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Thesis Title: A Critical Assessment of the Political Doctrines of Michael Oakeshott.

Submitted in partial fulfilment of the requirements of the Degree of Doctor of Philosophy.

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Abstract

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Description

The thesis consists of an Introduction, four Chapters and a Conclusion. In the Introduction some of the interpretations that have been offered of Oakeshott's political writings are discussed. The key issue of interpretation is whether Oakeshott is best considered as a disinterested philosopher, as he claimed, or as promoting an ideology or doctrine, albeit elliptically. It is argued that when his works are considered in their entirety they can best be thought of as advancing two doctrines, based on his accounts of the historical conceptions of the state in modern European history and the nature of political activity. The first doctrine is that the state conceived as a civil association is best suited to promote individual liberty. The second doctrine is a conservative, anti-rationalist, anti-ideological, thesis that political activity cannot and ought not be conceived as anything other than the pursuit of intimations within a political tradition. The purpose of the thesis is to assess these doctrines.

The method used is to draw out and assess the assumptions that underlie Oakeshott's claims. In Chapter One it is argued that the best point of entry to understand Oakeshott's preference for the state conceived as a civil association is to make explicit the postulates that underpin his account of human conduct and his personal values, or dispositions. In Chapter 2 the political implications of his formal theory of morality are highlighted. In Chapter 3 Oakeshott's answer to the question of "what should government's do?", and the implications of his response to his understanding of law and justice are evaluated. In Chapter 4 the sufficiency of Oakeshott's account of politics and the political is considered. The conclusion is that the arguments in support of both doctrines are problematic.

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Abbreviations

EM- Experience and its Modes

LSE- London School of Economics

MPME- Morality and Politics in Modern Europe

OHC – On Human Conduct

PFPS – The Politics of Faith and the Politics of Scepticism

RIP – Rationalism in Politics

RPML- Religion, Politics and the Moral Life

RW- Religion and the World

SPDCE- The Social and Political Doctrines of Contemporary Europe

VCEM- The Voice of Conversation in the Education of Mankind

VPCM- The Voice of Poetry in the Conversation of Mankind

WP- Work and Play

Introduction

Michael Oakeshott (1901-1990) is considered by many historians to be one of the most eminent political theorists of the twentieth century. In 'Political Philosophy in the Twentieth Century', for example, Catherine Zuckert bracketed Oakeshott with John Dewey (1859-1952), Hannah Arendt (1906-1975), Leo Strauss (1899-1973), Eric Voegelin (1901-1985), Yves R. Simon (1903-1961), Isaiah Berlin (1909-1997) and John Rawls (1921-2002) (Zuckert 2009, pp. 1-6). Zuckert's assessment is relatively commonplace. George Feaver concluded: 'Oakeshott has reasonable claims to be regarded as *the* pre-eminent political philosopher in the British political tradition of the past century' (Feaver 2004).

To be placed alongside such luminaries is, perhaps, surprising given Oakeshott's modest academic output. Gertrude Himmelfarb remarked in 1975 that he had achieved prominence 'with a minimum intellectual exertion on his part', and that one of the apparent anomalies surrounding him was that he was an intellectual who was 'a reluctant a producer of intellectual goods' (Himmelfarb 1975, p. 407). He published just two full-length monographs during his lifetime: *Experience and its Modes* (1933), and *On Human Conduct* (1975a). Only the latter can be described as a work of substantial political theory. In addition to these are the essays that brought him to the attention of a wider public, and led him to be branded by many as a conservative. These essays were collected together as *Rationalism in Politics* (1991).¹

His works on Hobbes, history and education were subsequently published in book form during his lifetime.² Thanks, moreover, to committed

¹ Many of the essays were published in the *Cambridge Journal*, which Oakeshott helped found in 1947. He was the editor from its inception to its closure seven years later.

² *Hobbes on Civil Association* (1975b); *On History* (1983); *The Voice of Liberal Learning* (1989).

Oakeshottians, notably Timothy Fuller and Luke O’Sullivan, several further collections of his essays, lectures and book reviews have been published since his death in 1990. The *Notebooks* (1923-1986), edited by Luke O’Sullivan, are the latest, penultimate addition to this series. Almost all of Oakeshott’s papers have now been published in readily accessible form. According to O’Sullivan, Imprint Academic plans two further volumes to complete the publication of his works: a volume of correspondence and one of miscellaneous items (2014, p. vii).

Neil McInnes described the first decade following his death in 1990 as ‘a long, quiet limbo: marked only by the publication of two small books he left in his desk drawers and not by the rise of any Oakeshottian school that might have developed or applied his teachings’ (2000).³ In the past fifteen years, however, there has been an outpouring of secondary literature. Two thousand and twelve, for example, oversaw the publication of two prestigious Companion volumes - the *Cambridge Companion* edited by Efraim Podoksik; and *A Companion to Michael Oakeshott*, edited by Paul Franco and Leslie Marsh. These publications signify the heightened attention given to Oakeshott by the academic community.

The turn in his fortunes coincided with the foundation of the Michael Oakeshott Association in 1999 by some of his friends and former colleagues. Initially, this was an informal forum devoted to encouraging critical discussion of Oakeshott, but it has since developed into a mature non-profit organisation (www.michael-oakeshott-association.com/about-us/). Conferences are held every other year, in the USA and Europe.⁴ The Association website maintains a comprehensive bibliography as well as a wealth of other materials. It is likely that the increased attention of recent years is sustainable in the medium term in spite of the death of most of the original founders of the Association.⁵

³ An exception is Paul Franco’s *The Political Philosophy of Michael Oakeshott* (1990).

⁴ The most recent conference was held at the University of Hull in September 2015.

⁵ Of the eight founder members, only two are still alive: Timothy Fuller and Oakeshott’s son, Simon.

A Question of Interpretation: Philosopher, Covert Ideologue or Both?

Oakeshott is one of the most controversial political theorists. He is regarded as a Tory apologist by his critics and a philosopher without a practical agenda by many of his admirers. Both descriptions are problematic. The former interpretation was typical of the newspaper obituaries following his death. *The New York Times* described him as a ‘right-wing guru’ and ‘a High-Tory Oracle mainly concerned with interpreting current events, usually in a negative style’ (20 December 1990). According to the *London Times*, though a philosopher who did not engage directly in politics, he was nonetheless the thinker who articulated ‘the real philosophical foundations of Margaret Thatcher’s policies’ (22 December 1991). The claim that he influenced Thatcher was, moreover, not confined to the press. The dust jacket description of Steven Gerencser’s *The Skeptic’s Oakeshott* claimed that Margaret Thatcher based much of her political thinking on Oakeshott’s theories, but ‘Gerencser shows how she widely misinterpreted his work’ (2000). Yet in the text, there is not a single reference to Mrs Thatcher to justify this claim.

Oakeshott politely refused an offer of being made a Companion of Honour by Mrs Thatcher.⁶ His reasons are not a matter of public record but, as we shall see, he rejected materialism or “economism”. He despised the idea that a principal purpose of government is to deliver material benefits or welfare to its citizens. In his lecture to new students at the LSE, ‘On Arriving at a University’, he described modern society as ‘lunatic’ and ‘productivist’ (2004, Section 23). He thought that capitalist society is one that goes beyond the simple fulfilment of material needs and is obsessed with unlimited money making for the sake of it (Oakeshott 2014, p. 291). This stance put him in opposition to the explicitly free market and materialist ideology of Thatcher. Moreover, the systematic campaign that Mrs Thatcher organised to convert

⁶ See Mrs. Thatcher’s letter to Oakeshott, 4th December 1981 (Michael-oakeshott-association.com/files/thatcher.gif)

the Conservative Party to a free market ideology was exactly what he had criticised and ridiculed as “rationalism in politics”. To the extent that Oakeshott can be called a conservative, Thatcher was ‘clearly not his type of conservative’ (Brittan 04/03/2011).

The ‘disinterested philosopher’ interpretation of Oakeshott, as Steven J. Wulf describes it, is more credible, as there is plenty of textual evidence to support this interpretation (2007, p. 245). His modal account of experience and insistence on the strict separation of theory and practice are arguably his most singular contributions to general philosophy. Oakeshott was much influenced in his general philosophy by the Oxford philosopher, F. H. Bradley’s *Appearance and Reality* and G. F Hegel’s *Phanomenologie des Geistes* (Oakeshott 1933, p. 6). Ayreh Botwinick argues, however, that whereas the influence of Hegel and Bradley is clear, the influence of Plato is equally fundamental with regard to his scepticism and anti-foundationalism (2011, p. 5).

Oakeshott’s primary claim as to the nature of philosophy, or theory, was that it ‘must be understood as an explanatory, not a practical, activity’ (1991, p. 66). He argued that philosophy is not a privileged form of knowledge that endorses and dictates to other forms. This means that it cannot be supposed to increase our political effectiveness (ibid., p. 65). In his first major work, *Experience and its Modes (EM, 1933)*, the author described practice as one of the modes of experience alongside science and history. A “mode” is the consideration of the whole of experience from a particular standpoint, which he called an “arrest” of experience. What distinguishes the mode of practice from others such as history and science is that it is concerned with changing a situation ‘by willing it to be different’ (1933, pp. 257-258). Practice is the mode of doing: a present, living and always changing world of choices and actions, composed of images of desire and aversion, approval and disapproval. This world is characterised by our concern to bring what is into harmony with what we want it to be. In the political sense, it is the process of changing what *is* into what *ought* to be in civil arrangements. Politics is a quintessentially

practical activity. It is concerned with the direction and pace of change. In contrast, the modes of philosophy, science and history change nothing.⁷

The gulf between philosophical and practical understanding can never be bridged, and such a task should not be attempted. Oakeshott claimed in *EM*, moreover, that an attempt to treat a conclusion drawn from one mode of experience, such as science, as relevant to another mode, such as practice, is illogical. Such an attempt commits the fallacy of *ignoratio elenchi*, or irrelevance. The logical mistake is to assume that the modes are interdependent when they are independent of one another (1933, p. 76). He later described the mistake as a category error.⁸

Oakeshott elaborated the distinction between theory and practice in his response to a critical review of *Rationalism in Politics* by Professor D. D. Raphael of Glasgow University (Raphael 1964, pp. 202-215). He claimed that an explanation of conduct, the term he subsequently substituted for practice, is a different activity from recommendation or approval of an action that has been carried out. Practical reasoning, he argued, is different from explanatory reasoning. The former is based on diagnosis, prescription and justification, which are not explanatory activities in contrast to the reasoning typical of the modes of history and science (Oakeshott 1965, p. 89).

Most commentators agree that he was consistent throughout his life in his view that political theory and practice are separate activities. The stated purpose of political philosophy for Oakeshott, then, was not to change the world – but to understand and interpret it. He repeated the position he adopted in *EM* towards philosophy in general in his essay ‘Political Philosophy’, which was written sometime after the Second World War:

⁷ Ludwig Wittgenstein was a contemporary of Oakeshott’s at Cambridge in the 1930s. Wittgenstein famously claimed that ‘Philosophy (...) leaves everything as it is’ (2009, p. 102). There is no evidence that they met. Oakeshott frequently cited authors he read in the *Notebooks* (2014). There is no reference, however, to Wittgenstein in spite of their similar understanding of the nature of philosophy.

⁸ This probably reflects the influence of Gilbert Ryle’s *The Concept of Mind* (1949), which articulated the notion of category mistakes. This work was favourably reviewed by him (Oakeshott 2007, pp. 217-218).

‘Political philosophy can provide no principles to be followed, no rules of political conduct to be observed, no ideals or arrangements to be pursued’ (1993, p. 154).

In his second full-scale work, *On Human Conduct* (1975a), published over forty years after *EM*, Oakeshott disparaged the ideologue or theoretician, as distinct from the theorist or philosopher. His tone was reminiscent of Burke’s vitriol against the philosophers of the French Revolution.⁹ The ideologue is a ‘deplorable character’ (1975a, p. 26). He is a fake who confuses the postulates of conduct for principles of conduct from which ‘correct’ performances may be deduced or somehow elicited (*ibid.*).

That he consistently practised what he preached is endorsed by some commentators. They insist that he consistently avoided partisan politics and advocacy of any political doctrine. Jeremy Raynor claims, for example, that ‘nowhere in his work is Oakeshott concerned to justify any particular set of political arrangements’ (1985, p. 329). Efraim Podoksik agrees that there is nothing politically partisan in his writings and they cannot be used to support political policies. He concedes, however, that this does not mean he was indifferent to contemporary concerns and that his works possess no evaluative message (Podoksik 2003b, Prologue). Terry Nardin argues that Oakeshott illustrated in his writings that one can theorise politics without having to formulate political prescriptions. This, Nardin argues, is a good reason for reading him as it sets him apart from most political theorists. It might explain, however, why his work ‘can leave readers who are looking for substantive arguments puzzled and unsatisfied’ (2001a, pp. 201, 237).

Oakeshott’s famous essay, ‘On Being Conservative’ (1991, pp. 407-437) is arguably a good example of political theorising according to his own conception. In this essay he did not attempt to justify or advocate conservatism as a foundational creed or doctrine. He merely explained its

⁹ Burke derided rationalists as ‘smugglers of unadulterated metaphysics’; ‘metaphysic Knight of the Sorrowful Countenance’ and ‘the aeronauts of France’ (1887, W3 pp. 351, 241, 562).

character as a contingent disposition that holds certain beliefs about the proper role of government.

He usually avoided taking a public position on contentious political issues of the day. The psephologist, Robert McKenzie, once asked him, for example, whether he favoured British entry into the European Community. Oakeshott replied: 'I do not find it necessary to hold opinions on such matters' (Mack 1978, p. 590). Notable exceptions to his diffidence towards policy issues were the *Education Act* of 1944 and the BBC (1996, p. 96, fn. 2).¹⁰

For those who interpret him primarily to be a disinterested philosopher, it follows that those participating in politics have nothing to learn from him. He has nothing to teach or recommend them in practical terms. If we accept this, the attempt to place him on the ideological spectrum, and ask whether he belongs more to conservatism or liberalism, is a futile activity. He has no practical advice to give or values to recommend. Oakeshott's conservatism is 'beside the point of an argument' as his works seek to explain political activity' (Minogue 2011, p. 135).

Oakeshott argued that political thinking, in contrast to theorising, is about changing the world. A political ideology, or doctrine, is a more or less coherent set of beliefs about how the world should be changed. He was consistent throughout his career in claiming that he wrote as a philosopher, not an ideologue. This claim will be refuted, however, by demonstrating that his supposedly neutral "explanations" of human conduct and his conception of the state that is most conducive to its proper expression - civil association - often reflected barely suppressed individualist and libertarian values. This will be done by showing the normative foundation of his political theory, and by explaining that his repetition of a few core ideas, though expressed in a variety of ways, advance a characteristic political doctrine.

¹⁰ Oakeshott was highly critical of the BBC in his review of the *Report of Broadcasting Committee, 1949*. He thought it was 'astonishing' that a monopoly had been granted to a Corporation 'self-dedicated to the improvement of mankind according to a recipe of its own' (2007, pp. 337-338).

It is certainly contentious to describe him as doctrinaire: 'To accuse Oakeshott of having ulterior practical motives is to place him in the company of the theoreticians he deplored' (Boucher and Vincent 2000, p. 188). But to pretend that he always wrote as a disinterested philosopher is not sustainable. It will become evident during the course of this thesis that the question posed by Andrew Vincent, 'is Oakeshott just a covert conservative ideologist artfully trading on philosophy?' is legitimate, although simplistically formulated (1994, p. 217).

Oakeshott's philosophical orientation

Oakeshott had a different understanding of the remit of both general and political philosophy to most of his contemporaries. The British school of Idealism, to which he subscribed, was already falling out of fashion in the philosophical community by the time he wrote *Experience and its Modes* (1933). According to Anthony Quinton absolute Idealism exerted its maximum intellectual authority between 1874 and 1903. The end point was marked by the assault on Idealism in Bertrand Russell's *Principles of Mathematics* and G. E. Moore's *Refutation of Idealism*. Yet, given the time lag between professorial appointments and changes in intellectual fashion Idealist professors continued to head university philosophy departments for a substantial time after 1903 (Quinton 1971, pp. 4-5).

Idealism had been the dominant school of philosophy in the UK since the mid nineteenth century. Its leading proponents, including F. H. Bradley, B. Bosanquet, E. Jones and J. M. E. McTaggart had all died in the 1920s. Oakeshott admitted to the fading popularity of Idealism in the Introduction to *EM*, which he conceived as a 'restatement of its first principles' (1933, pp. 6-7). Idealism came under attack from positivism in the 1930s, which holds that human affairs can be understood scientifically: that is, in relation to general laws based on induction from observable facts. A. J. Ayer's *Language, Truth and Logic* (1936) was the most popular statement of positivism in the 1930s.

A brief summary of the tenets of Idealism is necessary to understand how it might be relevant to an interpretation of Oakeshott's political theory.¹¹ The first tenet is based on a strong critique of empiricism: David Hume's argument that knowledge begins with sense experience. The Idealists rejected this. They argued that in order to experience at all, the mind must play a more active role. For Idealists, the notion of having a simple "unmediated" experience is a chimera. Their starting point is 'the idea of a complex unity of experience' (Boucher and Vincent 2000, p. xiv). The central question for Idealists, including Oakeshott, was how the unity is distinguished into its various modes. They were unhappy with dualisms such as those of mind and nature, individualism and collectivism, or nature and the environment as 'each includes something of the other' (ibid., p. xv).

Second, and as a consequence, we cannot say that an experience is invalid. There is no external reality against which to measure it. We make sense of new experiences by seeing how they *cohere* with our previous experiences. In the *Notebooks*, for example, Oakeshott claimed that truth does not rest on any argument, it belongs solely to the way it coheres with the prior experience of the person experiencing anew (2014, p. 92). Each time we interpret an experience, moreover, 'we invoke the principles and procedures prescribed by the different worlds of experience or imagining' (Boucher and Vincent 2000, p. 185).

Third, and consequently, Idealists argue that the only way we can have a truthful and satisfactory experience 'is if we aim to reconcile *all* experiences with one another' (Neill 2011, p. 19). Fourth, by analogy, the Idealists hold that at the level of society, paralleling the epistemological argument, it is a mistake to conceptualise human agents as separate units, since the whole will be more coherent than its constituent parts. Oakeshott articulated this point of view in his 1925 essay 'Some Remarks on the Nature and Meaning of Sociality' (1993, pp. 46-62).

¹¹ For a comprehensive assessment of the relationship between British Idealism and Political Theory see David Boucher and Andrew Vincent (2000).

But, Oakeshott's lack of interest in the topic of social justice set him apart from most Idealists. T. H. Green, for example, for many the leading nineteenth century British Idealist, advocated an activist state to improve the "common good". This view was shared by other leading Idealists such as Caird, Ritchie, Jones and Haldane who understood that liberalism is obliged to bring up all members of society to an improved state of life (Boucher and Vincent 2000, p. xxii). This idea became increasingly anathema to Oakeshott over time. Furthermore, these Idealists had a direct political influence as "New Liberals" such as J. A. Hobson, L. T. Hobhouse, A. L. Fisher and, to some degree, H. H. Asquith¹² held similar moral and political ideals (ibid.). So Oakeshott's dogmatic insistence that political philosophy is explanatory, not normative, and that theory cannot guide practice differentiated him from most of the Idealists, with the significant exceptions of Bradley and McTaggart.

It is clear from the summary of its basic ideas that Idealism is a metaphysical and epistemological position. An epistemological stance does not necessarily entail any political orientation. But there are three aspects of Idealism that had an indirect influence on his political thought. First, if "truth" lies merely in the coherence of experience and not with reference to some external standard, analogously "political truth", in the sense of the right course of action, lies in identifying what best coheres with our accumulated political experience, or tradition. This idea underpins Oakeshott's well known definition of politics as 'the pursuit of intimations' within an existing tradition (1991, pp. 56-58, pp. 66-69). It echoes his assertion in *EM* that knowledge is the achievement of coherence within a system of thought through the 'pursuit of the implications' of that system (1933, p. 41).

Second, Oakeshott's Idealistic understanding of society and the individual as being two sides of the same coin sets him apart from much mainstream contemporary liberal thinking. We will see that whereas he revered individuality, he had no time for methodological individualism, which provides the ground for much liberal thought. It will be seen, however, that he

¹² Liberal Prime Minister 1908-1916.

gave up most of the Idealistic understanding of the state over time. In his 1925 essay, 'A Discussion of Some Matters Preliminary to the Study of Political Philosophy, he spoke of the state as the ultimate society and that the objective or end of a state is to provide the 'good life' (2010, p. 76). He argued that the state is a 'cultural unit' and defined culture as the end 'a state sets before itself' (ibid., p. 77). We shall see in Chapter Three, however, that the idea of a purposeful state became anathema to him as it compromised his conception of freedom.

Third, his analytic style was typically Idealistic. He addressed theoretical problems by setting up opposing types, or "ideals". Both sides were then convicted of being one-sided and failing to take into account aspects of the other perspective. In Oakeshott's case, however, his preferences are easy to discern so the synthesis that unites the element of truth expressed in both ideals always falls much closer to one ideal than the other.

There is a debate as to whether Oakeshott gave up Idealism as he grew older. W. H. Greenleaf (1966), Dale Hall and Tariq Modood (1982), and Paul Franco (1990), claim he did not. Greenleaf, for example, noted minor changes in his approach but considered them amendments or clarifications of his point of view rather than critical changes. (1966, p. 5). There is, however, a more nuanced version of the evolution of his theoretical position. This version takes into account his scepticism. Steven Gerencser (1995 and 2000) argues that beginning with his essay *The Voice of Poetry in the Conversation of Mankind* (Oakeshott, 1991, pp. 488-541), Oakeshott allows for limited interaction between the modes. Gerencser attributes this to his increasing scepticism, which came at the expense of his Idealism (1995, p. 730). Efraim Podoksik rejects both positions. He claims that there is continuity in his work but *EM* demonstrates that he had already broken with absolute Idealism (2004, p. 2).

Oakeshott's opposition of the politics of faith to the politics of scepticism will be examined in Chapter Four. At this point, however, we should step back to consider the nature and significance of his philosophical scepticism. This was arguably the unifying link, or ground, of his account of morality, to be

considered in Chapter Two; his political theory, considered in Chapter Three; and his account of political activity, considered in Chapter Four. We should note that although Oakeshott described conservatism as a “disposition”, he admitted that a justification could be articulated: ‘In the idiom of general ideas’ and ‘it is not to be presumed that conservative conduct is less eligible than any other for this sort of interpretation’ (1991, p. 407). If he had felt the need to justify conservatism “in the idiom of general ideas”, I would suggest that scepticism and the related idea of prudence would have been to the fore.

Oakeshott described himself as a sceptic: ‘One who would do better if only he knew how’ (1991, p. 44). He did not, however, directly explain what he meant by this.¹³ His philosophical scepticism is at its most fundamental in his assertion of the independence of the modes of experience and his claim that political philosophy is impractical. But “scepticism” covers a number of philosophical positions, and is a term often used unphilosophically. It can be used in any number of ways. It has been used to signify very nearly any type of doubt including ‘uncertainty, criticism, distrust, suspicion, opposition, disagreement, subversion, negativity, humility, nominalism, reticence, pessimism or irreligion’ (Laursen 2005, p. 40). So to estimate the significance of Oakeshott’s scepticism to his political outlook we need to specify what he meant by the term.

A number of commentators have discussed his scepticism with reference to the writers that inspired him.¹⁴ In his Foreword to *On History*, for example, Fuller describes it as being based on Socrates’ demonstration of human ignorance, St Augustine’s scepticism about human affectations to insulate ourselves from impermanence and death, as well as de Montaigne’s doctrine of the fallibility of human judgment (1983, p. ix). With regard to the latter Oakeshott explained that ‘no man is ever free from it - & *the arrangement of*

¹³ J. C. Laursen thinks that Oakeshott was historically uninformed of the different sceptical traditions in Western culture, such as those of the Pyrrhonians or Academic sceptics (2005, p. 39).

¹⁴ See Neal Wood (1959); Jeremy Rayner (1985); Steven Gerencser (2000); Paul Franco (1990).

the world should be based upon it as the finest and most certain foundation we have (2014, p. 318, italics added).

Oakeshott clarified that this fallibility is not so much an ‘imperfection’ in human character but the ‘very stuff and structure’ of it’ (ibid.). The total absence of fallibility is impossible. What we should aspire to, he argued, is the absence of certain kinds of fallibility in certain men: ‘e.g. injustice and partiality in judges, pusillanimity in soldiers, etc.’ (ibid.). The notion of fallibility of human judgment, and the dangers of not recognising this in practice, is the fundamental idea behind the anti-rationalism that strongly marked his post-war political essays and his hostility to the politics of faith, which he characterised as the pursuit of perfectionist projects such as the promotion of a common good.

Roy Tseng describes Oakeshott, like Hume, as a mitigated, or moderate, sceptic who seeks a middle course between rationalism and total scepticism. The latter, which Hume sympathised with, before rejecting it as a practical outlook, offers a radical doubt of the basis of every human belief. Mitigated scepticism, however, refers to a particular epistemic predicament. On the one hand, because of the imperfection of human agency, it seems impossible to completely deny scepticism. On the other hand, it is not plausible to propose a total denial of human reason (Tseng 2013, pp. 143-4).

But Oakeshott was not a consistent sceptic. We might best describe him as a selective sceptic. He was sceptical when it suited him. He was *dogmatic* in his assertions on many issues, in spite of his professed scepticism. Hannah Pitkin found *On Human Conduct* ‘rigidly dogmatic, assertive and idiosyncratic almost to the point of being crotchety’, a judgment that can be readily supported by a reading of the final third of the book, at least (1976, p. 302). His anti-rationalist and anti-perfectionist theses are examples of arguments that a thoroughgoing sceptic would contest. In particular, he was sceptical about rationalism and scientism in support of his philosophy of practice.

But, being a philosophical sceptic entails no particular normative orientation and sheds no light on the question of what governments should do, the central

question in Oakeshott's political theory. Philosophical scepticism, like idealism, is an epistemological position, not a political ideology. There is no logical bridge that links scepticism to a conception of a state in which freedom and the pursuit of individuality dominate. Roy Tseng has illustrated how moderate scepticism can be used to advocate "left wing" positions, such as that of John Dunn, who, like Oakeshott, thought human beings to be 'creatures of limited understanding, skill and virtue' (Dunn 1984, p. xv).

However, it has been suggested that there is a sentimental link between philosophical scepticism and conservatism, which Oakeshott identified with political scepticism. J.S. Mill thought, for example, that there was a connection between David Hume's scepticism and his conservatism. If no confidence can be had in the determinations of the human intellect, and one answer to every question is as likely to be as true as the other, it is understandable that a man will be inclined to that state of affairs which he has hitherto found agreeable and 'compatible with his private comforts' (Mill 1963, p. 80).

Mill's explanation of Hume's Toryism reminds us of Oakeshott's description of the conservative as someone who esteems the present 'not on account of its connections with a remote antiquity, nor because it is recognised to be more admirable than any possible alternative, but on account of its familiarity' (1991, p. 408). In this thought we find the true significance of Oakeshott's scepticism: scepticism implies prudence as regards political change and respect for tradition. For Oakeshott, scepticism was not a systematic philosophy but rather 'a general doubt, negativity, propaedeutic to further study' (Laursen 2005, p. 50). With regard to his belief that human activity and intercourse should be conceived of as a conversation, for example he said it 'will, perhaps, appear both frivolous and unduly sceptical' (Oakeshott 1991, p. 492).¹⁵ In this context "unduly sceptical" appears to mean lacking ambition or being uninspiring

¹⁵ David Hume intimated that the metaphor of conversation describes the human quest for truth, in his essay *The Epicurean*: 'In our cheerful discourses, better than in the formal reasoning of the schools, is true wisdom to be found' (1996, p. 80).

In his critique of 'The Study of Politics in a University', Oakeshott argued that 'doubt' should be recognised as one of the 'intellectual virtues' (1981, p. 59). In the preface to the first edition of *Rationalism in Politics*, he further insisted that his essays do not constitute a settled doctrine but 'disclose a consistent style or disposition of thought' (1991, p. xi).¹⁶ This disposition we may describe as moderately sceptical or prudential.

In the same way as Oakeshott left scepticism loosely defined, he did not analyse the terms "prudence" or "prudential" despite regularly using both: chiefly in *On Human Conduct* and his essay 'The Rule of Law'. Judith Swanson argues that he used the term in two ways: a third of the time, to 'characterize agency and to mean reflection, deliberation and diagnosis' (2007, p. 9), and the remainder of the time to mean 'instrumental, helpful, utilitarian or strategic' (ibid.).

In the *Politics of Faith and the Politics of Scepticism (PFPS, 1996)*, he used the term "prudence" on three occasions, twice as a qualification for "diffidence". He explained that it is more accurate 'to find the roots of sceptical politics in (...) prudent diffidence rather than in some radical doubt' and claimed at the end of the book that older people tend to have 'an affinity with the prudent diffidence of scepticism' (1996, p. 31, p. 124). In 'On Being Conservative', he claimed that 'what others plausibly identify as timidity, he recognises in himself as rational prudence' (1991, pp. 412-3). The conservative is cautious, and he is inclined to indicate his agreement or disagreement 'not in absolute, but in graduated terms' (ibid.).

Several philosophers have offered a high-minded moral argument against scepticism, which is relevant to Oakeshott's account of morality, which we will assess in Chapter Two. He was sceptical that the pursuit of moral ideals could be a sound way to approach morality. It was 'untrustworthy' (1991, p. 486). Martha Nussbaum calls scepticism 'profoundly selfish, indeed solipsistic',

¹⁶ Edmund Burke considered prudence the most important political and moral virtue and, moreover, 'the director, regulator and standard of all moral and political virtues' (1887, W4: p. 81).

which we will see suggested in Oakeshott's account of morality (2000, p. 194). Julia Annas could have him in mind when she speaks of scepticism's 'detached attitude towards morality' as it excludes any significant concrete commitment to any moral venture (1986, p. 21). For this reason, Gertrude Himmelfarb likened his scepticism to philistinism. She thought that Oakeshott was right to censure the rationalists for undermining both good and bad habits but complained that he did not offer the means of distinguishing between good and bad or reasons for developing a disposition to do good rather than bad (1975, p. 420).

Political philosophy

Oakeshott's understanding of political philosophy was even more out of tune with the prevailing normative orientation of most contemporary political philosophy; or political theory, as Oakeshott preferred to call the activity in his later work. Most political theorists are inclined to see their proper activity as providing prescriptive reflection and argument. Paul Kelly, for example, in his review of contemporary political theory, defines it as 'normative political theory or philosophy and not second-order theorizing about theory' (2003, p. 207).

Contemporary debates among liberals, communitarians, natural law theorists, and postmodernists about political issues are informed by a shared understanding that philosophical analysis can and should guide political activity. John Rawls' influential *A Theory of Justice* (1971) strongly encouraged this conception of political theory: 'An important test of a theory of justice is how well it introduces order and system into our judgments over a wide range of questions' (1971, p. ix). Rawls claimed that there is an irreducible disagreement about the nature of ethical values. He recognised that with regard to such disagreements, political philosophy has little to say. This conclusion was understood by most analytical philosophers prior to Rawls to limit the goals of political and ethical theory to narrow second-order activity. Rawls argued, however, given the fact of reasonable disagreement about ultimate ends, that we can nevertheless reach agreement about which

principles ought to regulate social cooperation. These principles can be used to construct a system of justice as *fairness* based on certain assumptions derived from recognition of moral equality and a certain conception of the self. This procedure leads to recommendations regarding the fair distribution of primary goods in a just society and to the priority of the principles of justice (1971, pp. 11-17).

Oakeshott commented on Rawls' essay, 'Justice as Fairness' (1958), in his 1965 review of *Philosophy, Politics and Society* (1962, Laslett and Runciman, eds.).¹⁷ He interpreted Rawls as pursuing a philosophical and not a normative purpose. This, Oakeshott claimed, was not to tell us how we ought to behave or to offer a criterion of just behaviour (2008, p. 191). This was a misreading of Rawls's intent. According to a close collaborator, Samuel Freeman (2003, p. 1), Rawls had all along been guided by the normative question of 'What is the most appropriate moral conception of justice for a democratic society?' (Rawls 1971, pp. viii-xiii). Kelly agrees that Rawls's concern was primarily that of offering a rational defence of political principles (2003, p. 211). Rawls's two principles of justice are indeed criteria of just behaviour contrary to Oakeshott's assertion. At the end of his later work, *The Law of Peoples*, Rawls further argued that political philosophy should be targeted at citizens and not just an elite. It should lay out principles citizens might follow when evaluating their institutions and practices in the interests of illuminating the question of how 'a realistic utopia' might be achieved (2001, p. 128). Political philosophy for Rawls was profoundly practical as it establishes the long-term goal of political enterprise, 'and in working toward it gives meaning to what we can do today' (ibid.).

In *Justice as Fairness: A Restatement*, Rawls identified four aims of political philosophy, all of which are practical. The first is the need to find a solution to divisive political conflict and the need to settle 'the problem of order' (2001, p. 1). Rawls argued that such concerns motivated Locke's *A Letter Concerning Toleration* (1689) and Hobbes' *Leviathan* (1651). The second is that of

¹⁷ Rawls' 1958 essay contains many of the core ideas he elaborated in *A Theory of Justice* (1991).

orienting how people understand their political and social institutions and ‘their basic aims and purposes as a society with a history’ (ibid., pp. 2-3). The third role is that of reconciling us to our political realities, and in so doing helping us to ameliorate ‘our frustrations and rage against our society and its history’ (ibid., p. 3). The fourth is that we should view political philosophy as ‘realistically utopian’ (ibid., p. 4). That is, it should explore the boundaries of achievable political activity.

In the course of this thesis, it will become clear that, despite appearances to the contrary, Oakeshott addressed all four of the issues identified by Rawls, albeit to varying degrees of specificity. Civil association is a potential solution to the *problem of order*, which, from his early days, he saw as the central problem of political philosophy: ‘An attempt to theorize the harmony which life as we know it demands as a practical presupposition’ (2014, p. 73). When the phrase “civil association” appears in the *Notebooks* for the first time in the late 1950s, the emphasis is clearly on ‘the art of living well among people we may not like’, with whom we will frequently disagree but necessarily will have a relationship with them as we live in close proximity (2014, p. 421). His preference for *societas*, or civil association, over *universitas*, or enterprise association, as a mode of organising *respublica* is primarily because, as Richard E. Flathman has noted, it can accommodate plurality and the thoroughgoing individuality dear to Oakeshott that can be described as ‘self-enacted individualism’ (2005, p. 122).

Oakeshott was insistent that representative democracy, which nurtures individuality and liberty, was a contingent, historic achievement. Contingent in that there was no inevitability that representative democracy would emerge, or that its future is guaranteed. The recognition of its contingency and consequent vulnerability addresses Rawls’s issues of orientation and reconciliation. His argument that politics can only be the pursuit of intimations within a particular tradition directly speaks to the issue of practicable political possibility.

A Theory of Justice has provoked an enormous amount of literature on the subjects of social justice, what constitutes a fair distribution of resources, what comprises human equality, and whether liberty has priority over other political values. The intention of writers sympathetic to Rawls such as Ronald Dworkin (2000) and Amartya Sen (1979), and critics such as Michael Sandel (1982), G. A. Cohen (2000) and Robert Nozick (1974), is clearly prescriptive. Their works are normatively grounded and intended to change the way we view the political and social worlds. Much of present-day political theory takes its lead from Rawls' work although the terms of political argument have been extended to include such topics as multiculturalism and group rights (Kelly 2003, 246). But, according to Oakeshott, such work is not genuine philosophy, or political theory. It is the second rate and dubious activity of ideology that he attacked so forcefully in *Rationalism in Politics* (1991).

Some commentators, however, refuse to take at face value Oakeshott's pronouncements regarding the separation of theory and practice and his claims about the nature and scope of political theory. Bhikhu Parekh (1979), Michael Freeden (1996) and Andrew Gamble (2012) all ascribe different kinds of ideological purpose to Oakeshott. They acknowledge that he condemns ideological politics, but propose that he advances an ideology nonetheless. They disagree, however, over how best to characterise it.

The characterisations of Oakeshott's political project are legion. Freeden argues that "anti-ideology" is itself an ideological position and it was only by insisting that conservatism was a disposition, not an ideology, that Oakeshott deluded himself that he was not a conservative ideologist (1996, p. 328). Richard Crossman identified Oakeshott with an 'extreme Right [that] deifies tradition because it fears the democratic principles which challenge privilege and status' (1951, pp. 60-61). Perry Anderson likewise claims that he was a right-wing ideologue: 'One of the quartet of outstanding theorists of the intransigent Right' (1992, pp. 7-8).¹⁸ Bernard Crick thought Oakeshott 'a brilliant Tory pamphleteer' and a 'dandy-aesthete' (1971, pp. 123-124; 1991, p.

¹⁸ The other members of the quartet were Carl Schmitt, Leo Strauss and Friedrich von Hayek.

124). For many, such as Roger Eatwell, he is obviously ‘the most important contemporary conservative philosopher’ (1992, p. 67). Russell Kirk (2008), Hannah Pitkin (1976) and Neil Wood (1959) all claimed that he aimed to lay out a foundational conservatism in the manner of Edmund Burke, who is typically described as the founder of British conservatism.

Other commentators, however, such as Paul Franco (1990), John Gray (1993) and W. H. Greenleaf (1996), stress the liberal character of his thinking. Andrew Sullivan brings the conservative and liberal interpretations of Oakeshott’s political thought together. He claims they form ‘a quirky fusion of Conservatism and liberality’ (2003, pp. 46-49). Robert Grant offers a similar assessment. He describes Oakeshott’s work as ‘a kind of conservative liberalism or liberal conservatism’ (1990, p. 62). Ayreh Botwinick claims he was all of the above: a radical in his understanding of philosophy; an ideological conservative in his practical stance; and a liberal in his political philosophy (2011, p. 11).

Efrain Podoksik describes Oakeshott as primarily a modernist, whereby he sees modernism as the idea that radical plurality and a consequent concern with ‘fragmentation’ are essential features of the modern era (2003b, Chapter I). Podoksik claims that Oakeshott was a defender of modernity who saw it as inherently valuable, a conclusion that I will challenge (2003b, Chapter V). Richard Rorty co-opts him as a postmodern relativist (1997, p. 197). In his introduction to his recently published Notebooks, Luke O’Sullivan suggests that he is best thought of ‘as the last great representative, not only of British Idealism, but also of English romanticism’ (2014, p. xxxi).

In view of these diverse and conflicting interpretations of his work, Maurice Cranston’s summary of the many paradoxes in Oakeshott’s work - made over forty years ago – continues to resonate:

[Oakeshott] is a traditionalist with few traditional beliefs, an ‘Idealist’ who is more sceptical than many positivists, a lover of liberty who repudiates liberalism, an individualist who prefers Hegel to Locke, a

philosopher who disapproves of philosophism, a romantic perhaps (if Hume could be called one), and a marvellous stylist (1967, p. 82).

Leslie Armour captures the controversy surrounding Oakeshott when he asks if he is ‘a fish too big or too slippery?’ (2005, p. 779).

An outline of my interpretation

The debate as to whether Oakeshott was a disinterested philosopher or a covert ideologue is something of a “red herring”. It can be demonstrated that sometimes he wrote as a disinterested philosopher while at other times he wrote in a normative vein. Moreover, depending on which text you look at he can be interpreted as either conservative or liberal. The interpretative challenge is to explain these apparent inconsistencies: ‘What one needs to explain in trying to understand a writer is the *tensions* in his thought’ (Oakeshott 2014, p. 539). Central to my thesis is to demonstrate that normative concerns are at the heart of his thinking and are of a coherent character and account for the tensions in Oakeshott’s thought.

Oakeshott worked on three levels. He offered different insights into politics depending on the “level” on which he wrote. In *The Harvard Lectures* he claimed that “political thought” is a shorthand expression that covers not only thought about different topics but different kinds of thought (1993b, p. 13). The first level of thought is the thought that goes into construction of a policy where the upshot is political action (ibid.). The second is the activity of trying to discern principles and general ideas from experience in order to justify political aspirations, decisions, selections and performances (ibid., pp. 13-14). Labels such as Liberalism, Socialism, Democracy, are examples of this level of political reflection. They are a useful shorthand for describing a way of handling political matters.

The third level of reflection is political philosophy, properly understood. It is not concerned with policy or understanding political intentions and goals in terms of general principles: it considers ‘the place of government and political

activity on the map of human activity in general' (Oakeshott 1993b, p. 14.) It addresses such questions as what it is we are doing when we engage in political activity and 'What really is this activity called governing?' (ibid.). It is a much higher and rarer level of thought than the first two levels as the first two levels are tainted with practical considerations.

Oakeshott wrote on all three levels: practical, historical and philosophical. Sometimes they overlapped because 'they slide naturally into one another' (1993b, p. 13). We will see in Chapter Three, for example, that his account of civil association is an exercise in theorising the postulates of a historically derived concept of the state. The "general idea" of civil association is historically derived - a level two activity - the postulates of which are then theorised, a level three activity, as philosophical constructions: 'On the analogy of human history' (1975b, p. 8). Suvi Soininen's observation that he was methodologically inconsistent is apposite (2005a, p. 11). He moved between the different levels of thinking: practical, ideological and philosophical. It is important to have this in mind when interpreting his political writings.

