Of the Original Contract*

David Hume

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On the Original Contract

When we consider how nearly equal all men are in their bodily force, and even in their mental powers and faculties, till cultivated by education, we must necessarily allow that nothing but their own consent could at first associate them together, and subject them to any authority. The people, if we trace government to its first origin in the woods and deserts, are the source of all power and jurisdiction, and voluntarily, for the sake of peace and order, abandoned their native liberty, and received laws from their equal and companion. The conditions upon which they were willing to submit were either expressed, or were so clear and obvious that it might well be esteemed superfluous to express them. If this, then, be meant by the original contract, it cannot be denied that all government is at first founded on a contract, and that the most ancient rude combinations of mankind were formed entirely by that principle. In vain are we sent to the records to seek for this charter of our liberties. It was not written on parchment, nor yet on leaves or barks of trees. It preceded the use of writing and all the other civilized arts of life. But we trace it plainly in the nature of man, and in the equality which we find in all the individuals of that species. The force which now prevails, and which is founded on fleets and armies, is plainly political, and derived from authority, the effect of established government. A man's natural force consists only in the vigour of his limbs and the firmness of his courage, which could never subject multitudes to the command of one. Nothing but their own consent, and their sense of the advantages of peace and order, could have had that influence.

But philosophers who have embraced a party (if that be not a contradiction in terms) are not contented with these concessions. They assert, not only that government in its earliest infancy

arose from consent or the voluntary combination of the people, but also that, even at present, when it has attained its full maturity, it rests on no other foundation. They affirm that all men are still born equal, and owe allegiance to no prince or government unless bound by the obligation and sanction of a promise. And as no man, without some equivalent, would forgo the advantages of his native liberty and subject himself to the will of another, this promise is always understood to be conditional, and imposes on him no obligation unless he meets with justice and protection from his sovereign. These advantages the sovereign promises him in return, and if he fails in the execution, he has broke, on his part, the articles of engagement, and has thereby freed his subjects from all obligations to allegiance. Such, according to these philosophers, is the foundation of authority in every government, and such the right of resistance possessed by every subject.

But, we find everywhere princes who claim their subjects as their property, and assert their independent right of sovereignty from conquest or succession. Obedience or subjection becomes so familiar that most men never make any inquiry about its origin or cause, more than about the principle of gravity, resistance, or the most universal laws of nature. Or if curiosity ever move them, so soon as they learn that they themselves and their ancestors have for several ages, or from time immemorial, been subject to such a government or such a family, they immediately acquiesce and acknowledge their obligation to allegiance. Were you to preach, in most parts of the world, that political connections are founded altogether on voluntary consent or a mutual promise, the magistrate would soon imprison you, as seditious, for loosening the ties of obedience; if your friends did not shut you up, as delirious, for advancing such absurdities. It is strange that an act of the mind which every individual is supposed to have formed—and after he came to the use of reason too, otherwise it could have no authority—that this act, I say, should be so unknown to all of them, that over the face of the whole earth there scarce remain any traces or memory of it.

But the contract on which government is founded is said to be the original contract, and consequently may be supposed too old to fall under the knowledge of the present generation. If the agreement by which savage men first associated and conjoined their force be here meant, this is acknowledged to be real; but being so ancient, and being obliterated by a thousand changes of government and princes, it cannot now be supposed to retain any authority. If we would say anything to the purpose, we must assert that every particular government which is lawful, and which imposes any duty of allegiance on the subject, was at first founded on consent and a voluntary compact. But besides that this supposes the consent of the fathers to bind the children, even to the most remote generations (which republican writers will never allow), besides this, I say, it is not justified by history or experience in any age or country of the world.

Almost all the governments which exist at present, or of which there remains any record in story, have been founded originally either on usurpation or conquest, or both, without any pretence of a fair consent or voluntary subjection of the people. When an artful and bold man is placed at the head of an army or faction, it is often easy for him, by employing sometimes violence, sometimes false pretences, to establish his dominion over a people a hundred times

more numerous than his partisans. He allows no such open communication that his enemies can know with certainty their number or force. He gives them no leisure to assemble together in a body to oppose him. Even all those who are the instruments of his usurpation may wish his fall, but their ignorance of each other's intentions keeps them in awe, and is the sole cause of his security. By such arts as these many governments have been established, and this is all the original contract they have to boast of.

he face of the earth is continually changing by the increase of small kingdoms into great empires, by the dissolution of great empires into smaller kingdoms, by the planting of colonies, by the migration of tribes. Is there anything discoverable in all these events but force and violence? Where is the mutual agreement or voluntary association so much talked of?

Even the smoothest way by which a nation may receive a foreign master, by marriage or a will, is not extremely honourable for the people; but supposes them to be disposed of, like a dowry or a legacy, according to the pleasure or interest of their rulers.

But where no force interposes, and election takes place, what is this election so highly vaunted? It is either the combination of a few great men who decide for the whole, and will allow no opposition, or it is the fury of a rabble that follow a seditious leader, who is not known, perhaps, to a dozen among them, and who owes his advancement merely to his own impudence, or to the momentary caprice of his fellows.

Are these disorderly elections, which are rare too, of such mighty authority as to be the only lawful foundation of all government and allegiance?

In reality there is not a more terrible event than a total dissolution of government, which gives liberty to the multitude, and makes the determination or choice of a new establishment depend upon a number which nearly approaches the body of the people; for it never comes entirely to the whole body of them. Every wise man, then, wishes to see, at the head of a powerful and obedient army, a general who may speedily seize the prize and give to the people a master, which they are so unfit to choose for themselves. So little correspondent is fact and reality to those philosophical notions.

