<u>ANTIS</u>

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You would perhaps not guess that this title is taken from the leading character in Sophocles's play, Antigone. Enough said; the theme of this essay is now an open secret, available to your imaginations.

Last month we considered that pious hope in our Declaration if Independence "that all men are created equal." In pursuing the Declaration's intent and the ways in which this is and is not true, we lost sight of the far more seditious doctrine which this famous document announces as a self-evident truth: that governments derive their just powers from the consent of the governed and that whenever any form of government becomes destructive of the rights to life, liberty and the pursuit of happiness, it is the right of the people to alter or abolish it.

So ingrained in our consciousness is this "truth" that we would consider ourselves traitors to our heritage to challenge it. A moment's reflection, however, tells us that this is a remarkable assertion, one step removed from a call to anarchy and equal in its propaganda to the milder claim of the equality of men. Thomas Jefferson knew this. He went on to caution that prudence will dictate that governments long established should not be changed for light or transient causes. The bulk of the Declaration is a list of grievances against King George the Third which can hardly be considered light or transient, in other words a reasoned justification for rebellion, meeting Jefferson's own criteria. The list is impressive but not as interesting as two other rationalizations invoked by the author and his co-conspirators: first, the entitlement to independence provided

by the "laws of Nature and of Nature's God", and, second, the repeated accusation that the British crown had blocked or overridden the assembling of legislative bodies and the enactment of "Laws, the most wholesome and necessary for the public good."

Jefferson concluded his manifesto with an appeal to "the Supreme Judge of the world for the rectitude of our intentions" and with "firm reliance on divine Providence." Of course, God is right, we are right, therefore God is on our side, and we rebel because He would want it that way.

And as the list of grievances lengthens, the similarity between the individual items becomes more obvious. The king's crimes are against a people far more than against an individual - limitation of assembly, cutting off trade, quartering his troops on civilians, levying taxes,, inciting Indians to attack, suspending trial by jury, and refusing assent to laws. Individual, private anguish almost disappears beneath these corporate sufferings. This Virginia gentleman understood that the Declaration must find common ground for complaint with which all who read it could identify. A whole people persecuted, in ways unnatural to God!

New York did not announce its acceptance of the Declaration to Congress until July 15, 1776. The July 4th assertion of unanimous action by the 13 colonies was an artifact, as were the apoarently contemporaneous signatures. Perhaps some New Yorker, an occult Tory, asked himself, "What justifies the rebellion of any man against his state?" before being swept along in a democratic cause.

This question is as old as the organization of men into societies in which individuals give up total independence of action in the hope of obtaining security.

Once this seemingly simple exchange has been effected, what is left to the individual? On this complex puzzle hangs much of the world's history and great literature.

Sophocles was not the first to treat this theme, but his drama Antigone is as powerful a commentary today as in the fifth century B.C. when it was written. You remember the tale. The old King Oedipus has died at Colonus and his faithful daughter Antigone has returned to Thebes to attempt to prevent her brothers from warring over the throne occupied by Creon, her uncle. She fails. Her brother Polyneices attacks the city and is killed by his brother Eteocles, even as his own blow kills Eteocles. Creon orders a state funeral for Eteocles and forbids the burial of the traitor Polyneices. The play opens as Antigone enters with her sister Ismene, confiding her plan to bury Polyneices despite Creon's edict. Ismene declines to help her, but Antigone carries out her resolve, is detected and is brought before Creon, who has her taken into the wilderness, incarcerated in a cave and left to starve to death. Teiresias, the old, blind soothsayer, persuades Creon that ill fortune will descend upon him if he does not undo this act, and, too late, Creon orders Antigone released. She is dead, and Creon's son Haemon, who loved her, has committed suicide at her side.

This is dramatic enough, but the intellectual action is more so. Listen to Antigone's reasons for defying Creon and burying her brother:

Creon: And still you dare to overstep these laws?

Antigone: For me it was not Zeus who made that order. Nor did that Justice who lives with the gods below mark out such laws to hold among

mankind. Nor did I think your orders were so strong that you, a mortal man, could overrun the gods' unwritten and unfailing laws.