This is only a fault in his work to the extent that he claimed to write always as a philosopher, according to his own definition. Most political theorists would have little problem with the idea of a writer on politics moving between the three levels. Stefan Collini notes that 'politics is intrinsically hybrid as an academic discipline' (2006, p. 466). It ranges from quantitative analysis at one extreme to philosophical reflection at the other 'with a good deal in between that is hard to distinguish from well-informed journalism' (ibid.).¹⁹

19. Terry Nardin lists three methodological viewpoints on the ideal character of the social sciences. The first is positivism, which claims that human conduct can be understood in much the same way that science explains the world from observable facts. The second is hermeneutics. This argues that human conduct cannot be comprehended scientifically. It can be understood 'only by interpreting the meaning of individual human acts, artefacts, practices and cultures' (Nardin 2001b, quoted in Callahan 2005, p. 240). The third perspective is critical theory. This claims that our comprehension of human affairs is inseparable from human values and concerns. Nardin concludes that 'the social sciences are therefore inevitably and properly prescriptive or pragmatic' (ibid.). Nardin claims that Oakeshott can best be described as belonging to the hermeneutic camp from the methodological perspective. Gene

We noted that Oakeshott normally avoided commenting on, or recommending, specific policies. He often came close, however, to offering advice to politicians on the considerations that should be taken into account as they pursue their craft. This is a level one activity: political thought in the service of political action. The publication of the essay *Rationalism in Politics*, probably his most widely read essay, gave him a much broader audience than hitherto.²⁰ It coincided with him becoming a more public figure when appointed to a Professorship at LSE in 1948 in succession to Harold Laski (1893-1950). According to Kenneth Minogue, the essays he wrote on rationalism in the late 1940s initiated a period in which he emerged as a public intellectual: ‘To be installed in the public mind as a kind of *eminence grise* mistakenly thought to lurk behind the revival of free market conservative politics in the late 70s’ (2003, p. 1).

Much of *Rationalism in Politics* can be explicitly read as a justification for a conservative approach to politics. His critique of rationalism, a level three activity, has practical implications for political action, a level one activity. Furthermore, *The Politics of Faith and the Politics of Scepticism*, published posthumously, is, as Timothy Fuller notes in his introduction, ‘close to a book of advice for the practice of modern politics’ (1996, p. x).²¹ This may explain why he did not publish it in his lifetime, for it clearly undermines the distinction that Oakeshott claimed to sustain between theory and practice.

Callahan notes, however, that Oakeshott, like Ludwig von Mises, differed in his claim that the social sciences are descriptive and not prescriptive undertakings. (2005, p. 242). Clearly he was not a positivist. His 1947 review of Hans Morgenthau’s book *Scientific Man Versus Power Politics* (1946), entitled ‘Scientific Politics’, makes this clear (Oakeshott 1993a, pp. 97-110).

²⁰ ‘Rationalism in Politics’ was originally published in two parts in *The Cambridge Journal* 1 (1947-8, pp. 81-98; pp. 145-57). This essay, together with seven others, was re-published as *Rationalism in Politics and Other Essays* by Methuen in 1962. A new, expanded edition, including several other previously published and unpublished essays, edited by Timothy Fuller, was published by the Liberty Press in 1991.

²¹ Steven Teles and Mathew Kaliner attempted to construct a ‘Public Policy of Skepticism’, based on their interpretation of *The Politics of Faith and The Politics of Scepticism*, in the areas of education, public health and social security (Teles and Kaliner 2004).

Context

In *Morality and Politics in Modern Europe; the Harvard Lectures* Oakeshott reminded us that when attempting to interpret writings on politics, the first task of the interpreter is to relate them to their specific context. He argued that the writer is not concerned with ‘the activity of governing and the experience of being governed’ in general ‘but the particular idioms of government and politics which belong to his world’ (1993b, pp. 5-6). He also argued that those writers who claim to be reflecting on ‘the permanent and unchanging problems of government’ are doing no such thing. They are, in fact, involved with the issues of government: ‘As they appear in the circumstances of a particular place and time’ (ibid.). His advancement of this argument suggests that by the late 1950s he had moved away from his earlier efforts to sustain political philosophy at the level of generality and abstraction.

His argument that context is all important when interpreting political writings anticipated the highly influential form of linguistic contextualism in the history of ideas associated with Quentin Skinner and the “Cambridge School”.²² If we agree with Oakeshott’s contention that the specificity and immediacy of the world to which a commentator belongs is the inspirational spring of his political theory, we need to interpret his writings with reference to their context. Most of his obviously political works were written after 1945. I suggest, therefore, that the context in which we should interpret Oakeshott’s political writings is primarily British politics of this period, not wider Anglophone or European politics, while acknowledging there are a number of concerns common to all.

This claim is not uncontroversial. Perry Anderson, for example, argues that he should be placed in a European rather than specifically British context (1992). Similarly, Paul Franco claims that he ought to be placed alongside European thinkers of his generation such as Leo Strauss, Hannah Arendt, Hayek,

²² See Skinner’s *Regarding Method* (2002a). Skinner claims that past works of political theory cannot be understood as contributions to “perennial” debates, but must be understood as particularistic, ideological speech acts.

Raymond Aron and Isaiah Berlin (2004, 183). But whereas Oakeshott often referred to the “Modern European State” in his theorising, it is clear enough that he saw himself as writing from within the British political tradition. He considered, for example, the continental vogue for classifying parties as either Left and Right as wholly inapplicable in the UK. In his 1948 essay ‘Contemporary British Politics’, he asserted that whereas there may be a vague affinity between the Labour party and continental European parties of the left there is nothing in common between British Conservatism and any continental political grouping: ‘Loose talk of this kind about British politics merely liberates a fog of unreality, and lost in this fog British politics may become detached from their real root in British society and its history’ (2007, p. 208).

The historical context of British politics includes the fact that Oakeshott lived his mature life either in the shadow of the rise of totalitarian states in the 1930s or during the Cold War, a reality that threatened other western European states. The Cold War only formally ended just after his death in 1990. He wrote some of his most influential essays in the early years of the Cold War: ‘Rationalism in Politics’ (1947-48); ‘The Political Economy of Freedom’ (1949); ‘Political Education’ (1951); and ‘The Masses in Representative Democracy’ (1957), which, as Nardin notes, comes closest to treating totalitarianism as a subject (Nardin 2015, 4). Moreover, his book *The Politics of Faith and the Politics of Scepticism*, although published posthumously, was written in the early 1950s. All of these works can be read as an exposition of the threats to individuality, pluralism and world order posed by ideological attempts to impose a single overriding purpose to government as represented by the USSR. Natalie Riendeau goes further and argues that ‘Rationalism in Politics’ should be interpreted as Oakeshott’s attempt to safeguard all Western Civilisation and its values against the perils of Rationalism (2014, Chapter 5).

After 1945, the main political parties in the UK embraced the purposive idiom of government to varying degrees. This resulted in an expanded welfare state grounded in the Beveridge report. The 1942 report on *Social Insurance and Allied Services*, chaired by the Liberal economist William Beveridge,

identified the five “Giant Evils” in society: squalor, ignorance, want, idleness and disease. The report formed the basis of the post-war reforms known as the Welfare State. These included the expansion of National Insurance and the creation of the National Health Service: ‘Social security must be achieved by cooperation between the State and the Individual’ and ‘a revolutionary moment in the world’s history is a time for revolutions, not for patching’ (Beveridge 1942, p. 6).

Oakeshott believed that the rationalist disposition that increasingly prevailed after WW2 put ‘too high a value on political action and placed too high a hope in political achievement’ (1991, p. 26). This opinion was out of tune with contemporary sentiments. There was broad cross party support for the expansion of the welfare state after 1945. The three significant social innovations of postwar Britain - the Education Act, the National Insurance Act, and the National Health Service Act were introduced by members of the three main parties.²³

Thesis

I will argue that when Oakeshott’s political works are considered in their entirety, they can best be thought of as advancing two doctrines, or theories above all. These doctrines are derived from his account of the differing conceptions of the state that have been apparent in modern European history and the nature of political activity. The first is that the state, conceived as a civil association, is best suited to promote individual liberty. It is, moreover, the only moral form of political association (1991, p. 460; 1975a, p. 180). The second doctrine is his conservative anti-rationalist, anti-ideological, thesis that political activity cannot and ought not to be conceived as anything other than the pursuit of intimations immanent within a political tradition (1991, p. 58). The main aim of this thesis is to assess these doctrines critically by

²³ R. A. Butler, a Conservative, introduced the Education Act; Beveridge, a Liberal, the National Insurance Act; Aneurin Bevan, a Socialist, the Health Service.

revealing the values that inform them and the assumptions upon which they are based.

I suggest that much of the disagreement over the character of his political works is due to a failure to recognise that these doctrines largely cover two separate topics. The first is an idealisation of the form of the state that is most amenable to freedom-loving individualists. The second is a claim regarding the irreducible nature of political activity. There is no necessary connection between the two. The essays in *RIP* are mainly concerned with the second doctrine. *OHC* and his essay on the 'Rule of Law' refer to the first doctrine. If one only reads *RIP* it would be understandable to consider him as a conservative. If one only reads *OHC*, the conclusion that he was a liberal, or even a libertarian, is warranted.

Many interpretations of Oakeshott are based on an incomplete assessment of his works.²⁴ Several of these were either not published in his lifetime or were not easily accessible at the time. A particular example is *Religion, Politics and the Moral Life (RPML, 1993a)*, which contains essays written in the 1920s by the young Oakeshott. Other posthumously published works include *The Politics of Faith and the Politics of Scepticism (PFPS, 1996)*: reckoned by its editor, Timothy Fuller, to have been written in the 1950s; *Morality and Politics in Modern Europe (MPME, 1993b)*, which contains the lectures he gave in 1958 at Harvard University; 'Work and Play', an essay released by his then literary executor, William Letwin, in 1995; and the *Notebooks, 1922-1986*, published in 2014. The *Notebooks* highlight, for example, his romantic disposition and dislike of modernity far more vividly than his previously published works and are vital to understanding his political outlook (Oakeshott 2014). The *Notebooks*, in the words of his editor, Luke O'Sullivan, 'open a window onto Oakeshott's intellectual development that simply cannot be found elsewhere in his writings' and make clear the continuities in his thinking (2014, p. vii).

²⁴ This is clearly the case with the earliest full-length books on Oakeshott's political writings (Greenleaf 1986; Franco 1990).

It is reasonable to suggest that anyone seeking to understand Oakeshott's political thought solely on the basis of the works published during his lifetime will develop an incomplete picture. There are many insights to be garnered from a careful study of the works published after his death. When we consider his works in their entirety, a distinct set of values, or attitudes of mind, are revealed and the way in which these ground his doctrines becomes more apparent

Efraim Podoksik, though, disagrees with the suggestion that we must consider all of his works. He argues that it is more important to assign value to Oakeshott's published works. He claims these are superior to the unpublished works in both the quality and manner of his argument (2003b, Prologue II). Podoksik may be correct. But it does not negate the importance of taking into consideration the whole of his work when making an interpretation.

Oakeshott's cryptic style means that the process of tracking his arguments is not a straightforward exercise. He admitted in the Preface to *On Human Conduct* that one of his objectives in writing the book was to make clear 'the path my footprints make in the snow' (1975a, p. viii), a path, which he admitted 'might have been less rambling' (ibid.). O'Sullivan suggests that 'this may perhaps be read as a tacit confession of regret at the cost to his intellectual life of his often chaotic private circumstances' (O'Sullivan 2014, p. xxvi). The footprints are a reference to his previous published political essays.

Oakeshott considered the essay to be the most appropriate mode of philosophical reflection (1975a, p. viii). Sheldon Wolin points out that a book-length theory such as *OHC* requires much more self-disclosure than an essay (1976, p. 327).²⁵ Oakeshott stated his purpose in *OHC* as revealing the ideal character of civil association in terms of its postulates, 'a small composition of

²⁵ *OHC* is structured as three interconnected essays. The first, 'On The Theoretical Understanding of Human Conduct may be read as a consideration of some of the 'terms and presuppositions' of the subject of the second essay, which is an 'engagement to understand the Civil Condition in terms of its postulates' (Oakeshott 1975a, p. viii). The third considers the place of civil association in a modern European state.

related ideas' (1975a, p. 182). These ideas had preoccupied him throughout his life. When we examine these related ideas, we will see that they disclose his values. The postulates of civil association entail, moreover, a particular conception of the state, sympathetic to the interests of a certain character type. These types will be called "freedom-loving individualists".

Oakeshott was reluctant to spell out his values and preferences, perhaps because, as he claimed, self-disclosure is 'hazardous' (1975a, p. 73). It exposes oneself to attack from others. He was prescient in acknowledging this risk. Hanna Pitkin, among others, gave an extremely critical review of *OHC* in her essay 'Inhuman Conduct and Unpolitical Theory' (1976). This criticism provoked him to give a testy reply, 'On Misunderstanding Human Conduct: A Reply to My Critics' (1976). His response is only the second case of Oakeshott engaging publicly with academic critics.²⁶

Oakeshott claimed in 1934: 'What I want to achieve now is a view of life which has gotten rid of everything doctrinaire' (2014, p. 250). But, as we examine his rambling footprints over his lifetime, we can discern a body of coherent views that may reasonably be described as doctrines. I use the term "doctrine", following Bernard Crick, to 'refer to a coherent sum of assertions regarding what a particular topic should be' (1987, p. 6). In Oakeshott's case, there are two separate topics: an enquiry into what the state is for, and an account of the practice of politics. In both cases, his supposedly neutral explanations have normative implications. The doctrines are partial and do not necessarily point in the same direction. They fall well short of what could be described as a comprehensive ideology. They exclude, for example, any consideration of the relation between economics and political theory.

What the doctrines suggest, however, becomes clear as we analyse the clusters of his interwoven ideas that are, as Neil McInnes describes them, 'slender, repetitive and elegantly expressed' (2000). They can be discerned through his analytical method, which consists of explaining ideas in terms of contrasting

²⁶ The other case is Oakeshott's reply to Professor D. D. Raphael's review of *Rationalism in Politics* in *Political Studies* (Oakeshott 1965, 89-92; Raphael 1964, pp. 202-215 and 1965, pp. 89-92)

“ideal” types or antinomies; ‘the tic of dividing things into two types’, as McInnes puts it (*ibid.*). These antinomies will be examined in the forthcoming chapters.

Oakeshott used the language of “ideal types” to contrast entirely opposing ways of interpreting a concept. This is an argumentative device that he shared with other twentieth-century thinkers.²⁷ He put in opposition, for example, the politics of faith and the politics of scepticism; the state conceived as a civil association compared to one conceived as an enterprise association; morality understood from the perspective of individuality and that understood from the perspective of a “common good”. These ideal types, or antinomies, are contingent in that they are antinomies for members of communities like us who are participants in the pluralistic political tradition of Western Europe. Members of more uniform traditions will not understand such antinomies: ‘A monolithic society may be expected to have a monolithic politics’ (1996, p. 95).

He claimed, moreover, that “ideals” are not normative in that they do not recommend what ought to be, or what is, practically achievable. Neither ideal is fully realisable because it is dependant in some fashion on its antinomic opposite. But, as we examine his ideal types, it will become evident that he failed to maintain the distinction between the “ideal” and the normative. Oakeshott’s temperament and style precluded outright advocacy. Andrew Gamble observes, however, that ‘advocacy is never far below the surface and accounts for some of the fascination his [Oakeshott’s] writings have exerted’ (2012, p. 56).

It is apparent, which of two ideal types he investigated sat most easily with his sceptical, yet romantic, disposition and his dislike of modernity. Play is preferable to work; anti-perfectionism is more desirable than perfectionism; habitual morality is superior to a rules based morality; the individual is to be

²⁷ Stephen Turner cites Max Weber’s antinomic distinction between the politics of conviction and the politics of responsibility and Carl Schmitt’s arguments about the fundamental incompatibility of liberalism and democracy (2014).

more esteemed than the anti-individual; morals and laws should be adverbial not instrumental; civil association under the rule of law is morally superior to an enterprise association; sceptical politics is less dangerous than faith based politics; pluralism is preferable to uniformity; the intimations of tradition are preferable to Rationalism; purposelessness is preferable to utilitarianism; practice is preferable to ideology, and so forth. He did not, however, comment on other potential antimonies in the European political tradition such as those between freedom and equality or the antimonies of freedom, positive and negative, as explained in Isaiah Berlin's *Two Concepts of Liberty*.

Most commentators approach Oakeshott's political writings either directly, or by seeking to find foundations in his Idealist philosophy. Podoksik observes that 'one of the foremost problems of Oakeshott scholarship has been an artificial and confused separation of his 'social' or political philosophy from the rest of his thought' (2003b, p. 151). My interpretative approach tries to avoid this separation. It differs from most in that I will first reveal his values and his understanding of what constitutes a good life and then argue that these are postulates of his political doctrines.

To understand and evaluate the coherence of his advocacy of the state conceived as a civil association, and his conservative account of political activity, I suggest that our starting point should be to make explicit the values, or value promoting messages, that inform his work; and the assumptions that ground his preferences. When these values are made clear, it becomes apparent that there is a strong normative thread running throughout his political and related writings.

Oakeshott did not like the use of the word "values": 'Values are what people parade who have neither settled habits of behaviour nor religious beliefs to suggest to them what they should do' (2014, p. 420). He did not parade his values explicitly but I would argue that they are, nonetheless, discernible in his works. Most critics, however, pay insufficient attention to 'the general value-promoting messages that even an anti-generalist such as himself transmitted' (Freedon 1996, p. 328).

On Human Conduct (1975a) is Oakeshott's comprehensive and general theory of morality, the state and political activity. It is hard to read *OHC*, his first full-length book since *EM* (1933), without sensing the values and political preferences that animate it. It is, after all, a political book and as Hayek noted in his preface to *The Road to Serfdom*, 'a political book is derived from some ultimate values' (1944, p. vii). In Oakeshott's case, we shall see that these values are those of reverence for freedom, individuality, pluralism and the rule of law.

In the preface to *OHC*, Oakeshott remarked that it contained the fundamental themes that 'have been with me nearly as long as I can remember' (1975a, p. vii). Sheldon Wolin summarises these as a concern 'with the practices and language of civility'; a liking for traditional practices; doubts about 'salvific politics'; and an enduring worry 'with preventing the dissociation of political theory from an aesthetic sensibility towards nuance and contingency' (1976, p. 321).

The normative thread that unifies these themes is evidenced, moreover, in Oakeshott's defence of a civil association based on the rule of law as the form of the state most conducive to the flourishing of freedom, individuality and pluralism. These are the values he esteemed above all others. Civil association, according to Oakeshott, can be understood as a mode of human relationship in which moral life is actualised in a system of laws that allows for the civilized coexistence of different viewpoints. It accommodates the diversity of human experience while eschewing a purposive interpretation of morality such as that of promoting the "common good". His significance as a political theorist can be better understood once we make these values explicit, as will be shown in Chapter One.

Consistency and Coherence

How do we explain the apparent tensions and paradoxes inherent in Oakeshott's two doctrines? He advocated the virtues of civil association,

which, in itself, is an ideological position, yet he denigrated ideological politics. He further insisted that politics can only be properly conceived as the pursuit of the intimations inherent in a particular tradition. Edmund Neill captures the tension posed by the latter. He observes that, in *Rationalism in Politics* he ‘seems to be making a descriptive ontological claim about [tradition], rather than putting forward a normative political argument’ (2011, p. 44). That is, Oakeshott claimed that there is no alternative to pursuing the intimations of a tradition. If this is the case, however, he was without the means of objecting, from a normative standpoint, to the manner in which society has developed, if he believed that that we can do nothing else but amend the current norms provided by tradition.

So the argument that there is continuity and consistency in Oakeshott’s thought might appear to be derailed by his advocacy of two mutually exclusive ideas. First, if civil association is the only proper *moral* conception of the state, as Oakeshott claimed, this suggests that we should endeavour to bring about this conception of the state (1975a, p. 180; p. 321). Second, if politics is the pursuit of intimations within a tradition, and if traditions are contingent, the direction of political activity must be determined by the tradition, which may or may not be sympathetic towards civil association. The question then arises as to what is more important: the pursuit of intimations or the realisation of civil association. If, as Neill claims, politics as the pursuit of intimations appears to be an ontological claim and civil association is a contingent achievement, then the former appears to trump the latter.

This apparent discrepancy between two of Oakeshott’s key ideas goes a long way to explaining the difficulty that political commentators have had in “pigeonholing” him as either a conservative or a liberal. He can reasonably be described as a conservative by those who emphasise the importance he ascribed to tradition in understanding political activity; and as a liberal by those who focus on his account of human conduct. Sullivan’s description of his work as a ‘quirky fusion of conservatism and liberality’ is apt if we accept that his two core ideas are discrepant (*op. cit.*, p. 21). But this begs the

question as to why Oakeshott invested so much effort in his later years in articulating the virtues of civil association.

One way to explain away the apparent tension between Oakeshott's core ideas is to claim that there are different phases to his political writing. If this is the case it is consequently erroneous to claim that his work exhibits substantial continuity. His works prior to the Second World War, it could be argued, represent a first phase.²⁸ At this time, he showed little interest in practical politics, consistent with his understanding of philosophy articulated in *Experience and its Modes*. His writings on politics consisted largely of ruminations on meta-political issues such as the appropriate subject matter of political philosophy and the nature of the state and its authority. These are conducted in the Idealistic tradition, as exemplified by Bosanquet's *The Philosophical Theory of the State* (1899) and Hegel's *Philosophy of Right* (1967).²⁹

In the 1930s, Oakeshott remained aloof from practical politics. He described the activity of politics and politicians in generally derogatory and frivolous terms. In his 1939 essay, 'The Claims of Politics', he described politics as a superficial, 'highly specialised and abstracted form of communal activity' that has little substantial impact (1993a, p. 93). He further argued that the genius of the poet and even the philosopher are much more useful in saving society from 'its last corruption', which is 'a corruption of consciousness' (ibid., p. 95.) He felt that the nature of political activity involves a corruption of the

²⁸ See Oakeshott's *Early Political Writings 1925-1930*, edited by Luke O'Sullivan (2010), 'The Authority of the State' (1993) and 'Some Remarks on the Nature and meaning of Sociality' (1993). His most substantial published political work in the 1930s is 'The Concept of a Philosophical Jurisprudence' (2007, pp. 154-183). In this essay, he advocates an analysis of the law that is entirely consistent with his approach in *Experience and its Modes*; and concludes that there is no way that the philosophy of law, properly understood, can be a normative exercise - as the latter is a practical and not a philosophical enquiry.

²⁹ Oakeshott noted his indebtedness to Bosanquet's *The Philosophical Theory of the State* as well as Hegel. Oakeshott considered Bosanquet's account the most comprehensive theory of the state, though not without its defects. He did not specify what these are (2007, p. 89; p.143).

consciousness of society from which it needs constantly to be saved.³⁰ Certainly engagement in politics is in no way a superior activity: ‘The activity of a music-hall artist is no less certainly connected with the common life of his society than that of a Prime Minister’ (ibid., p. 92).

A second phase in his political works, it could be argued, begins when he began to engage with the political implications of current events. This period began with the Munich crisis of 1938. Encouraged by his friend Ernest Barker, Oakeshott compiled an anthology of the most significant ‘Social and Political Doctrines of Contemporary Europe’.³¹ He included in this volume the canonical texts of Representative Democracy, Catholicism, Communism, Fascism and National Socialism, which he described as ‘the intellectual systems adduced to explain or excuse the policies and conduct of governments and communities in Europe today’ (1939, p. xiii). His preface to the anthology may be said to mark the beginning of his Conservative political phase. He was both critical of doctrinaire politics and the ‘crude and negative individualism which is apt to be associated with liberalism’ (ibid., p. 17). This second phase appears to continue by way of the essays he wrote in the immediate post-war period and into the 1950s. These essays were mostly published in the *Cambridge Review*, and eventually brought together in *Rationalism in Politics* (1961).

A third phase, which suggests discontinuities in his political thought, could be argued to start in the late nineteen fifties. The discontinuity is evident in the lectures he delivered in 1958 at Harvard University. These were posthumously published as *Morality and Politics in Modern Europe* (1993b). The phase culminated in his *magnum opus*, *On Human Conduct* (1975a). In these later writings, as claimed by Robert Devigne, his primary concern was to argue the virtues of the state conceived as a civil association in liberal, if not libertarian terms (Devigne 2012, p. 273).

³⁰ The expression “corruption of consciousness” was perhaps borrowed from Collingwood who expounded this doctrine in *Principles of Art* to explain the difference between good and bad art (1938).

³¹ Professor of Political Science at Cambridge University, 1928-1939.

There are alternative versions of the argument that there are discontinuities in Oakeshott's thought. Gerencser claims that over time his absolute Idealism was superseded by a thoroughgoing scepticism. This reflected the increasing importance of Hobbes in his thought at the expense of Hegel (2000). Luke O'Sullivan claims that Oakeshott's approach to political theorizing changed significantly after 1945. In particular, he avoided explicit talk of metaphysical first principles, whereas in the 1920s and 1930s he was confident of the correctness of idealism and wrote in that idiom (2010, pp. 5-6). A third example is Robert Orr, who claims that it is useful to recognise three phases in his work, 'pre-war, post-war, and post-retirement (1983). Orr identifies the pre-war period solely with *Experience and its Modes*, which is a theory of knowledge, with no practical content. The post-war period is identified with *Rationalism in Politics*, which Orr claims could be read simply as a Burkean defence of traditional institutions. The post-retirement phase is identified with *On Human Conduct* (1975a) and *On History and Other Essays* (1983).

The argument for a broad continuity in Oakeshott's values, dispositions and their political expression does not require that we deny that his philosophical approach changed over time; that he became less of an Idealist and more of a sceptic. Both are epistemological stances, which, I argue, do not correlate with political attitudes, although, as noted earlier, scepticism may be argued to have some sympathy with conservatism.

It is true that he focused on different aspects of political theory at various times during his career. In his early years he was mostly taken up with the specification of the state from within the Idealist tradition. In his middle years, he focused on a conservative account of the practice of politics and in his later years, he was preoccupied with the specification and justification of the ideal form of the state as a civil association, based on his understanding of human conduct. I would suggest, however, that the discontinuity in Oakeshott's political writings over time, mooted by O'Sullivan, Gerencser and Orr, is more apparent than real.

We can reconcile the apparent tension between the two doctrines if we interpret him as defending a particular political tradition that he felt was increasingly under threat. One must be circumspect in attaching a label to this tradition as Oakeshott himself never equated civil association with any present or historical political state. Nonetheless, “Whig Representative Democracy”, “Liberal Democracy” or “old-fashioned Liberalism” grounded in the rule of law are potential candidates.

We can rule out “Liberal Democracy”. He did not want it to be associated ‘with the crude and negative individualism which is apt to be associated with Liberalism’ (1940, p. xvii). He did not like the post-war understanding of “liberalism”. He felt that the modern manifestation of Liberalism exhibited his twin demons of ‘rationalism and scientism’ (1993a, p. 100). Furthermore, he was wary of modern Liberalism’s ‘nervy conscience’, which ‘extends a senile and indiscriminate welcome to everyone who claims to be on the side of progress’ (1991, p. 385). But “Representative Democracy” does not capture the essence of the tradition he defended for the reason that he was less than enthusiastic at the extension of the franchise in the 20th century. This judgment is born out by a reading of his essay, ‘The masses in representative democracy’ (1991, pp. 363-383).

In Oakeshott’s report on the *Constitution of Liberty* and in his letters to Hayek written on the nineteenth of January and the thirtieth of April 1978, he praised Hayek’s ‘care, originality and profundity’, and recommended it for publication without hesitation. Hayek described this work as a restatement of Whig doctrine. Oakeshott acknowledged ‘Whiggism’ as ‘one of the most notable idioms of European political experience and reflection’. He regarded Whiggism, according to Luke O’Sullivan, as equivalent to “liberal” and even “libertarian” thought, and his report on Hayek suggests that he thought of “true” liberalism, in a manner similar to Hayek, as a commitment to the rule of law (O’ Sullivan 2004, p. 21).

“Old fashioned liberalism” is my preferred name for the tradition Oakeshott sought to protect, or at least what was left of it. It encapsulates many of the features of civil association, as described in *On Human Conduct* (1975a). I

borrow the expression from his favourable review of Professor Henry C. Simons' *Economic Policy for a Free Society* (1948). Simons described himself as 'an old-fashioned liberal' (Simons quoted in Oakeshott 1991, p. 385). Simons argued that the emphasis on liberty is the distinctive feature of this tradition. Oakeshott explained that Simons was a libertarian 'because he has actually enjoyed a way of living' and 'because he has found it to be good' (1991, p. 387). This wording anticipates his justification of the conservative disposition in 'On Being Conservative'. The disposition to be conservative 'asserts itself characteristically when there is much to be enjoyed, and it will be strongest when this is combined with evident risk of loss' (1991, p. 408).

What is the essence of this tradition? In the *Social and Political Doctrines of Contemporary Europe* (1939), Oakeshott noted three features. First, it is more 'a tradition and a tendency' than a comprehensive doctrine, which made it difficult to give a precise and complete statement of its beliefs (1940, p. xviii). Second, its character is to value reasonable pluralism but not 'so extravagantly diversified as to make an intelligently diversified and civilized social life impossible' (ibid.). Third, the recognition that 'the imposition of a universal plan of life on a society is at once stupid and immoral' (ibid.).

SPDCE was written at a time when British representative democracy was under existential threat from Nazi Germany. In his characterisation of representative democracy, we can discern three of the elements that define Oakeshott's consistently held political beliefs. First, he had a positive view of a pluralistic society. He regarded the diversity of ends that individuals pursue as a matter of celebration, not regret. Second, he recognised that for a pluralistic society to endure, it needed a framework to accommodate a civilised social life in spite of differences. He subsequently articulated this framework as the *lex*, or law, of civil association, which is the political manifestation of civility. Third, he viewed any attempt to plan a society centrally as reprehensible. This would not succeed and was, moreover, immoral, as it would sacrifice the freedom of citizens.

It might be suggested that there is a similarity between Oakeshott's concern with defending "old-fashioned" liberalism and Edmund Burke's defence of the eighteenth-century English Whig tradition against the threat from the French Revolution, although the manner and grounds of the defence are very different (Burke 2004). Oakeshott professed to have little regard for Burke as a thinker: 'Burke was not the formulator of a set of propositions to which his followers could dedicate themselves with assurance' (2008, p. 84). In his 1956 essay 'On Being Conservative', Oakeshott aligned himself with de Montaigne, Pascal, Hobbes and Hume and not with Burke (1991, p. 235). Burke was a practising politician and frequently used natural law rhetoric to persuade his audiences, which Oakeshott thought both unnecessary and irrelevant to justify a conservative disposition in politics. Yet, in the course of this thesis, a number of common positions between the two will be noted.

Both Burke and Oakeshott used conservative arguments to defend a specific tradition, rather than being motivated to defend the current state of affairs, whatever it may be. Samuel Huntington defined conservatism as 'being that system of ideas employed to justify any established social order, no matter where or when it exists, against any fundamental challenge to its nature or being, no matter from what quarter' (1957, p. 455). Huntington called this "positional conservatism". It applies neither to Burke nor Oakeshott.

Montesquieu described the tradition that Burke was defending as the nation *par excellence* of constitutional liberty via the separation of powers and the nation of capitalism where individualism abounded (1914, Books 11-13). Huntington claimed that Burke was politically a liberal and a Whig. Economically he supported free-trade. But 'there was nothing that was corporate, feudal or aristocratic about him', as might have been expected of conservatives of his time (1957, p. 463).

The separation of powers, constitutional liberty, and reverence for individualism, but not capitalism, are prominent and recurring themes in Oakeshott's work. So it is not unreasonable to read him as defending a broadly

Whig tradition that he inherited from Burke, but which had evolved over the one hundred and fifty or so years that separated their lives.

His conservative essays of the post-war period should be understood then not as an abstract defence of tradition, but as arguments to defend a particular tradition that had been under threat for some time and which continued to be challenged on two fronts. The first threat came from the post-war Labour government, which enthusiastically embraced the tools of central planning in expanding the modern welfare state. The second threat came from international communism, which remained an existential threat to the tradition of representative democracy during the Cold War. This adds up to what Andrew Sullivan describes as a ‘contingent defence of a contingent tradition’ (Sullivan 2007, p. 5). That is, a conservative defence is justified by the tradition.

In his essay, ‘Contemporary British Politics’, published in 1948, Oakeshott set out his low opinion of the Labour government elected in 1945. He claimed that it was pursuing an underlying purpose: to concentrate much of the power diffused throughout society into the hands of the government. So, he argued, nationalisation was advocated not out of necessity but because, without it, a planned economy cannot be created: ‘Why is not all this recognized by its promoters as despotism, and by those who suffer under it as tyranny?’ (2007, p. 213). This essay was written shortly after ‘Rationalism in Politics’, which established the theoretical framework for his attack on ideological politics.

My contention that Oakeshott can be best understood as defending a particular tradition, not as a traditionalist *per se*, is supported by a consideration of his book review entitled *Conservative Essays* (1978), published three years after *On Human Conduct* (1975a). The contextual background here was the growth in the “managerial” activities of government since the Second World War, stagflation in the economy during the 1970s, and the election of Mrs Thatcher as leader of the Conservative Party in 1975. He contrasted the managerial, purposive, conception of the tasks of government, as embraced by both Conservative and Labour governments since 1945, with

‘a more sophisticated conception ... one which, in futile attempts at compromise or by inadvertence, has lost its distinctness and surrendered its integrity’ (2008, p. 280).

He deployed the terminology of civil association, as articulated in *On Human Conduct* (1975a) to explain this conception. This “more sophisticated conception” is one where persons are associated ‘in respect of their acknowledgment of the authority of certain non-instrumental conditions of conduct’, and ‘not in respect of their interests and of the substantive satisfactions they may choose to seek transactionally’ (2008, p. 280). Politics in such a state consists of the deliberation of non-instrumental laws that regulate how persons interact. It has nothing to with the satisfaction of wants or the promotion of a common good. The government is merely the custodian of the rules or laws of the association.

For our present purposes, Oakeshott’s further claim is of particular interest. He argued that this conception of the state ‘owes more to the Whigs than the Tories’ but ‘if it now has a home anywhere in our politics it is surely in the Conservative party’ (ibid., p. 281). In this sense, he considered Mrs Thatcher ‘more of a genuine Conservative than her predecessors’ (ibid., p. 282).

These comments support my contention that the political tradition he wished to defend can best be described as old-fashioned liberalism. Old-fashioned liberalism, unlike its modern variety, was not preoccupied with the free market. Its priorities were constitutionalism, the balance of powers, the rule of law, and the maintenance of basic civil and political liberties to foster individualism and allow for a plurality of views.³² Furthermore, by chance,

³² The political theorists whom Oakeshott most admired included Montesquieu, Hegel and de Tocqueville, who may fairly be said to be associated with Whig liberalism. Oakeshott was no fan of John Locke, who was considered by many to rank highly in the Liberal pantheon. Oakeshott found Locke’s ‘moderate individualism’ far too narrow for those, such as his hero de Montaigne, who subscribe to ‘a radical, an Epicurean individualism’ (2007, p. 85). Moreover, he associated Locke with the materialistic aspect of liberalism that he so despised (ibid.). Oakeshott was also very critical of Jeremy Bentham, a philosophical utilitarian and intellectual father of the

Oakeshott believed this tradition was most likely to be best defended, if imperfectly, within the modern Conservative Party and that Mrs Thatcher, frequently portrayed as a radical and ideologue, was more genuinely in touch with this tradition than her predecessors such as Heath and Macmillan. These leaders had absorbed too much of the “managerial” approach towards the state necessitated by the pursuit of welfarism after 1945.

The commendation of Mrs Thatcher was misplaced. Under the leadership of Mrs Thatcher, and her ideologue-in-chief, Sir Keith Joseph, the Conservative Party became markedly more ideological in the 1980s. Numerous “think tanks” were set up to give the Conservatives an ideological edge.³³ Radical changes to the structure of markets and limits of state intervention were advocated, alongside an unabashed defence of individualism of the kind that Oakeshott usually deplored. He may have underestimated the degree to which the Conservative Party had become a victim of rationalistic politics. John Gray observes: ‘The Conservative Party had become the vehicle for a long-discredited brand of laissez-faire liberalism. Yet it is hard to believe that the great Tory philosopher [Oakeshott] would not have viewed the party’s subsequent electoral debacle as a vindication of his critique’ (Gray 2001).³⁴

By situating his political writings in their immediate historical context, we can explain much of the apparent tension between his conservative account of the practice of politics and his idealisation of the state conceived as a civil association. Oakeshott’s predominantly conservative writings of the 1940s and 1950s, as with other Cold War liberals such as Friedrich von Hayek, Karl Popper and Isaiah Berlin, can be construed as a riposte to the threats from collectivism to the liberal tradition emanating from Labour at home and communism abroad. The later, more liberal, texts reflect the reality that the enterprise conception of the state had made substantial strides since 1945

Radical wing of the British Liberal party: ‘There is nothing in the whole of Bentham’s works which is either original in conception or exposition’ (1991, p. 147).

³³ See, for example, Cockett, R. (1994), *Thinking the Unthinkable: Think-tanks and the Economic Counter Revolution (1931-1983)*.

³⁴ Margaret Thatcher was Prime Minister from 1979 to 1990. Gray refers to the General Election of 1997, which resulted in a massive Labour majority.

towards dominating the political thought, of all parties. To that extent, the old-fashioned liberal understanding of the state in England, in his mind, had already been heavily contaminated. He was too much of a realist to believe that the enterprise state could be rolled back completely. So his practical objective after 1945 was to ‘undo the work of the progressives’. In *Notebook 18* (March 1964), Oakeshott confessed to this:

I, who hate practically every change in the world since I was old enough to notice, consort with progressives & am unable myself to leave alone the things I am concerned with. What do you make of this paradox? Mostly I suppose it is the undoing of the work of the progressives’ (2014, p. 474).

This was not a unique project. Collini observes that ‘those who in the late 1940’s engaged in the kind of fundamental criticism often alleged to be characteristic of “real” intellectuals tended to be conservative figures like T. S. Eliot or Michael Oakeshott’, who attempted ‘to undermine the self-righteous egalitarianism they saw as the official orthodoxy of the day’ (Collini 2006, p. 137).

The source of much of the confusion surrounding Oakeshott is due to the lack of recognition that his second doctrine had a practical objective and is not merely a philosophical argument. The doctrine could be deployed to slow down or “undo”, to some degree, the work of those who aimed to extend the enterprise state and continue its drift away from old-fashioned liberalism.

One of Oakeshott’s objectives in *On Human Conduct* was to restate the moral presuppositions of the tradition of old-fashioned liberalism in an ideal form. He supplied arguments for those who wished to redirect or “trim” (to use Oakeshott’s favoured expression) the state back on a course more in keeping with the tradition that he valued. I will return to this theme in Chapter Four, when I consider his account of the practice of politics in detail.³⁵ If we accept

³⁵ Efraim Podoksik effects a reconciliation between the liberal and conservative elements in Oakeshott’s thought in a manner not dissimilar to my own. He claims that Oakeshott’s thought as a whole is best understood as a ‘sort of liberalism’ (2003b, Chapter 3). Podoksik interprets Oakeshott’s political thinking as being

the interpretation of his work offered in this Introduction, there is then no real inconsistency between his two doctrines.

Chapter 1. Oakeshott as a Moralist

The purpose of this chapter is to explore the political implications of Oakeshott's interpretation of the human condition and his judgment of what is valuable in human conduct. This will be done by analysing several contrasting "ideal types" that he used to explain his viewpoint on these issues. The contrasts include a religious orientation to the world compared to a worldly orientation; work and play; individualism and collectivism; perfectionism and anti-perfectionism. Based on this analysis it is legitimate to read Oakeshott as a moralist or normative ethicist. That is, he held opinions as to how best we lead our lives and what is important to nurture in human conduct. His preference for a state constituted as a civil association can be seen to be grounded in his conclusions on these two issues: it is the form of association that is best suited to accommodate individuality, pluralism and liberty.

Pluralism permeated Oakeshott's work at several levels. First, there is the modal plurality where practical experience is distinct from the other modes of experience. Second, as will be explored in Chapter Two, there is a plurality of practices in which agents seek their self-sought satisfactions limited only by the adverbial considerations that give content to morality. Third, there is the morality of self-enactment within which agents pursue their own conceptions of self as well as their own substantive satisfactions. These pursuits are again only limited by the practices to which the agents subscribe. Fourth, there are numerous moral practices, just as there are numerous traditions and sensibilities (Flathman 2005, pp. 131-32).

rooted in two traditions of European liberalism, which he calls "Whig" and "Romantic" liberalism. He explains away the apparent tension between Oakeshott's conservative and liberal writings as reflecting 'a shift of emphasis in his writings from the "Whiggish" to the "Romantic" elements of his liberalism' (ibid.).

Together with individuality and liberty, pluralism is the feature of human conduct he found most valuable. Moreover, civil association is the least sympathetic to uniformity, which, in general, he detested: 'There should be as little as possible. Uniformities which emerge (i.e. electrical fittings or in the pitch of nuts & bolts) are better than those which are imposed' (2014, p. 428).

To suggest that Oakeshott sometimes wrote as a moralist raises an objection that was raised in the Introduction: Oakeshott claimed that a philosopher should have nothing to say on practical matters. If we should not conflate theory and practice, we should not mix up the business of theorising morality with recommendations about what to do. This is the business of the moralist: 'If thinking is to issue in valid practical conclusions it must be exclusively practical thinking and must set aside all interests and arguments not determined by the categories of practical experience' (1933, p. 338).

