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APPENDIX.

I.

—ON A SUPPOSED RIGHT TO TELL LIES FROM BENEVOLENT MOTIVES. [1](#)

In the work called *France*, for the year 1797, Part VI. No. 1, on Political Reactions, by *Benjamin Constant*, the following passage occurs, p. 123:—

“The moral principle that it is one’s duty to speak the truth, if it were taken singly and unconditionally, would make all society impossible. We have the proof of this in the very direct consequences which have been drawn from this principle by a German philosopher, who goes so far as to affirm that to tell a falsehood to a murderer who asked us whether our friend, of whom he was in pursuit, had not taken refuge in our house, would be a crime.” [2](#)

The French philosopher opposes this principle in the following manner, p. 124:—“It is a duty to tell the truth. The notion of duty is inseparable from the notion of right. A duty is what in one being corresponds to the right of another. Where there are no rights there are no duties. To tell the truth then is a duty, but only towards him who has a right to the truth. But no man has a right to a truth that injures others.” The $\pi\rho\omega\tau\omicron\nu\ \psi\epsilon\nu\delta\omicron\varsigma$ here lies in the statement that “*To tell the truth is a duty, but only towards him who has a right to the truth.*”

It is to be remarked, first, that the expression “to have a right to the truth” is unmeaning. We should rather say, a man has a right to his own *truthfulness* (*veracitas*), that is, to subjective truth in his own person. For to have a right objectively to truth would mean that, as in *meum* and *tuum* generally, it depends on his *will* whether a given statement shall be true or false, which would produce a singular logic.

Now, the *first* question is whether a man—in cases where he cannot avoid answering Yes or No—has the *right* to be untruthful. The *second* question is whether, in order to prevent a misdeed that threatens him or some one else, he is not actually bound to be untruthful in a certain statement to which an unjust compulsion forces him.

Truth in utterances that cannot be avoided is the formal duty of a man to everyone, [1](#) however great the disadvantage that may arise from it to him or any other; and although by making a false statement I do no wrong to him who unjustly compels me to speak, yet I do wrong to men in general in the most essential point of duty, so that it may be called a lie (though not in the jurist’s sense), that is, so far as in me lies I cause that declarations in general find no credit, and hence that all rights founded on contract should lose their force; and this is a wrong which is done to mankind.

If, then, we define a lie merely as an intentionally false declaration towards another man, we need not add that it must injure another; as the jurists think proper to put in their definition (*mendacium est falsiloquium in præjudicium alterius*). For it always injures another; if not another individual, yet mankind generally, since it vitiates the source of justice. This benevolent lie *may*, however, by *accident (casus)* become punishable even by civil laws; and that which escapes liability to punishment only by accident may be condemned as a wrong even by external laws. For instance, if you have *by a lie* hindered a man who is even now planning a murder, you are legally responsible for all the consequences. But if you have strictly adhered to the truth, public justice can find no fault with you, be the unforeseen consequence what it may. It is possible that whilst you have honestly answered Yes to the murderer's question, whether his intended victim is in the house, the latter may have gone out unobserved, and so not have come in the way of the murderer, and the deed therefore have not been done; whereas, if you lied and said he was not in the house, and he had really gone out (though unknown to you) so that the murderer met him as he went, and executed his purpose on him, then you might with justice be accused as the cause of his death. For, if you had spoken the truth as well as you knew it, perhaps the murderer while seeking for his enemy in the house might have been caught by neighbours coming up and the deed been prevented. Whoever then *tells a lie*, however good his intentions may be, must answer for the consequences of it, even before the civil tribunal, and must pay the penalty for them, however unforeseen they may have been; because truthfulness is a duty that must be regarded as the basis of all duties founded on contract, the laws of which would be rendered uncertain and useless if even the least exception to them were admitted.

To be *truthful* (honest) in all declarations is therefore a sacred unconditional command of reason, and not to be limited by any expediency.