Let not the establishment at the Revolution deceive us, or make us so much in love with a philosophical origin to government as to imagine all others monstrous and irregular. Even that event was far from corresponding to these refined ideas. It was only the succession, and that only in the regal part of the government, which was then changed; and it was only the majority of seven hundred who determined that change for near ten millions. I doubt not, indeed, but the bulk of these ten millions acquiesced willingly in the determination; but was the matter left, in the least, to their choice? Was it not justly supposed to be from that moment decided, and every man punished who refused to submit to the new sovereign? How otherways could the matter have ever been brought to any issue or conclusion?

The Republic of Athens was, I believe, the most extensive democracy which we read of in history. Yet if we make the requisite allowances for the women, the slaves, and the strangers, we shall find that that establishment was not at first made, nor any law ever voted, by a tenth

part of those who were bound to pay obedience to it; not to mention the islands and foreign dominions which the Athenians claimed as theirs by right of conquest. And as it is well known that popular assemblies in that city were always full of licence and disorder, notwithstanding the forms and laws by which they were checked, how much more disorderly must they be where they form not the established constitution, but meet tumultuously on the dissolution of the ancient government in order to give rise to a new one? How chimerical must it be to talk of a choice in any such circumstances?

It is vain to say that all governments are, or should be, at first, founded on popular consent, as much as the necessity of human affairs will admit. This favours entirely my pretension. I maintain that human affairs will never admit of this consent; seldom of the appearance of it. But that conquest or usurpation—that is, in plain terms, force—by dissolving the ancient governments, is the origin of almost all the new ones which ever were established in the world; and that in the few cases, where consent may seem to have taken place, it was commonly so irregular, so confined, or so much intermixed either with fraud or violence, that it cannot have any great authority.

My intention here is not to exclude the consent of the people from being one just foundation of government where it has place. It is surely the best and most sacred of any. I only pretend that it has very seldom had place in any degree, and never almost in its full extent; and that therefore some other foundation of government must also be admitted.

Were all men possessed of so inflexible a regard to justice that, of themselves, they would totally abstain from the properties of others, they had for ever remained in a state of absolute liberty without subjection to any magistrates or political society; but this is a state of perfection, of which human nature is justly esteemed incapable. Again, were all men possessed of so just an understanding as always to know their own interest, no form of government had ever been submitted to but what was established on consent, and was fully canvassed by each member of the society; but this state of perfection is likewise much superior to human nature. Reason, history, and experience show us that all political societies have had an origin much less accurate and regular; and were one to choose a period of time when the people's consent was least regarded in public transactions, it would be precisely on the establishment of a new government. In a settled constitution their inclinations are often studied; but during the fury of revolutions, conquests, and public convulsions, military force or political craft usually decides the controversy.

When a new government is established, by whatever means, the people are commonly dissatisfied with it, and pay obedience more from fear and necessity than from any idea of allegiance or of moral obligation. The prince is watchful and jealous, and must carefully guard against every beginning or appearance of insurrection. Time, by degrees, removes all these difficulties, and accustoms the nation to regard, as their lawful or native princes, that family whom at first they considered as usurpers or foreign conquerors. In order to found this opinion, they have no recourse to any notion of voluntary consent or promise, which, they know, never was in this case either expected or demanded. The original establishment was formed by violence, and submitted to from necessity. The subsequent administration is also supported by power,

and acquiesced in by the people, not as a matter of choice, but of obligation. They imagine not that their consent gives their prince a title; but they willingly consent because they think that, from long possession, he has acquired a title independent of their choice or inclination.

Should it be said that by living under the dominion of a prince which one might leave, every individual has given a tacit consent to his authority, and promised him obedience, it may be answered that such implied consent can only take place where a man imagines that the matter depends on his choice. But where he thinks (as all mankind do who are born under established governments) that by his birth he owes allegiance to a certain prince or certain government, it would be absurd to infer a consent or choice, which he expressly, in this case, renounces and abjures.

Can we seriously say that a poor peasant or artisan has a free choice to leave his own country, when he knows no foreign language or manners, and lives from day to day by the same small wages which he acquires? We may as well assert that a man, by remaining in a vessel, freely consents to the dominion of the master, though he was carried on board while asleep, and must leap into the ocean and perish the moment he leaves her. What if the prince forbid his subjects to quit his dominions, as in Tiberius's time it was regarded as a crime in a Roman knight that he had attempted to fly to the Parthians, in order to escape the tyranny of that emperor? Or as the ancient Muscovites prohibited all travelling under pain of death?

But would we have a more regular, at least a more philosophical, refutation of this principle of an original contract or popular consent, perhaps the following observations may suffice.

All moral duties may be divided into two kinds. The first are those to which men are impelled by a natural instinct or immediate propensity which operates in them, independent of all ideas of obligation and of all views, either to public or private utility. Of this nature are love of children, gratitude to benefactors, pity to the unfortunate. When we reflect on the advantage which results to society from such humane instincts, we pay them the just tribute of moral approbation and esteem; but the person actuated by them feels their power and influence antecedent to any such reflection.

The second kind of moral duties are such as are not supported by any original instinct of nature, but are performed entirely from a sense of obligation, when we consider the necessities of human society and the impossibility of supporting it if these duties were neglected. It is thus justice or a regard to the property of others, fidelity or the observance of promises, become obligatory and acquire an authority over mankind. For as it is evident that every man loves himself better than any other person, he is naturally impelled to extend his acquisitions as much as possible; and nothing can restrain him in this propensity but reflection and experience, by which he learns the pernicious effects of that licence and the total dissolution of society which must ensue from it. His original inclination, therefore, or instinct, is here checked and restrained by a subsequent judgment or observation.