At one level, this claim is uncontroversial. Moral philosophers commonly distinguish meta-ethics, which investigates ethical concepts and assumptions, from normative ethics, which is prescriptive. The former focuses on such questions as, 'What do we mean when we say that this action is right and that wrong?' (ibid.). The latter refers to practical judgments, such as whether it is right to carry out action x or y in a particular situation where a decision is necessary. It is possible to agree that something is good, or that certain actions are right, without agreeing on the ultimate reason why something is good or bad, or an action is right or wrong. The answer to the first question has no bearing on the second. The distinction may well be sustainable. It is unusual, however, to claim that moral philosophy, properly understood, should be conducted only at the second-order level of meta- theorising. Mixing the two activities, attempting to derive valuations from beliefs about what is valuable and what is good, will, Oakeshott argued, 'remain a hybrid and nondescript mode of thought' (1933, p. 339). Moreover, it is a manner of thinking that cannot escape the fallacy of *ignoratio elenchi* at every step. The proper understanding of ethical thought is 'the consideration of the world of practical experience from the standpoint of the totality of experience, the

attempt to define the relation of practical judgment to reality' (ibid. p.340). If this is the case '*we must expect from it no guidance at all in our practical life, no practical conclusions at all*' (ibid., italics added).

There is no reason to doubt the sincerity of Oakeshott's argument in *Experience and its Modes*. In other works, however, he can be reasonably interpreted as writing as a moralist who suggested guidance for our practical lives.³⁶ He offered behavioural prescriptions based on his understanding of the human condition and the constraints of practical life. Oakeshott acknowledged, in response to D. D. Raphael, that most moral philosophers had a practical as well as theoretical aim. He cited Aquinas as being 'both a philosopher and a preacher' (1965, p. 181). In *Experience and its Modes* (EM, 1933), arguably his most philosophical work, he admitted that 'nearly always a philosopher hides a secret ambition, foreign to philosophy, and often it is that of the preacher. But we must not learn to follow the philosophers on the holiday excursions' (1933, p. 1). We will see that there is much more of the preacher, or moralist, to Oakeshott than he cared to admit. If we consider the totality of his works, he took many "holiday excursions". David Boucher, however, dismisses this kind of interpretation and argues that it is the tendency to ask 'where Oakeshott goes on *his* holidays which has generated so much misinterpretation of his political philosophy' (1991, p. 718).

Oakeshott thought civil association to be morally superior to enterprise association as a way of organising a state. In *On Human Conduct* he asserted that civil association is 'as rare as it is excellent' (1975a, p. 180). In his essay 'Talking Politics' he claimed that civil association is especially suitable for individualists: 'Those disposed to choose their own destinations' (1991, p. 460). Civil association is, moreover, the form of association exceptionally suitable for a state 'because it is the only *morally tolerable form of compulsory association*' (ibid., italics added). Oakeshott considered the state

³⁶ There are several collections of essays and book reviews. They include *The Concept of a Philosophical Jurisprudence: Essays and Reviews 1926-51*, (ed. O'Sullivan (2007) and *The Vocabulary of a Modern European State: Essays and Reviews 1952-88* (ed. O'Sullivan (2008)).

necessarily to be a compulsory association. Unlike a corporate enterprise, church or political party, most people cannot join or leave a state. This was self-evident for him: 'No European alive to his inheritance of moral understanding has ever found it possible to deny the superior desirability of civil association without a profound feeling of guilt' (1975a, p. 321). This begs the question of how he interpreted our "moral understanding". This issue will be addressed in Chapter Two when we consider his theory of morality. These quotations demonstrate, however, that he made normatively based claims about the superiority of civil association. The basis of these claims will now be discussed.

The Human Condition

Like St. Augustine, Oakeshott frequently explained the world with reference to the fact of mortality. His musings on this subject occupy a significant part of the *Notebooks* (2014). In his 1929 essay, 'Religion and the World', he asserted that mortality is 'the central fact of practical existence; death is the central fact of life' (1993a, p. 44). In *EM*, he spoke not of mere physical death but of the mortality of every feature of practical life: 'The mortality of pleasures and pains, desires, achievements, emotions and affections' (1933, p. 273). Given this unavoidable reality, he was profoundly pessimistic about the chances of success of those who attempt to find the perfectly good life. The never-ending quest for this ideal is 'a battle with no hope of victory, a battle, in fact, in which final victory is the only irretrievable defeat (1993a, p. 44).

Here, Oakeshott echoed Thomas Hobbes, who famously described the frustrations of practical life in terms of the impossibility of attaining what we aim for as a final state to be enjoyed in itself. Whereas Oakeshott spoke of the search for the perfect good, Hobbes spoke of the restless search for power. Hobbes claimed that this was 'a general inclination of all mankind, a perpetual and restless desire of Power after power that ceaseth only in Death (Hobbes 1651, p. 45). The distinctive characteristic of practical life, for Hobbes and Oakeshott, is dissatisfaction. Practical life is predicated on the transformation

and variability of an existing state of affairs: but ‘nowhere in practice is there uninterrupted progress or final achievement’ (Oakeshott 1933, p. 263, p. 291).

Oakeshott mainly used the *Notebooks* to reflect on his personal preoccupations. Mortality featured prominently: ‘Our first business is, I suppose to live, and the second to understand life’ (2014, p. 153).³⁷ Oakeshott’s starting point was to recognise ‘that the actual conditions of life are always more or less unsatisfactory’ (2014, pp. 286-87). Neither belief in progress nor an ‘imaginative projection of ourselves into a more desirable condition’ can change this reality (ibid.). We must acknowledge this state of affairs as the essential character of the human condition ‘& from it we must derive our values; *they must be the values of mortality*’ (ibid., italics added).

Given Oakeshott’s understanding of the human predicament, which Jacob Segal labels ‘the problem of finitude’, what are the values derived from the fact of mortality? (2003, p. 448) Oakeshott’s answer, as will be elaborated in the following section, is that it is wise to eschew worldliness in favour of a “religious” attitude: to immerse oneself in the transcendent pleasures of “play”. As will become apparent, this conclusion has political implications. It suggests that, as the human condition is necessarily characterised by dissatisfaction, given the mutability of desires and wants, politics consequently cannot, and should not, seek perfection, as such an enterprise is doomed to failure.

Oakeshott’s alertness to the futility of seeking happiness in the satisfaction of never-ending wants may explain why he was largely uninterested in economic matters and the issue of distributive justice. He remarked in the *Social and Political Doctrines of Contemporary Europe* that ‘the most questionable element of Liberal democracy ... is what may be called its moral ideal: the plausible ethics of productivity’, which, he thought, was always the most vulnerable part of the doctrine (1939, pp. xx- xxi). In his review of Howard Selsam’s *Socialism and Ethics* (1943), he expressed his hostility to the view

³⁷ A subject search of the *Notebooks* records 865 references to love, 272 references to mortality/immortality, 163 to Christianity, 206 to politics, and 92 to morality.

advanced by Keynesian liberals, free-market conservatives and New Labour that economic growth is the key objective of social policy and the prerequisite for all other social goals. The conception of the good life as ‘nothing other than the enjoyment by more and more people of more and more of everything’ is ‘a revolting nothingness, which only has to be successful in order to reduce human life to absolute insignificance’ (2007, p. 273).

Religion and the World

In both his early essay ‘Religion and the World’ (1933, *RW*) and his major work *On Human Conduct* (1975a), Oakeshott was concerned with a choice that must be made in human life. How should one orient oneself in the world; and, taking into account his analysis of the human condition, what constitutes the good life? Early in the *Notebooks* we note a distinction between purposefulness and purposelessness. In the context of the question of how we should employ ourselves, the young Oakeshott claimed in 1928 that we should make a virtue of ‘this purpose to be without a purpose, this accomplishment to achieve nothing’ (2014, p. 155). A career cannot save us as it yields only momentary satisfactions yet manifold frustrations. The solution to the problem of finitude is to live life in the present like ‘the art which may be practised for art’s sake’ (ibid.). We will see that this notion of purposelessness became a central feature in his accounts of morality, the rule of law and the state constituted as a civil association.

In *RW*, Oakeshott presented the choice as to how one spends one’s time as being between worldliness and religion. He contrasted “worldly man” with “religious man”. Some commentators have observed the similarity between this and St Augustine’s allegorical distinction between the “two cities” of God and man.³⁸ For Augustine, those in the city of man are oriented primarily to satisfying physical pleasures and immanent fulfilment. These citizens are preoccupied with their desires. They attribute success to their own insight and

³⁸ Glenn Worthington, ‘Michael Oakeshott and the City of God’ (2000); Wendell John Coats Jr., *Oakeshott and his Contemporaries* (2000); Elizabeth Campbell Corey, *Michael Oakeshott on Religion, Aesthetics and Politics* (2006).

understanding, arrogantly praising themselves rather than God. A 'self-assertive egotism', as Elizabeth Campbell Corey observes, is the motivating force that entails valuing worldly goods for their own sake 'not as symbols of God's love for man.' (2006, p. 25). Members of the city of God, in contrast, prioritise spiritual virtues, and do not strive to accumulate material possessions as they focus their energy towards God. They "use" but do not "enjoy" goods, with the objective of achieving eternal life (ibid., p. 26).

Oakeshott's "worldly man" spends his life in the pursuit of immanent ideals. Fulfilment is deferred to the future; he esteems others wholly on the basis of their accomplishments. Religious man, on the other hand, does not postpone satisfaction, but is completely engaged in each moment. He lives in the present: 'the present for the sake of the present - & the present for the sake of life, for the sake of freedom' (2014, p. 193). Religious man finds meaning in current activity and lives life as an end in itself, rather than as a means to some future gratification.

Love, friendship and contemplation, Oakeshott argued, are the religious man's true orientation. Oakeshott found a negative feature of the modern age in 'the radical irreligion of our civilisation', by which he meant that love and friendship are not conceived to be central to life itself, but as subsidiary; a by-product of life (2014, p. 212). He suggested that love should be the central feature of the orientation of religious man towards the world and claimed that love makes our existence intelligible: 'For in love all contraries are reconciled' (2014, p. 3).

His preoccupation with the subject of love, both in theory and practice, has been brought into relief by the recent publication of the *Notebooks*. It was, however, already well appreciated by those close to him. Robert Grant, Oakeshott's biographer, wrote of his love life in his controversial essay, 'The Pursuit of Intimacy, or Rationalism in Love' (2012, pp. 15-46). Grant claims, in response to a critical review by John Kekes, that Oakeshott had told him that the pursuit of love was of 'central, all-trumping importance' and that he

conceived and lived his life according to a philosophy of romantic love (2013).³⁹

This judgment is evidenced by the *Notebooks*. In 1931 Oakeshott claimed that the purpose of life is to seek out the *Belle Dame*: ‘My life has been spent on seeking her; indeed I think that the purpose of life is to seek her’ (2014, p. 210).⁴⁰ Ten of the *Notebooks* exclusively concern matters of love. In the *Notebooks* he admitted that this had distracted him from his philosophical pursuits. As a young man, he wrote, there was ‘something wild in me’; and in old age he thought of himself of having been ‘born under a wandering star’ (ibid., p. 208). He ruefully observed in his later years that he had ‘wasted a lot of time living’ (ibid., p. 507).

We can interpret Oakeshott’s two ideal types, religious man and worldly man, as representatives of two systems of values. Wendell John Coats Jr., like Corey, captures the contrast between his two ideal types, the worldly man and the religious man, as that between “use” and “enjoyment” (Coates Jr., 2000). The orientation of the worldly man is to view everything in terms of its real or potential utility. Worldliness consists of values that give priority to achievement and investment rather than enjoyment. Oakeshott despised this manner of thinking, which sacrifices the present to the future. It is an absurd orientation to the world given the contingency that surrounds any individual life: ‘it is impossible to believe that the purpose of life is to be found in the production of some work, in achievement, in activity’ (2014, p. 150).

Oakeshott claimed throughout his work that each person is responsible for who he becomes.⁴¹ We make our own choices and conduct our lives on the basis of judgments we make by reflecting on our own experience of the world. Each of us is ‘wholly responsible for his own experience; each makes his own choices and conducts his own life on the basis of judgments he makes by

³⁹ Kekes accuses Grant of ‘peddling often malicious hearsay from largely uncheckable sources. Oakeshott was very careful to separate his private life from his work. This should be respected, but Grant tramples on it’ (Kekes 2013).

⁴⁰ A reference to John Keats’ ballad ‘La Belle Dame Sans Merci’ (1819).

⁴¹ Kierkegaard and later existentialists such as Jean-Paul Sartre made similar claims.

reflecting on his own experience of the world' (1993b, 53). It follows for him then that there is a decision to be made between choosing the path of religion and that of the world. Anyone who shared his view of the human condition would have a religious orientation to the world.

Oakeshott deployed the term "religion" in the idiosyncratic sense of living life in full in the present without consideration for the future. He was not religious in any conventional sense. Robert Grant claims that Oakeshott and his first wife were practising Christians in the 1920s, as well as having a deep interest in theology (2012, pp. 17-18). But even in the 1920s, his interpretation of Christianity was unconventional. He claimed in 1928, for example, that 'Christianity has rejected the ethical scheme propounded by Jesus. E.g. the moral outlook of Jesus would for example have countenanced sexual intercourse, but not if it led to children' (2014, p. 147). Most Christians would consider this an extraordinary claim. There is little evidence, moreover, that he regularly practised religion or held any religious beliefs in his mature years.⁴²

Religion, for him, was not a matter of subscribing to a doctrine. It was neither dogmatic nor partisan; it was not a moral code; and it did not rely upon a polarity between the natural and supernatural. In *Experience and its Modes*, he contended that all experience is intermediated through the mind, and consequently there can be no equivalence between natural and supernatural experience. The world of religion is 'no fantastic, supernatural world' as 'it is a spiritual world in which everything is valued, not as a contribution to some development and evolution, but as it is itself' (1933, p. 30). Religion is not judgmental in that it 'does not endorse or prohibit any activities' (ibid.). It does not prescribe a moral code but it indicates the manner in which life should be lived.

⁴² Grant records that Oakeshott claimed 'he always attended chapel when revisiting Caius, of which he was an honorary life fellow. In his later years, however, visiting an ecclesiastical ruin with his pupil David Manning of Durham University, he asked Dr. Manning (who told me this story) to leave him alone briefly so that he could pray' (2012 p. 39, n.12).

Subscribing to a religious scale of value means rejecting utility in favour of enjoyment and living life fully in the moment: ‘What matters is here and now’ (2014, p. 550). Oakeshott rejected the idea that the purpose of leading a religious life is a matter of earning future salvation: ‘A religion dominated by the notion of “salvation” is corrupt (& unchristian)’ (ibid.). Moreover, a belief in salvation is, moreover, a threat to order. He noted that of all the tribulations that have befallen mankind, the most awful have been the ‘wars of religions in which the thought of a future life predominates’ (2014, p. 303).

A religious orientation is a balm to the frustrations inherent in living a life. The essence of practical life is change. We act to change “what is” into “what ought to be”. This results in a new situation, which in turn affects our view of “what ought to be”, leaving us with a new challenge. Even worse, he argued, ‘we may even find that even the “ought not” of one moment is the “ought” of another’, so we might end up going around in circles (1933, p. 291).

Religion is our only respite from the frustrating division between fact and value that we experience in practical life. It is not related to superstition or theology, but represents ‘practical life at its fullest’, so that it ‘is the consummation of all attempts to change or maintain our practical existence’ (ibid., p. 294). Oakeshott was conscious, however, of how problematic it is in practice to consistently undertake to transform the fact of ‘what is here and now’ into the world of value, ‘what ought to be’ (ibid.). Few have the energy and courage to overcome ‘the restraint of prudence or the impediment of doubt’ necessary to complete the task (ibid., p. 295).

Oakeshott did not identify worldliness with the merely material. He did not argue that the material world should be rejected in its entirety and that the spiritual world should be embraced at any cost. He renounced the medieval Christian outlook that, ‘to be unspotted from the world’ meant to renounce pleasure (1993a, p. 29). This would require ‘the invention of a whole psychology’ to convince men that it is an option. The pursuance of ideals, moreover, does not salvage us from worldliness. It is futile to believe that one’s life can be measured ‘by one’s contribution to something thought more

permanent than itself - a race, a people, an art, a science or a profession?' (ibid., p. 32). Such an interpretation of religious life amounts to worldliness taken to the extreme. It is a delusion to think that the reality of the human condition can be hidden 'in the greatness of an agent's devotion to his aims and in his singleness of purpose (...) *the iniquity of oblivion eclipsed by posthumous glory* (1975a, p. 84, italics added).

The example of Oakeshott's use of the ideal types of religion and the world points to an important feature of his methodology. The ideal types are not set up as realisable objectives but as *orientations*. This is the case with all the ideal types that will be examined. In the case of religion and the world he recommended a religious orientation as being a more effective antidote to the problem of mortality. He was realistic enough, however, to recognise that recommending a religious attitude as an achievable objective would fly in the face of human psychology: 'The revolution required to establish this view of life would, of course, be immense, for in many respects it runs directly counter to our established opinions' (1993a, p. 33.). A religious attitude is an ideal that has its home 'in the natural beliefs of youth, undimmed by the sordid demands of age (...) but the world is strong and the savour of the ideal fades away as the disposition to flag grows upon us' (ibid., p. 34).

Outright advocacy of the religious attitude as something that could be attained would further smack of a fanaticism that was utterly alien to his temperament. What Oakeshott despised was the worldliness implicit in a certain set of values, in particular, the style of deliberating that gives pre-eminence to utility, accomplishment and external outcomes. Religion favours self-realisation, and worldliness a futile careerism. Careerism typically requires that satisfaction be deferred to the future, and that present happiness be abandoned for the chance of greater future happiness. He believed that life should be led by the belief that its value is in the present: 'Not merely in the past or the future (...) too valuable to be spent at the pleasure of others, too precious to be thrown away on something he is not convinced is his highest good' (Oakeshott 1993a, pp. 34-35). This quotation flags his egoistical understanding of morality, which will be examined in Chapter Two.

In *Religion and the World*, Oakeshott was not writing as a philosopher, but as a moralist in that he was promoting an understanding of how we should live. The importance of *Religion and the World* here is that it can be read as a statement of Oakeshott's practical philosophy: which is both stable over time and, as I will argue, relevant when interpreting his political works in that it undermines the idea of the state as an enterprise association whose purpose is to promote the material prosperity of its citizens.

It may be argued that too much significance is being given here to *Religion and the World*. It was written in 1929, yet not published until after his death. He wrote, moreover, nothing substantial on the topic of religion in his later work. However, the editor of *Religion, Politics and the Moral Life*, Timothy Fuller,⁴³ claims that he and Oakeshott spoke often on religious topics, particularly in later life (1993a, p. 5). Fuller considers RW important to our understanding of his outlook. To live religiously, for Oakeshott, was to live without regret for the past or calculation of the future as this would result in a loss of self-understanding and the integrity of the self, which was of overriding importance to him. Fuller claims that Oakeshott held this attitude throughout his life and that it permeates all of his writing, even though often elusively or in a concealed way.

Based on Fuller's first-hand testimony, we should allow the view that RW is an important statement of Oakeshott's opinion as how to lead a good life.⁴⁴

⁴³ Professor of Political Science at Colorado College, where he has taught since 1965. Colorado College, a small liberal arts college, is an Oakeshottian outpost in the American west. In addition to Fuller, who has written and commented extensively on Oakeshott, other alumni who have written on Oakeshott include Paul Franco (1990) and Elizabeth Campbell Corey (2006). Oakeshott's celebrated essay, 'A Place of Liberal Learning', was first presented as the Abbott Memorial Lecture at Colorado College in September 1974 (2001, pp. 1-34). Both the 2003 and 2006 conferences of the Michael Oakeshott Association were hosted by Colorado College.

⁴⁴ John Kekes would most likely have a different opinion. In his review of *A Companion to Michael Oakeshott* he comments on Fuller's contribution that he 'writes as if he were Oakeshott's St. Paul, having privileged access given to him from above, a truth he now condescends to share with lesser folk, although without supporting it with reasons' (Fuller 2012, pp. 120-133; Kekes 2013).

The recent publication of the *Notebooks* (2014) supports this conclusion. The material in these regarding religion confounds the standard interpretation of Oakeshott's thoughts on this topic: namely, that he had a keen interest in his youth that significantly lessened as he got older, although it enjoyed a slight revival in old age. The *Notebooks* demonstrate that religion was an almost continuous preoccupation. In particular, the tension between worldly and spiritual values and the problem of how to confront mortality. Luke O'Sullivan observes that the tension between worldly and spiritual values might even be said to summarise the main theme of the *Notebooks* (2014, p. xvi).

In later writings, Oakeshott extended his conception of the good life as essentially "religious" to include culture, which he subsequently defined more precisely as "poetry". In order of importance to the good life poetry is followed by the philosophy, science and history. In his essay on aesthetics, 'The Voice of Poetry in the Conversation of Mankind' (VPCM), he described 'poetic' activity as consisting of a reflection on images with a view to 'delight' in them, which excludes the possibility that poetic activity, like religion, may have practical benefits (1991, pp. 488-541). This contradicts his assertion in *EM* that 'art, music and poetry, in the end, are wholly taken up with practical life' (1933, p. 297).⁴⁵ By "poetry", he referred to all kinds of aesthetic experience and not just poetry: 'I mean the making of images of a certain kind' (1991, p. 509). Oakeshott can be identified with the intellectual movement known as "aestheticism" in England, or *l'art pour l'art* in France. Aestheticism denies the validity of a practical valuation of art and argues for the intrinsic value of aesthetic experience: the 'love of things of intellect and imagination for their own sake' (Pater 1967, p. 33).

In his review of John Cowper Powys's, *The Meaning of Culture* (1930), Oakeshott explained that three different notions of culture have shaped our idea of civilization. The first is the idea of culture as the uncritical acquisition

⁴⁵ Glenn Worthington notes that this is the only example of Oakeshott publicly acknowledging that he had changed a previous judgment (2002, p. 291). In *Rationalism in Politics*, Oakeshott explained that 'The Essay on poetry is a belated retraction of a foolish sentence in *Experience and its Modes*' (1991, p. x).

of knowledge of any sort or kind: ‘the pathetic, febrile eagerness for encyclopaedic information’ (2007, p. 58). The second is culture understood to be the ‘acquisition of “the best that has been thought and known in the world”’ (ibid.). He claimed this view reflected the opinions of Matthew Arnold and T. S. Eliot. A third interpretation, which he attributed to *Epicurus*, starts off by opposing the idea implicit in the first two interpretations that culture can be conceived in terms of acquisition. Oakeshott offered a personal criterion for culture grounded in an ‘improvident desire for freedom, integrity’ (ibid., p. 59). The essential requirement is ‘an integrated self whose purpose is not to remember, adopt or assimilate, but to live a life contemporary with itself’ (ibid.). The past and the future are only relevant to the extent that ‘they come alive in the present’ (ibid.). What is valued in this conception of culture is not the product of experience ‘but the flower- something we know only in present enjoyment (...) death is not Outrun: it is denied, dismissed’ (ibid.).

A cultural orientation towards the world, like the religious orientation, has three features that are relevant to his political thought. First, it is ‘besotted unto liberty’ as exemplified by one of his heroes, Michel de Montaigne; even though this might be ‘improvident’ (Oakeshott 2007, p. 59). Oakeshott regarded a quixotic attitude to risk as desirable for personal fulfilment. Second, he emphasised the integrity of the self as a pre-condition of human freedom. What he meant by “integrity of the self” will be further explored in Chapter Two. Third, the value of an immersion in culture, or poetry, is that it helps us live in the present, rather than the past or the future, and to that extent mortality becomes irrelevant. The real meaning of life lies not in the pursuit of external rewards, which enslaves one to the future and the past, but in the integrity of the self in the present. The adjectives that best characterise his outlook on the world, as described in this section, are libertarian, aesthetic, existential and anti-materialistic: all are pertinent to interpreting his political thought.

Work, Play and Modernity

In a later essay, 'Work and Play' (2004), Oakeshott described religion as merely a practical cessation of worldly activity, a resignation from the 'treadmill existence' of satisfying material wants, rather than an adventure in itself.⁴⁶ He continued, however, to disdain a life dedicated to worldly activities by contrasting the presuppositions underlying our attitudes to work and play. He explained that human beings are creatures of wants, disposed to thinking of the world as supplying material for satisfying wants. The world is seen as something to be exploited. It is something upon which someone may impose her own purposes: 'It is almost an enemy to be conquered, and having been conquered, to be exploited' (2004, p. 304). This had become the dominant attitude over the past four centuries. Oakeshott distinguished between wants and needs. The former is inexhaustible and only a rare individual is able to eschew wants and 'to turn back to needs' (ibid., p. 306). The business of achieving human happiness through the satisfaction of wants is what he called *work*.

The mastery of the human race over its natural environment is a process that has accelerated over time as a consequence of technological development. Oakeshott claimed that two beliefs have taken a hold on us along with the acceleration of this process. The first was the belief that the exploitation of the world for the satisfaction of wants was not only characteristic of mankind but was also proper: 'Indeed it came to be believed that this ought to be the

⁴⁶ 'Work and Play' was first printed in *First Things*, 54 (1995). It was subsequently included in *What is History? and other essays* (Oakeshott 2004, ed. L. O'Sullivan). Worthington judges that the essay was probably written in the decade after 1938. He bases his claim on the fact that art is not explicitly distinguished from other theoretical worlds of experience, as is the case in '*Leviathan: A Myth*', which Oakeshott published in 1948. Worthington acknowledges that a case can be made that 'Work and Play' was written in the late 1950s, as it reflects the philosophical mode of writing that Oakeshott adopts in 'The Voice of Poetry' (2002, p. 296 n. 36). I would incline to the second case. The anti-materialist tone is more relevant to the 1950s economic boom than the austerity of the period 1938-1948. The important point, however, is that Oakeshott expressed the sentiments articulated in WP throughout his life as the *Notebooks* testify.

exclusive attitude and engagement to which all else should be subordinated' (ibid., p. 307).⁴⁷

The pursuit of materialism became elevated to the status of a moral desirability, specifying how we *ought* to spend our lives. Subsequently, in his account, this first belief came to be partnered with an immense optimism about the triumph of this enterprise of exploiting the natural world to gratify human wants. The conjunction of the two beliefs led to the view that laziness and ineptitude in exploiting the assets of the world was not only sinful but also foolish. Furthermore, the materialistic obsession with the exploitation of the world for the satisfaction of proliferating wants has reached its zenith in the contemporary era. We are comfortable with the proliferation of wants and more confident of success. (Oakeshott 2004, p. 308). Characteristic of the modern age 'is the faith and fervour' with which the project is pursued. Everything else tends to be regarded as 'subordinate to the happiness that comes from the satisfaction of wants' (ibid.).

The political ramifications of the belief that exploitation of the world for the satisfaction of wants is both right and proper are straightforward. If exploitation of the world for the satisfaction of wants is to be successful, then the state must be conceived as a managerial enterprise. John Micklethwait and Adrian Wooldridge point out that today the modern state is still more powerful than any in history, even after the cutbacks that followed the financial crash of 2008. They attribute this to the fact that voters have repeatedly voted for the state to do more, even though liberty has suffered: 'Freedoms have been given up, but the people have not gotten much in return' (2014, 'The Politics of Freedom'). The confidence of politicians and policymakers may have been dented by the global financial crisis of 2008-2009. But it has not altered the reality that political success depends mainly

⁴⁷ Oakeshott claimed that Sir Francis Bacon, 1st Viscount St Alban (1561-1626), English philosopher, statesman, scientist, jurist and essayist, was the father of the materialistic outlook (1991, pp. 18-19). Oakeshott claimed Bacon envisioned the state as a corporate enterprise for the exploitation of the earth. This idea was subsequently developed by Saint-Simon, Fourier, Owen, Marx and the Webbs, among others.

on satisfying the wants of the electorate, which are understood largely as delivering increasing levels of material prosperity.

But consistent with his analysis of the limitations of worldliness, Oakeshott claimed that happiness conceived as the satisfaction of material wants is both elusive and fundamentally unsatisfying. Someone who comprehends the world merely as the satisfaction of wants and whose satisfactions spawn new wants interminably 'is a creature of unavoidable anxieties' (2004, p. 309). It is the curse of the human condition that the temporary satisfaction of wants is the best that can be achieved. Each satisfaction creates new wants. The modern world is one 'of getting and spending and making and consuming endlessly' (ibid.).

Throughout his life, Oakeshott was hostile to consequentialist and utilitarian thinking, especially when in the service of materialism. He wrote in 1924 that this manner of thinking 'is the curse of our own day too' (2014, p. 81). Forty years later, he observed that it reduces humanity 'to a race of ants hurrying obediently from school to work, from work to pension, so painless a living that they will not know when they are dead' (2014, p. 456). Human life has become vulgarised due to its almost exclusive pre-occupation with concrete achievements. Science is the exemplar of utilitarian thinking. Scientific achievement, for example, is valued because of its practical applications whereas it should be valued because its 'only human value lies in the excitement of discovery' (2014, p. 468).

The antidote to the depressing consumerist tendency of the human personality consequent on the preoccupation with work lies in "play", which avoids the defect inherent in "work": seeking the interminable satisfaction of wants. Play differs from work in that it is not aimed at the satisfaction of wants, is not anxious to use the world, and offers satisfactions that are not, at the same time, disappointments: 'A life unimpeded by this fatal, but seductive mistress - achievement, purpose, destiny, progress' (2014, p. 244).

In his conception of play, Oakeshott highlighted the feature of non-instrumentality or purposelessness. This idea is central to his accounts of morality, aesthetics, the rule of law, the essence of liberal learning and the moral superiority of the state construed as a civil association.⁴⁸ Reflecting on J. S. Mill's *Utilitarianism*, he argued in the *Notebooks* that 'all that is necessary for a [happy life] is to be **without** this sense of purpose' (2014, pp. 243-44.)⁴⁹ If there is nothing to be achieved, there can be no failure. It is the only invulnerable state: 'Interest centred upon nobody's **destiny**, upon no future **aim**, no **purpose**' (ibid.).

The antithesis of non-instrumentality is utilitarianism: *all* activities are valued in terms of their consequences. Play is a non-instrumental activity: 'In its proper character a game is an experience of enjoyment that has no ulterior purpose, no result aimed at, and begins and ends in itself' (Oakeshott 2004, p. 310). Game playing can, of course, often look more like work than play: it can satisfy wants, whether in the form of prizes, status enhancement, or financial gain. Oakeshott's point, however, was that, properly speaking, play differs from work in the manner in which it is performed. Play is conducted in a leisurely manner: 'Without the anxieties and absence of cessation that belong to the satisfaction of wants' (ibid., p. 311). So a game may be undertaken either in the spirit of work or play. But only play begins and ends in itself.

In the category of play, he also included philosophy, science and history: they aim to explain the world, whereas work seeks to change the world. The most perfect example of play, according to him, is the activity of poetic imagination: 'A dream enjoyed for its own sake' (ibid., p. 312). Poetry as an aesthetic experience captures the world as it is experienced in moments of contemplation, where contemplation is understood to involve images that are

⁴⁸ Oakeshott was greatly influenced in his understanding and appreciation of the idea of "play" by the Dutch historian, J. Huizinga's book *Homo Ludens* (1996, p. 110, n. 12.) Huizinga argued that previous eras of civility in Western Europe were only possible due to a point of view that rejected the notion that everything should be understood in an instrumental or manipulative manner.

⁴⁹ Oakeshott's note: Mill, *Utilitarianism* p. 13, first published in *Fraser's Magazine*, 64 (1861), 391-406, reprinted in *CW*, x. 203-59.

wholly separated from other concerns. In play Oakeshott contended that humans believe they ‘enjoy a freedom and an illumination that the satisfaction of wants can never supply’ (ibid., p. 313).

Oakeshott considered education to be the activity most at risk from utilitarian thinking. The modern tendency, he argued, is to regard it as work, rather than ‘acquaintance with the activities of *Homo Ludens* that was once considered the better part of education’ (ibid., p. 314). His concern about the degrading effect of the utilitarian attitude towards education is amplified in his 1975 essay, ‘A Place of Learning’. Learning should not be a limited undertaking in which what is learned is learned just to the point where it can be put to some instrumental purpose. Learning should be undertaken for itself: ‘It is the engagement and its own standards of achievement and excellence’ (1989, pp. 10-11).⁵⁰

Noel O’Sullivan notes the mood of despair that characterised Oakeshott’s late essay ‘The Tower of Babel’.⁵¹ He suggests that it can be explained by his concern that what he valued in education, social life and the politics of civil association was unlikely to last for much longer in an age which has become almost completely wanting of any appreciation of the significance of play (2001). The utilitarian tendencies Oakeshott construed in the development of public education particularly offended his sensibilities. Rather than being a release ‘from the current vulgarities of the world’ it ‘is now education is merely instruction in the current vulgarities’ (Oakeshott 2014, p. 442).

Oakeshott’s concerns echoed many of those found in the writings of Friedrich Nietzsche. He obliquely acknowledged this in his review of Janko Lavrin’s *Nietzsche* (1948), suggesting that we should recognise in Nietzsche’s writings

⁵⁰ One of several essays he wrote on education, collected as *The Voice of Liberal Learning* (1989).

⁵¹ There are two essays entitled ‘The Tower of Babel’. The first was originally published in 1948 and is included in *Rationalism in Politics* (1991). The second dates from 1979 and is included in *On History* (1999). Oakeshott may have read the theologian R. Niebuhr’s essay of the same name in which he takes the Biblical account of the origins of the world’s languages as a metaphor for human pretension ([Genesis 11: 1-9] Niebuhr 1938, pp. 27-50).

a deep and original analysis of an existential crisis in European culture to which we remain oblivious: ‘The world in which Nietzsche detected the crisis was as insensible of its predicament as we are of the speed at which the earth is whirling through space’ (2007, p. 225).

The *Notebooks* reveal, to a greater degree than previously appreciated, his antipathy to modernity: the ‘modern world and its emphasis on **security** and plan’ (2014, p. 303.)⁵² The degradation of education was symptomatic of wider ailments. The world had become one of ‘violent stimuli’ in all forms of the media that he felt was corrupting to the minds of youth (2014, p. 346).

In the 1930s he was especially critical of the contribution of science to the degradation of civilisation. He believed that a civilisation dominated by science ‘is a menace to civilized life’ (2014, pp. 305-6). In fact, it is worse than a menace. He claimed it had already eradicated from mankind both the expectation and the desire for a civilized way of living. Science has distorted our moral sense and has left us with a civilisation ‘based on false hopes, desires & values: a radical perversion of human life’ (ibid.).

Oakeshott was at his most intolerant in his criticism of the inventions of science: ‘What do people want with all this electricity rushing up & down the country - telephone & telegraph’ (2014, p. 328). He was perplexed as to why we need to have faith in progress as it does not bring relief from our state of imperfection and puts us on the wrong track: ‘Unless we leave this track we never may find salvation in mortal life’ (ibid., p. 339).

His intolerance extended to popular culture. The Beatles exemplified for him the awfulness of popular culture: ‘The indescribable vulgarity of “Sergeant Pepper”’ (2014, p. 519).⁵³ Oakeshott’s dislike of modernity and faith in

⁵² It is evident from the *Notebooks* that Oakeshott read most of Nietzsche’s works as a young man and was still reflecting on these in his mature years (2014, [1922] p. 4 n.1; [1926] p. 107; [1929-1930] p. 164 n.1).

⁵³ Oakeshott did not typify the critical reaction. Time Magazine declared it ‘a historic departure in the progress of music’ and the New Statesman praised its ‘elevation of pop to the level of Art’ (Spitz 2005).

progress was more than aesthetic disdain. It anchored his political thought. In practical terms this disposition led his assault on rationalism in politics, which he believed drove the rapid expansion of the managerial state after 1945.

Anti-Perfectionism

The next antinomies to be discussed are those of perfectionism and anti-perfectionism. Oakeshott's scepticism as to the value of progress was reflected in his antipathy to perfectionism in morals and politics. He claimed it was a historical fact the implementation of utopian ideals always results in disaster and it was necessarily so: 'They must always do so. "Truths" always kill: errors are better, they are sometimes merciful' (2014, p. 408).

He elaborated the dangers of perfectionism in his essay 'The Tower of Babel' (1999, pp. 179-210). In it, he tells of how the human race got into trouble by deserting play and unworldliness, and the consequences of losing what he described in the *Notebooks* as 'the power to let well alone. The thoughtless exploitation of invention' (2014, p. 323).

In the introduction to the essay Oakeshott summarised the biblical tale of Noah and the flood. The inhabitants of the world had unlimited wants and a fierce desire to gratify them and they consequently destroyed the world in pursuit of 'their perverse and insatiable desires' (1999, p. 181). In their relations with one another they were motivated by 'greed, envy, fear and violence' (ibid.). The God of Israel was so appalled by this depravity that he decided to start again by flooding the earth and ensuring that the one family of virtue, that of Noah and his three sons and their wives, should survive.

The central character of 'The Tower of Babel' is Nimrod, grandson of Noah's son Ham: 'The spoilt child of his father's old age (...) Perhaps Nimrod as a teenager can be discerned as the first of the Hell's Angels - noisy and disruptive' (ibid., p. 183). Nonetheless he was admired for his daring and he developed an extensive following of sycophants who submitted to his leadership. Nimrod was both proud and insecure. He saw God as an

immanent threat that might cause his ruin. He therefore resolved to destroy God by building a tower to heaven, from where he could be destroyed. The end of the tale is, of course, well known. God nullified Nimrod's endeavour by "confounding the tongues" of Nimrod and his followers so that they could not understand each other (ibid., p. 160).

Oakeshott updated the biblical story to capture those aspects of modernity he disliked. It is the same story, even if 'the *mis-en-scene* is different and the banalities of modernity qualify the heroism of ancient impiety' (ibid., p. 191). The re-telling takes place in a modern day Babel, whose citizens are fully involved in the pursuit of materialism. Babelians are fickle characters and are readily distracted by novelty: 'The general atmosphere is one of moderate vulgarity' (ibid.). There is widespread dissatisfaction within society. There is a lack of purpose and self-discipline. Babelians are a wayward people who resent government, not as independent, passionate people might do, but 'in the manner of spoilt children' (ibid.). They are constantly looking for more of what they want, and of a better quality. They feel disadvantaged and are prone to resent those who have more worldly goods. Nimrod is aware of his unsatisfied wants even more than his subjects. He blames the condition of unsatisfied wants on God's miserliness: 'Are we not the victims of a cosmic conspiracy?' (ibid., p. 194)

Nimrod persuades the Babelians that they must banish God, so that they may take the goods of heaven for themselves in order to completely satisfy their wants. While the Babelians would not normally agree to such a project, greed gets the better of them and they agree to build a tower to heaven. The project leads to a revolution in their way of life as greed overcomes both laziness and common sense.

The project begins with great energy and commitment. But soon it becomes an all-consuming activity. It results in the total mobilisation of resources, as in war. The amenities and comforts of civil society start to degenerate. Private convenience is subordinated to the public good, which terminates the state of

Babel as a civil association. The inhabitants begin to acquire ‘a communal identity in place of their former distinct individualities (ibid.).

Oakeshott provides several amusing examples of this transition from a civil society of free individuals to a mobilised, purposive society. Bumper stickers proclaim such messages as “Take the waiting out of wanting”.⁵⁴ A new A-level in Tower Technology is established and a degree in Tower Studies is added to the university curriculum. All conduct comes to be recognised only in its relation to the enterprise: “The words “good” and “bad”, “justice” and “injustice” acquire restricted meanings appropriate to the circumstances: to each is affixed the adjective “social”” (Oakeshott 1999, p. 199). As the obsession takes hold, new mental diseases appear that relate to the obsession with towers.

Delight in the project diminishes as the years go by. The progress of the tower dominates conversation so ‘imagination and language [become] impoverished’ (ibid.). The quality of Babel’s social life deteriorates. Its citizens do nothing but work and talk about the common purpose. There is no art or literature, only apprehension about the status of the enterprise and anxiety for its finalisation. In time, the physical resources of the region are depleted. The tower builders resort to cannibalising those of the Babelians themselves. The inhabitants are left to live in tents and caves while they wait for the day they can conquer heaven and seize its treasures. Nimrod takes to ascending to the summit of the tower and remaining there for hours on end. The Babelians suspect he is looking to make a private deal with God. In the end, on hearing an alarm, the Babelians rush up to the tower, which cannot support their weight, and it collapses to the ground, killing them all.

Years later, an archaeologist comes across an inscription on a stone, a forlorn comment on the engagement:

⁵⁴ This was an advertising slogan promoting the *Access* credit card, c. 1973, the precursor of *MasterCard* in the United Kingdom. The slogan was widely parodied as the epitome of consumerist vulgarity and the desire for instant gratification.

Those who in fields Elysian would dwell
Do but extend the boundaries of hell (Oakeshott 1999, p. 210).

The tale of how Babel came to be destroyed contains several elements that are important to understanding Oakeshott's moral outlook.

The tale is a warning of the consequences of greed and the emptiness of a life oriented only towards worldly achievement. Babel is a parody of the modern world as he understood it. The modern world relentlessly encourages consumerist desires. For most people these are impossible to fully satisfy. Even if immediate wants are satisfied, the populace will soon develop new wants for more of everything, and of a higher quality. In this sense we are slaves to consumerism at the expense of individuality and civility.

The central idea in the tale is the recognition that the world is imperfect, but it is falsely assumed that it can be fixed by human remedy. Oakeshott viewed this as both an impious and imprudent assumption. An attempt to better our condition once and for all, manifest in the mind-set of the Babelians as they embark on their project, is a fundamentally unsound activity. It assumes limitless knowledge on the part of humans, as well as the existence of a God who is both flawed and malicious. That the tower project ends in disaster indicates the futility of the search for perfection.

Nimrod is the worse kind of political leader. The implications are reflected in Oakeshott's comments on statesmen and leadership in the *Notebooks*:

We often blame statesmen for lack of enthusiasm, or cynicism, or scepticism - they ought to be sceptical & even cynical - A man without a measure of these qualities is without the basis of really sound judgment - blind enthusiasm never accomplished anything single-handed. A sceptical people is a sad spectacle, a sceptical statesman is a necessity (2014, p. 105).