Antigone goes on to speak of tradition in the burial of the dead as well as of the gods' demands for respect for those who have died. She isn't very sure of her ground, only of the necessity for acting as she did. Creon's is the more reasoned presentation, as he argues with his son Haemon that he had no choice but to condemn disorder in his house before it became anarchy.

"The man the state has put in place must have
Obedient hearing to his least command
When it is right, and even when it's not.
He who accepts this teaching I can trust,
Ruler, or ruled, to function in his place,
To stand his ground even in the storm of spears,
A mate to trust in battle by one's side.
There is no greater wrong than disobedience.
This ruins cities, this tears down our homes,
This breaks the battle-front in panic-rout.
If men live decently it is because
Discipline saves their very lives for them."

With such reasonable argument, why then does Creon yield to the old Teiresias whom he suspects of having been bribed to put in a word for Antigone? Probably not because Teiresias also accuses Creon of dishonoring the dead ("You rob the nether gods of what is theirs") but because Teiresias, who has a perfect record in his practice of augury, threatens him:

"Know well, the sun will not have rolled its course
Many more days, before you come to give
Corpse for these corpses, child of your own loins."

And so the tragedy unfolds as Creon repents too late. And the "Antigone question" enters literature, and politics, for all the centuries of our western

culture. When may man invoke the gods to defy civil authority? Sophocles says only that in this instance Antigone was right to do so.

Plato picks up the theme some fifty years after Antigone was first produced. We might have expected him to follow so great a dramatist as Sophocles in respecting the higher power of the gods. His Socrates, however, is not known for his faith, but for his rational analysis of difficult dilemmas with which he drew those who debated him into step by step agreement with his argument, until they were forced to acknowledge that he was right.

An exquisite example is the Crito. Socrates is in jail, his trial over, condemned to death. Crito, an old friend, visits him and offers to provide a bribe for the guard, a disguise and the opportunity to escape to another state. He finds Socrates sound asleep and unconcerned. When Socrates awakes, Crito extols his virtue, laments the mockery of his trial and urges him to accept his last chance for life. Socrates leads him patiently through a catechism on just behaviour, obtaining his agreement that no man should repay injustice with injustice, and forces Crito to agree that citizens of Athens owe the state almost filial duty and respect, in fair times and foul. At one point he sounds almost like Creon: "In war, and in the cour of justice, and everywhere, you must do whatever your state and your country tell you to do . . . Or you must persuade them that their commands are unjust. But it is impious to use violence against your father or your mother; and much more impious to use violence against your country." Socrates pins Crito to the mat by observing

that to break the law, in order to escape an unjust sentence, is to justify that sentence by becoming guilty as charged! He puts words into the mouth of the laws, exhorting Socrates to act responsibly and to see that he has been the victim, not of laws but of men. This is insufficient grounds for destroying the laws by disobedience.

Crito give up: "I have nothing more to say, Socrates."

And Socrates concludes with a strange reference: "Then let it be, Crito, and let us do as I say, since the god is our guide." It is not clear what god Socrates had in mind.

There is something wonderful about this scene. Socrates is 70 years old. He has had a full life, and he wishes to die in such a way as to retain the respect his teachings about virtue have brought him. Unlike Creon, he does not change his mind for fear of personal loss. Instead, he explores with his reason the question of the greatest good for the greatest number and allows fallible state authority the serious mistake of taking his life, rather than set an example of rebellion which would encourage others to flout the law whenever it suited their purpose. He gives Crito a principle by which to live, and die. He barely refers to the Antigone question, in part because the gods play no important role in his argument. His view of the function of the state, to nurture its citizens, protect them from enemies and from each other, and educate them, is almost utilitarian. These activities are of such value that an occasional miscarriage of justice in the case of an individual must be ignored. Moreover, the individual victim of injustice has no right to become a criminal and to assault

the laws of the state. Socrates rightly saw that this could only lead to disrespect for law, anarchy in the individual's choice of action and destruction of the state.

It is hard to say that Socrates was not dealing with a major example of injustice. His life was at stake. The terms of his argument clearly apply to greater and lesser miscarriages of justice. This remarkable philosopher, according to Plato, went to his death with an almost playful serenity, convinced of the consistency and correctness of his views on citizenship.