M. Constant makes a thoughtful and sound remark on the decrying of such strict principles, which it is alleged lose themselves in impracticable ideas, and are therefore to be rejected (p. 123):—"In every case in which a principle proved to be true seems to be inapplicable, it is because we do not know the *middle principle* which contains the medium of its application." He adduces (p. 121) the doctrine of *equality* as the first link forming the social chain (p. 121); "namely, that no man can be bound by any laws except those to the formation of which he has contributed. In a very contracted society this principle may be directly applied and become the ordinary rule without requiring any middle principle. But in a very numerous society we must add a new principle to that which we here state. This middle principle is, that the individuals may contribute to the formation of the laws either in their own person or by *representatives*. Whoever would try to apply the first principle to a numerous society without taking in the middle principle would infallibly bring about its destruction. But this circumstance, which would only show the ignorance or incompetence of the lawgiver, would prove nothing against the principle itself." He concludes (p. 125) thus: "A principle recognised as truth must, therefore, never be abandoned, however obviously danger may seem to be involved in it." (And yet the good man himself abandoned the unconditional principle of veracity on account of the danger to society, because he could not discover any middle principle would serve to prevent this danger; and, in fact, no such principle is to be interpolated here.)

Retaining the names of the persons as they have been here brought forward, “the French philosopher” confounds the action by which one does harm (*nocet*) to another by telling the truth, the admission of which he cannot avoid, with the action by which he does him *wrong* (*laedit*). It was merely an *accident* (*casus*) that the truth of the statement did harm to the inhabitant of the house; it was not a free *deed* (in the juridicial sense). For to admit his right to require another to tell a lie for his benefit would be to admit a claim opposed to all law. Every man has not only a right, but the strictest duty to truthfulness in statements which he cannot avoid, whether they do harm to himself or others. He himself, properly speaking, does not *do* harm to him who suffers thereby; but this harm is *caused* by accident. For the man is not free to choose, since (if he must speak at all) veracity is an unconditional duty. The “German philosopher” will therefore not adopt as his principle the proposition (p. 124): “It is a duty to speak the truth, but only to him who has *a right to the truth*,” first on account of the obscurity of the expression, for truth is not a possession, the right to which can be granted to one, and refused to another; and next and chiefly, because the duty of veracity (of which alone we are speaking here) makes no distinction between persons towards whom we have this duty, and towards whom we may be free from it; but is an *unconditional duty* which holds in all circumstances.

Now, in order to proceed from a *metaphysic* of Right (which abstracts from all conditions of experience) to a principle of *politics* (which implies these notions to cases of experience), and by means of this to the solution of a problem of the latter in accordance with the general principle of right, the philosopher will enunciate:—1. An *Axiom*, that is, an apodictically certain proposition, which follows directly from the definition of external right (harmony of the *freedom* of each with the freedom of all by a universal law). 2. A *Postulate* of external public law as the united will of all on the principle of *equality*, without which there could not exist the freedom of all. 3. A *problem*; how it is to be arranged that harmony may be maintained in a society, however large, on principles of freedom and equality (namely by means of a representative system); and this will then become a principle of the *political system*, the establishment and arrangement of which will contain enactments which, drawn from practical knowledge of men, have in view only the mechanism of administration of justice, and how this is to be suitably carried out. Justice must never be accommodated to the political system, but always the political system to justice.

“A principle recognised as true (I add, recognised *à priori*, and therefore apodictic) must never be abandoned, however obviously danger may seem to be involved in it,” says the author. Only here we must not understand the danger of *doing harm* (accidentally), but of *doing wrong*; and this would happen if the duty of veracity, which is quite unconditional, and constitutes the supreme condition of justice in utterances, were made conditional and subordinate to other considerations; and, although by a certain lie I in fact do no wrong to any person, yet I infringe the principle of justice in regard to all indispensably necessary statements *generally* (I do wrong formally, though not materially; and this is much worse than to commit an injustice to any individual, because such a deed does not presuppose any principle leading to it in the subject. The man who, when asked whether in the statement he is about to make he intends to speak truth or not, does not receive the question with indignation at the suspicion thus expressed towards him that he might be a liar, but

who asks permission first to consider possible exceptions, is already a liar (*in potentia*), since he shows that he does not recognize veracity as a duty in itself, but reserves exceptions from a rule which in its nature does not admit of exceptions, since to do so would be self-contradictory.

All practical principles of justice must contain strict truths, and the principles here called middle principles can only contain the closer definition of their application to actual cases (according to the rules of politics), and never exceptions from them, since exceptions destroy the universality, an account of which alone they bear the name of principles.