These sentiments infuse his essays on the practice of politics, which were collected as *Rationalism in Politics* (1991), and which we will discuss in Chapter Four.

There are, however, suggestions of a more positive thesis in Oakeshott's telling of this story. We can discern a different moral understanding in sharp opposition to the Babelian personality. He intimates an alternative "religious" or "aesthetic" notion of the world that is better suited to the human situation. This requires us to accept the world as it is, and our place in it with an elegant modesty, not a permanently dissatisfied sense that it could be made better. The constant pursuit of change and improvement will produce neither relaxation nor satisfaction. Moreover, the pursuit of perfection comes at the cost to individuality, which he perceived as degrading the moral character of the Babelians. It is a debasing business to force all citizens into pursuing a single, all-consuming purpose. The upshot of this common enterprise is to kill the diversity, or individuality, from which civil dialogue springs. So we can read *The Tower of Babel* as a morality tale in which disaster is wrought on its citizens due to an exclusively worldly orientation- an obsession with work to the detriment of play, which is destructive of the individuality of human beings.

Romanticism and the Idea of the Gentleman

Steven J. Wulf summarises Oakeshott's ethical values as 'civilized self-cultivation, personal integrity, restraint from mean endeavours, and a nonchalance concerning risk' (2007, p. 249). He argues that whereas these may constitute an uncommon list of virtues they bring together several models of the gentleman which had long been praised in Victorian and Edwardian British literature and school culture.

Wulf also highlights a notably romantic element in Oakeshott's outlook, an assessment that is reinforced by a reading of the recently published *Notebooks*. In his Introduction to them, Luke O'Sullivan argues that 'his interest in Romanticism was not purely academic; in his youth in particular he

treated it as a living tradition which had a major impact on his approach to life' (O'Sullivan 2014, p. xi). There are elements in his thought that are reflective of a early nineteenth century thinking that can be traced back to Keats, Wordsworth and Shelley.⁵⁵ His dislike of modernity, the tirades against applied science, the empty material and acquisitive tendencies of modern civilisation and our obsession with productivity all point in this direction. The *Notebooks* evidence that Oakeshott read the work of the romantic poets and was influenced by them, especially Shelley who, together with Wordsworth, is usually identified with hostility towards industrial society and its intellectual apologists.

In his study of *Romanticism, Economics and the Question of Culture* (2001), Philip Connell summarises the nineteenth century romantic cultural critique as being apprehensive of modernity, suspicious of science, and hostile to the unfeeling logical thinking of political economy. The romantics considered that the prevailing contours of nineteenth century intellectual life were organised in the vigorous tension between two opposing sensibilities: 'Romantic, conservative, Idealist and "cultured" on the one hand'; and, 'utilitarian, progressive, materialist and philistine on the other' (2001, 'Conclusion: The Politics of Romanticism').

On the basis of the description so far of Oakeshott's orientation to the world "romantic" is an apt description of his outlook. The significance of this for my thesis is considerable. It excludes the possibility that he could be easily assimilated to any of the prevailing popular political ideologies. With the possible exception of environmentalism, all of the others are utilitarian, progressive and materialist. This suggests that the best interpretation of his work as a whole is as a nostalgic paean to a way of life, and its political arrangements, which I have called old fashioned liberalism, that he felt were fast disappearing.

⁵⁵ 'Wordsworth and Coleridge's 1798 *Lyrical Ballads* are considered the originary moment of English Romanticism', and 'the tradition of Romantic anti-economism in British social criticism begins with the response to Malthus's essay on population on the part of the "Lake School" of poets comprising Wordsworth, Coleridge and Southey' (Connell 2001, Chapter One).

In his 1948 review of C. E. M. Joad's *Decadence*, he remarked that 'he thinks that the *douceur de vivre* disappeared in 1914 (*I should have put it at 1906*)' (2007, p. 239, italics added). The reference to 1906 as a turning point is of significance. According to Micklethwait and Wooldridge, the Webbs had, by this time, converted most educated opinion to the view that the state was obligated to provide a national minimum of welfare and education (2014, Chapter Three).⁵⁶ The Liberal party won a large majority in the House of Commons on 8th February on a platform of welfare reform. So Oakeshott's remark can be seen as a reference to the death of "old-fashioned liberalism". The *Trades Disputes Act*, which legalised picketing, and the *Workingmen's Compensation Act*, which allowed for damages to be paid in the event of industrial accidents, were both enacted by the government headed by Sir Henry Campbell-Bannerman in that year; as was the introduction of free school meals for needy children. These legislative acts presaged the welfarism sponsored by the subsequent Liberal administration of Herbert Asquith and championed by his Chancellor of the Exchequer, David Lloyd George. The introduction of a National Insurance scheme in 1908 to provide old age pensions, the 1909 budget against poverty, and national insurance for the sick and unemployed (1911) arguably marked the point at which the transformation of the state from a civil association to an enterprise association, or welfare state accelerated.⁵⁷ After the election of the Liberal Government of 1906, there was growing agreement about the desirability of increased public expenditure, particularly for the purposes of social welfare.

The virtues Oakeshott most esteemed can be connected to the romantic ideal of the gentleman: "Physical" courage, nerve, respect for tradition & contempt

⁵⁶ Sidney Webb (1859-1947) and Beatrice Webb (1856-1943), leading lights in the *Fabian Society*, co-founders of the London School of Economics and Political Science and the *New Statesman*.

⁵⁷ Virginia Woolf made a strikingly similar observation on this period in her essay on the advent of modernism: 'On or about December 1910 human character changed. I am not saying that one went out, as one might into a garden, and there saw that a rose had flowered, or that a hen had laid an egg. The change was not sudden and definite like that. But a change there was, nevertheless; and since one must be arbitrary, let us date it about the year 1910' (1924).

for convention, a proud sense of personal honour, an indifference to death: an aristocrat'; to which we should add, a romantic outlook (Oakeshott 2014, p. 507). The *Notebooks*, moreover, fill out the historical roots of Oakeshott's veneration of this character type. They begin with the Aristotelian ideal of the good man as a distant precursor of the English gentleman. Luke O'Sullivan suggests that it is likely that he came to appreciate the importance of character in understanding action and the importance of play and conversation as indispensable elements of civilised life through his study of Aristotle's *Ethics* (2014, p. xiv). Oakeshott described the gentleman as 'the standard of Hellenic Life and Culture' (2014, p. 48).

The *Notebooks* demonstrate that the traditional version of the aristocratic character, or gentleman, that Oakeshott admired, came from France in the seventeenth century, as much as from England in the nineteenth century. The essential characteristics of a gentleman are captured by what he called *Prud'homie*. He defined this as 'the moral characteristic of "integrity", "probity"' (2014, p. 461). He quoted from Pierre Charron's *De La Sagesse*: 'true *Prud'homme* is free, candid, manly, generous, cheerful, pleasant, self-possessed, constant, it walks with a firm tread, is bold and confident, pursuing its own path' and 'not changing its gait & pace for wind or weather' (ibid).⁵⁸

The essence of the gentleman is that he understands the importance of holding fast to one's own identity: 'The greatest thing in the world is to know how to belong to oneself' (de Montaigne, quoted in Oakeshott 2014, p. 483). Of Oakeshott's near English contemporaries, the radical novelist D. H. Lawrence was the best exemplar of this attitude (O'Sullivan, L., p. xxiv).

The virtue to which Oakeshott devoted most attention in the *Notebooks* is courage, which he thought was closer to being a hereditary virtue than any other. Lord Nelson was referenced too as an historic exemplar.⁵⁹ Oakeshott

⁵⁸ Pierre Charron (1541-1603), theologian and philosopher, was a contemporary of Oakeshott's sceptical hero, Michel de Montaigne (1533-1592): 'One of the two most remarkable men to have lived' (Riley, *op. cit.*, 33). The other being S. Augustine.

⁵⁹ Horatio, 1st Viscount Nelson, KB (1758-1805), another of Oakeshott's heroes, died in action at the Battle of Trafalgar, 21st October 1805 (2014, pp. 364-70). Among

claimed that Nelson was not driven by 'exterior success' or 'tangible ends' but by 'interior success' - 'honour', 'reputation', 'fame' (2014, p. 364). He noted Aristotle's claim that 'courage is no mere matter of discipline, but is an energy of the individual soul - a quality of character' (2014, p. 45). The antithesis of courage is the 'safety-first' attitude as a guide to life 'it is all very well in getting off a bus!', but which he considered 'immoral' (ibid.).

Shirley Robin Letwin, Oakeshott's colleague at the LSE, close friend, literary executrix and dedicatee of *On Human Conduct*, wrote in her book *The Gentlemen in Trollope* (1982) that the first attempt to formulate the concept of the morality of the gentleman was Oakeshott's *On Human Conduct* (1982, p. 276).

She listed three gentlemanly virtues, which are intimated in Oakeshott's work. First, a gentleman equates virtue with integrity. This is a consequence of his understanding of what it is to be human. As an aversion to self-contradiction is the basis of integrity, 'and a gentleman understands himself to be one among others like himself, his respect for his own integrity entails respecting the integrity of others' (ibid., p. 67).

Second, a gentleman is both diffident and courageous. Diffidence reflects 'a pervasive awareness of the limitation of all human reason' (ibid., p. 70). Projects to change the world to correspond to some image of perfection are viewed as ridiculous or hazardous: 'To be constantly active on behalf of the future is not, for a gentleman, a virtue, but a vice' (ibid., p. 69). A gentleman values courage because he recognises that 'a man swayed by every hostile voice will soon reduce his life to absurdity' (ibid., p. 70).

Thirdly, a gentleman recognises that honesty is a pre-requisite for respect of oneself and others. Honesty means that one is clear about what one knows and does not know. As integrity is prized, all actions and utterances must be

Oakeshott's planned but unrealised projects was a biography of Nelson (2014, p. 126).

consistent with the sense of self. Honesty further requires that a gentleman takes into account the character of other people (Letwin 1982, pp. 71-72).

Individuality

Furthermore, the morality of a gentleman is based upon a commitment to robust agency and freedom: the ingredients of individuality. We can understand the motivation behind Oakeshott's advocacy of *nomocracy*, or civil association - the rule-based, non-purposeful conception of the state – as being the form of the state most conducive to the demands of individuality. In *OHC* he described the association as a *civitas peregrina*; an association of adventurers, not of travellers to a shared destination. Each adventurer responds 'as best he can to the ordeal of consciousness' in a world that consists of others like him (1975a, p. 243). Each is 'the inheritor of the imaginative achievements (moral and prudential) of those who have gone before' (ibid.). All are related in a diversity of prudential practices 'but here partners in a practice of civility' (ibid.).

Oakeshott's commitment to robust individuality has been widely acknowledged. Ian Tregenza observes that it is difficult to avoid the conclusion many commentators have reached regarding Oakeshott's preference for this [civil] type of association 'on account of it privileging a contingent, historic disposition to cultivate individuality' (2003, p. 215). We should note, however, that Oakeshott had a different conception of individuality from Rawlsian liberals. The latter strip away the particularity of individuality to draw normative conclusions from the rational preferences of what Michael Sandel calls "atomised" or asocial individuals (1982). Communitarians criticise Rawlsian liberalism as lacking the conceptual resources to appreciate the constitutive nature of communal attachments that undermine the conclusions drawn from hypothetical rational preferences.⁶⁰

⁶⁰ For communitarian criticism of liberalism, see Michael Sandel's *Liberalism and the Limits of Justice* (1982), Michael Walzer's *Spheres of Justice* (1983), and Alasdair MacIntyre's *After Virtue* (1981).

For Oakeshott, the individual and society were two sides of the same totality. In an early essay, 'Some Remarks On the Nature and Meaning of Sociality', this was expressed in Idealist terms. He argued that society can be examined from two sides: 'We may see it as made up of individual selves, and we may see it as being the substance of those selves (1993a, p. 46). Both sides are abstractions: 'The whole is like a medal which, [though] we can ordinarily see but one side at a time, is essentially made up of both' (ibid.) Individuality is expressed in determining one's own place within society: 'Only through his particular station and the faithful performance of its particular duties, can [man] take hold of this thing called "humanity"' (2010, p. 112).

Individuality emerges from the society of other men and can only be expressed in the context of that society. There is a clear distinction between the social and the personal, but they are not incompatible: because social life is the context within which private life flourishes. This position was repeated in Oakeshott's 1949 review of J. D. Mabbott's *State and the Citizen* (1948). He claimed to understand a "private individual" as an institution: a social, indeed for the most part a legal, creation, whose desires, emotions, ideas, intelligence, are social in their constitution' (2007, p. 256). The individual would collapse 'like a body placed in a vacuum' if he were detached from the social world which is the precondition of his existence (ibid.). Oakeshott felt that Mabbott made a mistake in attempting to specify the limits of state action. This was based on a false notion of individualism by drawing lines around the "private individual" and invoking a false distinction between social and non-social goods.

Michael Minch observes that 'it is difficult to find [Oakeshott] addressing the concept of individuality without theorizing it as a moral term or considering it in a moral context, for purposes of moral understanding' (2000, Section 2: Before *On Human Conduct*). Individuality permeated Oakeshott's account of morality and the interpretation of freedom that grounded his preference for civil association.

In order to specify what he meant by “individuality”, I will focus on his discussion of the subject in two of his essays: ‘The Moral Life in the Writings of Thomas Hobbes’ (Oakeshott 1975b) and ‘The masses in representative democracy’ (1991); and in *On Human Conduct* (1975a). Hobbes was an especially important reference for him. The significance of Hobbes is that he was, according to Oakeshott’s controversial interpretation, the first philosopher to provide a satisfactory account of the morality of individuality and the state; understood as a non-purposive civil association regulated by the rule of law: ‘In Hobbes, we may recognize a writer who was engaged in exploring that idiom of the moral life I have called the morality of individuality’ (1975b, p. 83). In this aristocratic idiom of morality, ‘a man’s identity is what he understands himself to be’ (2014, p. 478). Morality is not obedience to rules, but a man’s loyalty to his identity. All morality consists in loyalty, honour and pride. Oakeshott controversially claimed that Hobbes was writing for those whose main interest is to understand human beings ‘more concerned with honour than with either survival or prosperity’ (1975b, p. 133).⁶¹

He observed on several occasions that ‘what we are is ... what we believe ourselves to be’ (1975b, p. 81). This idea is central to his account of freedom and morality. In *The Voice of Liberal Learning* (1989), he explained this further. The inherent freedom of an individual consists not only in his skill in making assertions that express his self-perception. It consists ‘in the world’s being for him what he perceives it to be and in his being what he comprehends him to be. A human is “free” (...) because he is *in* himself what he is *for* himself’ (1989, p. 4). A moralist who does not accept this risks falling into absurdity. It is important to recognise that the variety of moral conduct present in our civilisation is primarily differentiated ‘not in respect of their

⁶¹ Skinner remarks that Oakeshott ‘was widely understood as an illuminating commentator on Hobbes and I must say I found him virtually unreadable on that subject’ (Skinner 2002b). J. H. Muller is another writer who points out that ‘Oakeshott - without, one might say much textual evidence - now unearthed (or bluntly put: invented) a Hobbesian man too proud to settle for “gilt-edged security” (2010, p. 324).

doctrines about how we *ought* to behave, but in respect of their interpretation of what in fact we are' (1975b, p. 81).

Oakeshott argued that there are three idioms for expressing our understanding what we are. These have been evident in the history of European morality over the last thousand years. He described these as 'ideal extrapolations of what has actually been felt', which means they have not been actualised in their purest form (*ibid.*, p. 83). They are first, the morality of communal ties; second, the morality of individuality; third, the morality of the common good. Oakeshott used the expression *moral idiom* to indicate that the particular idiom is art, a construction of human beings, and not a product of natural necessity: 'It is the product not (of course) of design, but of numberless, long-forgotten choices' (*ibid.*, p. 82).

In a society where a morality of communal ties prevails, persons are recognised 'solely as members of a community and all activity whatsoever is understood to be communal activity' (*ibid.*, p. 81). Distinct individuals who are willing and capable of making choices for themselves are unknown. The circumstances in which such individuals can thrive are not in place. Good conduct is understood as making an appropriate contribution to the unchanging activities of the community. It appears that individual choice does not exist in such communities: 'What ought to be done is indistinguishable from what is done; art appears as nature' (Oakeshott 1975b, p. 82). Morality appears as a detailed ritual: 'it is the product, not (of course) of design, but of numberless, long-forgotten choices' (*ibid.*).

In a society where a morality of individuality dominates, human beings are identified, 'because they have come to recognize themselves in this character', as distinct and autonomous individuals. They are associated not in executing a common undertaking but in an 'enterprise of give and take, and accommodating themselves to each other as best they can' (Oakeshott 1975b, p. 82). Individual choice is paramount; most of happiness is connected with its exercise. Approved conduct is 'that which reflects [the] individuality understood to be characteristic of human beings' (*ibid.*).

According to Oakeshott, the idea of individuality emerged first in Italy. He quoted Jacob Burckhardt in his 1961 essay 'The masses in representative democracy' (1991, pp. 363-83). Burckhardt wrote that at the end of the thirteenth century Italy began to 'swarm with individuality': 'The ban laid on human personality was dissolved; a thousand figures meet us, each in his own special shape and dress' (1991, p. 365).⁶² The modern individual subsequently moved northward, as circumstances favourable to the exercise of individuality emerged. He considered, moreover, the emergence of individuality to be the 'event of supreme and seminal importance in modern European history' (ibid., p. 382).⁶³

The emergence of the modern individual generated an appropriate moral vocabulary. A disposition to make choices was celebrated, and self-determination was commended as a positive good. Freedom was elevated to a necessary aspect of human dignity. Conduct was judged in its contribution to the cause of human freedom. This morality, according to Oakeshott, 'received its classic expression in the *Essays* of Montaigne (...) a reading of the human condition in which man's life is understood as an adventure in personal self-enactment' (1975a, pp. 240-41). This understanding paralleled the emergence of a new age of human nature that Oakeshott described as protean: 'A character distinguished from all others on account of his multiplicity and of his endless power of transformation' (1991, p. 366).⁶⁴

Human individuality was a postulate of moral philosophy in modern Europe from the sixteenth to the nineteenth centuries. Oakeshott listed Locke, Kant, Smith and Burke as well as Hobbes as ethical individualists (Oakeshott 1993b, pp. 47-72). Individual autonomy is a presupposition of their moral theorising.

⁶² Jacob Burckhardt, *The Civilization of the Renaissance in Italy*, trans. S.G.C. Middlemore (London: Penguin Books, 1990, p. 98).

⁶³ Oakeshott's assertion that a deep change in social attitudes occurred at this time has plenty of historiographical support according to Luke O'Sullivan (2000, p. 145). He references A. Black (1988, pp. 98&ff; 1980, p. 145); Q. Skinner (1978, p. 3); W. Ullman (1966, p. 5, p. 32) and A. MacFarlane (1978, pp. 52-54).

⁶⁴ Proteus was a god of the sea in Greek mythology - 'the Old Man of the Sea' - Homer. A metaphor for pluralism.

Significant questions about individual obligation and relationships are always considered from the perspective of the autonomous individual. For Kant, for example, moral activity consists in the mutual recognition of individuals understood as ends in themselves, not merely as means to satisfying our wants; and interference in the choices of other individuals is considered a denial of moral autonomy (Kant 1997, p. 41).

The third idiom, morality of the common good, or collectivism, springs from a completely different reading of the human character. Although humans are acknowledged as separate centres of being, moral approval is given to conduct that suppresses individuality whenever it conflicts, not with the individuality of others, 'but with the interests of a "society" understood to be composed of such human beings' (1975b, p. 82). In this idiom, morality is the art through which the condition known as the social good or the common good is maintained. Not all people, Oakeshott admitted, welcome the opportunity to make their own choices. Such a person he called the individual *manqué* or non-individual: 'Those who (...) are disposed to prefer substantive satisfactions to the adventure and risk of self-enactment (1975a, p. 276).⁶⁵ He made clear his contempt for the individual *manqué*: 'We need not speculate what combination of debility, ignorance, timidity, poverty or mischance operated in particular cases to provoke this character', and what prevents the individual *manqué* from enjoying the rights of individuality are not his circumstances, but his character. He came to demand rights of a certain kind that are incompatible with those appropriate to individuality. The enjoyment of happiness replaces the right to pursue it. Security is prioritised over personal choice and 'having to meet the vicissitudes of life from his own

⁶⁵ Oakeshott read Jose Ortega Gasset's *Revolt of the Masses* in the 1930s (2014, p. 292 n. 16). Ortega Gasset claimed that mass man of today has two fundamental psychological traits: 'The free expansion of his vital desires, and therefore, of his personality; and his radical ingratitude towards all that has made possible the ease of his existence. These traits together make up the well-known psychology of the spoilt child' (1964, p. 58). According to David Manning and Ysanne Carlisle, Ortega Gasset felt that the alliance of technocracy and democracy had all but destroyed the spiritual foundations of two thousand years of Western civilization. (Manning and Carlisle 1995, p. 485).

resources' (ibid., p. 378). As this state of affairs is impossible unless it imposed upon everyone, the rights pertaining to individuality must be removed.

The political consequences of the emergence of a collectivist morality are pernicious. In response to the 'misery of guilt' felt by the individual *manqué*, there emerges a certain type of leader: 'A man more disposed to mind other people's business because he lacked the skill to find satisfaction in minding his own' (Oakeshott 1991, p. 374). The moral language of the individual *manqué* and their leaders is not one of liberty and self-determination, but of equality and solidarity, the nucleus of which is the concept of human circumstance represented as the common good.

Oakeshott had no sympathy for the collectivist moral idiom. He described the individual *manqué* in utterly contemptuous terms. The characteristic of mass man is 'a moral, not an intellectual, inadequacy' (ibid., p. 380). He cannot cope with making his own choices. He is dangerous due to his submissiveness. He is an unmistakably 'derivative character, an emanation of the pursuit of individuality, helpless, parasitic and able to survive only in his opposition to individuality' (1991, p. 380).

This line of thought is broadly in the tradition of Nietzsche. Keith Ansell-Pearson claims that for Nietzsche, the danger was that society would ignore culture and let philistinism to take over. In this case society becomes made up of a 'herd of "last men and women"' who are preoccupied with material happiness 'and who cannot conceive of anything higher or nobler (uber) beyond themselves' (1994, p. 6). In 'The Masses in Representative Democracy', Oakeshott claimed that anti-individuality had established itself as one of the dispositions of the modern European moral character well before the nineteenth century and that this disposition was evident enough for it 'to be recognised unequivocally by Sorel, and to be identified by writers such as Nietzsche, Kierkegaard and Burckhardt as the image of a new barbarism' (1991, p. 376).

Oakeshott's contempt for the individual *manqué*, or mass man, is obvious. Adjectives such "parasitic", "helpless", "debility", "timidity" are frequent.

Oakeshott undoubtedly esteemed the morality of individuality, as it allows individuals the opportunity to exercise their autonomy and enjoy the adventure and risk of self-enactment.

This chapter has sought to highlight the values and ideals that informed Oakeshott's conception of the good life and his orientation to the world. The relevance of this to his political theory will become evident. His advocacy of the merits of civil association can be understood as a normatively grounded attempt to specify the form of civil society most suited to the ethics of a gentleman, as described by Letwin. Chapter Two turns to an examination of Oakeshott's account of morality and how it links with his advocacy of the merits of civil association.

Chapter 2 - Morality and its Presuppositions

A morality of individuality

Within the secondary literature, relatively little attention is paid to Oakeshott's theory of morality, as noted by Michael Minch: '[His] theory of morality (...) is woefully unattended' (2009, Introduction). Such neglect is unfortunate as his account of morality informed his preference for civil association and his understanding of justice, which will be examined in Chapter Three. Oakeshott did not construct a formal moral theory, but much of what he wrote related to general principles of morality. In the first 'Tower of Babel' essay he claimed that his task was to consider 'in particular the form of moral life in contemporary Western civilisation' (1991, p. 467). He focused on explaining what was concrete in our historical experience of moral life. In *OHC*, in contrast, he offered an account of morality as it pertained to his theoretical understanding of human conduct (1975a, pp. 60-81).

Oakeshott defined moral practice as activity 'which may be either good or bad' and 'refers to conduct where there is an alternative' (1991, p. 466). That is, freedom is a postulate of morality. He repeated this in his essay 'The Moral Life in the Writings of Thomas Hobbes'. He wrote that moral life 'appears

only when human behaviour is free from natural necessity; that is where there are alternatives in human conduct' (1975b, p. 80). Whatever morality is, it necessarily presumes freedom, because choice presumes freedom: 'The freedom without which moral conduct is impossible is freedom from a natural necessity which binds *all* men to act alike' (ibid.). It follows that whatever restricts choice is immoral. But moral conventions, like laws, limit choice by ruling out certain actions if we subscribe to moral convention and law. How he reconciled morality and freedom will be examined later in this chapter.

Oakeshott's understanding of morality will be examined under four heads. The first is the role of the self in his account. The second is his preference for a traditional, or "habitual", morality over one based on rules. The third is his account of the relation between his understanding of "freedom" and the moral sphere. The fourth is his claim that morality is not instrumental or purposeful, but "adverbial". To varying degrees, his interpretation of these ideas explains his preference for civil association.

The Self

As a preliminary to understanding his morality of individuality, it is essential to note how he conceived the "self", a conception he derived from the British Idealist tradition. Idealists identify reality with experience. Experience is self-authenticating. There is nothing external to experience, no external reality to corroborate it. Everything in experience is an idea, a part of awareness. The world is understood as a mental construct. Things exist but never independently of the mind. The self brings coherence to all that is known in experience and it is the starting point for Oakeshott's understanding of "individualism". We can understand the world as composed of selves who have constructed their identities out of their experiences. The self always participates in defining its world. The self constructs a world, making meaning a convention: 'In thought there is nothing analogous to the painter's colours or the builder's bricks - raw material existing apart from the use made of it' (1933, p. 19).

There is no such thing as shared or communal knowledge. Ultimately, each individual constructs what he knows. The self is both the starting point in experience and the entity that makes experience coherent. Stuart Isaacs claims that Oakeshott developed from Bradley a way of situating the individual as 'sovereign in moral discourse. This standpoint is tied to Oakeshott's general philosophical position that privileged the individual in practical experience' (2006, p. 34). We can see that his reverence for individuality was rooted in something more than mere prejudice.

Oakeshott argued that a presupposition of moral practice is the integrity of the self. The concept of self-realisation to preserve the integrity of the self was a central concern of British Idealist moral thought. As noted, this was the dominant mode of ethical thought between 1870 and 1890 and it was very influential for another 20 years after that. For F. H. Bradley, whom, as we have noted, Oakeshott cited as an intellectual influence, the starting point for understanding morality was the question, "What is the end of morality?" Bradley wished to reject the validity of the question, as it implies that moral activity is a means to an end, and that the end is the justification for morality (Bradley 1876, 64). Instead, he wanted to demonstrate that morality is an end in itself. In *Ethical Studies*, he answered his question by claiming that the ultimate end for man is self-realisation: 'If the life of the normal man be inspected, and the ends he has in view (as exhibited in his acts) be considered they will roughly speaking be embraced in one main end or whole of ends' (ibid., p. 70). The one main end for Bradley was self-realisation.⁶⁶

Through self-realisation, we make real the intimations and insights we have regarding ourselves by talking and behaving in ways that reveal our individual character. All that we do is part of the process of self-realisation. Each performance is an effort to find out one's native aptitude and talents, and actualise them. At the centre of self-realisation is the idea that a self is 'always

⁶⁶ Bradley came to the conclusion that self-realisation could not be achieved through morality alone, as religion is the concrete whole of which morality is an abstraction: 'That in morality only is to be, in religion somewhere and somehow really is' and to realize yourself 'you must resolve to give up your whole self, your entire will, into the will of the divine' (1876, pp. 324-325).

in the making' (Milne 1962, p. 29). Self-realisation is not something that can ever be achieved in its entirety. It is a never-ending process of making choices and performing actions that reveal an agent's self-understanding.

Oakeshott developed this argument in the first essay in *On Human Conduct* (1975a, pp. 1-107). He articulated his theory of moral conduct by drawing a distinction between "self-disclosure", where agents realise themselves in their actions, and "self-enactment", where they realise themselves in their motives. In his account, we hear the echoes of earlier Idealist arguments. Both aspects of moral behaviour - self-disclosure and self-enactment - are derived from the Idealist idea of self-realisation. An agent morally discloses his actions by being consistent with rules, laws and other conventional moral practices. Oakeshott called this self-disclosure. The upshot of actions can be assessed by the success or otherwise of what they were intended to achieve. The morality of self-disclosure evaluates the actions of agents in their relations with one another as they 'procure their imagined and wished for satisfactions' (1975a, p. 70). "Good" and "bad" conduct is judged by its conformity with the moral rules in place, the authority of which is accepted by agents. There is little scope for the expression of individuality beyond the interpretation of moral conventions. Behaving morally in this sense is little different than following the rules of etiquette.

But moral conduct may also have a motive without a specific end. Oakeshott called this self-enactment. In his concept of self-enactment, we can find a description of how moral individuality is exercised. Self-enactment refers to actions understood in terms of what motivates them. By motive he meant the sentiment in which an action is performed such as 'greed, fear, passion or resentment' (ibid., p. 72). These sentiments, analytically at least, are distinct from the way in which an action is performed. They potentially offer a way to ameliorate the frustrations and disappointments of self-disclosure, by permitting an agent to manifest an attitude towards the world that does not depend on the successful pursuit of satisfactions.

Oakeshott noted that other philosophers had made the distinction between disclosure and enactment without describing it in such precise terms, but disagreed as to its moral significance. Utilitarians, such as J. S. Mill, tended to evaluate the moral worth of conduct solely in terms of its outcomes. Aristotle, in contrast, was concerned with the “virtue” of actions as distinct from the moral quality of their outcomes; while Kant assigned primacy to the motive of actions in judging their moral worth.

Oakeshott considered self-disclosure and self-enactment as two distinct considerations that are present in all human activity. Each is recognised in terms of a language of moral conduct. The distinct considerations respectively concern ‘justice and guilt on the one hand’ and ‘honour and shame on the other’ (1975a, p. 71, n. 1). Self-disclosure distinguishes an agent’s conduct in seeking what he wants from conduct in respect of an agent ‘thinking as he chooses to think and enacting or re-enacting himself as he wishes to be’ (ibid., p. 72).

He argued that a major difference between self-disclosure and self-enactment is that the former is ‘infected with contingency’ (ibid., p. 73). It is an agent’s reaction to an incidental situation and as such its outcome will be influenced by other agents who will have their own objectives the performance may will be defeated or, at least, compromised. Oakeshott was again describing the tyranny inherent in the very nature of practical life and the frustrations that will accrue to those agents who, while conforming to prevailing moral rules, judge themselves solely in terms of the outcomes of their projects. A morality of self-disclosure does nothing ‘to modify the interminability of doing’ (ibid., p. 74

But where the activity of agency is self-enactment, where the forethought is not what is expected to be realised, but the disposition with which it is done, conduct is liberated from its attribute as a response to a contingency and emancipated from its liability to experience frustration in adverse circumstances. The reason is that what an agent chooses to think and do relates to his self-perception and self-respect for himself, to the integrity of his

character, and not to his understanding of a contingent situation which obliges him to act. Moreover, Oakeshott argued, through self-enactment 'doing is delivered, at least in part, from the deadliness of doing' (ibid., p.74).

With respect to the sentiments or motives behind our conduct, morality specifies the 'conditions of worthy self-enactment', the character of which 'will depend upon the quality of these sentiments in terms of their subscription to a moral practice' (Oakeshott 1975a, p. 75). The language is that of "virtue", and virtuous self-enactment means learning to use the language as it should be spoken. Morality should not be thought as obeying commands to act according to certain sentiments but as 'responding to an invitation to choose and to cultivate some sentiments rather than others in which to act' (ibid.). No one principle underlies virtuous conduct beyond the consideration that it cannot be virtuous unless it is chosen. That is, it implies reflectivity on the part of an agent.

Oakeshott specifically counselled the reader not to confuse virtuous with altruistic conduct. The latter, he controversially claimed, refers to considerations regarding actions from the viewpoint of their consequences whereas virtuous conduct is indifferent to consequences. And it is this indifference to consequences which constitutes the release of conduct 'from the bondage of contingent circumstance' (1975a, p. 76). So self-enactment refers to how *we* evaluate our actions in terms of their motives. Others cannot make this evaluation as they do not have access to our considerations as to what constitutes virtuous self-enactment. It is 'the requirement of thinking about himself as he should while doing what he ought: Conduct which notably fails to observe this is *shameful*' (ibid.).

What is striking in his account of morality as self-enactment is, once more, the radical individuality of his argument. He offered no way of judging which kinds of 'self-enactments' are better, and appeared to think that making judgments of the self-enactments of others is an error. The individualistic perspective is built in to his theorising of human conduct. If human conduct is understood in terms of the relationship between intelligent agents, the notion

of individuality is a postulate of human conduct. It is, as Podoksik notes, theoretically necessary, and not merely contingent in Oakeshott's account of human conduct (Podoksik 2003b, Chapter 3). The contingency is the emergence of human conduct in the first place: 'A historic disposition to transform this unsought "freedom" of conduct from a postulate into an experience' (Oakeshott 1975a, p. 236).

Oakeshott's account of the practical life is dominated by his view of the actions of the self. Morality is concerned with self-realisation or, as expressed in *OHC*, with self-disclosure and self-enactment. In self-enactment, an agent can develop and reveal his individuality by freely choosing sentiments on the basis of which he acts. But we have neither a right nor a duty to promote the moral perfection of others. We cannot promote the good of others without destroying the freedom inherent in agency. This argument clearly anticipated his advocacy of civil association on the grounds of protecting the freedom inherent in agency, and respecting and encouraging individuality.

If the end of man is self-realisation, this raises the question of whether the state has any role in promoting the self-realisation of individuals. Most early Idealists attempted to calibrate the role of the individual agent as a distinct moral individual and her responsibility as a member of a community. T. H. Green and Bosanquet, for example, used the idea of self-realisation to ground a 'politics of responsibility to set against triumphant laissez faire' (Quinton 1971, p. 6). They hoped to rid society of obstacles to the realisation of self, such as squalid social conditions, the evils of drunkenness and dangerous working practices. Idealists, Liberal Socialists and Social democrats of the late Victorian era were in agreement that classical Liberalism had resulted in deplorable social and economic conditions that the improvement in the conditions of many working people was viewed as a humanistic duty (Boucher and Vincent 2012, p. 102).

Both Oakeshott and Bradley, along with McTaggart, were out of tune with the British Idealist philosophical tradition on this point. Most Idealist philosophers clearly felt that philosophy was integrally related to practical life

and should be directed to improve the condition of society. According to Boucher and Vincent 'It is difficult to think of any later twentieth-century British philosophical movement that had such a positive effect on practical affairs as British Idealism' (ibid., p. 128). As an Idealist who was an outsider to the Idealist tradition of social activism, Oakeshott again demonstrated his idiosyncrasy.

This can best be explained by his reverence for individuality and his view, earlier articulated by Kant, that neither the individual nor the state has any business in promoting the good of others. As morality presupposes the recognition of individual personality Oakeshott argued that one cannot promote the good of others without destroying their freedom 'which is the condition of moral goodness' (1991, pp. 367-368).⁶⁷ We will see in Chapter Three that this argument is at the heart of his conception of law, properly speaking, as being non-instrumental and his claim that civil association is the only moral form of compulsory association.

Moralities of habitual conduct and reflective thought

Oakeshott's account of human conduct was entirely consistent with his particular reading of European history: individuality was the most important development in modernity. It was, however, a contingent achievement with no guarantee of survival. Oakeshott understood moral life to be where we freely make our choices, but act in conformity with a historically developed practice

⁶⁷ Kant was clear on the civil implications of a morality that gives priority to freedom and individuality. In *Theory and Practice*, he wrote that the concept of justice [an external right] is derived from the concept of freedom in the external relations between persons. It has nothing to do with the natural end of man, the achievement of happiness, or with the means of attaining this end. Consequently, the goal of happiness must not interfere as a determinant of the laws of justice: 'A government might be established on the principle of benevolence towards the people' but 'such a government is the worst conceivable *despotism*' (1974, pp. 73-74).

recognised as authoritative by its participants. He had a strong preference for a morality based on habitual conduct over one based on general rules.

In 1948, the first of two essays entitled 'The Tower of Babel' set out two opposing ways of understanding moral life. He claimed not to address the practical question of 'what kinds of human enterprise should be designated right and wrong?', or the meta-ethical 'what is the ultimate nature of moral criteria?'. Rather, he offered an explanation of the two ideal types of moral life that he considered to have been historically present in western civilization (1991, p. 467). Oakeshott's methodology paralleled his account of individuality: he opposed two ideal types that he claimed to have been ever present in our culture in recent centuries, although neither has ever been actualised in its ideal form.

He described first type of moral life as '*a habit of affection and behaviour; not a habit of reflective thought, but a habit of affection and conduct*' (1991, p. 467). In our everyday lives we do not consciously apply rules but act according to a certain habit of behaviour as our conduct is almost unreflective. It amounts to following a tradition of conduct in which we have been brought up. Morality is analogous to a vernacular language and is characterised by its stability, large or sudden changes are not considered desirable. Its stability 'derives from its elasticity and its ability to suffer change without disruption' (ibid., p. 470).

The second form of the moral life is determined not by unreflective habit, but 'by *the reflective application of a moral criterion*' (1991, pp. 472-473). It appears in two common varieties: first as '*the self-conscious pursuit of moral ideals*', and second 'as the reflective observance of moral rules' (ibid.). The purpose of this form of moral life is to specify the desirable objects of behaviour, to set them out distinctly and unequivocally and show their relations to one another.

Oakeshott pointed out some of the dangers associated with this form. The continual scrutiny of behaviour tends to damage moral habit, and moral

reflection may come to constrain moral sensibility. More dangerously he claimed that moral ideals necessitate perfection, which may be an activity fitting for individuals, but not for societies. The pursuit of any ideal will lead to disillusion and consequently this form of the moral life is hazardous in an individual, but ruinous in a society. It may be a gamble worth taking for an individual: 'For society it is mere folly' (1991, pp. 475-477).

This is a profoundly conservative point of view. Arguably, he committed the fallacy of *ignoratio elenchi* by drawing a normative conclusion from an historical account of the moral tendencies within Western culture. He denounced the pursuit of ideals once more in the conclusion of 'The Tower of Babel'. He felt that the pursuit had come to dominate our moral life and the price of this is ruin 'to a settled habit of behaviour' (1991, p. 487).

Such comments can only be read as a dogmatic assertion of the superiority of a morality of habitual behaviour over one of ideals. Oakeshott's argument paralleled his critique of ideology in political practice and lends support to those who seek to portray him as a Burkean conservative;⁶⁸ someone who valorises tradition over rationalism, where the latter is understood as an attempt to extract general rules from the study of a practice, whether moral or political. In the essay 'Political Education' (1991, pp. 43-69), for example, Oakeshott claimed that goals of political activity can only be evaluated in relation to a traditional manner of behaviour, a theme that will be elaborated in Chapter Four (1991, 56).

Oakeshott was resolutely anti-perfectionist in his preference for a morality of habitual behaviour: by claiming that the pursuit of ideals will result in disasters for society. But, his preference for a morality of habitual behaviour entailed no particular moral practices. He stressed the importance of contingency in how our practices develop, so there is no guarantee that things will turn out well (1975a, p. 56). A morality of habitual behaviour, however,

⁶⁸ Like Oakeshott, Burke's preference for habitual morality over the pursuit of ideals permeated his work. 'We [the English] know that *we* have made no discoveries, and we think there are no discoveries to be made, in morality ...' (1887, W3, p. 345).

could well endorse practices such as slavery, racism and systematic anti-Semitism, which people later consider abhorrent. He was arguably implicitly endorsing moral relativism. As moral practices vary between societies, and if there is no ideal viewpoint from which to criticise them, one moral practice has as much legitimacy as the next.⁶⁹

The charge of moral relativism is supported by several observations in the *Notebooks*. He observed that Aristotle came to a different conclusion from that reached by Plato & Spinoza, both of whom placed morality in the intellectual sphere. Oakeshott felt ‘Aristotle was wrong in taking popular opinion on a psychological point; *but right when he refers moral judgments to current practices and opinion*’ (2014, p. 33, italics added). He later noted: ‘The judgments of ordinary people are a register for the morality of the whole - for morality is essentially a thing of community’ (2014, p. 117). He also posited the impossibility and wrongness of radically challenging the civilisation of which we are a part: ‘No one can hope to devise a way of living wholly different from & better than (& liveable) the way of living which belongs to his civilization’ (2014, p. 280). He believed that the most that can be done by an individual is to understand the inconsistencies that may have arisen in the civilisation to which he belongs: ‘Set them right in his own mind - &, if he is fortunate, in his own life’ (ibid.).

As will be argued in Chapter Four, Oakeshott made a similar argument regarding the futility of ideological attempts to break free from an existing political tradition.

The upshot, then, of his account of morality is that it is tradition-dependent and particularistic. It is foolish, he argued, to break away from tradition by attempting to formulate general moral rules. But moral traditions dominated by the mentality of the individual *manqué* will not value individuality and the

⁶⁹ In *Ethics*, J. L. Mackie explains that those who argue that morality is subjective often ground their belief on the ‘argument from relativity’, which is based on the observation that moral codes vary from one society to another, and also that moral beliefs can differ between different groups within a community’ (1977, 36).

love of freedom at the heart of his personal value system. So there is a tension between his reverence for individuality and his preference for a morality of habitual conduct, whether conducive to individuality or not.