Nonsense, says Henry David Thoreau. In his impassioned short treatise Civil Disobedience Thoreau pulls out all the stops of convinced emotion. A gifted phrasemaker, who lived close to nature and loved to write, he established for himself a course of life so independent of the expectations of his fellow men and of society that even his close friend Emerson regarded him as a talented failure. When his state levied its poll tax upon him, he went to jail rather than pay it. (His sister paid up without his permission, and he was released after a day.) His belief in principle, although less sorely tested, was perhaps as strong as that of Socrates, but the similarity ends there.

Thoreau did not write Civil Disobedience about the poll tax. His complaints against the state were more important – that Massachusetts countenanced slavery in the south, that the war against Mexico was unjust and that the American Inbdian had even then been treated inhumanely. He was not interested in the valuable functions of an intact state. His opening sentence proclaims:

"I heartily accept the motto – That Government is best which governs least."

Thoreau's entire argument proceeds from there. "This government never of itself furthered any enterprise, but by the alacrity with which it got out of the way." He turns Socrates upside down, observing that men do the valuable work for which the state claims credit, and that the state is not only superfluous but malign. The highest value in any society is that of the individual conscience, responsive to moral laws unknown to the state.

Plunging on, Thoreau assumes his conclusions without bothering to reason his way to them:

"All men recognize the right of revolution; that is, the right to refuse allegiance to, and to resist, the government, when its tyranny or its inefficiency are great and unendurable. . . . I think that [because of slavery] it is not too soon for honest men to rebel and revolutionize."

If rebellion brings disorder into the state, that is the state's fault for being faulty:

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

correct them? Why does it always crucify Christ, and excommunicate Copernicus and Luther, and pronounce Washiington and Franklin rebels?"

Abolitionists particularly should act without waiting to become a majority:

"I think that it is enough if the have God on their side, without waiting for that other one. Moreover, any man more right than his neighbors constitutes a majority of one already."

Again extending the emphasis placed upon the idea by such previous writers as Thomas Jefferson, Thoreau states that since government draws its legitimacy from the consent of the governed, "It can have no pure right over my person and my property but what I concede to it. . . . There will never be a really free and enlightened State until the State comes to recognized the inbdividual as a higher and independent power, from which all its own power and authority are derived, and treats him accordingly."

Unlike Creon, before his change of heart, and Socrates on death row, Thoreau does not explore the consequences of this train of thought. He avoids the word anarchy. He takes us back to 1776 with ringing phrases, writing propaganda, and invoking the deity almost incidentally, like Socrates but for a wholly different purpose.

Thoreau comes to us through Walden as a contemplative loner, sitting out the frustrations of ordinary men, refusing to live a life of quiet desperation. But his feelings against an unjust state were passionate, and when the Civil War was imminent, he shocked his friends by delivering a fiery lecture pleading for the release of an individual guilty of murder and armed insurrection, John Brown,

who had acted out Thoreau's ideal of individual iniative in a righteous cause against the state.

The literature of rebellion, of he relative rights of the state and its citizens, is fast, but perusing it might not yield more than Sophocles, Plato and Thoreau suggest in their seminal works. John Stuart Mill, for example, wrote a brilliant essay On Liberty, in which he examines with great psychological insight those matters of individual action and conscience which the state should and should not control. He was a moral Victorian, zealous to protect freedom of religion, freedom of expression and freedom of action in all matters where the individual does no harm to others, without harming himself. But this fascinating discussion stops short of answering the Antigone question -- what may the individual do when the state acts unjustly?

Cutting scholarship short, we can entertain ourselves by examining the ripples in the pond made by the Antigone question. What are these gods to which Antigone refers? Or those laws which so impressed Socrates with their good intent? Why do men and women worship abstractions to the point of self-destruction? Was Thoreau right in speaking for the primacy of feeling, of compassion for fellow men who are slaves of victims of our aggression, and refusing to be drawn into Socratic argument about his premises and reasons? (Thoreau would have been demolished by Socrates, but he might not have admitted it.) Perhaps what these three authors have in common is the impulse toward absolutes, undeniable right way of thinking, in an imperfect world.

