cast your Bible to the flames. Iscariot only did a disagreeable duty.

It is a most dreadful doctrine; utterly false! Has a legislator, Pharaoh, Darius, Herod, Henry the Eighth, a single tyrant, any moral right to repudiate God, and declare himself not amenable to the moral Law of the Universe? You all answer, No! Have ten millions of men out of nineteen millions in America a right to do this? Has any man a moral right to repudiate justice and declare himself not amenable to conscience and to God? Where did he get the right to invade the conscience of mankind? Is it because he is legislator, magistrate, governor, president, king?

... It is only justified on the idea that there is no God, and this world is a chaos. But yet it is taught; and only last Sunday the minister of a "prominent church" taught that every law must be executed, right or wrong, and thanked the soldiers who, with their bayonets, forced an innocent man to slavery. No matter how unjust a statute is, it must be enforced and obeyed so long as it is on the Law Book!

...  
... When the nation is willing to accept a statute which violates the nation's conscience, the nation is rotten. If a statute is right, I will ask how I can best obey it. When it is wrong, I will ask how I can best disobey it,—most safely, most effectually, with the least violence. . . .

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