Freedom and Morality

In *OHC*, Oakeshott dropped the language of tradition in favour of the generic term “practice” to describe all human relationships with a determinate or stable shape.⁷⁰ He made a critical distinction between understanding a practice and a process (1975a, pp. 12-19). A practice is perceived as a ‘going-on’, conceived as an expression of human intelligence. Practices are intelligent responses to understood situations. Oakeshott aimed to demonstrate that attempts to understand human actions, as if abstract patterning allowed them to be assimilated to the processes and systems by which we understand the natural world, were profoundly mistaken. The human world is fundamentally different from the natural world. It is one where intelligent agents freely interact, rather than one where material things interact with one another in conformity with the laws of physics.

At the heart of Oakeshott’s theory of human conduct was this distinction between understanding a practice and a process. Practices are always intelligent responses to understood situations, and every human response to a situation is predicated on understanding a practice. Sports or politics are practices, for example, which must be learned in order to participate in the practice itself. A process, by contrast, is not in itself an exhibition of intelligence. Processes may be rendered intelligible by identifying their causal conditions, such as tidal movements or the rotation of the planets. The practice/process distinction broadly maps on to the distinction between the human and natural sciences in his thinking. Oakeshott was not sympathetic to

⁷⁰ Steven B. Smith notes that a word search reveals that “tradition” only appears twice in *OHC*. On page 24, Oakeshott speaks of the analysis of a poem in relation to a ‘literary tradition’; on page 286, he uses it to note the unlikeness of Russia and the West (Smith 2012, p. 151).

those social sciences, such as sociology and psychology, which have tried to impose the process idiom onto the interpretation of human conduct.

The conflation of practices and processes was a fundamental category error in his view. He illustrated the absurdity created by the conflation of process and practice. When a geneticist, for example, gives an explanation of human conduct, or behaviour, as ‘the inescapable consequences of the genetic individuality of the persons concerned’, he says nothing more than that everything is done by the genes, and ‘this theorem is itself his genes speaking’ (1975a, p. 15, n.1). The attempt to understand human conduct as a process ignores its key characteristic: that of a reflective, intelligent being freely initiating actions and reacting to the actions of others.

Some commentators claim that the central thread running through *OHC* is the idea of freedom. Ken Minogue wrote that ‘the idea of freedom is nowhere explicitly treated, but clearly underlies everything he has to say’ (1975, p. 11). According to Noel O’Sullivan, another ‘Oakeshottian’,⁷¹ the main feature of Oakeshott’s temperament was ‘a love of freedom so radical and uncompromising that it imbued his conservatism with existentialist, and even anarchist, sympathies’ (1993, p. 101). This may be the case, but it is not easy to discern directly the significance of freedom to Oakeshott, as his explicit references to the concept were limited. In *OHC*, for example, he refers directly to freedom on only six pages.

In his account of human conduct, freedom is described in a very formal sense, where “human freedom” is taken to be a different phenomenon from “civil freedom”. The idea of conduct, to which he referred, is that ‘of an agent disclosing and enacting himself in performances whose imagined or wished-for outcomes are performances of other agents or other performances of

⁷¹ Paul Kelly lists Oakeshott’s influence on a number of Politics departments in terms of “Oakeshottian” scholars such as Elie Kedourie (1930-2013) at LSE; W. H. Greenleaf (1927-2008) at Swansea; Bhikhu Parekh and Noel O’Sullivan at Hull; Preston King at Sheffield; and Robert Eccleshall at Belfast (2010, p. 2).

himself' (1975a, p. 36). Oakeshott claimed that human conduct postulates a 'free agent' (ibid.).

He expressly asserted that he was not bothered with teleological or metaphysical explanations of freedom. He was concerned 'not with the quality of being substantively "self-directed" which a person may or not realize and which, when a high degree of it is realized, is rightly called "self-determination" or "autonomy"' (ibid., p. 37). Oakeshott was concerned to consider how freedom relates to the exercise of agency. He concluded that conduct presupposes freedom. He identified "doing" 'as response to a contingent and wished-for outcome', which postulates 'reflective consciousness' (1975a, p. 36). When alternatives are before an agent he must be capable of choosing between them and deciding on a course of action: 'In short conduct postulates a "free" agent' (ibid.)

It may be useful to describe him as a "compatibilist", as he believed that one can talk of freedom of action without the need to engage in the free will debate. His position is similar to that of David Hume, who denied it was necessary to posit a metaphysical notion of the will being causally free to speak intelligibly of freedom of choice. Freedom, rather, consists merely of agents' observable exercise of choice between different options. Hume referred to this as "freedom of spontaneity". Liddington concludes that Oakeshott's 'freedom intrinsic to agency' should be interpreted as the absence of causation (1984, p. 299).

The key concepts in this Oakeshott's formulation of freedom are "reflectivity" and "contingency".⁷² The human agent is "reflective consciousness" and freedom is presupposed by an agent's self-understanding that he is free to make choices, not by the existence of metaphysical "free will". Freedom is not awareness *per se*, but awareness of a situation; as long as it is identified to be the agent's situation, it always calls for a reaction from him. There is a decision to do this rather than that.

⁷² For an in-depth discussion of freedom, reflexivity and contingency, see Efraim Podoksik's 'Freedom as Recognized Contingency' (2003a).

A contingent relationship is a sequence of related intelligent events where what a subsequent event is recognized to be contingent on a preceding event. They belong together and compose an 'intelligible continuity of conditionally dependent occurrences' (Oakeshott 1975a, p. 104). Contingency is not an accidental relationship, but one between two episodes in which the latter achieves significance in the context of the former, but is not determined by it. That is, contingency like freedom is a postulate of human conduct. Reflectivity and contingency, then, presuppose and depend on each other, for 'in an agent's understanding of his situation its contingency is postulated' (ibid., p. 41). This means that a conscious agent must find his situation to be one in which he is supposed to make a performance that has not been determined: a human agent always has a choice. Even a slave may decide to obey or disobey orders and be punished as a consequence, but this is still his decision. Oakeshott does not, of course, mean that the slave is socially free - but he is free in comparison to an inanimate object.

Whether or not we consider this a satisfactory account of freedom, its significance is that it sets the stage for Oakeshott to advocate the virtues of civil association on the ground that freedom of choice, emblematic of what it means to be human, is protected. As freedom is a presupposition of morality, and morality is intrinsic to our humanity and therefore to all human association, it is of irreducible importance for him. His fundamental commitment to strong agency, individuality, freedom and self-enactment had clear political implications and it also helps explain his distance from most contemporary liberal theory, with its intent to shape outcomes, such as a fairer distribution or the recognition of rights. If freedom is the essence of humanity, free people who cherish their freedom and individuality above all else will create governments with limited ambitions, which are unlikely to violate people's freedom.

Oakeshott's narrative suffers, however, from shortcomings exposed in various forms of libertarianism. He largely ignored the interdependent relationship between liberty and equality. In *Religion, Politics and the Moral Life*, he

admitted: 'I think in the end it is impossible to keep the concepts of *liberty* and *equality* apart' (Oakeshott 1993a, p. 131). But he never fully expressed his view of their interdependency, or elaborated the idea of equality except in the formal sense of equality under the rule of law.

Of course, such freedom is subject to the requirements of moral practice, but as he claimed that moral practice, properly understood, is non-instrumental, we have a potential reconciliation of freedom and morality, a claim that will be examined in the following section.

Morality as a non-instrumental practice

Oakeshott claimed that practices are either moral or prudential, a distinction that is also fundamental to the moral philosophy of Kant. A practice is that which joins persons in conduct. A profusion of practices may overlap but 'a common tongue and a language of moral converse' are the two most important practices in terms of which agents are related to one another are (Oakeshott 1975a, 59). A practice may be identified as a set of 'considerations, manners, observances, customs, standards, canon's maxims, principles, rules and offices' that specify procedures or denote obligations or duties that relate to human activities (1975a, p. 55). Practices can be either a prudential or moral-adverbial qualification of choices and performances. The claim that moral rules are "adverbial qualifications" of performances, and not prescriptions, was a fundamental feature of his moral theory.

By "adverbial", he meant how we undertake performances once we have made our choices: 'Moral rules are abridgements [which] concentrate into specific precepts considerations of adverbial desirability' (1975a, p. 66). A rule does not tell an agent what choice he should make, but specifies the conditions the agent should subscribe to when making choices. The criminal law, he claimed, which may seem to be prescriptive by explicitly forbidding actions, 'does not forbid killing or lighting a fire' for example, it only prohibits 'killing "murderously" or lighting a fire "arsonically"' (Oakeshott 1975a, p. 58, n. 1).

Moral conduct is governed by the rules of moral practice. Oakeshott defined moral conduct as ‘agents related to one another in the acknowledgment of the authority of a practice’ (ibid., p. 60). He called it a “practice” as the conditions of a practice have the generic characteristic of generality. Moreover, ‘a morality is the *ars artium* of conduct; the practice of all practices; the practice of agency without further specification’ (ibid.). It is the over-arching practice beneath which all other practices are subsumed.

Agents are linked to one another in conduct as aspirants of desired-for satisfactions and producers of such. The rules of prudential practices are designed to promote the success of transactions. They are instrumental to the achievement of the wished for satisfactions. He cited such examples as the rules for making pastry, office routines and a railway service that runs to a strict timetable.

In contrast, moral practice is not concerned with outcomes. It is concerned with how agents interact and impact one another irrespective of the particular wants they may be pursuing. Morality applies to all human actions; no agent is outside its purview. In this sense, it is the practice of agency without further specification; whereas prudential practices are further subject to the specification of prevailing moral rules.

In *Rationalism in Politics*, Oakeshott distinguished between a morality of affective behaviour and one of reflection. In *On Human Conduct*, he made a further distinction between the practice and rules of morality. The practice of morality is like that of a living language. Both can certainly facilitate the achievement of our ends and purposes, but language as a whole has no end or purpose. To ask what is the point of a language is self-contradictory. The same is true of morality - and both it and language are constitutive of individuality: ‘There is room for the individual idiom, it affords opportunity to inventiveness’ and ‘each generation invents its own moral slang’ (1975a, p. 65).

Oakeshott gave short shrift to those who claimed that the terms of a moral practice are to be comprehended in terms of an unspecified 'social' relationship: such as providing the means for achieving the 'common good' of those thus related (ibid., p. 61). Nor did he accept that they are conditions for achieving human excellence. Nor are agents with regard to moral considerations 'recognized as role performers in the greatest of human enterprises: the good life' (ibid.). Of course, agents may relate to one another in pursuit of a common purpose or promotion of a common interest; in this case, the practice is correctly understood as instrumental to the common purpose, but it is not a moral relationship.

Oakeshott made two observations that anticipated his analysis of the civil condition. First, a moral relationship is constituted in terms of choice and it survives as long as the choice is not revoked. The implication is that a moral practice does not threaten the freedom inherent in agency: it does not dictate what we choose to do, only how we perform having made our choice. In that sense it is an "adverbial" consideration that does not compromise the freedom implicit in agency. In Chapter Three we will see that Oakeshott made the same claim of laws, properly understood: laws merely qualify performances, they do not direct.

Second, he claimed that "human excellence" or the "human good" are not substantive purposes. They are not purposes to be achieved as the upshot of performances. They are not purposes that an agent might elect to follow in preference to the fulfilment of some other want 'of which he might or might not choose to be related with others in achieving (...) like joining an expedition to climb Mount Everest' (1975a, p. 61).

Moreover, "the common good" is not a substantive satisfaction that an agent may or may not choose to join together with others to procure, 'like getting in the harvest' (ibid.). Properly speaking, such ends are not purposes to be attained at all: 'If morality is a practice concerned with "human excellence" then it is not a set of conditions instrumental to the achievement of a purpose' (ibid., p. 62). Morality is a practice without any extrinsic purpose: 'It is a

relationship solely in respect of conditions to be subscribed to in seeking the satisfaction of any want' (ibid.).

The significance of Oakeshott's account of morality

His account of morality was idiosyncratic: 'In the end Oakeshott's idea of moral experience defies categorization. It is his alone' (Smith 2012, p. 147). In his memoir, *Our Age*, Noel Annan portrayed him as "deviant" from the conventional wisdom of the 1920-1950 period (1991).⁷³ The secondary literature does not adequately capture the "deviancy" to which Annan refers. Oakeshott's understanding of morality was unconventional by contemporary standards. He presented morality simply as a vernacular language, not a system of obligations. In his review of Edgar Frederick Carritt's *Morals and Politics* (1935) he referred to moral obligation and its relation to politics in an offhand fashion: 'A true theory of politics must begin by *doing homage* to "moral obligation". It would appear, however, that moral obligation (...) is rather a datum of a theory of politics' (2007, p. 124, italics added).⁷⁴

Oakeshott was an advocate of the morality of individuality to the almost total exclusion of engaging in issues of the morality of the common good, which is unusual in contemporary political discourse. He sidestepped issues associated with altruism and a more positive understanding of social obligation. Such issues are central to the question of social justice. He focused on the moral behaviour of individual selves to the almost complete neglect of the positive role of the self in the community.

In particular, he ignored the question of whether government can or should do anything to promote self-realisation. To the extent that he answered this

⁷³ Annan considered Oakeshott together with F. R. Leavis and Evelyn Waugh as the three main deviants of "Our Age"- those who attended either Oxford, Cambridge or the LSE between 1919 and 1951

⁷⁴ See T. M. Scanlon's *What We Owe to Each Other?* (1998); and Michael Sandel's 'What Do We Owe One Another? Dilemmas of Loyalty' (2009, pp. 208-243), as recent discussions of the issue.

question at all, his moral writings can be interpreted as suggesting that the state should do nothing other than provide the conditions for individual initiative and choice. His account of morality intimated a procedural, rules based understanding of political authority, which will be elaborated in the next chapter.

What marked out individual morality for him is the disposition to make one's own choices in a manner consistent with self-respect, not the quest for hedonistic self-gratification or the approval of others. In the *Notebooks*, he explained that the greatest error in the interpretation of moral theory in recent centuries has been the conflation of "self-interest" with "selfishness": 'Nonsense about 'psychological hedonism'- there can be no such thing' (2014, p. 467). He argued that both Kant and Hobbes were asking the same question: 'Who is to be satisfied in moral conduct?' The answer was not God, social conscience or humanity but the self: 'One's own good opinion of oneself. Self-respect: It is the morality of 'honour' (ibid.) Later in the *Notebooks* Oakeshott reiterated his view: 'Self-interest is not a psychological, but a moral doctrine (...) "self-interest" is an identification of morality with "honour"' (2014, p. 479). Such an understanding of morality flows from the gentlemanly virtues that he was disposed to value, which we examined in Chapter One.

The distinction between self-interest and selfishness in practice, however, was less clear cut for him. Luke O' Sullivan observes that 'he seemed to have done his best to live a life of radical moral individualism, though not, it must be said, without imposing considerable costs on some of those around him, particularly the women in his life' (O'Sullivan, L. 2014, p. xxv). This is not to sit in judgment on him, but to suggest that his understanding of morality implicitly denied the demands of altruism which Bernard Williams describes as a customary disposition to regard the interests of others as making some claim on one, and, in particular, 'as implying the possibility of limiting one's own projects' (1993, p. 250). There appear to have been few self-imposed barriers to the pursuit of Oakeshott's projects. A number of his friends and

colleagues, such as Kenneth Minogue, have attested, however, to his personal generosity and quality as a friend (2007).⁷⁵

In Chapter One, we noted that the character that Oakeshott most admired was the courageous individualist who is prepared to take risks and defend his opinions and manner of living. The opposite character is the anti-individual who seeks to substitute the idiom of individual morality with a dull collectivism. He tried to live his life as a courageous individualist. There was, he wrote as a young man, ‘something wild in me’; in old age, he thought of himself as having been ‘born under a wandering star’ (2014, p. 208 and p. 511). Andrew Sullivan claims that ‘he was in love with the individualism within himself’ and suggests that this was the real source of his political conservatism in that a calm and limited political order allows individuals such as Oakeshott to ‘pursue the extreme and the risky and the quixotic’ (Sullivan 2010).

Sullivan’s suggestion is supported when we consider Oakeshott’s unique and controversial interpretation of Hobbes. He interpreted Hobbes as addressing both the needs of the courageous individualist, whom he also called a ‘proud man’, in addition to the ‘tame man’, through the ‘moralization of pride’ (1975b, p. 128). He speculated that a possible motive for peace as the impulse for men to join together in civil association, other than the fear of ignominious death, which motivates the tame man, could be one that protects both men. It is conceivable, he argued that the predominant passion of the courageous individualist is pride rather than fear. Civil association allows the proud man to express his individuality but ‘he is a man who would find greater shame in the meanness of settling for mere survival than in suffering the dishonour of being recognised a failure’ (Oakeshott 1975b, p.128). Pride provides an

⁷⁵ See *The Achievement of Michael Oakeshott* (1993), ed. A. J. Norman. Josiah Lee Auspitz tells of the parson at Oakeshott’s funeral who, having consulted the local villagers in Acton, reported that ‘the deceased was a kind man, a cheerful man, very helpful, generous, unpretentious (...) he compared him to St Francis, an analogy he found so gripping that he henceforth referred to him as Francis rather than Michael as the coffin was lowered into the earth’ (ibid., p. 2). In the same volume, Jeffrey Hart claims that he ‘established modesty as a philosophical principle, and extended it to many other modes of discourse’ (ibid., p. 82).

adequate motive for peace, but is insufficient due to the dearth of such noble characters: ‘especially in pursuers of wealth, command, and sensual pleasure; which are the greatest part of mankind’ (ibid.).

Oakeshott’s ethics can best be described as aristocratic, elitist or ‘gentlemanly’, as elaborated by Letwin. They are inherently opposed to the pursuit of wealth and sensual pleasure, and the assumption of rights and entitlements and instant gratification, which are characteristic of the modern era. His description of Hobbes could equally apply to himself: ‘He [Hobbes] felt constrained to write for those whose chief desire is to understand human beings more properly concerned with honour than with either survival or prosperity’ (1975b, p. 33). When we further reflect on the manner in which he disparaged the individual *manqué* and the moral idiom of the common good, we can reasonably expect that “the proud man” will prefer a state that allows him to pursue his projects, unhindered by the distractions and demands of common purposes: he will thus favour a state organised as a civil association.

In Chapter Two we have seen that Oakeshott’s formal account of morality has normative implications. The first is the domination of the self in his moral theory to the exclusion of addressing the question of what we owe to others. This grounds his radical individualism. Second is his claim that freedom is a postulate of human agency and the basis of human dignity. Third is his preference for a morality of habitual conduct and fourth is his argument that morality is a non-instrumental practice.

His account of morality underpins his political theory. If freedom is the essence of human individuality and a presupposition of morality, this suggests that those political systems that seek to constrain our choices more than the demands of conventional moral practice are immoral. A state that pursues a policy of the collective good is both misconceived and immoral, as it implicitly constrains the choices of citizens over and above the “adverbial” constraints of morality. Whatever the merits of this argument, which will be considered in the next chapter, it is a philosophically grounded case for a non-purposive state.

On the face of it there appears to be an inconsistency between his preference for a morality of habitual conduct and individuality. This is a conservative position, in the Burkean sense, of recommending gradual change over radical reform. But, as specific moral practices are contingent, they could be inimical to individuality. It places Oakeshott in the contradictory position of advocating a morality of individuality, while implying that we should accept any conventional morality that contingency has established, even if that be expressed in the idiom of the common good, which he clearly despised. The inconsistency is eased, but not eliminated, by the distinction that he made between self-disclosure and self-enactment. Self-enactment is how we autonomously reveal our individuality to ourselves as we alone are the judge of what constitutes virtuous action. Moral practice merely prescribes how we disclose ourselves to others as we go about our business.

Chapter 3: *Teleocracy, Nomocracy and the Rule of Law*

What is the state for?

A primary aim of this thesis is to evaluate Oakeshott's answer to what he considered the preoccupation of political theory in recent centuries: what is the state for? Is it to provide for liberty or social security, or both? For Hobbes the state existed to provide security. For Mill and Thomas Paine the answer was liberty. For the Fabians it was social welfare. The continuing relevance of these questions was highlighted by the financial crisis of 2008, which required huge state support to save the banks. This demonstrated that governments in the West are stretched in their ability to meet their accumulated social welfare and security commitments: 'The state has become bloated and overwhelmed. Even if it were run by the world's most efficient technocrats it would still be a gigantic mess; supersized by ambition and pulled hither and thither by conflicting aims' (Micklethwait and Wooldridge 2014, Chapter 9).⁷⁶ The US

⁷⁶ In the introduction to *English History 1914-1945*, A. J. P. Taylor wrote that 'until August 1914 a sensible, law-abiding Englishman could pass through life and hardly

Presidential election of 2012 was debated with this question very much in mind. Members of the “Tea Party” wing of the Republican Party, such as Congressman Ron Paul, argued that to believe truly in liberty is to divorce it from any desired social and economic outcome, which implies a very different conception of the state than we have today (Paul 2011). It is, in Oakeshott’s terms, to conceive the state as a civil association, not an enterprise association.

Oakeshott’s lifetime preoccupation with the question of what the state is for has thus become even more relevant, and is likely to remain so until its commitment can be calibrated with what its citizens are prepared to pay for it. His standing as one of the leading twentieth-century political philosophers is justified by his remorseless focus and systematic approach to answering the question. Oakeshott provided a comprehensive moral answer to the question that intimated a similar conclusion to Paul’s: a purposeful state necessarily compromises freedom. He attempted to purge our understanding of the state, conceived as a *nomocracy*, or civil association, of any substantive economic or distributive considerations. As we examine his argument, we will see that it is only consistent in practice with a minimalist state. His analysis brought into focus the trade-offs in terms of loss of liberty that is entailed by any substantially purposeful conception of the state.

In *Morality and Politics in Modern Europe, the Harvard Lectures* (1993b), Oakeshott claimed that the question of the proper scope of governmental power is often conflated with the basis of political authority: ‘Whether it is the constitution of government or the activities of government’ (1993b, p. 12). He claimed that the reflection and discussion that appears to refer to authority is actually concerned with the activities of governments. He contended,

notice the existence of the state, beyond the post office and the policeman. He could live where he liked and as he liked. He had no official number or identity card. He could travel abroad or leave his country for ever without a passport or any sort of official permission. The Englishman paid taxes on a modest scale: nearly £200 million in 1913-14, or rather less than 8 per cent of the national income. The state intervened to prevent the citizens from eating adulterated foods or contracting certain infectious diseases’ (1965, p. 1).

moreover, in his *Lectures in the History of Political Thought* that ‘there is no *necessary* connection’ between what we suppose a government should be doing and what we believe about the basis of its authority (2006, p. 483).

Consistent with his claim that our political orientation is largely a matter of disposition, he acknowledged, however, that there will probably be a fairly close link between what we suppose a government should be doing and ‘what sort of collectivity of human beings we understand a “state” to be’ (ibid.). The kind of state favoured by freedom-loving individualists will be very different to that which appeals to security-loving anti-individualists. Agents who are not disposed to relish the opportunity to foster their individuality and enjoy their freedom will be more satisfied by governments conceived as *teleocracies*. These may not pursue a single over-arching purpose but rather the ‘ramshackle body of purposes (solvency, conquest, racial homogeneity, international prestige, the relief of poverty or unemployment, the promotion of trade or religion), none of which is sovereign’ and which is typical of modern states (Liddington 1984, p. 305).

This chapter explores and evaluates Oakeshott’s claim that a *nomocratic* state, or government under the rule of law, is to be preferred by individualists, like himself, who enjoy making their own choices. He argued that a *nomocracy* allows its associates to exercise the freedom inherent in agency and, moreover, is the only properly form of *moral* association. The implications of this conception of the state for our understanding of justice and political authority, and what it intimates for his preferred ‘shape of an office of government’, will also be spelled out (2008, p. 243). The following section describes his ideal states of *teleocracy* and *nomocracy*, which correspond to what he later called *universitas/societas* or, in the English translation, enterprise/civil association.

Although his terminology changed over time, the distinction remains the same. *Teleocracy/universitas*, or enterprise association, conceives of the state as purposeful; whereas *societas/nomocracy/civil* association conceives it as essentially purposeless, grounded in *civitas*, the relationship of civility. Before

evaluating the logic of Oakeshott's argument for the superiority of *nomocracy*, or *societas*, we need to understand the method of investigation that he pursued. This is somewhat contentious, as it is based on an abridgement of modern European political history that may not be historical by his standards and may commit the fallacy of *ignoratio elenchi*: the confusion of categorial modes of thought that results in irrelevance. Throughout his career Oakeshott insisted on the distinction between the "historical past" and the "practical past": 'The world of history has no data to offer of which practical experience can make use; and to conceive it as offering such data is to misconceive its character' (1933, p. 158).⁷⁷

Oakeshott's Analytical Method and Interpretation of Modern European History

In the third and final essay of *On Human Conduct*, Oakeshott outlined the programme of enquiry that he proposed to follow in his account of civil association and the rule of law. His concern was 'to consider what has been thought about the character of a modern European state and about its office (that is, the engagements not the constitution) of its government' (1975a, p. 189). He did not claim to be giving a realistic portrayal or descriptive sociology of actual legal systems, or of actual states, but to be clarifying the ambiguities inherent in the experience of living in a modern state through the method of opposing ideal characters. An ideal character is not to be identified with 'an ambiguous going-on like the Kingdom of Denmark' (*ibid.*, p. 121). In his 1983 essay 'The Rule of Law', he speculated about whether this product of the imagination is anything 'more than a logician's dream', or whether it is a 'possible practical engagement' (1999, p. 162). He further insisted that much in modern history has opposed *nomocracy* and 'the circumstances of modern Europe have always made it impossible for any state (except, perhaps, Andorra) to achieve this condition without qualification' (*ibid.*, p. 176).

⁷⁷ The Cambridge historian Sir Herbert Butterfield anticipated Oakeshott's argument: 'The study of the past with one eye on the present is the source of all the sins and sophistries in history. It is the essence of what we mean by the word "unhistorical"' (Butterfield 1931)

Moreover, in spite of his obvious preference for a *nomocratic* state, or civil association, in his essay ‘The Concept of Government in Modern Europe’, he acknowledged that ‘it is more important for us to know with exactitude where we stand before trying to improve our position’ (2008, p. 104). Whereas his preference for civil association is clear he did not think it either practical or desirable to think it could be realised in its ideal form. If either *teleocracy* or *nomocracy* were to take over completely, he argued, we would find ourselves in a worse situation from both the practical and intellectual point of view: ‘It is more important not to delude ourselves about what we currently think than to think in a different manner’ (ibid., pp. 104-105).

Thus, whereas I claim that Oakeshott’s account of the presuppositions of *nomocracy* revealed his preferences and disposition (as described in Chapters One and Two), it would be wrong to read him as the unashamed advocate of civil association, which he considered to constitute an unrealisable utopia. We will return to the upshot, if any, of his account of the state in Chapter Four, when we evaluate his account of practical political activity.

Oakeshott’s key historical, or empirical, claim was that every modern state and everything associated with it is ambiguous – in terms of politics, government and law (1975a, pp. 231-232). In the case of law, the ambiguity is whether law is a system of prescriptive conditions that are indifferent to the satisfaction of wants, which we subscribe to when we choosing what to do or say, or ‘is it a set of prudential managerial conclusions specifying a common purpose and the manner in which this purpose shall be contingently pursued?’ (1975a, p. 231).

The same ambiguity is present in our understanding of the purpose government and purpose of politics. Oakeshott claimed this ambiguity ‘has imposed a particular ambivalence upon all the institutions of a modern state’ (ibid., p. 201). He saw his job as a philosopher was to make clear this ambiguity and to clear up the muddle caused by the coming together of two

currents of thought that he presented as a tension between individualism (*societas*) and collectivism (*universitas*).

He had already developed this understanding of European history by 1939. He articulated it repeatedly for the rest of his career. It would be too much of a digression, and a dissertation in itself, to engage in a formal examination of the plausibility of his narrative of modern European history, from which he abstracts his concepts of *societas* and *universitas*. However, as this is central to his theory of civil association, I will point out certain features, which bear on its plausibility. In this, I draw heavily on O'Sullivan's 'Oakeshott on European Political History' (2000); and *Oakeshott on History* (2003), which are the most comprehensive discussions of Oakeshott's historical work in the secondary literature.

It should be remembered that Oakeshott was not a professional historian. He read history as an undergraduate and was a member of the History Faculty at Cambridge. As a historian, he was, however, a 'comparative amateur' (O'Sullivan 2000, 133). He is better remembered for his contribution to the philosophy of history, both in *Experience and its Modes* (1933) and several essays that are collected in *On History and Other Essays* (1999).⁷⁸ O'Sullivan notes that a major difference between his works and those of contemporary professional historians is that Oakeshott's technique of the 'bird's-eye view' offers a much more sweeping vision that assimilate a broad span of events in a shorter space (2000, p. 133).⁷⁹

⁷⁸ An analysis of Oakeshott's philosophy of history is included in Boucher (1984a, 1984b and 1989).

⁷⁹ O' Sullivan refers to J. G. A. Pocock, Q. Skinner, S. Collini, and J. Burrow as the 'professionals' in this context, the so-called "Cambridge School". If Skinner is typical, they evidently had little regard for Oakeshott as a historian. He was asked in an interview, 'What was the influence of British idealism and especially such figures as Collingwood and Oakeshott on the early development of what came later to be called the "Cambridge School"?' Skinner responded that 'Oakeshott's work was of no philosophical influence at all' as 'Oakeshott seemed a figure of the past and we rejected his anti-rationalism and political conservatism outright' and 'nothing prepared my generation for his apotheosis under Thatcherism, nor the high esteem in which his philosophy continues to be widely held' (2002).

This, then, raises the question of whether Oakeshott's abridgement of history is a useful basis from which to develop an account of civil and enterprise association. It might be argued that the professionals' work manifests a certain limitation of vision. An alternative explanation is that 'Oakeshott was able to produce his view of *la longue durée* only because he neglected the critical apparatus that is nowadays demanded of historical work' (O'Sullivan 2000, p. 134, n.9) Nonetheless, as O'Sullivan points out, Oakeshott's classifications of civil association and enterprise association had a bibliographical pedigree: their genesis and development could be traced in the ideas of F. H. Maitland (1850-1906) (who was influenced by the German historian, O. Gierke) (1841-1921); and J. N. Figgis (1866-1919). Oakeshott would certainly have been exposed to Maitland as a history undergraduate at Cambridge; and Gierke greatly influenced Maitland. In his work on Natural Law (1868-1913), Maitland described European, especially German, history as a continual battle for dominance between two contrasting types of association. The first was typified by the medieval guild which was 'communal, consensual and protective of its members (O'Sullivan 2000, p. 136). The second was 'ruthlessly individualistic and absolutist' (ibid.). Oakeshott's distinction between *societas* and *universitas* resembled this opposition, although it is formulated somewhat differently.

The commentators who have taken a serious interest in Oakeshott's account of the history of political thought have tended to see the character types of the "individual" and "anti-individual", discussed in Chapter Two, 'as the weakest link in his chain of reasoning' (O'Sullivan 2000, p. 149).⁸⁰ This duality underpins the identification of *societas* and *universitas* as the ideal types that correspond to the dispositions of the individual and anti-individual. David

⁸⁰ Anderson excoriates Oakeshott on this point: 'Although Oakeshott was trained as a historian, and in one compartment of his mind always knew more about the actual detail of the European state than Hayek, Strauss or Schmitt, his normative theory of the state takes leave of its realities as a historical structure more completely than anything they proposed (...) Oakeshott lamented that the European state had come to be predominantly shaped as an enterprise association, but his theory left him with no historical explanation for why this aberration should have occurred. All he could offer was a psychic diagnosis (...) all of Oakeshott's imposing erudition ends in the bathos of this small parable of the divided soul of economic man' (1992, pp. 23-24).

Boucher, who is otherwise sympathetic to Oakeshott, points out that he could not draw on the resources of philosophy to ground his opposition of civil and enterprise association because of Oakeshott's insistence that philosophy 'does not make, recommend or circumscribe its subject' (1991, p. 722). Consequently, Oakeshott had to establish the validity of his ideal characters by locating their appearance and development in European history. Boucher describes Oakeshott's narratives of the emergence of the "rationalist" and "mass man" and demonstrative political discourse as 'selective, foreshortened and over-schematic accounts of identities, which are deemed to have come into existence and changed over time' (ibid.). But, Boucher concludes that these accounts do not satisfy the criteria, nor conform to the practices that Oakeshott had identified as the 'differentiae of the historical mode of enquiry' (ibid.).

So his account of the development of European thought is distinctly unhistorical. In *Rationalism in Politics*, Oakeshott claimed that the hope of the historian is to avoid the condensation of a process which defines a new shape too soon, too late or gives too precise a definition and to 'avoid the false emphasis which springs from being over- impressed by the moment of unmistakable emergence' (1991, p. 18).

By basing his historical account of modern Europe and his political theorising upon the emergence of the "individual" in renaissance Italy, Oakeshott yielded - by his own admission - to the impulse to look for a more general explanation of the ambivalence between the "individual" and "anti-individual" and between *societas* and *universitas* than a historical understanding can offer (1975a, p. 323). Oakeshott's claim, which is fundamental to his account of the state, that hidden in human character there may be two potent and opposing dispositions, neither of which is powerful enough to overcome the other, is simply not verifiable by historical evidence. Yet in *On Human Conduct*, he stated that the efficacy of his views about the two prevalent dispositions 'depends upon the identification of these dispositions as historic self-understandings and not universal psychological types' (ibid., p. 325).

The second problem is that if his political philosophy is grounded on his critique of history, he is guilty of the logical infelicity he claimed to most despise: namely, the fallacy of *ignoratio elenchi* or irrelevance. If History is an activity seeking to know the past for its own sake, it is incapable of confirming or denying the conclusions reached in any other mode. In *On History*, Oakeshott said, for example: ‘It [history] is an autonomous mode of understanding, specifiable in terms of exact conditions, which is logically incapable of denying or confirming the conclusions of any other mode of understanding’ (1999, p. 3). Boucher tries to rescue him with the tendentious claim that we should not be misled into thinking that the ideal characters which Oakeshott extracts from European history have anything to do with history at all: ‘They are philosophical constructions philosophically conceived and “on the analogy of human history”’ (Boucher 1991, p. 723). But this contradicts what Oakeshott explicitly claimed to be doing. In ‘The Masses in Representative Democracy’, for example, he claimed to be engaging ‘in a piece of historical description’ when explaining ‘who this “mass man” is and where he has come from’ (1991, pp. 363-364).

Teleocracy and Nomocracy⁸¹

In his *Lectures in the History of Political Thought* (2006), Oakeshott opposed two ideal conceptions of the state that answer the question of what a state should do in radically different ways. They are ideal ‘in being abstracted from the contingencies and ambiguities of actual goings-on in the world’ not in the sense of being a desired perfect state of things (1975a, p. 109). He called these ideal conceptions, or analogies of government, *teleocracy* and *nomocracy*,

⁸¹ The primary sources for Oakeshott’s work on law and justice are the *Lectures* (2006); the second chapter of *On Human Conduct* (1975a); his lengthy essay, ‘The Rule of Law’ (1999); and the two essays that comprise, ‘The Vocabulary of a Modern European State’ (2008).

each of which conveys a belief about the business of government, not about the authority of government (2006, p. 470).

In *On Human Conduct* (1975a), Oakeshott used the terms *societas/civitas* and *universitas* and, in the English translation, civil association and enterprise association, to explicate these analogies. In utilising Roman terms, he distanced himself from contemporary Anglo-American political philosophy by rejecting its vocabulary. He believed this had become amorphous, misleading and burdened with ideological baggage. He felt that Roman terms were less likely than their modern counterparts such as “state”, “citizen”, “law”, “public concern”) to be mistaken for the characteristics of historic and ambiguous associations’ (1975a, p. 109).

The use of the Latin terms is significant. Oakeshott admired the Roman political experience above all others in European history. He claimed that the Romans demonstrated a real flair for government and politics (2006, 176). David Boucher contends that it is more useful to assimilate him to the Republican tradition than to argue about whether he was a liberal or conservative in terms of political persuasion (Boucher 2005, p. 94).

These opposing ideal states, offer different answers to the question, ‘What should government be doing?’ They do not address the different question of ‘whence comes the authority to rule?’ (2006, pp. 469-470). Oakeshott defined a *teleocratic* state as imposing a single end or purpose upon its subjects, or on their activities.⁸² In opposition, government can be understood as a *nomocratic* activity: ‘Which provides rules for the conduct of its subjects, but rules which do not themselves impose any single and premeditated end or purpose on that conduct’ (ibid., p. 471).

⁸² Alexis de Tocqueville anticipated this as long ago as in the 1830s. He foresaw a future ‘in which associational life has died’, where the citizen ‘exists only in himself and for himself alone’ (loc. 14683), and ‘above this race of men stands an immense and tutelary power, which takes upon itself alone to secure their gratifications and to watch over their fate (...) authority (...) [that] seeks to keep them in perpetual childhood’ (2000, Chapter 6).

The opposition of *teleocracy* and *nomocracy* is one of the highlights of Oakeshott's contribution to political theory. It is the tool he used to justify his view that nomocracy, or *civitas*/civil association is a morally superior mode of political association. Most political theorists and practising politicians, however, would question whether *nomocracy* is even a useful concept. Most tend to presume that the state is an association of individuals with a shared purpose, or purposes. William Galston writes, for example, that 'every political community is an enterprise association'. He does not bother to defend his explicit rejection of the state conceived as a *nomocracy* (1991, p. 3). George Osborne claimed in his 2014 Budget statement that 'the central mission of this government is to deliver economic security' (14th March, p. 2014). This mission was reiterated in the 2015 Budget statement.⁸³ These examples suggest that Oakeshott's presupposition that the state can be conceptually conceived as purposeless is, for many, a problematic idea.

Teleocracy presupposes that agents are joined in purposive action: 'Agents are joined in seeking to procure the satisfaction of a chosen common want or to promote a common interest' (1999, p. 133). *Teleocracy* is the model for most human activities whether running a firm, educating children or promoting a political objective. In this mode of association, there is only what he summarised as 'Purpose, Plan, Policy and Power' (ibid. p. 135). Oakeshott pointed out that those who favour the teleocratic model often speak in terms of emergency, war and necessity, and argue that the specified end is not just desirable, but essential to the welfare of everyone. It is 'not insignificant that the rhetoric of *teleocratic* belief is always liberally sprinkled with military analogy' (2006, p. 496).⁸⁴ The near continuous state of war in early modern Europe encouraged the idea of the state engaged in the pursuit of a purpose, as war is both a purposive and managerial activity. '(1975a, p. 273).

⁸³ 'Our goal is for Britain to become the most prosperous major economy in the world, with that prosperity widely shared. So we choose economic security' (Osborne 2015).

⁸⁴ For example, "War on Poverty", "War on Cancer", "War on Drugs", "War on Women" (Lakoff and Johnson, 1980).

Oakeshott's objection to the *teleocratic model*, or enterprise association, was its denial of the freedom inherent in the concept of personhood, by 'severing the link between belief and conduct that constitutes moral agency' (1975a, p. 152). The *teleocratic* state is thus a 'moral enormity', as it compromises the moral autonomy of its citizens (Ibid., p. 158).

Elizabeth Corey gives a modern example of the moral enormity of *teleocracy*. She suggests that it is difficult to envision an episode 'that more perfectly illustrates Michael Oakeshott's notion of *teleocracy* than the Supreme Court decision, in a 5-4 vote, that President Obama's signature piece of legislation, the Affordable Care Act (Obamacare), was constitutional' (Corey 2014, 1). In pursuit of the goal of universal healthcare, this controversial Act compels all working American adults to purchase private health insurance. Insurers are compelled to provide this irrespective of the health history of the insured. The healthy, in effect, are compelled to subsidise the sick and purchase insurance, whether they want to or not. Americans are compelled to perform substantive actions of a kind they may not approve of; in the service of an end they have not chosen. As Corey remarks, 'to paraphrase Oakeshott, there is only one thing worse than hearing the dreams of others, and that is being forced to live them yourself' (2014, p. 2).

Oakeshott claimed that the teleocratic understanding of the state has remained remarkably stable over the past five hundred years, albeit with significant alterations in terms of the nature of the goal pursued. He identified three main kinds of end. First, in the religious version, the state is conceived as a religious and cultural organisation in pursuit of salvation, and the ruler is understood to be the manager of the salvation of the associates. He argued that this idea of the state as a corporation, whose end was to seek the salvation of souls, was the outcome 'of that blending of what may be called the authority to rule and the authority to educate' (1975a, p. 286). Calvinist Geneva represented the most fully actualised version of this conception of the state. De Maistre was, according to Oakeshott, the only theorist to offer a formal

account of the conception of the state as an integrated temporal-spiritual community, joined together to pay off the debts of sin.⁸⁵

A second version of the *teleocratic* state was understood to be a productive enterprise. This conception owed much to the residue of lordship that still attached itself to the office of government in the states of early modern Europe. The state, here, was ‘recognised to be, and not merely to have, an “economy”’ (1975a, p. 288). The purpose of the state in this version was the maximum exploitation of its resources. Oakeshott claimed Francis Bacon provided a reasoned account of this version of teleocracy (ibid., p. 287).

The third version, which Oakeshott claimed was a combination of the first two, considered the state as the manager of ‘enlightened’ conduct. It combined the relics of lordship, which informed the economic version, and tutorial authority, which informed the religious version. The purpose of the state in this model is understood as the promotion of the “common good”, or the virtuous life: ‘The enlightened state identified itself as a development corporation in which virtue and cupidity were to constitute a single engagement directed or managed by a lord and his agents’ (ibid., p. 299). The writers associated with this idiom were not theorists, but administrators. The Cameralists, who he claimed were the pre-eminent thinkers associated with this conception, understood the necessary connection between the notion of the state as a teleocracy and a greatly enlarged government machine.⁸⁶

Nomocratic government, in contrast to *teleocratic* government, is an activity that provides rules for the conduct of its subjects, but rules which do not enforce any specific and deliberate end or purpose upon that conduct. *Nomocracy* means that government is ‘understood as the rule of its subjects

⁸⁵ Joseph-Marie de Maistre (1753-1821), a conservative Catholic philosopher whom, according to Oakeshott, ‘is concerned with events from the standpoint of Providence’ (2008, p. 201).