If the message of these works is thought to be the hopelessness of finding

universal higher authority which justifies man's rebellion against his state, then we have another set of problems. Is there such a thing as international law, apart from treaties and cases decided in the World Court at The Hague? Were the Nuremberg trials a farce, a pious ceremony glossing over the execution of the vanquished by the victors? Why is slavery wrong? Are "higher laws" simply anthropomorphic embodiments of values which are relative to time and place, to be given not much more credence than the fashion of dress of the day? Isn't the argument for respect for civil authority strengthened by the anarchy inherent in allowing it to be challenged on such subjective, insubstantial grounds?

These speculations bring us to the interesting historical relationship of church and state. With Antigone, Socrates and Thoreau in mind, we can believe that some civil authorities, such as the present government in Iran, find it helpful to bolster their power with a mandatory state religion, so that no citizen can use the higher principles of the religion against the state. As de Tocqueville pointed out, this may be fatal to the religion because all the faults of the state will be associated with the state religion. He held that that religion is strongest which remains tolerated by and separate from all political parties, supporting all factions equally by promoting the moral values of the populace. He, like Mill, does not discuss the religion-given right of the individual citizen to advocate rebellion against the state.

Alternatively, some goverments find strength in abolishing all religious observance. Russia attempted this for a time. Perhaps it failed, but it did weaken any force of organized religious conviction which might be used

against it communist state, and it partly succeeded in raising the Party to semi-religious importance in the lives of many of its citizens, and in the minds of the more naïve Western liberals in the 1930s.

Then there is our own tradition, the separation of church and state. Judge John Noonan's wonderful casebook, The Believer and the Powers That Are, addresses every aspect of trespass upon religious rights by an aggressive or incautious government in the western world, especially in America after our Constitution and the Bill or Rights. Religion is well defended under the law. This does not mean that the civil authorities do not invoke it to help out in times of crisis, as when Gideon Welles, Lincoln's Secretary of the Navy, wrote to a friend that God had granted the Union victory at Antietam and had therefore clearly declared Himself in favor of freeing the slaves. More interesting is the following passage from United States v. Ballard, 322 U.S.78 (1944), a Supreme Court decision with unimportant facts but containing dictum which supports both Antigone and Creon:

"With man's relations to his Maker and the obligations he may think they impose, and the manner in which an expression shall be made by him of his belief on those subjects, no interference can be permitted, provided always the laws of society designed to secure its peace and prosperity, and the morals of its people, are not interfered with."

This does not sound like the Declaration of Independence.

In the final analysis Sophocles, Plato and Thoreau and all others who address the Antigone question are stating their belief about the nature of man. How much

must he give up in order to become a law-abiding citizen who will not run amok? Or who will share his good fortune on this earth with others via taxes? Of who can be made to fight and die in unpopular wars for some purpose not clear to him? The philosophers who consider man in the state of nature good are in the minority, and the consensus is that laws are "those wise restraints which make men free." The more difficult question is whether there is something deep within us which constitutes our best selves, whether we attribute it to God or to an impulse toward justice, and which can justify risking rebellion against tyranny. Socrates In the Crito is very much the conservative and might have said no to this query. Perhaps he realized that we may be stuck with the irony that morality must be taught in community and that we must therefore risk the injustice of governments to enable us to become our best selves. In his willingness to support laws unjustly applied, he might not have been surprised to see in our modern world that popular revolt against authority is often followed by crueler totalitarian regimes. Of course, he was dealing with a government of laws. What would he have done under Louis XIV or Stalin?

In any case, we have our own answer to these speculations in our history beginning with the Declaration of Independence. The language is elegant. The appeal to the Supreme Being sounds humble and inevitable. The attempt to justify itself philosophically has precedent, in England. The fact is that Jefferson and his fellow rebels felt that enough was enough. They had to act, and whatever rationalization was available would have to do. They saw their chance and took it, and they were sincere. Only a theoretician would ask

the Antigone question under such circumstances.

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