⁸⁶ Cameralism was a German science of administration, a predecessor of the modern science of public administration. The first academic chairs were established at the Prussian Universities of Halle and Frankfurt an der Oder in 1727 (Wikipedia 2/20/2014).

by means of “law” (2006, pp. 483). It is underpinned by two beliefs: first, the conviction that the correct task of government is to be the protector of a structure of legal rights and duties that subjects observe as they select their ends, ‘while still remaining a single association’ (ibid.); and second, the belief that a proper task of government is to protect the interests of the association in relation to other associations.

The subjects of government are thus free to set their own ends, but morally and legally obliged to pursue these within the rules that constitute the association. The association is nothing more or less than the system of rules itself: there is no over-arching purpose to which the associates are dedicated. In *On Human Conduct*, Oakeshott refined his terminology. *Nomocracy* became the civil condition: ‘I propose to use the word *civitas* for this ideal condition, *cives* for the personae related in this manner, and *respublica* for the comprehensive conditions of association’ (1975a, pp. 108-109).

He argued that the major distinction between these two dispositions of thought rests in the fact that for the believer in *nomocracy*, ‘how a government acts is a more important consideration than *what* it does’ (2006, p. 484). For the believer in *teleocracy* it is unimportant *how* a government behaves so long as *what* it does promotes the chosen purpose. Oakeshott likened the function of the government of a *nomocratic* state to that of the ‘governor’ of an engine, whose ‘function is not to make it go, but is merely to control the speed at which its parts move in relation to one another’ (ibid., p. 488). The government exists to stop civil associates damaging, restraining or bumping into one another as they pursue their chosen objectives.

In his ‘Lectures in the History of Political Thought’, which Oakeshott delivered annually at the LSE in the late 1960s, he advanced a claim that undermined his characterisation of *nomocracy* as essentially purposeless. He argued that to believe in *nomocracy* is not to attribute merely a negative office to government. A *nomocratic* government is the constant guardian of the admitted goods of the society (2006, p. 488). “Admitted goods” is a notion borrowed from Aristotle, which refers to the values that members of a state

hold in common. In a *nomocratic* state, Oakeshott claimed, the most precious of these admitted goods is the freedom of citizens to make choices for themselves. Chief among their antipathies is interference with this freedom (ibid., p. 485).

But to be the guardian of “admitted goods” of a society is, arguably, to endow the state with a *telos*, and thus to question whether a *nomocratic* state is even a conceptual possibility. He avoided this conclusion by pointing out the normative beliefs that compose a tradition are not self-consistent and can often be in opposition. They are incommensurable: ‘They cannot properly be thought of as a norm or a self-consistent set of norms or “principles” capable of delivering to us an unequivocal message about what we should do’ (1965, p. 90). But in making this point he begged the question of why a *teleocratic* state must only be conceived as having a single overarching aim, and not a plurality of aims, some of which may be inconsistent. In his later works, such as *On Human Conduct* (1975a) and ‘The Rule of Law’ (1999), an abridgement of the lectures Oakeshott gave on this subject over the years, there is no reference to “admitted goods”. It is merely stipulated that a *nomocratic* state has no *telos*. We will see that the coherence of his account of civil association is critically dependent on this stipulation.

He was keen to avoid any possible confusion between *nomocratic* belief and what is sometimes called *laissez-faire*. He claimed that this expression and its companion *laissez-aller* are not beliefs about the proper purpose of government. They are terms invented in the eighteenth century that were devised to counsel that there were some matters that a *teleocratically* inclined government should avoid doing if its chosen end is material prosperity. The belief in *nomocracy* is not connected to the belief that the proper business of government is to do as little as possible. Such a belief ‘belongs only to the lunatic fringe of modern European political thought’ (2006, p. 488).

Oakeshott’s position marked a clear distinction between him and other twentieth-century advocates of *nomocracy* and the rule of law, for whom economic efficiency and prosperity were part of the rationale for a rule of law

grounded state. Hayek, for example, argued that the *rationale* of the liberal principle of the Rule of Law is ‘our ignorance of the precise results of formal laws as a method of social control’ (Hayek 2004, pp. 78-79). He offered two arguments to support this claim. The first is economic. The state should limit itself to establishing rules that apply to general situations. Only the individuals involved in each instance can fully know the precise circumstances and adapt their actions to them. If individuals are to use their knowledge effectively in making plans, they must be able to predict actions of the state that may affect these plans. But if the actions of the state are to be predictable they must be according to rules that are fixed independently of the concrete circumstances, which can neither be foreseen nor taken into account beforehand. Hayek’s second argument is essentially Oakeshott’s moral argument, which will be examined in the next section, that only general, formal laws preserve freedom of choice.

Freedom and the Rule of Law

In Chapters One and Two, we noted that Oakeshott considered the birth of the ideas of freedom and individuality in Western Europe as the most praiseworthy of historical episodes. We saw how these values informed his account of the good life and underpinned his conception of morality. His veneration of individuality, moreover, reflected his estimation that freedom is the essence of human conduct. He regarded freedom as the precondition for all other goods. Freedom alone can give the opportunity for constructing a self that is uniquely one’s own: ‘Even if that means going to hell’ (O’Sullivan 2013, p. 8).

According to O’Sullivan, Oakeshott had a particular fondness for the late medieval story about the love of *Aucassin and Nicolette*. In it Aucassin proclaims that if his love for the pagan Nicolette condemns him to hell, this is no bad thing, as hell is where anyone at all interesting has always gone. Likewise, when Oakeshott was once asked whether he would not in the end position salvation above freedom, were salvation to be possible, ‘he smiled and said that salvation was not an appropriate concern for human beings.

When asked why, he replied that it would be undignified' (O'Sullivan 2013, p. 8).⁸⁷

Oakeshott's love of freedom as the opportunity to create a self uniquely one's own, regardless of the pain which this may at times bring motivated him to demonstrate the moral superiority of the state conceived as a *nomocracy*.⁸⁸ He developed his account of the nature of civil authority to make it consistent with the maximum exercise of human freedom, by which, as we have noted, he meant the opportunity to enact our lives according to our own choices and so to express our individuality. His project in writing on civil association can be interpreted as an attempt to answer the fundamental question of how is it possible to reconcile political authority and the exercise of individuality? The starting point in evaluating his response to the question is an understanding of his claim that laws, when correctly understood, do not constrain freedom.

Liberty and Law

Two principles normally regarded as embedded in the modern liberal state are the ideas of liberty (or freedom), and the rule of law. Both are, in W. B. Gallie's terms, "essentially contested concepts" (1956). There is widespread agreement that both are good things. Boucher describes them as examples of 'hooray words' (2005, p. 91). They are amorphous in meaning but nevertheless strike the right chord when spoken: their 'evaluative content is positive and

⁸⁷ O'Sullivan observes that 'an important feature of the English tradition was that, unlike the Roman, personal freedom was not subordinated to political freedom. English life permitted, in consequence, the untrammelled enjoyment of the Epicurean conception of life with which, so far as he can be categorized at all, Oakeshott sympathized most deeply' (2013, p. 10).

⁸⁸ As far as political freedom is concerned, Oakeshott was impressed by the Romans, the Normans, the Vikings, and above all, the English, in whose conception of the common law he found 'a living method of social integration, the most civilized and most effective method ever invented by mankind' (2007, p. 219). Anderson finds this judgment remarkable given the fact 'that their states (the Romans and Normans) were among the most ruthlessly single-minded and successful "enterprise associations" of all time, machines of conquest and colonization without peer' (2005, p. 24).

laudatory, while its descriptive content is less clear beyond trite sounding vagaries' (ibid.).

Consequently, there is much controversy over what freedom means in practice. Freedom, or liberty, can be understood in terms of what Isaiah Berlin called "negative liberty", which can be defined as the absence of constraint from other agents or the absence of external impediments: 'I am normally said to be free to the degree which no man or body of men interferes with my activity. Political liberty in this sense is simply the area within which a man can act unobstructed by others' (1969, p. 172). A freedom-respecting government is a non-interfering one. Crucially, this understanding of liberty means a government cannot preserve or increase individual liberty by any means other than non-interference.

Others, however, use a notion of "positive' liberty" associated with the ideas of autonomy, self-direction and self-fulfilment. T. H. Green, commonly considered to be the father of modern reform liberalism, claimed that 'the ideal of true freedom is the maximum of power for all members of human society alike to make the best of themselves' (1881). Rousseau famously contended that men can be politically 'forced to be free' as 'man is born free, yet everywhere he finds himself in chains' (1973, p. 165). If it is positive liberty that we seek to maximise, this suggests an active role for the state. If this idea is taken to the extreme, according to Berlin, positive liberty could result in totalitarianism as it is a licence for governments to interfere in the lives of their subjects in order to better themselves.

The negative/positive distinction remains 'the most salient in the recent history of liberal freedom' (Flikschuh 2007, Introduction: II).⁸⁹ For our purposes, we need to appreciate that Oakeshott's understanding of freedom

⁸⁹ The positive/negative distinction should not be conflated with Benjamin Constant's early 19th century distinction between "the liberty of the moderns" and the "liberty of the ancients". Flikschuh explains that, 'for Constant the liberty of the moderns marks the triumph of individualistic commercial society over the pre-modern non-individualistic understanding of a socio-political community as an organic unit' (2007, Chapter 1:1).

placed him firmly in the camp of negative liberty from the point of view of the rule of law, although he never used the term to describe his position. Oakeshott was accepting of human imperfection. He believed that perfectionist projects associated with protagonists of positive freedom were folly.

Like freedom, the rule of law is a contested concept. It has been a topic of continuous discussion since at least the 1830s. The liberal concept of the *Rechtsstaat* was developed by German jurists, such as Rudolph Gneist, to characterise what the Germans understood as the legal order found in Britain (Turner 2014, p. 1). In her study of 'Competing definitions of the Rule of Law', Rachel Kleinfeld Belton claims that to 'read any set of articles discussing the rule of law the concept emerges looking like the proverbial blind man's elephant - a trunk to one person, a tail to another' (2005, p. 5). Belton gives five meanings of "the Rule of Law". 1) Making the state abide by law; 2) Ensuring equality before the law; 3) Supplying law and order; 4) Providing efficient and impartial justice; and 5) Upholding human rights (2005, 7). Moreover, it is 'a rhetorical trope for politicians worldwide' (ibid.).

Judith Shklar argues that it would not be very demanding to demonstrate that the expression "the rule of law" has become empty thanks to ideological exploitation and general over-use: 'It may well have become another one of those self-congratulatory rhetorical devices that grace the public utterances of Anglo-American politicians. No intellectual effort need therefore be wasted on this bit of ruling-class chatter' (1987, p. 1). Oakeshott was conscious of the potential of the rule of law as a tool of vacuous ideology: 'As with all such shorthand expressions, it is ambiguous and obscure' (1999, p. 119).

His challenge was to reconcile law and freedom. If freedom is understood in the negative sense as an absence of constraint and a universal feature of the law is that it is inherently coercive, there is an inevitable tension between freedom and rule of law. Liberal commentators typically tend to manage this tension by admitting that law and freedom are contradictory, but assert that rule of law is ultimately conducive to the realisation of freedom. Conservative

liberals such as Montesquieu and Tocqueville, for example, tended to refer to 'moderate' liberty as distinguished from licence (Podoksik 2002, p. 2).

In his essay, 'The Political Ideal of the Rule of Law', Hayek exemplified the dilemma of those committed to both freedom and the rule of law: 'While a great deal of silly and harmful legislation would still be possible under the Rule of Law, it is at least not likely that oppressive legislation would be passed under it' (1955, p. 47). An "elective dictatorship" such as the UK Parliament, can theoretically enact whatever laws it wishes: 'I will admit that some liberal fanatics might wish to enforce general rules which others would feel very severe restrictions of their liberty' (ibid.).⁹⁰ This would be the "Rule *by* Law", which affords little protection to freedom in itself. On Hayek's reading then, the rule of law does not constitute freedom, but is a means of promoting freedom. That is, the rule of law and freedom are mutually supportive, but not identical. The rule of law may be said to be instrumental to freedom.

It is rather the conventions that have grown up regarding law in the UK that protect freedom, and not the rule of law itself. Lord Justice Bingham lists eight features normally associated with the rule of law. Law should be accessible, clear and predictable; questions of legal right and liability should ordinarily be resolved by application of the law and not the exercise of discretion; laws should apply equally to all, save to the extent that objective differences justify differentiation; law must be an adequate protection of fundamental human rights; means should be provided to resolve disputes, without prohibitive cost or inordinate delay; ministers and public officers must exercise the powers conferred upon them reasonably; adjudicative procedures provided by the state should be fair; the rule of law requires compliance by the state with its obligations in international law (2010). Most of these features are open to a range of interpretations.

⁹⁰ The phrase "elective dictatorship" was popularised by Lord Hailsham in the 1976 Richard Dimbleby lecture. In his response to the Queen's Speech on 27th May 2015, Shadow Chancellor, John McDonnell reminded the government that it was elected by only 25% of the electorate although it had an overall majority of seats: 'I urge the Government to take a common sense approach to a situation that could, if we are not careful, develop into an elective dictatorship' (2015)

In his post-war work, Oakeshott spoke of the advantages of the rule of law, in a manner similar to Hayek, in terms of its instrumental value to the preservation of freedom. In 'The Political Economy of Freedom' (1991), he claimed that experience has shown that government under the rule of law is economical in the use of power and consequently uniquely suited to uphold freedom (1991, p. 390). The rule of law is 'itself the emblem of that diffusion of power which it exists to promote' (ibid.). It is particularly appropriate to a free society because the rule of law, by means of the application of settled rules according to due process which bind both governors and governed, is the greatest 'single condition of our freedom' (ibid.). Oakeshott claimed that the contingent developments in the modern era such as two major wars, population growth, and the concentration of the resources of power in the modern state made the rule of law even more salient to the preservation of freedom. These 'have all given the old notion of "teleocracy" a new apparent appropriateness' (Oakeshott 2006, p. 482).

He noted that the difference between *teleocracy* and *nomocracy* as regards the rule of law is not that *teleocracy* necessarily means the absence of law. It means only that what 'may be called roughly *the rule of law*' is understood to have no autonomous virtue, 'but to be valuable only in relation to the pursuit of a chosen end' (ibid., p. 472). A chosen end could be, for example, the efficient implementation of government policy. So the rule of law could be harnessed by a totalitarian regime for its purposes.

In his later work, Oakeshott went further than merely emphasising the instrumental value of the rule of law to the preservation of freedom. Not only did he argue the virtues of both freedom and the rule of law, but he also claimed that they are indivisible. Freedom is not promoted by the rule of law but is intrinsic to it. As Podoksik points out, he was not the first thinker to make such a claim. Both Rousseau and Hegel did likewise, but when the overlap is pushed to the point of identity, 'they are suddenly perceived as illiberal thinkers, and rightly so. Liberals need the idea of an alliance of freedom and the rule of law, but they usually cannot tolerate their identity' (2002, p. 3). Oakeshott was unusual in asserting their identity without being

accused of leaving the liberal tradition. We should thus examine the structure of his argument to understand his distinctive position.

The Reconciliation of Freedom and Law

There are two ways of solving the apparent opposition between freedom and the rule of law. On the one hand, one can specify the idea of freedom so that it will correspond to the idea of law, or vice versa, so that law need not be understood as a constraint. It is normal for those theorists who claim an identity of freedom and the rule of law to reject the idea of negative freedom. If law is seen as freedom-enhancing in the sense of enabling autonomy, there is no necessary contradiction between freedom and the law. Prohibition of the sale of alcoholic beverages will reduce drunkenness and indigence, enhancing the effective autonomy of drunkards. This is, of course, at the cost of reducing the freedom of choice of all agents, which is why most liberals recoil from this argument.⁹¹

Oakeshott took another route to reconcile freedom and the rule of law. He conceived of civil liberty in terms of an absence of constraint. Yet, remarkably, he claimed that laws do not constrain civil freedom. How can this be the case? As we noted in Chapter Two, when he analysed human conduct, he distinguished two aspects of it. First, an action is a performance intended to evoke a certain response from other agents. Second, an action can be understood with reference to the practice to which it subscribes. A practice consists of the considerations that must be observed when undertaking a specific action, if the action is to be executed properly.

⁹¹ Rousseau is a good example of the dangers to liberty of a positive understanding of freedom: 'It is this notion of the two selves which really does the work in Rousseau's thought. When I stop a man from pursuing evil ends, even when I put him in jail in order to preventing damage (...) I do it because that is what his own better, more real self would have done if only he had allowed it to speak (...) this is what [is meant by] Rousseau's famous phrase about the right of society to force men to be free' (Berlin 2003, pp. 46-47).

But practices do not specify an agent's substantive choices of purposes and actions. There are many practices in society, the two most important instances of which are common language and common morality. Any one specific performance may refer to several practices, such as the language in which it is spoken, or the rules of a game. The key point for Oakeshott was that practices do not command. Instead, they "adverbially" qualify the performances of agents who follow their own choices.

All human actions can be understood in relation to two aspects, a substance and a form, both of which are present in every actual performance. Whereas they are analytically separable, in practice they are not. The substantive aspect denotes that action is understood as a choice to do one thing rather than another, in order to obtain a specific satisfaction. The choice constitutes the freedom inherent in agency. With reference to the formal aspect, action is understood as performed under the aegis of a practice or practices. Thus, action is always a performance intended to realise a specific substantive outcome undertaken under the general conditions of a practice that in themselves are irrelevant to the character of the specific action involved, or the desired upshot.

To pursue their shared objective in contingent circumstances, the members of a *teleocracy* adopt certain procedures for arriving at decisions. They nominate those responsible for taking decisions and may agree a set of rules that will facilitate the achievement of their common objective. The distinguishing characteristic of this type of association is not its rules but its objective, and the manner of its pursuit in contingent circumstances. The rules of a *nomocracy*, or civil association, are viewed, in contrast to those of a *teleocracy*, as not having an extrinsic purpose. They constitute the very terms of the association, regardless of the individual goals that its members may wish to pursue. They are "moral", in Oakeshott's unusual use of the term, in the sense of being non-instrumental, or non-prudential, rules, which are part of a practice that has no purpose.

A civil association, or association under the rule of law, is a moral association. Its uniqueness is that it is a deliberately alterable system of law that specifies the considerations to be taken into account to maintain a distinct idea of civility. But these considerations 'are not commands to be obeyed but conditions to be taken into account and subscribed to in choosing performances (...) a practice of "just" conduct' (Oakeshott 1975a, p. 182). The requirements of the laws of civil association are general rules, not specific commands. They entail subscription to their conditions in any self-chosen action.

The rules are both equal and general as they specify neither particular persons nor places. Furthermore, as Oakeshott claimed, a *nomocracy* has no purpose; there is no need to demand associates' approval of the purpose of the association, because there is no purpose to approve of. Members of a *nomocracy* are free in a fundamental way that members of a *teleocracy* are not, as a result of the formal character of *nomocracy*. The substantive performances in a *teleocracy* are constrained by its purpose, whereas, because a *nomocracy* has no purpose, its associates' substantive freedom is not compromised.

As the rules of a civil association are not commands, they do not require performances of specific actions. In this sense, laws do not contradict freedom. For Oakeshott, 'the freedom of citizens arises not in the silence but in the generality of the laws' (Coats 1989, p. 49). Agents always act according to their self-chosen purposes. They are only obliged to subscribe to the general conditions of conduct specified in civil rules. This is the same feature of "adverbiality" noted in Oakeshott's specification of morality. As the rules prescribe *how* a self-chosen act is performed, not *what* is to be performed 'the appearance procedures and rules may have of excluding (forbidding), or more rarely of enjoying, substantive choices and actions is illusive' (1975a, p. 58 n.)

His reconciliation of freedom and law in a *nomocracy* thus depends on two foundational premises. The first is the stipulation that a *nomocracy* is a non-

purposive association; the second is that laws, correctly speaking, are “adverbial” in nature. Most commentators deal with his two arguments separately. But it could also be argued that they amount to a single argument approached from two different perspectives. He claimed that civil freedom is ‘the condition of being associated solely in terms of the recognition of the authority (...) of the adverbial conditions of conduct’ (1975a p. 184). Thus what is recognised is not authority *per se*, but the authority of conditions that are always adverbial. In the civil association, only those laws that leave space for a choice in undertaking an action are recognised as authoritative.

Underlying this argument is a claim that the character of a law is determined by how citizens perceive it. When a law is understood as a command, it will be perceived as connoting some ulterior purpose. When it is perceived as a formal law characterized by generality, such a purpose will be understood to be absent. In a similar manner, if an association is perceived as having a purpose, its laws will be viewed as composed of substantive commands. When an association is perceived as non-purposive, its laws will not be viewed as limiting freedom. Thus he conceptualised the relationship between law and liberty in an unusual way. The freedom of the citizen is not, as rights-based libertarians such as Robert Nozick argue, in “minimal government”, but in being governed in a particular way, adverbially not purposefully (1974).

For Oakeshott, “freedom” was not a concrete attribute, but an abstraction that cannot be present independently of the perceptions of agents. The case of traffic laws is often referenced in discussions on freedom by supporters of positive freedom who appeal to our intuitions against what they perceive as a liberal view of ‘negative’ liberty. Charles Taylor, for example, claims that we do not view traffic laws as violating our freedom as their observation is in our collective interest. He argues that we grant more significance to some desires and objectives than others. Some wants can be distinguished as more ‘rational’ or more ‘authentic’ than others, and for this reason, it is justifiable to speak of ‘positive’ liberty (2006, pp. 141-162).

Oakeshott would probably agree that traffic laws do not violate our freedom, but he would not agree that this can be explained in terms of the rationality of our preferences. He would say that laws restricting movement on roads do not violate freedom, whereas laws limiting the right to emigrate do violate it, because that is how citizens perceive them.

Podoksik argues that the above interpretation of freedom supplies the link between Oakeshott's advocacy of it and his emphasis on the importance of tradition. Only an appreciation of the cultural traditions and values of a particular society can show which choices and life goals are regarded as important by its members and therefore, which rules will be seen as a limitation on freedom (2002, p. 10). It is thus plausible to conclude that citizens will not see their freedom as constrained by traffic laws. We often think that there can be laws that do not impinge on our freedom. We understand these laws as formal, not substantive, establishing rules and not demanding actions. Furthermore, we do not view traffic laws as substantive, because we do not see them as entailing a common purpose. We do not attribute a purpose to these laws, because we do not consider that they necessitate concrete acts.

One possible objection to this argument is that although laws may not restrict freedom, *actions* most certainly are restricted. I cannot light a fire "arsonically". Thus, civil freedom cannot mean the lack of restraint on actions. The response, however, is that no *action* is perceived as restricted in a *nomocracy*. A citizen who recognises the authority of law perceives himself to be acting within its framework, and does not imagine illegal action as a possible choice. So, the stipulation to drive on the left-hand side of the road is viewed by a driver as the frame of reference within which he attempts to fulfil his objectives while observing the terms of civility. Civil laws can then be viewed as akin to natural limitations. I should not view my inability to fly unaided to a destination of my choice as a restriction of my freedom, as my inability to fly is a fact of the human condition. Civil laws are a fact of the condition of civility. They can be recognised in this manner, however, *only* if they are not seen as promoting some goal. Laws should not be viewed as

restricting the fulfilment of our ambitions, or designed to frustrate our choices.

A critical analysis of the postulates of Oakeshott's concept of the Rule of Law

The originality of Oakeshott's contribution to our understanding of a society based on the rule of law and its relationship to freedom consists of three features. The first was his contention that under the name of "law", states have promulgated an 'ambiguous, heterogeneous collection of rules and rule-like instructions' (1975a, p. 128). But not all such rules are the sort of "law" that is appropriate to the civil condition. They are an ambiguous mixture of rules of all sorts: 'Of moral precepts, of imperatives and directives which were not rules *properly speaking*' (ibid.). Consequently, it is very difficult to distinguish the law appropriate to the civil condition.

The second feature is his construal of the rule of law as a mode of government characterised by non-purposive laws rather than, as is now common, a set of constitutional constraints on the purposive action of government. For Oakeshott, a citizen had civil freedom to the extent that non-purposive laws govern him. He lacks civil freedom in so far as he is subject to purposive laws and orders. This controversial claim is fundamental to his advocacy of the virtues of the state conceived as a civil association.

The third feature is that his notion of justice was limited to government in accordance with the Rule of Law alone. This is consistent with his morality of individualism, which ignores the issue of what we might be obliged to do for others in society. Justice, like morality, is concerned with following the rules of civility. This begs the question as to whether the Rule of Law, as Oakeshott conceived it, is sufficiently robust to provide for a just social order, or whether it is applicable only to robust individuals who accept no responsibility for maintaining a communal life that acknowledges social obligations to others in order to secure their wellbeing.

The three features, delineated above, taken together give coherence to Oakeshott's claim that *nomocracy*, or civil association, is the only moral form of the state, and intimate a specific answer to the question of what a state should do (1975a, p. 124). The coherence and stability of his argument are undermined, however, to the extent that any of the three features are found wanting. This will now be addressed.

Rules and Commands

The distinction between non-instrumental rules of conduct and commands to assignable agents is fundamental to Oakeshott's exposition of the virtues of government under a Rule of Law. He argued that rules must be distinguished from 'pieces of advice or commands or mere prohibitions' (1975a, p. 125). The idiom of these is prudential as they are developed from considerations of consequences: but a rule relates to the appropriateness of conduct, not its expediency. A rule is 'an authoritative assertion and not a theorem' that asks only for agreement in performances related to it. (ibid.).

An agent may decide not to conform to a rule but 'that is to neither deny nor revoke its status as a rule: rules assert norms of conduct' (ibid.). A rule is not a command due to its feature of generality: it relates 'indifferently and continuously to all' (Oakeshott 1999, p. 140). Commands, in contrast, are addressed to specific persons. Agents are not obliged to undertake specific actions by the existence of authoritative rules, but to conform, in their actions, to the rules. The Highway Code, for example, does not command us to drive our vehicles, but, should we so choose, it obliges us to drive on the left hand side of the road.

Oakeshott's account of the source of authority of rules and our obligation to subscribe to them will be examined in due course. We should note at this point, however, that he claimed that the reasons for recognition of authority having nothing to do 'with the approval or disapproval of the conditions prescribed' (1975a, pp. 126-127). His reasoning was that authority could be separated from approval as rules 'do not warrant, enjoin, or prohibit

substantive actions or utterances’, but are merely adverbial qualifications of self-chosen performances (ibid.).

Oakeshott drew an analogy between law and games such as chess, tennis or cricket. He claimed that a game is ultimately defined by its rules. The players are related in terms of the mutual obligation to respect the conditions which themselves comprise the game (1999, p. 137). This obligation cannot be avoided for reasons of disapproval or of conscientious opposition to what the rules stipulate. The obligation ‘may be symbolically expressed in deference to their custodian: an umpire or a referee’ (ibid.). As the rules are constitutive of the game, we are obligated to subscribe to them should we freely choose to play.

The feature of non-instrumental laws is the key difference between agents associated under the rule of law and those associated in a purposive association. Law, properly understood, like morality can never tell us what to say or do, ‘only how we should say or do what we wish to say or do (...) moral rules prescribe the obligation to observe adverbial conditions in performing self-chosen actions’ (ibid., pp. 144-145). Freedom is preserved by this ‘adverbial’ quality of rules, as distinct from commands. “Adverbiality” is not simply a matter of more or less, but of mode. Oakeshott believed that the rule of law, conceived as adverbial qualifications to actions, reconciled the claims of law with liberty.

Oakeshott crafted the term ‘*lex*’ to identify the subset of laws promulgated by authority, which are general and non-instrumental. “Laws” drafting every male over the age of 18 or requiring taxes to be paid would be examples of general orders, as they lack the adverbial quality of true rules. According to him, the laws integral to rule by law consist at best of a circumscribed slice of the prescriptions laid down as law by a modern sovereign authority.⁹²

⁹² The most egregious type of legislation that purports to be law, but which is not so according to Oakeshott’s conception, is so-called “declamatory legislation”. This has no practical effect and is not intended to do so. The Fiscal Responsibility Act of 2010 was passed by the last Labour government, and obliged the government to cut the budget deficit by half this year. As John Kay points out, ‘there was never any realistic

The substantive point of the distinction between rules and commands is that freedom of choice depends on the extent to which we are governed by regulations, which have the nature of rules rather than orders. Shirley Letwin noted that this distinction has been lost in the ‘confusion generated by the talk of open and closed societies or, more or less, strong and weak government’ (2004, p. 334). Letwin’s interpretation of Oakeshott is that how free we are to lead our own lives depends not so much on the number of laws but on whether they are rules rather than orders and that although all laws are expressed in terms that give them the appearance of rules, increasingly many purported laws are in fact orders. Orders determine performances, whereas laws merely qualify them.

But, arguably, the “adverbial” nature of true rules does little, in practice, to limit or shape the activities of government. John Gray has noted that ‘laws may be adverbial in appearance but, nonetheless, repressive of liberty in practice. Oakeshott’s formal requirement that laws be adverbial in form ‘provides no security whatsoever against their restraining liberty’ (1995, p. 210). Most commands can be expressed adverbially. A prohibition on the sale and consumption of alcoholic beverages could be expressed as a general law obligating citizens to drink “healthily”. As Liddington observes, the adverbial quality of *lex* is counter-intuitive and contradictory: ‘If a law prohibiting murder can be a procedural law, what would not count as a procedural law?’ (1984, p. 313). All prohibitions can be construed as procedural: ‘Why may not a law prohibiting (say) bourgeois education be said to qualify rather than determine the performance of learning and teaching’ (ibid.). With regard to Oakeshott’s example of laws prohibiting fire-raising and larceny not necessarily restricting freedom Liddington reasonably asks why we should suppose that a law prohibiting private property necessarily restricts it? (Liddington 1984, p. 313).

prospect that this target would be met, and it has not been met’ (Kay 2014). Other examples include the 2008 Climate Change Act, which set a supposedly “legally binding” obligation to cut greenhouse gas emissions by 2050; and the 2010 Poverty Act, which requires that child poverty be eliminated by 2020.

Yet the adverbial quality of rules, correctly understood, is a fundamental feature of Oakeshott's conception of the rule of law. The adverbial quality of rules alone is certainly insufficient to reconcile freedom and law in philosophical terms. The nature of general rules leaves individuals free to perform particular actions, but the rules often forbid certain types of action, such as lighting fires "arsonically". But, they do so for a purpose. For this reason, formal rules can still severely restrict liberty and cannot readily be understood as non-purposive.

Instrumental and non- instrumental rule

Although Oakeshott claimed government under the rule of law means formal, not minimal, government, it is hard to see how a *nomocracy*, in practice, could mean anything other than minimal government. He further circumscribed *lex* in ways that lead to this conclusion. A second key distinction in his understanding is that between an instrumental and non-instrumental rule. Only the latter qualify as laws that are compatible with freedom. This distinction was not novel. It is implicit in Kant's distinction between moral and utilitarian motives. The novelty lies in Oakeshott's use of the distinction with regard to law.

This distinction was rejected by theorists such as Locke and Bentham. They understood law as an instrument for providing certain satisfactions, as befits an enterprise relationship. An enterprise association, or *teleocracy*, is a mode of relationship in which agents associate to 'procure the satisfaction of a common want or to promote a common interest' (Oakeshott 1999, p. 133). Enterprises such as 'the Society for the Propagation of Christian Knowledge', 'the Anti-Blood Sports League', and 'the Licensed Victuallers Association' have rule books and regulations, 'but these are no more than the prudential disposition of the available resources, *instrumental* to the pursuit of the common purpose' (ibid., pp. 133-134).

In the previous discussion of Oakeshott's account of morality, we noted that the distinction between a non-instrumental and an instrumental practice revolved around the defining feature of a moral (as distinct from a prudential) practice. No use can be made of a moral practice, unlike, say, the practice of shoe-making. He used the same distinction to qualify association lived under a rule of law from association lived as an enterprise. The obligation to subscribe to non-instrumental rules constitutes a moral relationship. For Oakeshott, it is the normative basis of the superiority of civil over enterprise association. Only civil association under the rule of law is compatible with the moral autonomy of citizens in a state where membership of which is compulsory. But what can we make of the distinction between instrumentality and non-instrumentality with regard to law?

His basic idea is that rules of law are not concerned with the consequences or expediency of conduct, but its propriety. Non-instrumental rules of law allow members of a community to formulate their own projects and pursue them as they wish without interfering with one another. They do not define ends to be followed, and they do not grant advantages. Rules of law are concerned with what is right, not what is useful to do. And being right is an end in itself, not a means to anything else. Moreover, rules of law have no role in promoting the substantive purposes of individuals. Oakeshott repeatedly reminded us that a rule of law 'is not concerned to promote or to obstruct the pursuit of interests' (1999, p. 154, p. 41). It is the essence of law not to be involved with the worth of different interests. It is not concerned with satisfying basic wants or with the promotion of prosperity or the eradication of waste: 'The equal or differential distribution of reputed benefits or opportunities, with arbitrating competing claims to advantages and satisfactions or with the promotion of things recognized as the common good' (ibid., p. 153). The factors we must take into account when deliberating the 'propriety' or rightness of law must be 'moral, non-instrumental considerations' (ibid., p. 154).

Shirley Letwin argued that the distinction between instrumental and non-instrumental rules is even more important to Oakeshott's argument than that between rules and orders. To conceive of the law as an interconnecting set of

non-instrumental rules reconciles law with morality. This is impossible for those 'who insist on a connection between law and morality [and] equate law with a body of instrumental rules designed to achieve a certain pattern of life or goal to which everyone in the community can be directed' (2005, p. 340). If morality is perceived as having a given purpose, then the law must comprise directives to achieve that purpose: it follows that 'to allow freedom of choice, law must be divorced from morality. But no such consequence follows from a preference for non-instrumental rules' (ibid.).

But, it is difficult to understand laws as being non-purposive. The common sense view is that all laws are instrumental and designed to achieve some purpose, or purposes. Laws necessarily restrict men's freedom, and for various reasons. Unlike morality, which, according to Oakeshott, is a vernacular language that evolves over time - and being moral is merely a matter of participating in a particular historic moral practice - much law is positively enacted, amended and cancelled. So he implicitly begged the question of what is in the minds of legislators in this process and, in particular, whether it is conceivable for laws to be made and interpreted without implicit or explicit appeal to consequences and purposes.

William Galston argues that 'every specification of a limit reflects a substantive judgment, at the margin, about the relative importance of safety and efficiency' (2012, p. 238). Joseph Raz claims that 'conformity to the rule of law is essential for securing whatever purposes the law is designed to achieve' (1979, p. 224). The purposes are of two kinds: 'Those which are secured by conformity with the law itself and those further consequences of conformity with the law or of knowledge of its existence which the law is intended to secure' (ibid., p. 225). So Raz argues, for example, in the case of a law that prohibits racial discrimination in government employment, that the direct purpose is the establishment of racial equality in the hiring, promotion and conditions of service of those who work for government, as discriminatory action is a breach of law. Its indirect purposes may well be to improve race relations in the country in general, or pre-empt a strike threat by trade unions: 'Regarding the rule of law as the inherent or specific virtue of law is a

result of an *instrumental conception of law*' (ibid., p. 223, italics added). Raz elaborates the instrumental conception of law by using the Aristotelian idea that 'as with other tools, machines and instruments a thing is not of the kind unless it has at least some ability to perform its function. A knife is not a knife unless it has some ability to cut' (ibid.). The purpose of the law is to guide behaviour: 'Like other instruments the law has a specific virtue which is morally neutral in being neutral as to the end which the instrument is put' (ibid.). The specific virtue in the case of the rule of law is to guide behaviour *efficiently*: 'The rule of law is an inherent virtue of law, but not a moral virtue as such' (ibid., italics added).

Raz claims that the purpose of the rule of law is to guide behaviour efficiently as a consequence of seven of its commonly attributed features, most which Oakeshott agreed with. All laws should be prospective, open and clear; laws should be relatively stable; the making of particular laws (particularly legal orders) should be guided by open, stable, clear and general rules; the independence of the judiciary must be guaranteed; the principles of natural justice must be observed; the courts should have review powers over the implementation of the other principles; and the courts should be easily accessible. The rule of law provides a framework within which specific laws are made, amended and cancelled. Specific laws are intended to guide conduct in a particular manner and have particular consequences.

Hayek also argued that both the rules of law and morality are instrumental: 'The rules of morality are instrumental in the sense that they exist mainly in the achievement of other human values' (2006, p. 60). We can only rarely know what depends on them being followed in a particular case. So to observe them 'must be regarded as a value in itself, a sort of intermediate end which we must pursue without questioning its justification in the particular case' (ibid.). Laws are also instrumental. From the perspective of an individual agent 'they provide part of the data which, together with his knowledge of the particular circumstances of time and place, he can use as the basis for his decisions' (ibid., p. 133). For Hayek, the qualities of generality and abstraction, not non-instrumentality, marked true law. Although laws are

instrumental, Hayek agreed with Oakeshott that proper laws differ from commands: ‘In obeying them the individual still pursues his own and not the lawgiver’s end. Indeed, specific ends of action, being always particulars, should not enter into general rules’ (ibid., pp. 133-34).

A substantive condition or a formal condition?

The third important distinction that Oakeshott offered is that between a “substantive condition” and “formal condition” of things. He employed this distinction to support the idea that the state could be conceived as a purposeless association. It can be argued that in any practice association, agents are related in terms of some substantive purpose: such as ensuring their own peace and security, or merely ensuring that the rules of the association are acknowledged. Aristotle, for example, thought it pretty obvious that a state has a purpose, like everything else.⁹³ He stated in the opening Chapter to Book One of his *Politics* that ‘every state is a community of some kind, and every community is established with a view to some good’ (2014, I). In Chapter Six of Book Three, he argued that the purpose of a state follows from the fact that ‘man is by nature a political animal’ (ibid., I, ii). Members of a community are joined together in the state by their common interest in promoting their wellbeing: ‘This is certainly the chief end, both of individuals and of states’ (ibid., III, vi). Likewise, Hobbes averred that the Commonwealth is established by mutual covenants between the multitude ‘to the end he may use the strength and means of them all, as he shall think expedient, for their Peace and Common Defence’ (2014, p. 75).

So how did Oakeshott sustain the idea that a civil association can have no purpose? His answer here was that any plausible example of such a substantive purpose is merely a “formal condition of things”. For him, peace and security are not substantive purposes. They are formal conditions without

⁹³ Oakeshott referenced Aristotle’s general argument that everything has a purpose in the *Notebooks* (Cf. Aristotle, *Ethics*, Bk II Ch. v Para 2; Bk III Ch. x Para 6 etc.): “Things are defined by their working and power”. A thing is a thing in virtue of some **purpose**; we have no other way of distinguishing one ‘thing’ from another except in terms of purpose, function etc.” (2014, p. 65).

which there can be no durable association under a rule of law. Freedom, peace and security are inherent in civil association constituted under the rule of law. The purposes that characterise a *teleocracy* are, in opposition, always to be understood as a substantive requirement of life and an end to be pursued such as 'having a job, a house of certain specifications (...) as distinct from their being no legal impediment to the enjoyment of these things' (2006, p. 473). They are not a formal condition of things.

Oakeshott conceded, however, that whereas chief amongst the 'admitted goods' in a nomocratic state is the freedom of citizens to make choices for themselves, in emergencies such as war or natural calamities, there may be temporarily imposed an overall purpose on the activities of its associates, when the continued existence of the association seems to be threatened in such a manner that "“survival” becomes, *temporarily*, the chief “admitted good”" (ibid., 486, italics added). But it might be argued that the survival of the association is an ongoing concern and that everything a government does in some manner contributes to its survival.

Oakeshott's conception that a state can be purposeless is flimsy if we reject his distinction between a substantive purpose and a formal condition of things. Notwithstanding his insistence to the contrary, peace, security and stability are purposes, implying action, not just conditions of it: 'When statesmen act, as Lincoln did, to preserve the union, or De Gaulle did to avoid civil war in France, to refuse to use the word “purpose” is worse than a quibble' (Flathman 2005, pp. 156-157).

If peace and security are conceived as substantive purposes, as Hobbes and many others believe, the actual shape of the state is contingent on what is necessary to this end; and if “security” is construed as “social security”, “economic security” or “social justice”, the list of what a state can legitimately do is almost limitless. If we conclude that it makes no sense to claim that a state can have no purpose, Oakeshott's idealisation of civil association is significantly undermined. And, as David Copp noted in his review of *On Human Conduct* Oakeshott neither explained nor defended the significance of

the distinction between substantive purposes and the formal condition of things. This is problematic as ‘it is on the meaningfulness of this distinction that the coherence of the idea of *nomocracy* or civil association ultimately hangs’ (Copp 1997, p. 237).⁹⁴

Law, Justice and Morality

In Chapter Two, I argued that Oakeshott’s understanding of morality as a purposeless practice ignores the fundamental moral question of what we owe to each other, which informs all discussions of social justice. This section explores Oakeshott’s account of the relationship between law and morality and between the rule of law and justice. It will be suggested that his account of justice manifests the same “thinness” we observed in his account of morality. A good starting point is to clarify his account of what makes laws authoritative and what obliges the associates in a civil association to obey them. Does the obligation exist because the laws are “just” in some normative sense; or is it that they have been enacted in accordance with standard procedures? Oakeshott, I will argue, gives no clear answer here.

Oakeshott used the Latin term *auctoritas* to capture what he meant by authoritatively enacted rules in a society governed under the rule of law: ‘Authority defined, *not* in terms of the quality of its acts, but in terms of a procedure of authorisation’ (2006, p. 229). The Romans adopted the term *lex* to signify law. It represented something that was written down, and reflected the process by which it was enacted. The essential point about *lex* is that its authority springs from the reality that it has been made according to the acknowledged law-making process, not from its reasonableness or convenience. A law may be unjust but it requires obedience until it is repealed.

Oakeshott did not acknowledge rights-based accounts of political obligation. *Nomocracy*, or civil association, has authority because it is acknowledged to have authority; there is no other basis on which it could have authority. His

⁹⁴ Copp’s objection was also made by D. D. Raphael (1975, p. 454), and B. Barber (1976, pp. 457-460).

view was very close to that of those legal theorists, such as H. L. A. Hart, who also derived the existence of a legal system from there being a sufficient number of people who take the “legal point of view”, or who acknowledge the authority of both particular laws and ‘rules of recognition’ (Hart 1994, pp. 94-95). Oakeshott’s argument was similar to that of Socrates in the *Crito*. The members of a country cannot refuse to obey its laws without destroying it. Socrates had enjoyed the benefits of citizenship by living under Athenian law; therefore, he was obliged to obey the law even when he did not approve of the consequences (Plato 360 BC). Oakeshott argued that questioning the desirability of a law is a political act, whereas impugning the authority of a law is an act of civil disassociation.

Oakeshott was, then, at odds with much contemporary liberal opinion (as exemplified by Ronald Dworkin), which is concerned with inalienable and innate natural rights and their relation to authority.⁹⁵ Oakeshott thought that laws, rights and customs were historical contingencies specific to individual communities. A civil relationship under the rule of law cannot be one in terms of the desirability of the conditions stipulated in the laws, ‘or of some quality of “rightness” or “justice” or “reasonableness” they may be deemed to possess’ (1999, 149). It does not even depend on the associates actually subscribing to the conditions. The exclusive terms of the civil relationship are the acknowledgment of the authority or authenticity of the laws.

He argued that authentic laws require associates to know what they are, and to have established procedures for determining their authenticity and that of the obligations they prescribe. This condition is only satisfied where laws have been enacted by design and may be deliberately changed or revoked by persons who have come to occupy a legislative office following a recognised

⁹⁵ See Ronald Dworkin’s *Taking Rights Seriously* (1977); and his essay ‘Liberalism’ in *A Matter of Principle* (1986b). ‘So the liberal, drawn to the economic market and to political democracy for distinctly egalitarian reasons, finds that these institutions will produce inegalitarian results unless he adds to his scheme different sorts of individual rights. *These rights will function as trump cards held by individuals* (...) the ultimate justification for these rights is that they are necessary to protect equal concern and respect’ (1986b, p. 198).

procedure: ‘The first condition of the rule of law is a “sovereign” legislative office’ (ibid., p. 150). Oakeshott claimed that the rule of law is silent on the particular constitution or procedure in respect of the particular legislative office, requiring only that these themselves be matters of law. So authority must be an endowment of the legislative office itself and since it is an authority to originate obligations, ‘it must be conferred in the knowledge of those obligated’ (ibid.). The legitimacy of authority depends on the recognition of those obligated to accede to its demands, which explains why Oakeshott was critical of attempts to locate political authority in any specific acts of authorisation, such as the will of the majority. Authority is legitimate as long as associates continue to accept an obligation to comply with its demands.

Moreover, authority is quite distinct from power. He claimed, as an empirical fact, that without recognition of authority, power has never been enough to sustain an association of human beings. Power only gains a moral status when the source of power occupies an office and is recognized to have an antecedent right to exercise it. Recognition of authority is the acknowledgment of the moral right to make demands. The exercise of power can neither compel nor secure the recognition of power as moral. It may be one of the outcomes of the recognition of their authority, ‘but it cannot be a condition of their authority’ (Oakeshott 2008, p. 237).

Oakeshott gave what can be described as a “positivist” response to the question of what constitutes authentic law: ‘That “law regulates its own creation” is not a paradox but a truism’ (1999, p. 155, n. 5). Positivism aligned him with the jurisprudence of H. L. A. Hart (1907-92).⁹⁶ Hart was an almost exact contemporary of his and was considered by many to be the foremost

⁹⁶ Hart’s major work was *The Concept of Law* (1994). A central part of Hart’s theory on legal positivism is that in any legal system, the *rule of recognition* is a master meta-rule underlying any legal system that defines the test for legal validity, or authentic law in Oakeshott’s terminology: ‘To say that a given rule is valid is to recognise it as passing all the tests provided by the rule of recognition and so as a rule of the system. We can indeed simply say that the statement that a particular rule is valid means that it satisfies all the criteria provided by the rule of recognition’ (1994, p. 103).

Anglo-Saxon legal philosopher of his generation. It is likely, however, that he was more influenced by the German positivists such as Georg Jellinek (1851-1911) and Hans Kelsen (1881-1973). In the middle of his essay 'The Rule of Law', Oakeshott commented that the idea of the rule of law 'appears in a slimmed-down version in the writings of the jurist Georg Jellinek. It hovers over the reflections of many so-called "positivist" modern jurists' (1999, p. 162). Jellinek was Kelsen's teacher. Oakeshott almost certainly had Kelsen in mind as a "positivist modern jurist", as he had read Kelsen's 1945 magnum opus *General Theory of Law and State* (1945). Oakeshott remarked in his 1946 essay 'A Philosophy of Politics' that 'Hans Kelsen, for example, has shown how the concept of the *state* may be reduced to that of *law*, and I think he has shown it fairly satisfactorily' (1993, p. 131).⁹⁷

Positivism is the thesis that law is justified independently of its substantive content entirely by reference to its pedigree in a particular decision-making process, be it legislative or that of a constitutional convention. It is opposed to natural law, which gives priority to the substance of the law in question and declares invalid commands that violate it. A natural lawyer has little interest in such conventional legal materials as the text of the constitution, the history of its enactment, the long standing traditions of a political culture: 'Only what the best theory of abstract justice and fairness would produce by way of ideal theory' (Dworkin 1986, p. 397).

However, if Oakeshott subscribed to the positivist thesis, his claims for the compatibility of freedom and the rule of law are problematic as positivism, without qualification, legitimises any law irrespective of content. Both Kelsen and Oakeshott sought to purge the rule of law, or *Rechtsstaat*, of its ideological elements. Kelsen was famous, though, for rejecting the idea that the law of dictatorships was not law, putting him in opposition to liberal theorists. He claimed that legal norms may have content of any sort. (2009, p. 113). To many of Kelsen's critics, such as natural law theorists, the whole point

⁹⁷ 'The pure theory of law is a monistic theory. It shows that the State imagined as a personal being is, at best, nothing but the personification of the national legal order' (Kelsen 2009, p. xvi).

of having a theory of law was to distinguish genuine legal systems from those characterised by their pseudo-legality. So if the protection of civil freedom was an overriding concern for Oakeshott, we need to understand the implications of his account of authentic law from the standpoint of its positivist implications. How is it that association under the rule of law is the best protection of individual liberty if valid laws merely have to pass the authenticity test in terms of their enactment?

Stephen Turner asks whether the rule of law is ‘a differentiating standard’, or whether it is merely equivalent to legal order itself, ‘and if it is a standard, what does its authority come from?’ (Turner 2014, p. 4). Oakeshott appeared to believe that the rule of law is coterminous with legal order. That is, authorisation is a matter of law, not justice. He argued that the authority to make law cannot be identified with, or deduced from, a natural quality attributable to the occupants, such as wisdom or charisma. Therefore, authority ‘must be an endowment of the office itself’ (1999, p. 151). And since authority comes before the making of law, ‘it cannot be identified with what the law prescribes’ (ibid.).

His position is consistent with his epistemological scepticism. In this case, this means that there is no norm other than the law itself to determine the authenticity of a particular enactment, where authority or authenticity is merely a matter of recognition of authority. The deliberations in terms of which the authority of a law may be approved or denied are, moreover, themselves enacted law. In which case the jurisdiction of the law is itself a question of law. But, this seems to offer little protection to the freedom that Oakeshott so esteemed.

Moreover, Oakeshott’s account of authentic law, up to this point, seems little different to Kelsen’s idea of the state and law as captured by the conception of the *Grundnorm*: ‘Law regulates its own creation inasmuch as one legal norm determines the way in which another norm is created, and also, to some extent, the contents of that norm’ (2006, p. 124). The legal order is understood ‘as a hierarchy of different levels of norms’ (ibid.).

Oakeshott acknowledged that his and Kelsen's understanding of the nature of law are contrary to the dominant Western tradition, which conflates law with justice to reflect the conformity of law with 'natural', 'rational' or 'higher' law (1999, p. 168). Like Kelsen, he gave short shrift to neo-Kantian theories of law or the theory of natural law: 'The rule of law has no need of any such beliefs' (ibid., p. 173). Not only is such speculation a waste of time, when conformity with natural law is cited as the condition of the obligation to observe the conditions prescribed by *lex* 'they positively pervert the association: they are the recipe for anarchy' (ibid.). This assessment echoed Kelsen's view that natural law theses are 'entirely irrelevant to the validity of positive law' (2009, p. 416).

For Kelsen, there is no notion of *jus* postulated in the rule of law. Instead, justice is a highly contested concept, whereas legality is a factual matter. The only question is whether a law was created in accordance with due procedure to determine its validity. Oakeshott took an even stronger position by identifying justice and law in his early work. In October 1923, he observed in the *Notebooks* that 'Socrates was a Conservative in that he equates the just and the legal (...) There is no such thing as natural justice. What the law commands, that is just' (2014, p. 22).

He later admitted that there is something more than merely following the authorised procedure to be acknowledged when determining the *jus of lex*. It is necessary to differentiate authentic law and just law. Law is authentic because it conforms with the legal procedures that confirm proper enactment. But authenticity 'forecasts nothing whatever about the *jus* or *injus* of its enactments. *For that we must look elsewhere* (1999, p. 152, italics added).

Oakeshott contended that there is a "*jus inherent in lex*", but this does not refer to the justice of individual laws. It refers to the understandings that are intrinsic to the notion of law: 'They are conditions which distinguish a legal order and in default of which whatever purports to be a legal order is not what it purports to be' (ibid.). He listed a number of formal points that are

uncontentious. Laws cannot be undisclosed or retroactive. There are no obligations except those imposed by law. Everyone is equally subject to the obligations imposed by law, without exception. Only with respect to ‘these considerations and their like that it perhaps may be said that *lex injusta non est lex*’ (ibid., p. 153, italics added). But, this partial list of what constitutes the *jus* inherent in *lex* tells us little about the shape of a state subject to the rule of law.

He went on to discuss other “considerations”, distinct from questions of authenticity or conformity with the inherent morality of the law, relevant to *jus*: ‘Not merely as properly enacted, but as proper or not improper to have been enacted; beliefs and opinions invoked in considering the propriety of the conditions prescribed in a particular law’ (ibid.). The justice or injustice of particular laws is an attribute neither of the mode of association, nor of the totality of the laws that comprise the existing conditions of the association, ‘but only of what a particular law prescribes’ (ibid.).

Thus there is something in specific laws apart from their authenticity that bears upon their justice. What is this something else? His response to this question was somewhat opaque:

‘It may float on the acknowledgement that the considerations in terms of which the *jus* of *lex* may be discerned are neither arbitrary, unchanging, nor uncontentious, and that they are the product of a moral experience which is never without tensions and internal discrepancies’ (Oakeshott 1999, pp. 155-56).

He claimed that the justice of a law is not related to its substantive consequences ‘whether or not it will tumble the heavens’ (ibid., p. 153). Moreover, law should not be concerned with those considerations that fall under the rubric of social justice or economic efficiency. The *jus* of a law cannot be recognised by the provision of substantive benefits such as the promotion of prosperity, the elimination of waste, or the equal or differential distribution of goods, or ‘with arbitrating competing claims to advantages or

satisfactions, or with the promotion of a condition of things recognized as the common good' (1999, p. 153). Considerations of efficiency or "fairness" in terms of the distribution of 'reputed benefits or opportunities' are irrelevant to the *jus* of a law.

This would rule out legislation targeted at, for example, facilitating access for wheelchair users (the merits of different interests); national health provision (satisfying substantive wants); environmental protection (elimination of waste); or progressive taxation (differential distribution). This, then, was Oakeshott's vision of a state as a civil association under the rule of law:

A state in terms of the rule of law should, then, be that of an association of *personae* indistinguishably and exclusively related in respect of the obligation to subscribe adequately to the non-instrumental conditions which authentic law imposes upon their self-chosen conduct (1999, 174).

So what is this something else, beyond procedural, non-consequential and non-distributive considerations, that constitutes the *jus* of a particular law? It must be something that is intrinsic to the rule of a law as a mode of association. If he could not specify this he ran the risk of being tarnished with the accusation levelled at Kelsen that his positivist account of law would make the actions of Nazi Germany legal, without qualification.⁹⁸

Oakeshott explained that what civil association requires for deciding the *jus* of a law is not a series of theoretical criteria but 'an appropriately argumentative form of discourse in which to deliberate the matter' (1999, p. 156). The appropriate form is one of moral discourse 'not concerned generally with right

⁹⁸ The question of whether the label "law" could apply to rules as amoral as the enactments of the Nazis was confronted by the German courts after 1945. In dealing with this, the judges had to take sides in the philosophical debate over the concept of law. The voices of Gustav Radbruch and Hans Kelsen featured prominently. After the collapse of the Nazi regime, Radbruch redefined his position on legal certainty by introducing the following principle: when statutory rules reach an extreme level of injustice, so that the contradiction between positive law and justice become intolerable, they cease to be law. Radbruch implicitly rejected Kelsen's vision of positivist purity. See Haldemann (2005, pp. 162-178).

and wrong in human conduct' (ibid.). It should be narrowly focused on the sort of conditional obligations a law may enforce without being distracted by prudential and consequential concerns. It should be shielded 'from the spurious claims of conscientious objection, of minorities for exceptional treatment and, so far as may be, from current moral idiocies' (ibid.). Civil association has no place for either a Bill of Rights, 'that is, alleged unconditional principles of *jus* masquerading themselves as law', or an institution responsible for considering the *jus* of law and sanctioned to declare a law invalid if it were deemed to be unjust. Such concerns and institutions could be appropriate where an association is based on common interests where *jus* is merely a fair way reconcile interests with one another: 'But they have no place whatever in association in terms of the rule of law' (ibid.).

At this point in his narrative we risk concluding that he is offering no protection of freedom in his account of the rule of law. One could imagine a highly aggressive, intrusive, dictatorial legal regime that complied with his core notion of the rule of law, which affords little protection for the individual against the state. But when we remind ourselves that Oakeshott, unlike Kelsen, was not providing a general theory of positive law, but of a rule of law association which he defined to be non-purposive. He was not offering a politically neutral definition of the rule of law, but an account of one particular type of legal order that reflected one of several possible modes of association.

The dictatorship question can be quickly dismissed, as Oakeshott defined association by the rule of law as excluding purposive organisations. According to him, dictators or tyrants are paradigmatically purposive: 'In this *mode* of association there is nothing whatever to correspond to the expression "the rule of law"' (1999, p. 135). Both the usurper and the tyrant lack authority, but for different reasons. The former cannot make authentic law because he has come to power illegitimately. The tyrant cannot make authentic law because he uses power to promote his own interests.

This is an unconvincing argument. If, as he claimed, the way in which the legislative office is constituted is irrelevant to the authenticity of law, then a usurper's laws will have authenticity as long as they are recognised as authoritative by the citizens. Moreover, Oakeshott implicitly denied the fact of revolution. Revolutions happen, and at some point the laws enacted by revolutionary governments, which may be enacted illegally according to pre-revolutionary practice, are regarded as authoritative. Second, his claim that a tyrant necessarily promotes his own interests is a stipulation without foundation. Tyrants do not necessarily promote their own interests.

So how do we determine whether a law has been properly enacted? What are the 'beliefs and opinions invoked in consideration of the propriety of the conditions prescribed in a particular law'? (1999, p. 153) His first response was identical to his understanding of morality: 'The propriety which identifies the *jus* of *lex* must be composed of moral, non-instrumental considerations' (ibid., p. 154). Apropos law, this means that laws should not be adopted or modified for utilitarian reasons. According to him, purposes and consequences are not appropriate grounds of morality and law. Moreover, the considerations appropriate to a law cannot 'concern the supreme moral consideration which relates to the sentiments or motives in which actions are performed. The *jus* of *lex* cannot specify anything so grand as the conditions of "human excellence" or of human "self-realisation"' (ibid.).

The beliefs and opinions invoked to determine the propriety of law can, moreover, have nothing to do with fairness because that would conceive of law as instrumental to 'a substantive state of affairs' (Oakeshott 1999, p. 170, n.13). As the character of *lex* is a non-instrumental rule, its *jus* cannot have anything to do with substantive satisfactions such as the right to life, or the right to have one's basic needs taken care of.

In the foregoing paragraphs Oakeshott has defined what beliefs and opinions are irrelevant to considerations of the propriety of law. The closest we get to a positive specification of the *jus* of *lex* in 'The Rule of Law' is that 'to deliberate the *jus* of *lex* is to invoke a particular kind of moral consideration' (1999, p.

174). The moral considerations are tightly circumscribed. They are not concerned with an ‘absurd belief in moral absolutes’ (ibid.). The consideration should be that the prescriptions of the law do not clash with the prevalent moral sensitivity. They should be capable of distinguishing between the conditions of ‘virtue’, the conditions of a moral association, good conduct, and those which are of such a kind that they should be imposed by law, justice (ibid.). So, as with his account of morality, the actual content of laws or their justice is contingent on the dispositions of those associated in the practice and, as he said in a book review in the *Spectator*, ‘the culture from which the laws spring’ (1988, p. 60).

Oakeshott never questioned the nature of the culture from which the laws spring. He could not because of his claim that there is no independent position from which to criticise a culture, or tradition. Nor, as Kevin Williams points out, ‘does he raise questions about the relationship between an educated moral sensibility which should find expression in the laws and actual laws’ (1989, p. 234). Being moral is entirely a matter of observing historic moral practices.

Yet as the state conceived as a civil association is most suitable for those who relish freedom of choice, the shape of the state under Oakeshott’s conception of rule of law becomes self-evident. If he was correct that there is no necessary set of purposes that a civil association must have, he has articulated an idea of a minimal state, whose members are united only by the acknowledgment of its authority. In this state:

the rule of law bakes no bread, it is unable to distribute loaves and fishes (it has none), and it cannot protect itself against external assault, but it remains the *most civilised* and *least burdensome* conception of the state yet to be devised’ (1999, p. 178).

“Most civilised” and “least burdensome” are value judgements. The use of such terms calls into question the plausibility of Oakeshott’s avowed attempt to construct a philosophical definition of law devoid of ideological content. It

begs the question as to whether any definition of law can be realistically neutral in human affairs, as this is conspicuously not the case in the definition offered by Oakeshott.

Oakeshott's conception of a *nomocracy* as non-purposive rules out a distributive role for the state. Such a role would be inconsistent with the non-instrumental character that he attributes to law within the practice of civility. A *nomocracy* comes to an end if it assumes a distributive role: 'There is (...) no place in civil association for so-called distributive justice' (1975a, p. 153). A distribution of primary goods, to use Rawls' term, requires a rule of distribution and a provider who possesses what is to be distributed': 'But *lex* cannot be a rule of distribution of this sort, and civil rulers have nothing to distribute' (ibid.).

Oakeshott's philosophical outlook was totally inimical to state intervention in the lives of citizens and, as a consequence, to interference with the institution of private property.⁹⁹ These conclusions inevitably flow from his account of morality and law, in particular, its deep-rooted individualism. He feared state interference as he believed that it destroys people's capacity and willingness to exploit 'the adventure and risk of self-enactment' (1975a, p. 276). In the end the dispute between positivists such as Oakeshott and normativists, such as Raz and Dworkin, over the nature of law and its relationship with justice comes down to a commitment to different understandings of morality. Raz and Dworkin see morality and law as instrumental; Oakeshott did not. He recognised that the pursuit of substantive objectives necessarily compromises liberty. Letwin interpreted Oakeshott as claiming that those who see morality and law as instrumental have repudiated freedom, correctly understood. Because they have rejected non-instrumental morality they give the realisation of certain substantive objectives priority over safeguarding the rule

⁹⁹ Oakeshott had little personal regard for property, at least in his youth: 'The owning of property has become boring to us - we want to be free from its encumbrances. And this is the first sign of life. And it is not merely property itself which disgusts us; it is the whole 'property attitude' to things. We want to experience and ownership stands in the way of free experience (...) it is permanent settled and continuous, while experience is fleeting, momentary and dies with its death' (2014 [1928], p. 157).

of law: 'They are pursuing an instrumentalist morality at the expense of liberty' (Letwin 1989, p. 63).

The Superiority of Civil Association - a recapitulation

At this point, we can draw together the key presuppositions of the structure of Oakeshott's argument as to the merits of the state conceived as a civil association. My aim here is not to exhaustively re-examine each of these assumptions, but to highlight those areas where his argument is especially vulnerable to attack.

1. Individual freedom is the basis of human dignity and thereby morality, and consists in the ability to choose one's substantive purposes for oneself.
2. Both morality and the rule of law, correctly understood, are non-instrumental practices.
3. Neither law nor morality in a civil association restricts human freedom as they are non-instrumental.
4. The state is of necessity a compulsory association.
5. An enterprise association does not restrict freedom as long as its members have the freedom to exit.
6. Membership of a state is compulsory, a state conceived as an enterprise association is a contradiction in terms as there is no possibility of exit from the association.
7. Therefore, an enterprise state is immoral as it is inimical to freedom, and *de facto* coerces associates into purposes and projects of which they may not approve.

Regarding the first premise, in the final chapter of *On Human Conduct*, 'The Character of a Modern European State', Oakeshott wrote that the recognition of freedom 'as the emblem of human dignity and as a condition for each individual to explore, to cultivate, to make the most of, and to enjoy as an opportunity rather than suffer as a burden' was a considerable historic achievement (1975a, p. 236). Civil association is the idealisation of the state

suitable 'for adventurers, each responding as best he can to the ordeal of consciousness in a world composed of others *of his kind*' (ibid., p. 243).

Thus civil association presupposes the existence of "heroic adventurers" who value freedom above everything else, regardless of the difficulties it might entail. As such, it is the preferable form of association for those who share Oakeshott's values and view of the world, as explored in Chapter One. But, as Bhikhu Parekh points out, Oakeshott never fully explained why freedom is the emblem of human dignity and why it must be defined in such narrow terms, nor why free agency and moral autonomy should be closely linked and equated: 'These basic propositions are self-evident and unproblematic to him' (1979, p. 503).

Oakeshott would no doubt counter this criticism, however, by pointing out that his valorisation of freedom reflects a disposition to see things in this way, and is not the result of a deductive argument. But if we interpret human freedom more expansively, in terms of "capabilities" for self-realisation or "human development", a purposive state would be better suited to satisfying the aspirations of its associates and 'a compulsory enterprise association would not appear self-contradictory and morally monstrous, nor civil association logically coherent and morally desirable' (Parekh , p. 503).¹⁰⁰

The second and third premises have been attacked from a number of quarters and are the most vulnerable parts of his argument. The principal objection is that Oakeshott does not give a response to the question "what is the point of a practice"? As Oakeshott admitted, in another context, when practices and

¹⁰⁰ "Human development" is closely associated with the work of Nobel laureate Amartya Sen, who is both a political philosopher and economist. He claims in his Tanner lectures on human values that 'you could be happy without having much freedom. You could have a great deal of freedom, without achieving much. Freedom is not itself free of an individual's capability or desire to use it to any particular end. Accordingly, economic development becomes not so much about making up for what people lack, such as modernisation, so much as removing the "unfreedoms" such as market inequalities or state violence that stop them living in a way they might otherwise choose' (1979).

purposes are detached, each becomes an 'ideal extreme' or 'unintelligible abstraction' (1962, p. 70).

The distinction between purpose and practice is especially difficult to sustain with regard to law. Civil society is based on rules; unlike moral practices, rules are made by legislators for specific reasons. A government needs revenue, however limited its scope. Even in a civil association, this presupposes laws to raise taxes. Legislators have choices over how best to raise this, whether through indirect or direct levies. Direct taxation can be raised through income tax, corporation tax, capital gains tax, property tax or stamp duties. Indirect taxes can be raised through a sales tax, a value added tax or an excise tax. The exact mix of taxes in a system is determined with reference to purposes or consequences. One mode of levying a tax may create greater equality; another may preserve and widen inequality. The government must make a reasoned choice, which will typically reflect considerations of both values and efficiency. To specify the tax code in "adverbial" terms is easily done. The tax code may specify that taxation should be raised "progressively", but it is to be raised progressively for some ulterior purpose. This is also true of laws dealing with succession, wills, property, freedom of speech and so forth, which can all be specified adverbially, but nonetheless reflect reasoned choices informed by values and consideration of outcomes.

Parekh concludes of Oakeshott that 'he is right to stress that civil society is *constituted* in terms of authority not purpose; but wrong not to appreciate that its *conduct* is necessarily purposive in nature' (1975, p. 505). If we accept that a government necessarily pursues purposes, the ideal conception of the state as a civil association is fatally undermined. We have seen that Oakeshott was able to reconcile law and freedom only by assuming that the state has no purposes. If there are no purposes, there is nothing for *cives* to approve or disapprove. Oakeshott's argument that *cives* need not approve of a law but need only recognise its authority, is unsatisfactory. The idea that if I strongly object to progressive taxation on moral grounds, yet accept the authority of government to legislate, my substantive freedom is somehow preserved, is problematic.

Oakeshott did intimate at one point that what he objected to most in a state conceived as an enterprise association was when it pursues an over-arching 'sovereign common purpose (...) that determines all others' and 'where the office of government of such a state is to specify and to interpret this sovereign common purpose and to manage its pursuit' (1975a, p. 315). Yet in practice, a state may pursue multiple purposes, which Oakeshott admitted 'may be related to one another systematically or in terms of a means to an end' (ibid., p. 316). Whether or not a single over-arching purpose is posited, as long as the myriad of purposes pursued by a modern state is broadly coherent, all and any of the purposes pursued should be considered, according to his line of thought, as violations of our freedom, and thus immoral.

The fourth presupposition, that a state is inevitably a compulsory association, is less contentious. Without reprising the relevant arguments, it is fair to say that Oakeshott's presupposition has a respectable intellectual pedigree. David Hume exposed the misguidedness of attempts, such as those of Hobbes and Locke, to derive political obligation from an idea of a metaphysical contract, in 'Of the Original Contract' (Hume 1994). More recently, John Simmons has exposed the impossibility of attempts to derive political obligation from an idea of tacit consent as explicit consent is impractical in a large modern state (Simmons 1979).

Proposition 5 seems similarly uncontentious: membership of an enterprise association does not compromise freedom if one has the right to exit. Proposition 6 follows on from Propositions 4 and 5. The bottom line, expressed in Proposition 7, that the state conceived as an enterprise association is immoral, stems from Oakeshott's narrow, individualistic, identification of morality with negative freedom, and his argument that the state conceived as a civil association is non-purposive and does not constrain freedom.

My conclusion is that Oakeshott's answer to the question of what the state is for, is ultimately unsatisfactory. The distinction between a state conceived as a

civil association and an enterprise association cannot be logically sustained. It is difficult to deny that the state as a civil association has at least one purpose, the maintenance of peace and security. Oakeshott called this a postulate of the idea of a state, but not a purpose. But, in contrast, the relief of poverty is not a postulate but a purpose and is thus alien to civil association. The distinction between a postulate and a purpose is, however, ultimately arbitrary. It could be argued that the relief of poverty, free education and health for all at the point of delivery are all postulates of the modern European state.

In his less theoretical works, however, such as *The Politics of Faith and the Politics of Scepticism* (1996), and *The Vocabulary of the Modern European State* (2008), there are several examples that suggest that Oakeshott realised that his idealisation of civil association was not sustainable. Although he studiously avoided using the word “purpose” its shadow is evident: ‘The activity of governing subsists not because it is good but because it is necessary. Its *chief office* is to reduce the severity of human conflict by reducing the occasions of it’ (1996, p. 32, italics added). Elsewhere, the “chief office” was defined as being the ‘maintenance of order’ and is referred to as ‘the first object of government’, and the ‘first and only object of government’ (ibid., p. 34). In a state where the “Politics of Scepticism” is practised, ‘the sole concern of government is the effect of conduct upon public order’ (ibid., p. 33). The expressions “chief office”, “sole concern” and “first object” all connote “purpose”.

In his review of de Jouvenal’s *Sovereignty*, Oakeshott acknowledged that if there is a political good that it is the responsibility of government to uphold, ‘it is the social tie itself, the conditions of confidence and friendliness which make it profitable, and even possible, the activities of the countless *duces* and their associates who comprise a society’ (Oakeshott 2008, p. 128). If it is the case that the state necessarily pursues the the purpose of maintaining order and security and the conditions of confidence and friendliness, the answer to the question of what the state should do is merely contingent on the character, mix and dispositions of its citizens. An individualist will want a *nomocratic*

version. “Mass man” will want a purposeful state to provide for his security and wellbeing.

There will be, in practice, many intermediate views on the question of what governments should do. These will be influenced by the moral questions of what we owe to others and how to reconcile individualistic and collective conceptions of the good in order to maintain order. These questions roughly delineate the domain of politics and the political to which we now turn.

Chapter 4: On Politics and the Political

This chapter assesses Oakeshott’s thinking about politics and the political. I will examine the key topics he returned to under several separate, but related, headings. First, I will offer an interpretation of Oakeshott’s political purpose in his post-war writings. Second, I will describe his view of politics as a necessary evil and its implications for his political theory. Third, I will explore his understanding of the relationship between order and power, which was a constant preoccupation for him. Fourth, I will explore how his distaste for the activity of politics leads to the heavily circumscribed nature of politics and the political in the ideal state of a civil association. Fifth, I will consider his anti-rationalism thesis and explore the coherence of his understanding of politics as a tradition of behaviour, or practice. Finally, I will evaluate whether the historical and theoretical polarity he posits between the “politics of faith” and the “politics of scepticism”, the mixture of which he saw as the essence of our confused political dialogue, is either a sustainable or illuminating distinction.

Oakeshott’s post-war project

As noted in the Introduction, after 1945, the main political parties in the UK adopted the collectivist idiom of government to varying degrees. This was manifested in an expanding welfare state grounded in the Beveridge report, which Oakeshott regarded as an example of “rationalism” in politics. He believed that the rationalist disposition that increasingly prevailed after World War Two put ‘too high a value on political action and plac[ed] too high a hope

in political achievement' (1991, p. 26). This was also a concern of other 'Old Whig' liberals such as Hayek (1960, p. 354). It is reasonable to interpret Oakeshott's writings on politics in the post-war period as an effort to puncture the pretensions of the collectivist, perfectionist aspirations of contemporary politics.

This is consistent with Oakeshott's assessment, noted earlier, that the transformation of the UK into an enterprise state started to accelerate around 1906: under first Campbell-Bannerman, then Asquith, both "Liberal" prime ministers. As all parties by 1945 had been bitten by the rationalist bug, the likelihood of a return to a healthier political tradition that favoured individuality and personal choice appeared at best, unlikely to him. So long as the circumstances which cultivated the emergence of rationalist politics remained, it was to be expected that politics would remain rationalist in disposition (Oakeshott 1991, pp. 33-34).

RIP arguably marks the point when Oakeshott considered classical liberalism grounded in the rule of law to have ended. He observed that 'the field appeared to be occupied by two parties, each inspired by a philosophy of some sort, but neither by a sound or coherent philosophy' (Oakeshott 2007, p. 205).¹⁰¹ The tone of the conclusion to *RIP* is deeply pessimistic. The political scene was 'corrupt and unhealthy' (1991, pp. 41- 42). On one side [Labour], there was a group of 'sanctimonious, rationalist politicians' who advocated an ideology of selflessness and social service 'to a population in which they and their predecessors have done their best to destroy the only living root of moral behaviour' (ibid.). They were opposed by another group [Conservatives] who were trying to persuade the electorate away from Rationalism through a new rationalisation of its political tradition (ibid.). The ideological strands of post-war Conservative rationalism included, according to John Gray, attributing to governments the aims of 'restoring lost moral consensus', of 'reviving a fragmented national integrity or promoting maximal wealth creation' (Gray 1993, p. 42).

¹⁰¹ Review of Quintin Hogg's *The Case for Conservatism* (1947). Oakeshott criticised Hogg for introducing "natural law" as a grounding for Conservatism.

Why was Oakeshott so pessimistic? The primary circumstance he considered responsible for the dominance of rationalistic politics was the inexorable growth of the mechanisms of power available to modern governments. By 1961, Oakeshott's tone in the *Notebooks* had become even more pessimistic. He came to think that contemporary political practice did not provide the protection necessary to ensure the freedom of individual choice.

In his 1948 essay 'Contemporary British Politics' Oakeshott professed a cautious optimism, however, that the Conservatives could come to their senses in due course although 'the bug of rationalistic politics' had bitten deeply (2007, p. 217). Oakeshott admitted that it was too much to expect that the Conservatives might be invulnerable 'from the universal infection' of rationalism' (Oakeshott 2007, p. 217). But he expressed his confidence that their powers of resistance were great, and when they recovered from the infection, the policy they should pursue at home would be clear: 'It is a policy of diffusing those morbid concentrations of power which have grown up in our society during the past fifty years' (ibid.).

Oakeshott was clear as to what a sceptical Conservative response should be to the predicament presented by rationalistic politics in post-war Britain. Conservatives, he claimed, disbelieve in all brands of utopia but offer some modest improvement over the present state of affairs. The Conservatives should, and did, have a policy and programme. But they should have nothing to offer regarding the 'catchwords, slogans, visions, ideal states of society, classless societies, new order, all the tinsel and finery with which the modern political charlatans charm their jewels from the modern political savage, the Conservative has nothing to offer' (Oakeshott 2007, p. 214).

The best that could be hoped for in practice would be to slow down the increasing corporatisation of the state and its rationalist programmes. Oakeshott confessed in the *Notebooks* that his contribution to this lay in subverting progressive thought: 'undoing of the work of the progressives' (2014, p. 474). My contention is that we can read *Rationalism in Politics* as his intellectual contribution to this project.

Politics as a Necessary Evil

Throughout his life, Oakeshott viewed politics as, at best, a necessary evil. In view of the values that animated him, it is no surprise to find that he was aesthetically and rationally offended by the practice of politics, especially its competitive aspects. In his 1939 essay, 'The Claims of Politics', he wrote that 'political action involves mental vulgarity', not because it requires the agreement and backing of those who are mentally vulgar, but because of the 'false simplification of human life implied in even the best of its purposes' (1993a, p. 93). By 1948, he considered politics 'a limited but second-rate affair', a view I contend that he held consistently throughout his life (2007, p. 215). Suvi Soininen, however, argues that Oakeshott came to believe that politics requires a 'high level of political intelligence' (Soininen 2005, p. 2).¹⁰² Soininen supports this contention with reference to his statement in *On Human Conduct* that politics in a civil association requires 'so exact a focus of attention and so uncommon self-restraint that one is not astonished to find this mode of human relationship to be as rare as it is excellent' (1975a, p. 80). This misses the point, however, that civil association was, for him, an ideal state, of which we can only discern shadows in the modern state. We will see that his preference was for as little politics as possible, the ideal state achieved in a civil association.

Oakeshott repeated his distaste for politics in *The Politics of Faith and the Politics of Scepticism*,¹⁰³ written sometime in the early 1950s: 'Politics is at any time an unpleasing spectacle' (1996, pp. 19). This is because its practices offend 'most of our rational and all of our artistic sensibilities' (ibid.). It is a

¹⁰² In support of her argument, Soininen cites Gerenscer's claim (2000, p. 107) that Oakeshott dropped his diminution of politics in the 1946 edition of his *Introduction to Leviathan* 'to a more supportive position in the 1975 edition' (Soininen 2005, p. 14). In the 1946 edition, Oakeshott claims that 'politics is a second-rate form of human activity, neither an art or a science, at once corrupting to the soul and fatiguing to the mind, the activity of those who either cannot live without the illusion of affairs or those who are so fearful of being ruled by others that they will pay away their lives to prevent it' (1946, p. 39). This is omitted in the 1975 edition.

¹⁰³ Kenneth Minogue and Timothy Fuller claim that the manuscript of *PFPS* was probably finished in 1952, after his inaugural lecture at the LSE (Minogue 2012, p. 232; Fuller 1996, p. ix).

necessary evil. Its value is when it succeeds in moderating the rule of indiscriminate violence in human affairs. When it does so, ‘there is something to be said for it, and it may be even thought to be worth the cost’ (1996, pp. 19-20). But even if it is limited to this necessary objective we should recognise that ‘political activity seems to encourage many of the less agreeable traits in human nature’ (ibid.).

Oakeshott’s low opinion of the practice of politics is much in evidence in the *Notebooks*: ‘Politics are an inferior form of human activity to anyone who has no desire to rule others’; and ‘politics is a suitable subject of conversation - indeed perhaps that is all it is suitable for’ (2014, p. 418, p. 361). Oakeshott saw popular democracy as a cause of the degradation of politics. The nature of democratic politics ‘is what makes democracy difficult. Not only or not so much, the stupidity of the mass, but their superstition’ (2014, p. 373). This echoes the contempt for mass man, the individual *manqué*, that Oakeshott revealed in his essay ‘The masses in representative democracy’ and in *On Human Conduct* (1991, pp. 363-383; 1975a). Democratic politics is addressed to “mass man”, who is the opposite of the rugged individualist, the courageous gentleman, who is capable of participating in the practice of civility and for whom Oakeshott conceived of the state as a civil association. The problem of democratic politics is that ‘the real grievances of mankind are incurable; politics consists in manufacturing curable grievances’ (2014, p. 418).

In this comment he revealed his disdain for common folk: ‘People have a great passion for happiness; they seek it and consider it their right. This is an invasion of lower-middle class morality’ (2014, p. 426). Gross oversimplification is consequently necessary in politics. As persuasion is the point of political argument, it is necessary that the politician enlists the biases and opinions of his audience not simply by disclosing the beliefs of the speaker: ‘It is a counterfeit activity (...) it is only genuine if you regard it simply as a device to explain’ (2008, p. 170). Its nature is that it is ‘supremely unsuitable for the young: **anything** but **politics**. For politics is essentially regulative, not creative’ (2014, p. 389). We can imagine that Oakeshott would have been appalled, but probably not surprised, by the increasing professionalisation of politics, where many of the participants move from

studying the subject at university to jobs as researchers in policy units before becoming MPs, with no or very little experience outside: ‘There is nothing in the engagement of itself [of politics] to suggest a profession and much eloquently to deny it’ (1975a, p. 165).¹⁰⁴

Politics, for Oakeshott, was then, at best, a necessary evil. His negative comments on the subject in the *Notebooks* became even more critical over time. He came to believe that contemporary political practice did not adequately provide the protection necessary to ensure the freedom of individual choice. In 1961, he recorded that ‘rape is the typical crime of modern politics; politicians rape their victims, rulers rape their subjects; technology is the rape of the earth’ (2014, p. 444). In the light of these strongly held views, it is not surprising that politics in a civil association is circumscribed almost to the point of extinction. His claim that politics should be seen as the pursuit of intimations and his evident preference for a sceptical style of politics can be viewed as part of a desire to keep politics in its place.

Order, Freedom, Power and Antagonism

How conflicting views over the proper purpose of the state are accommodated in a representative democracy that contains a plurality of conceptions of the good life is a perennial political concern. Oakeshott was supportive of pluralism and very well aware of the potential for conflict. One of the definitions he offered of politics in the *Notebooks* was ‘the art of living together & of being just to one another - *not* of imposing a way of life, but of organising a common life. The art of peace; the art of accommodating moralities to one another. Methods - various’ (Oakeshott 2014, p. 444).

¹⁰⁴ None of the current leaders of the three major parties in the UK, at the time of writing in March 2015, has significant experience outside politics. David Cameron was Director of Corporate Affairs at Carlton Communications for seven years. This was largely a lobbying function for Carlton’s digital TV ambitions. Ed Miliband has no experience outside politics unless we count one year’s experience as a researcher for the Channel 4 show, ‘A Week in Politics’, in 1992-1993. Nick Clegg’s experience outside politics is limited to one year as a lobbyist on behalf of Libya, two years as a civil servant in the European Commission, and teaching politics at Sheffield University.

A question raised by some commentators, however, is whether Oakeshott has anything to say about how to mitigate the antagonistic aspect of politics, or the political. This has been a prominent theme in political theory in recent years, often linked to the subject of “deliberative democracy”.¹⁰⁵ Chantal Mouffe draws a distinction between “politics” and the “political”. The “political” is ‘the dimension of antagonism which I take to be constitutive of human societies’ (Mouffe 2005, *Two: Politics and the Political*). By “politics” she means ‘the set of practices and institutions through which an order is created, organising human coexistence in the context of conflictuality provided by the political’ (ibid.). A political challenge, for example, is how to accommodate groups that have strong collective identities and may be hostile to liberal values. This is the domain of the political. Mouffe’s contention is that any robust political theory must understand antagonism and that politics, through changes to practices and institutions, is the medium through which it is addressed.

Mouffe, while broadly sympathetic to Oakeshott’s conception of civil association, has suggested that his understanding of the political is fundamentally flawed because he ignored its antagonistic dimension. Mouffe argues that the use that Oakeshott makes of the distinction between civil and enterprise association ‘lies in his flawed idea of politics. For his concept of politics as a shared language of civility is only adequate for one aspect of politics; the point of the ‘we’, the friend’s side ‘(Mouffe 1993, p. 68).¹⁰⁶ Carl Schmitt defined the friend/enemy relation as the key criterion of the political and, according to Mouffe, ‘what is completely missing in Oakeshott is division

¹⁰⁵ Deliberative or discursive democracy holds that mere aggregation of votes is insufficient to achieve legitimacy for a rule or decision in a pluralistic democracy. Legitimacy can only come about through “authentic deliberation”, free from the distortions of unequal power. Jürgen Habermas’ work on communicative rationality and the public sphere is often cited as influential in this area, as well as Rawls’ *The Idea of Public Reason* (Habermas 1981 and Rawls 1999, pp. 129-180)

¹⁰⁶ Carl Schmitt postulated that a key criterion of the political was ‘the specific political distinction to which political actions and motives can be reduced is that between friend and enemy’ (Schmitt 2007, Section 2). In Mouffe’s most recent book, *Agonistics* (2013), there is no reference to Oakeshott.

and antagonism' (ibid.). She argues that to introduce the dimension of conflict and antagonism into Oakeshott's model, 'it is necessary to recognise that the *respublica* is the product of a given hegemony, the expression of power relations and that it can be challenged' (ibid.).

Mouffe's objection is that Oakeshott's model of civil association is suitable only for a society of like-minded people, not one where there may be deep antagonisms and resentments, a condition which is perhaps more characteristic of the contemporary world. To evaluate this critique, it is appropriate to clarify Oakeshott's understanding of the problem of order, conflict, and its relationship to the exercise of freedom and submission to power.

Oakeshott was, in fact, preoccupied with the question of how to balance the need for order while resisting the tendency of the state to accrue more than the necessary power to maintain it. In 'A Reminder from Leviathan', he wrote that a civilised way of life is not something God-given: 'It is the invention of men, a delicate and uneasy achievement. beneath lies a volcano of primordial barbarism (...) "the restless desire for power" in all men which waits for an opportunity to spread confusion' (2008, p. 38). He considered our civilised manner of living to be a contingent historic achievement that is always potentially under threat from the universal, latent desire for power: 'The sceptic understands order as a great and difficult achievement never beyond the reach of decay and dissolution' (1996, p. 32).

Carl Schmitt, who inspired Mouffe's work on antagonistic politics, claimed that 'one could test all theories of the state and political ideas according to their anthropology and thereby classify these as to whether they consciously presuppose man to be by nature evil or by nature good' (Schmitt 2007, Section 7). Oakeshott never felt it necessary to develop an elaborate theory of human psychology to back up his political theory. He generally avoided making universal claims about human nature beyond recognising the potential "volcano of primordial barbarism". There was no place in his theorising for the idea of "human nature": 'A human being is a "history" and

he makes this “history” for himself out of his responses to the vicissitudes he encounters’ (1989, p. 9). A human being is as contingent as the culture in which he is situated. Individuals are not specimens of universal humanity but practitioners of particular cultures. Thus there is no need to resort to the notion of a generic “human nature”.

He argued that the need for order is not grounded upon a doctrine about human nature ‘but on a reading of human conduct’ (1996, p. 33). We observe that men live in close proximity with each other and ‘are apt to come into conflict with one another’ (ibid.). When the conflict reaches a certain level it can make life vicious and unendurable: ‘The activity of governing subsists not because it is good but because it is necessary’ (ibid.).

Whether this is a judgment based on a doctrine about human nature or a reading of human conduct is a secondary concern. In the expression, “volcano of primordial barbarism”, however, there are clear echoes of Sigmund Freud’s account of the human condition in *Civilisation and its Discontents* ‘The reality ...is that human beings are not gentle creatures in need of love, at most able to defend themselves if attacked; on the contrary, they can count a powerful share of aggression among their instinctual endowments’ (2013, Chapter five). Oakeshott reminded us of the consequences of forgetting this: ‘If we reckon without “the known natural inclinations of men” our projects will end in disaster’ (2008 [1951], p. 40).¹⁰⁷ The risk in the modern belief of ‘the evanescence of imperfection’ and the pursuit of perfectionist projects is that we forget that ‘the *ius zelotarrum* (which is the law of barbarism) is always ready to establish itself’ (ibid. p. 38). He argued that welfare is no substitute for authority. The purpose of government should not be to civilise ‘but to maintain that peace and order without which civilisation is impossible’ (ibid., p. 39). This was especially a contemporary challenge. Writing in 1949, he claimed that the generational challenge was not to reconstruct society, ‘but to provide against the new tyrannies which an immense growth in population in a wantonly productivist society are beginning to impose: and to provide

¹⁰⁷ Oakeshott referenced Hobbes’ *Leviathan*: ‘The known Natural Inclinations of Mankind’ (Hobbes 2014, p. 303)

against them in such a manner that the cure is not worse than the disease' (1991, p. 406).

We noted in Chapter Three that Oakeshott viewed the provision of security not as a purpose *per se*, but as a presupposition of "the state", without which the concept would have no meaning. Security, for him, was a necessary condition of things, not a substantive or purposeful one. Whereas we can question the distinction, it was clearly the case that he believed that pluralism and conflict should not be allowed to threaten order and security. By itself, the value of a commitment to peace and order is something few would question. Yet it begs the question of how they are to be maintained. He had little to say on this, other than stating that *auctoritas* is primary and welfare is secondary. He did not explore the possible connection between them. Stability and order may well be dependent on the perception of the bulk of the citizenry that the distribution of goods in society is "fair", and provides sufficient welfare for all. Such considerations were alien to his thought. He conceded, however, that the chief office of government 'is to lessen the severity of human conflict by reducing the occasions of it' (1996, p. 32).

Oakeshott considered government to be part of the problem in terms of a potential lapse into barbarism, as well as being only part of the solution: 'When *its power is commensurate with its office* it constitutes our most dependable safeguard against barbarism' (2008, p. 39). He believed that the problem is the tendency of government to use overwhelming power to address the problem of order, a problem that is exacerbated by the fact that conditions in recent times have encouraged an increase in the use of power.

But government is only part of the solution to the problem of order. Oakeshott claimed that what prevents our relapse into barbarism 'is the day to day operation of the mild inducements and scarcely perceived checks that constitute our manner of living' (2008, p. 39). The use of prodigious power by government is less effective and 'may bring us too close to barbarism to be easily recognised as a safeguard' (*ibid.*). That is, our loss of civil liberties may be as bad as the disorder it is supposed to prevent, an argument that

continues to be made by civil libertarians fearful of possible government misuse of internet surveillance techniques.

We noted in Chapter Three that Oakeshott saw the rule of law and separation of powers as the most effective antidotes to the untrammelled exercise of government authority: ‘The understanding of government as the prevention of coercion, as the power which holds in check the almighty subject’ (1991, p. 406). Rule of law liberalism was concerned with the threat of “sovereign” authority. The threat was identified as the tendency of rulers to inhibit the enjoyment of rights ‘by the exercise of lordship’ (1975a, p. 245). According to him, the demise of old-fashioned Liberalism came about when the understanding of rights as a contingent historic achievement weakened. Rights evolved to include ‘the enjoyment of certain substantive conditions of things capable of being assured only in the exercise of lordship (employment, medical attention, education)’ (ibid.). Consequently, what threatened the interests of associates was ‘not a lordly managerial government, but a government which failed in its lordly office of assuring to subjects the enjoyment of these conditions’ (ibid.). An enterprise state is a necessary threat to liberty: it will inevitably accrue and exercise more and more power as it seeks to provide for “substantive conditions of things”.

Pace Mouffe, Oakeshott was well aware that an actual *respublica* may accumulate unhealthy concentrations of power. In *The Political Economy of Freedom* ([1949] 1991), he posited that the kernel of English liberties is ‘the absence from our society of overwhelming concentrations of power’ (1991, p. 388). It is a general condition of freedom, and all other conditions may be seen as encompassed within it. In ‘Contemporary British Politics’, he claimed that the first duty of government is to preserve a dispersion of power (2007, p. 215). He was specific as to what this means in policy terms Private monopoly in all its forms should be through the maintenance of effective competition wherever possible. He had in mind both monopolies of capital and labour. Furthermore, restraint of trade should be treated as a ‘major crime’ (1991, p.

404).¹⁰⁸ Inflation, the leitmotif of economic disorder, was to be avoided at all costs, being ‘the mother of servitude’ (ibid.). He probably had in mind the Weimar Republic experience of hyper-inflation that many consider a causal factor behind the rise to power of Hitler.

This, I think, is sufficient to demonstrate that Oakeshott was acutely aware of issues related to concentrations of power. We will now consider Mouffe’s charge that his ideal of civil association pays insufficient attention to the problems of antagonism and hegemony.

Politics in a Civil Association

As noted in Chapter Three, Oakeshott contended that the idea of civil association does not specify whether or not a government is interventionist, a contention that is endorsed by interpreters such as for example, Jeremy Raynor who denies that a preference for civil association has anything to do with a preference for a limited style of government (Raynor 1985, p. 335). This claim is difficult to sustain: the essence of civil association is that *cives* are joined together in a practice of obligation to observe the authority of non-instrumental rules. The view that government has no legitimate grounds to intervene beyond implementing the adverbial rules that govern conduct rules out “interventionist” activities, such as providing for a certain level of social welfare, financed by a progressive system of taxation.

One of Oakeshott’s persistent aims in his political writings was to expose the ambiguities in our political vocabulary. He claimed that the distinguishing characteristics of terms such as “civil” and “political” are that they must be comprehensive, general and self-sufficient if they are to avoid redundancy. Unlike many modern writers, he did not use the term “political” to include policing or distributive functions. To do so, he argued, would not explain what is logically distinctive about the term. Political declarations are not to be

¹⁰⁸ The Trades Union Congress was a particular *bête noire* of Oakeshott, ‘a constitutionally irresponsible body which appears to exercise a powerful influence over the decisions of a Labour Administration’ (2007, p. 210).

confused with statements that approve the contingent satisfactions that may arise due to the operation of the conditions of the association or with statements that advocate the change of these conditions so that the upshot of their operation may be different and a supposedly better distribution of contingent satisfactions achieved (2008, p. 261).

Raynor claims that ‘civil association could happily exist without politics’ (1985 p. 334). This misses the point. Politics is a fundamental postulate of civil association, but Oakeshott conceived of it in a way that is barely recognisable to the citizens of a modern European state. This is not necessarily a critical observation. As a civil association is an “ideal”, whose character he admitted can only be perceived indistinctly in today’s actual states, it follows that the politics of such an association will also be “ideal” and not reflective of any concrete reality. However, on further examination, it becomes clear that his account of the political in a civil association is designed to suit freedom-loving, aesthetically inclined individualists, who wish to keep politics to a minimum. That is, individuals who have the same contempt for politics as he himself did.

To understand what politics means in a civil association, we must take note of several distinctions that Oakeshott drew that may not be immediately obvious to us based on our contemporary experience. A key distinction for him is that ‘politics is categorically distinct from ruling’ (1975a, p. 166). Politics is persuasive, ruling is authoritative: ‘Expressions like “political rule” are categorically confused. Rulers may deliberate desirabilities, but it is not ruling’ (2008, p. 262). There is nothing to stop rulers participating in politics, but when they do, they must step outside their offices in order to participate. One cannot rule “politically” in a civil association, which is non-existent or in abeyance when rulers try to do so (1975a, p. 167). A second distinction is between ruling and leading. The latter is, by its nature, political, but belongs to the style of an enterprise association, where the *dux* is the head of an action group, and is not the *rex*. The latter is aloof from politics and gets on with the business of governing.

Persuasive leadership is the hallmark of an enterprise association. But Oakeshott argued that in exercising the skills of persuasive leadership rulers cease to be rulers and become managers, who have no place in a civil association (1975a, p. 168). Persuasive argument is largely conducted in the idiom of consequences and by coaxing and flattery, by vague promises of improved circumstances, by criticism, praise, subterfuge, or fear (ibid.). That is, associates in an enterprise are being persuaded to *approve* the conditions prescribed. In a civil association associates have an antecedent *obligation* to subscribe to the rules of the association whose authority lies in the recognition of the authenticity of properly enacted rules. When approval and obligation are confused ‘civil freedom is compromised to the verge of extinction’ (ibid.).

As we reflect on his account of politics in a civil association, the extent to which a modern European state actually resembles an enterprise association is evident. Governing is largely practised in the mode of persuasive leadership. Political campaigning is continual, and the professional presentation of information regarding issues of ruling is the norm. Oakeshott was, of course, profoundly aware of these realities, and this underpinned his distaste for practical politics.

Oakeshott used the term “politics” solely to refer to the *respublica* of civil associations. *Respublica* is the public concern of *cives*, which is the sum of the conditions that comprise a civil association. It is the manifold of rules and rule-like instructions to be subscribed to in all the ventures in which the self-chosen satisfactions of agents may be pursued (1975a, pp. 147-148). Politics is the activity of considering the appropriateness of the requirements of the practice of civility, which can be deliberately changed, ‘where the practice itself (and not any desires to produce a substantive satisfaction) is the terms of the association’ (1975a, p. 161). This activity, so circumscribed, ‘may be counted unique to the civil condition’ (ibid.).

In the references above we should note, first, that by 1975, he no longer talked in terms of political tradition but, instead, referred to “practice”. From the mid-1950s onwards, he had begun to substitute practice for tradition, possibly

because the latter was becoming a more ideologically loaded term, associated with a type of Conservatism that Oakeshott wished to distance himself from. It figured in ‘the avalanche’ of books on Conservatism by American authors such as Russell Kirk and Clinton Rossiter, which for Oakeshott, contained ‘too much Burke and all that’ (2008, p. 118).¹⁰⁹ Practice is a more modest concept that marked his shift to emphasising the contingent aspect of politics. And this, in turn, emphasised the plural, specific nature of political practices. Practice, moreover, emphasises the role of the intelligent agent, which for him was a fundamental postulate of human conduct: ‘Practices themselves are the outcomes of performances’ (1975a, p. 56).

Second, Oakeshott specified that the desirabilities of practices relate only to the conditions or rules of the practice itself, not to procuring satisfactions. Only in ‘vulgar parlance’ is the business of satisfying wants said to be political (ibid., p. 162). Third, he does not allow for the questioning of political authority in his specification of politics. This definition, as Oakeshott acknowledged, requires the ‘rejection or putting-by of much that belongs to fashionable doctrine’ (ibid., 161). But at what cost? It is questionable whether anything recognisable emerged from his description of politics that offered even a glimpse of what we would understand politics to be in a twenty-first century European state. According to Andrew Sullivan, ‘Oakeshott claimed his ideal country was Andorra - a strange accident of a place with almost no government at all’ (Sullivan 2010).

Oakeshott distinguished another kind of activity, ‘a contingent engagement and relationship’ for which the word “politics” is often used, such as ‘the politics of a tennis club’ (1975a, p. 162). A tennis club exists to procure a ‘substantive satisfaction’ for its members (ibid.). In the conduct of a tennis club, the “political” is ‘the concern that the adventure shall be pursued subject to certain contingent considerations’. Politics is the activity of caring for this concern and keeping these considerations in trim, for example, committee discussions on membership criteria and staffing levels. This, however, is a

¹⁰⁹ See Oakeshott’s reviews of Russell Kirk’s *The Conservative Mind* (2008, pp. 104-107; and Clinton Rossiter’s *Conservatism in America* (2008, pp. 149-150)

‘metaphorical use of the word “politics”’ (ibid.). It is analogous to that ‘in which the prescriptions of a *respublica* are understood and deliberated in terms of their desirability’ (ibid.).

The reason that this is not politics, properly speaking, is that the tennis club’s deliberations concern the consequential and contingent engagements of people who recognise themselves to be associated in another mode: ‘Namely in performances for procuring substantial satisfactions’ (1975a, p.162). We should talk of “politics” properly speaking only in regard to the *respublica* of a civil association. Only it is concerned with what constitutes the association, that is, the authoritatively enacted, adverbial, non-instrumental rules that govern conduct. When a political proposal is made to change the *respublica*, whereas it may express a desire of the proposer, it is intended that all *cives* should have a civil obligation that they do not already have or should be relieved of a current civil obligation.

So gay marriage, for example, is a political proposal, as it changes the adverbial qualification on marrying that it be only performed “heterosexually”, even though it directly benefits gays who wish to be married. Conversely, exempting Sikhs from the requirement to wear a helmet when riding a motorcycle would not be a political proposal, as this would refer only to Sikh *cives*. However, a proposal by a Sikh to abolish the requirement for all citizens to wear a helmet is political, as it refers to all *cives*.

The nature of political activity is that it is an exploration of *respublica* in terms of the conditions it prescribes ‘which is at once acquiescent and critical’ (1975a, p. 164). The element of acquiescence is the recognition of the authority of the association. Oakeshott argued that politics presupposes acquiescence to authority because to deny authority is to repudiate civil obligation, which extinguishes civil intercourse ‘and with it the possibility of reflecting upon its conditions in terms of their desirability’ (ibid.). Dissent from the authority of *respublica* ‘is giving notice of a resolve to terminate civil association’ (ibid.). Politics, he argued, cannot be concerned with the worth of civil association

itself as this relates to the authority of *respublica*, which cannot be called into question.

Politics, then, is concerned with criticism, approval or non-approval of the desirabilities of the rules relating ‘exclusively to *respublica* and therefore to *bonum civile*’ (ibid.). Oakeshott asserted that this understanding of politics required a disciplined imagination. Attention should be focused on the terms of civility as a ‘practice of just conduct’ (ibid.). That is, the conditions that need to be recognised and subscribed to under threat of civil punishment. There is no room in the politics of civil association for concern for human happiness and virtue, questions of human destiny, or ‘the rift that lies between the aspirations of human beings and the conditions of human life’ (1975a, p. 164).

This description of political activity excludes the deliberation of most subjects that would commonly be understood to be political. A civil association necessarily excludes from politics any consideration of plans for the improvement of mankind, for diminishing any shortfall in satisfactions, or for moral improvement. These ‘cannot as such be political proposals’ (ibid., p. 168). Furthermore, politics necessarily excludes any proposals for awards of benefits to individual or corporate interests justified on account of the merit, the bargaining power, or any other feature of the claimants. In a civil association these are not political proposals.

Oakeshott admitted that this is an extremely “thin” conception of politics. This is unsurprising as he specified that civil association is a purposeless association, which in turn limits the purview of politics to deliberation of the terms of the association. He justified what he called ‘an implausibly circumspect character’ of politics with reference to his stated project in *OHC* of idealising the nature of politics in a civil association: ‘The ideal engagement of considering the desirability of rules where rules and not purposes are the terms of the association and where rules are considered to be deliberately alterable’ (1975a, p. 165).

Oakeshott recognised that the motive for a change in the prescriptions of *respublica* may spring from a ‘want, a wish for a benefit, or a plea for a removal of a disadvantage’ (ibid., p. 170). But for a proposal to become political, it must be recognised as a condition imposed upon conduct that ‘is totally indifferent to the advantage or disadvantage it may have for any interest’ (ibid.). So, for example, a change in a law will likely benefit the legal profession as clients will seek advice on its interpretation. A new Finance Act may incidentally benefit the accountancy profession for the same reason. But this is not a political reason for a change of law in a civil association. Moreover, the public reasons that may be offered for a change in law exclude claims that are based on the truth or falsity of opinions, theorems, alleged statement of facts, doctrines, creeds or dogmas (ibid.). Also excluded as public reasons are beliefs that specific conduct be thought to be morally right or wrong or thought to be physically beneficial or harmful. Such reasons are necessarily excluded by Oakeshott’s account of authority and obligation. Civil authority is the counterpart of civil obligation, and there cannot be civil authority if one is *obliged* ‘to acknowledge the truth or falsity of a theorem or doctrine’ (ibid., p. 171).

We noted in Chapter Three that the obligation to live by the rules of a civil association does not even imply that we approve of them, let alone find them desirable. The mark of a “political” proposal is that ‘there is something to be thought and said’ about some rule excepting what may be thought and said about it in terms of fact or moral certitude. Political debate is deliberating and communicating in terms of these ‘other considerations’ (ibid., p. 172). Oakeshott does not specify what these other considerations might be, other than that they be “civilly desirable”. The rules that are the outcome of political deliberation should be neutral between interests and indifferent to the truth or error of any belief. As a result, the considerations are not ‘themselves a substantive interest or doctrine’ (ibid.). Civil desirabilities cannot, moreover, be deduced from ‘theorems about the natural conditions of a human life’ (Oakeshott 1975a, p. 173), for example, that man is an organism with the desire to live rather than perish, and that he is inadequately equipped to do

so. The reason is that the civil condition is not ‘a shelter’; such considerations are irrelevant to the desirabilities of the civil condition (ibid.).

Moreover, the wants of associates have nothing to do with the desirabilities of civil prescriptions or allocating satisfactions between competing agents. The fact that *cives* have wants has no logical connection with civil desirabilities. Oakeshott gave two examples to clarify this. A rule that obliges *cives* not to kill one another is not a conclusion that can be inferred from the fact that *cives* want to stay alive; such a rule is not civilly desirable because it satisfies such a want. The second example is that of property. He claimed that just because we want to enjoy affluence or avoid indigence, this is no reason for a civil institution of property. It is not civilly ‘desirable or undesirable in virtue of being an efficient or an inefficient means to the achievement of this or any other substantive end’ (ibid., pp. 173-174).

The character of political thought and utterance is distinguished, then, by its character as circumstantial deliberation about *respublica* in terms of *bonum civile* (1975a, p. 173). The expression *bonum civile* translates as “civil interest”, not to be confused with the “general interest”. A “general interest” can only be construed as a common purpose or substantive “good” which is pursued by the related associates. Considerations pertaining to a general interest belong only to an enterprise association. It would be contradictory for the politics of a civil association to be conducted with reference to a general interest such as a common good.

Oakeshott heavily circumscribed both the scope of politics in a civil association and what counted as valid political argumentation. This follows from his view that both morality and law are adverbial qualifications of actions that cannot be inferred from a law of reason, or a law of nature, ‘a principle of utility, a categorical imperative or the like’ (ibid., p. 174). We are precluded from arguing politically that a civil rule needs to be amended or amplified on account of its not forbidding conduct that is generally thought to be wrong. So we cannot argue that adultery should be a criminal offence simply because it is widely thought to be morally wrong. Civil desirabilities

cannot be inferred from moral desirabilities. It is not necessarily a sign of something wrong with the law that they do not pull in the same direction or are even in conflict with what is thought to be morally desirable, although political reflection and declaration, concerned with civil desirabilities, is related to ‘moral considerabilities of its own’ (1975a, p. 175).

If so much is excluded from the scope of political argument, we might wonder what is left for political debate. Oakeshott, moreover, under-specified the types of reasons that may count as properly political. Political utterances are not just opinions. Subjectivity may be impossible to eliminate, but nowhere is it less relevant than when reflecting on the appropriateness of the rules of civility (1975a, p. 176). The reasons offered must be capable of explaining the desirability of the constituent rules of a *respublica*. The mode of deliberating the desirabilities belongs to ‘the discourse of persuasion, not proof’ (ibid., pp.176-177). The practice of civil intercourse may be understood in terms of some abstract legal theorems such as tort, fault and liability, as well as general moral ideas, such as fairness and humanity, “‘civilised” by being given civil meanings’, and elicited from a practice of civil intercourse (ibid., p. 177). Like the rules that compose the practice, these general ideas are subject to modification. The subject of political deliberation is then ‘neither quiescent nor agitated: it is a situation of continuous responses to circumstances in terms of rules’ (ibid., p. 178).

The relevant considerations of political deliberation have the characteristics of being aids to political reflection rather than criteria. Although all considerabilities are necessarily conditional, Oakeshott argued that a few are more grounded than others. He offered two examples solidly grounded considerations. First, a civil prescription is undesirable, for example, if it is incapable of enforcement. Second, the scope of a rule should, moreover, be limited to actions only in respect of the capacity to harm other agents and any projected innovation should be such that the *respublica* should be able to accommodate it.

The first example points to the critical role which Oakeshott's account of authority plays in his political theory. Difficulty in enforcing a rule *per se* does not make it undesirable. It is the consideration that an unenforceable rule cannot be authoritative without 'a great and arguably undesirable extension of the apparatus of detection' (1975a, p. 179). The second example illustrates his rejection of J. S. Mill's distinction between the public and private spheres. In a civil association everything can be private yet public at the same time. The wishes, choices and actions of an agent, together with his property, are recognised as private, but they are public 'in respect of being required to subscribe to the conditions specified in *respublica*, and in no other respect' (1975a, p. 183). Oakeshott argued that in principle, no action is exempt from civil conditions; but 'civil intercourse recognizes a circumstantial privacy, beyond the formal autonomy assured to *cives* in civil prescriptions being laws and not surrogate choices of actions, which merits consideration' (*ibid.*, p. 179).

He argued too that, as the relevant considerations of political deliberation are not plausibly unconditional, any political proposal both relates to current achievements in civility and is an investigation of the intimations of those achievements (1975a, p. 180). Any change in circumstances or belief can trigger a political proposal. Oakeshott defined political intelligence as the ability to choose what should receive attention in this circumstantial flux, which is no mean task.

Oakeshott did not pretend that this understanding of politics is anything other than in its ideal character. The main obstacle to recognising this ideal character has been the pre-emption of the word "politics" as a feature of modern European states that has no counterpart in civil association: politics understood as 'the consideration of "managerial" decisions about the pursuit of a common purpose in contingent situations or the negotiation of advantages for private interests' (*ibid.*, pp. 181-182). The substantive character of "politics" and "political" is derived from the mode of association attributed to the state. As the state has been increasingly understood to be an enterprise

association, we will now turn to an examination of the ideas that underlie his understanding of the practice of politics in a modern European state.

For Oakeshott, modern politics had taken the form of an ambiguous combination, in different proportions of these two modes of association. The activities of all governments are an ambiguous mixture of “rulership” and “lordship”, the defining styles of civil association and enterprise association. In the latter, an office of “rule” is substituted by ‘a board of managers concerned with deploying human and other resources of the association in pursuit of the common purpose’ (2008, p. 265). Politics is identified as deliberating proposals about the deployment of resources to achieve the common purpose. But for Oakeshott this was not politics, but something else: ‘The most commonplace focus in relation to the modern state, the engagement to determine who gets what, and how as the contingent outcome of these conditions of association’ (ibid., pp. 265-266).

Oakeshott did not give a name to these other deliberations. They are just not political in his judgment. Deliberation on such matters as the fair distribution of goods, minority rights and welfare provision, which dominate the literature of political philosophy in the late twentieth and early twenty-first centuries refer to the provision of satisfactions in relation to the ‘current wants of this or that associate or groups of associates’ (ibid., p. 262). To describe such deliberations as political ‘convicts many current expressions of categorical incoherence’ (ibid.).

In choosing to exclude the issue of wants from the political domain, Oakeshott exposed the shortcomings of his account of authority. He never explained why one should support a political order beyond the formal response that its rules are authoritative if enacted according to the established procedures for enacting rules. John Gray suggests that the Achilles heel of Oakeshott’s political thought, which it shares with classical liberalism, lies in the account of the nature and authority of the state. Both claim that the authority of the state does not depend on achieving success in attaining a substantive purpose,

or in its relation to the cultural character of its subjects: ‘Both claims are profoundly questionable’ (Gray, 1993, p. 43).

The question of how to achieve political stability in a pluralistic society consisting of different comprehensive conceptions of the good dominated the later works of John Rawls.¹¹⁰ In Oakeshott’s account of the politics of a civil association, the question does not even arise. He acknowledged that the authority of an office of rule remains ‘always a delicate matter of current belief’ (1991, pp. 443). It must be deeply rooted and must be ‘proof against disapproval and ridicule of the performance of the office... it hangs like a drop of dew upon a blade of grass’ (ibid.). Politics is reduced to the deliberation of modifications to the rules governing behaviour, according to the prevailing sense of “civil desirabilities”. For this to be possible, it arguably presupposes a common culture, or ‘at least a common disposition to value *lex* above one’s local cultural identity’ (Grant 1990, p. 85). In civil association, however, that somewhat “watery” fidelity called civility is the only thing that joins associates (Oakeshott 1975a, p. 147).

For “watery”, we could substitute “thin”. The civil associates are parties to a consensus, but a thin one. They view the conditions of association that they are obligated to subscribe to as ‘prevailing winds which agents should take into account in sailing their several courses’ (1975a, p. 70). Even at the time of writing *On Human Conduct*, this could not be taken for granted, and it is even less true today, as the UK has become increasingly multicultural. Gray argues that the notion that political authority could ever be mainly formal arose through thinkers such as Kant, at a time when a common cultural identity could be taken for granted. This suggests that to secure a loyalty to *civitas*, something more is required than a ‘watery fidelity’ to *lex*, such as a fair society and respect for minority rights, consideration of which Oakeshott rules out in his specification of politics in a civil association. Gray argues that ‘it is a

¹¹⁰ Rawls conceived of ‘political liberalism’ as a solution to a problem in *A Theory of Justice*: ‘The serious problem is this. A modern democratic society is characterized not simply by a pluralism of comprehensive religious, philosophical and moral doctrines but by pluralism of incompatible yet reasonable comprehensive doctrines’ as well as ‘even mad, comprehensive doctrines’ (Rawls 2005, pp. xvi-xvii).

matter of brute historical fact that no government can, in any modern democratic state, long survive if it does not preside over sustained economic growth' (1993, p. 43). In short, all modern states are to a considerable degree enterprise associations: 'The enterprise state is a matter of brute historical fact, which we may indeed strive to temper, but which we cannot hope to overcome' (ibid.).

As the following sections will show, through his criticism of rationalism in politics and the politics of faith, Oakeshott's main political motivation was to deflate the aspirations of those who wished to promote the enterprise state. As far as politics in a civil association is concerned, Mouffe's criticism that it is insufficiently robust is well founded. In particular, as it is based on a celebration of individuality, it fails to acknowledge the importance of collective identities and the friend/enemy distinction that Mouffe, following Carl Schmitt, sees as the constitutive element of the political: 'Every religious, moral, economic or other antithesis transforms itself into a political one if it is sufficiently strong to group human beings effectively according to friend and enemy' (Schmitt 2007, Section 4). Oakeshott, in fact, embodied the liberal 'negation of the political', which Schmitt argued was intrinsic to individualism. He felt that this results necessarily in distrust towards all political forces and forms of state and government, 'but never produces on its own a positive theory of state, government and politics' (2007, Section 8).

Oakeshott's account of politics in civil association is ultimately unconvincing. He re-constructed the solution to the Hobbesian problem of civil strife by multiplying 'the number of noble characters, or even better, somehow making the noble character the norm, rather than the exception' (Muller 2010, p. 325). Oakeshott claimed that pride and generosity are the virtues of noble, aristocratic individualists, and pride should be recognised as capable of generating a striving for peace more firmly grounded than any other: 'It the surest motive for just conduct' (1991, p. 343). Thus his account of politics in a civil association effectively ignores the problem of the political as *cives* are taken to be alike in the priority they give to autonomy. Consequently, politics becomes a small part of the conversation of mankind, concerned with the

desirabilities concerning their civil interactions and nothing more. The problems posed for order and stability by the existence of mass men in an age of representative democracy simply do not exist. There are no mass men in a *civitas*, who do not, unlike *cives*, ‘delight in one another’s individuality and enjoy one another’s company’ (1991, pp. 460-61).

Mouffe claims that the perspective of individualism does not allow one to understand how political identities are created. These are always ‘collective identities, constructed in the form of a we/they relation’ (Mouffe 2013, *Interview with Chantal Mouffe*). Perry Anderson stresses this point. He notes that ‘the collision of moral codes within the same state is the stuff of political life which the dream of civil association represses’, an observation that seems increasingly pertinent with the rise of Islamism in Western Europe (2005, p. 23). Oakeshott’s account of politics in a civil association is unsatisfying. It is logically consistent with the structure of civil association but conflict, which is one of the most salient features of contemporary political life, is excluded from his consideration.

Politics as Conversation

Oakeshott, moreover, idealised politics as conversation, not as argument. The metaphor has generated secondary commentary disproportionate to what Oakeshott wrote on the subject.¹¹¹ He did not elaborate his conception of politics as conversation in detail. There is nothing that could be described as a theory or a model of democratic politics. There are no programmes, policy prescriptions or models. In fact, he provided little more than occasional commentaries concerning the ethos of conversational politics that he considered appropriate to pluralistic democratic societies.

¹¹¹ See Gerencser (1995), Plotica (2012), Soininen (2005b).

In his wartime *Notebook* entitled 'A Conversation', Oakeshott sketched out his thoughts, which he later developed in the essay, 'The Voice of Poetry in the Conversation of Mankind' ([VPCM], (1991 pp. 488-541). In the former he outlined the importance and features of a conversation. He described it as 'the microcosm of life and as an interpretation of human life' (2014, p. 308). Oakeshott believed that scepticism of a sort is the essence of conversational politics, as conversation is 'dialectic not eristic' (ibid., p. 309).¹¹² The contributors to a conversation have a common civilisation and share certain common tastes while differing in their opinions. Conversation presupposes the exclusion of 'power & force', and toleration (ibid., p. 310). A contributor may prevail on a particular point 'but nobody "wins" the conversation as a whole' (ibid., p. 310). Not all opinions need be represented in a conversation - certainly there is no place for the "fool" - and for conversation to be effective it should have a manageable number of participants. He thought that five was about the maximum for an effective conversation. More than this it is likely that 'a dogmatic barbarian will be present who will break the spell and convert conversation into an argument or an enquiry' (2004, p. 192). Implicitly, this constraint seems to deny the usefulness of the metaphor of politics as a conversation.

In his essay, 'The Voice of Conversation in the Education of Mankind' [VCEM], which O'Sullivan suggests was written soon after the Second World War, Oakeshott further elaborated the character of conversation. It is totally different to enquiry, and from argument, debate or a symposium. (Oakeshott 2004, p. 187). In all its various forms, the art of conversation consists of the acceptance 'that talk is neither a search for "truth" nor the propagation of a belief but is to be understood as a partnership in intellectual pleasure' (ibid., p. 188).

The title of VCEM is strikingly similar to the later *The Voice of Poetry in the Conversation of Mankind* (VPCM Oakeshott 1991). Whereas both have a common subject matter, their orientation, however, is different. VPCM highlights the risks of an excessively scientific outlook on the world, at the

¹¹² Oakeshott's note: 'Plato, *Meno*, 75c-d; cp. Collingwood, *New Leviathan*, 24-27.'

expense of the 'playful' voices of poetic or aesthetic experience. But both *VPCM* and *VCEM* emphasise a key attribute of conversation. It does not aim to produce consensus, and the worth of a conversation is not to be judged by the extent to which it produces it. In conversation 'different universes of discourse meet, acknowledge each other and enjoy an oblique relationship which neither requires nor forecasts their being assimilated to one another' (1991, p. 490). Relevance in conversation is governed by the progression of the conversation itself: 'It owes nothing to an external standard' (*ibid.*, p. 494).¹¹³

Oakeshott thought that an understanding of politics as conversation could be an antidote to the violence of politics. He explained this in a letter he wrote dated January 1948, to Karl Popper. Popper had written that there are two possible ways in which a decision can be reached: either argument or violence. According to Popper, a true rationalist is one who 'would rather be unsuccessful in convincing another man by arguments than successful in crushing him by force' (1948, pp. 109-110). Oakeshott disagreed with the contrast between reasoned argument and violence because he did not believe that '*reason* is capable of excluding violence (even in the long run), or that, because reason can't, nothing can' (28 January 1948). He contended that he knew of a system of politics that is neither truly nor falsely rationalistic: 'The *politics of conversation*, as against your *politics of argument*' (*ibid.*). In his response, Popper politely pronounced himself 'very ready to accept your delightful formula that a politics of conversation should replace my politics of argumentation', but without explaining his reasons. (January 31, 1948).

In a book review, 'The Political Economy of Freedom' (1991, pp. 384-406), Oakeshott repeated his conception of politics as conversation, but revealed it

¹¹³ Richard Rorty borrowed Oakeshott's metaphor of 'conversation' to support his radical relativism: 'If we see knowing as not having an essence, to be described by scientists or philosophers, but rather as a right, by current standards to believe, then we are well on the way to seeing conversation as the ultimate context within which knowledge is to be understood. Our focus shifts from the relation between human beings and the object of their inquiry to the relation between alternative standards of justification' (1980, p. 389).

as one ‘in which past, present and future each has a voice; and though one or other of them may on occasion properly prevail, none permanently dominates, and on this account we are free’ (ibid., p. 388). The point here, however, was not to commend the conversational paradigm *per se*, but to insist that neither the past, as tradition, nor the contingencies of the present, nor expectations for the future, should dominate our political deliberations. He next used the metaphor in his inaugural LSE lecture on March 6, 1951, but without evaluation beyond the observation that ‘the politics of a community are not less individual (and not more so) than its language, and they are learned and practised in the same manner’ (1991, p. 62).

In VCEM, he made the stronger claim that of all activities the one that has benefitted most from the refining touch of conversation is politics (2004, p. 194,). He claimed that this was self-evident and, moreover, good for nothing else. The approximation of politics to conversation was, he thought, ‘the gist and meaning of democracy’ (ibid.) He opposed the ‘perverted’ understanding of democratic politics, which is misidentified with such ideas as the rule of the people, government representing the majority and the propagation of a democratic faith with ‘the politics of the man of conversation’ (ibid.). Oakeshott likened the character of the man of conversation to a hunter who takes part in the chase just for the pleasure of the ride: ‘It is a hunt without a victim’, and conversation is an art that welcomes many styles (ibid., p. 187).

Oakeshott claimed that, historically, conversational politics was a reaction to dogmatic politics what we now call politics is the by-product of this encounter between the two styles of politics (2004, p. 195. He thought it was the English who had first explored the recognition that ‘politics is supremely eligible to be a conversational art’ (ibid.). But, with reference to the Soviet threat after World War Two he noted that the forces of barbaric dogmatism had yet to be permanently defeated and threatened to usher in ‘a new dark age of enlightenment’ (ibid., p. 196).

A conversational style of politics is, unsurprisingly, the political style of a civil association: ‘Singleness of purpose, so destructive of a civilised order of

society, is foreign to the character of the politician who is a man of conversation' (2004, p. 196). A conversational politician is an undocinaire sceptic who will have no sympathy for the purposes of an enterprise state. This person was best exemplified by the mid-19th century English parliamentary tradition before it was corrupted by popular democracy. A conversational politician is resolutely anti- perfectionist: 'If a "civilized" manner of living is one that accepts the unavoidable conditions of human life and makes the best of them, then a conversation may be recognised as its emblem' (ibid., p. 198).

In the *Politics of Faith and the Politics of Scepticism*, Oakeshott went so far as to advocate conversational politics. He argued that there was an imbalance in contemporary politics which sprang from a preoccupation with the future that threatened 'to destroy the continuity of activity by destroying our sympathy with its earlier enterprise' (1996, p. 87. In order to reinstate the balance, he recommended the promotion of the understanding 'of politics as a conversation in which past, present and future each has a voice; and while one or other of them may on occasion prevail, none is given exclusive attention' (ibid.).

Conversational politics is also valuable because, to some degree, it addresses the problem of power, which, I have suggested, was one of Oakeshott's preoccupations. He claimed that the sceptic will see the doctrine of the separation of powers as the proper mode of governing in which power is 'shared conversationally' between a variety of 'different interests, persons and offices' (ibid., p. 89). Moreover, politics as conversation is equipped to cope with the ambiguity that inheres in our political vocabulary. Political argument, he argued, is not concerned with the proof of propositions. In modern Europe politics is 'a conversation between diverse interests, in which activities that circumstantially limit one another are saved from violent collision' (1996, p. 130). In these circumstances words which have within them a little room for interpretation may be more useful than a scientific vocabulary designed to exclude all ambiguity.

The conversational style of politics is, moreover, realistic. It appreciates that ‘no problem in politics is *ever* solved permanently’ (28 January 1948). The best that can be achieved politically is to keep the ship of state afloat in a sea of contingency. For Oakeshott, politics in a civil association, which is necessarily democratic, is neither a search for truth nor the dissemination of a belief, but a pluralistic, conversational engagement. Success does not consist in the conclusion of the discussion by some incontestable declaration, but in keeping the conversation alive between persons who have a tendency not always to want to speak to each other (1975a, p. 256).

Oakeshott claimed that politics in a liberal democracy is inherently conversational. In his review of Walter Lippmann’s book, ‘The Public Philosophy’, he contrasted the politics of a liberal democracy with Jacobinism. The politics of Jacobinism is where truth as opposed to error is the desired objective. Speech is recognised as argument but is allowed only until truth is realised. A liberal democracy is, in contrast, characterised by sceptical politics. Truth emerges not as the opposite of error but merely as the converse of “lies”, and debate is largely free ‘because it is not recognised as argument but as conversation’ (1993, p. 116).

What can we make of Oakeshott’s metaphor of politics as conversation? Commentators have interpreted it differently. Michael Minch calls it ‘profoundly anticipatory, and all but prophetic in relation to the recent deliberative turn in democratic theory’ (2009, 2: *Before On Human Conduct*). Minch considers that VPCM anticipates the emergent communicative ideal that is exemplified in the work of Habermas and ‘which later deliberative theorists develop and extend’ (2009, 1: Introduction). Luke Plotica uses the metaphor to defend his claim that Oakeshott had more in common with agonistic democrats on the grounds that Oakeshott characterised plurality and “thin” consensus as conditions of democratic politics, and rejected “thick” consensus either as the *telos* or as something of a regulative ideal of democratic politics (2012).

In relation to my own thesis, we may say that his representation of politics as a conversation is the ideal of political activity in a civil association. It is the ideal style of political activity for sceptical, well-mannered individualists who share a common culture and moral language, but who have diverse opinions and value pluralism. The conversational paradigm emphasises the role of manners and procedures in political activity, as was typical of the liberal-democratic politics based on the rule of law that Oakeshott sought to defend in the post-war years.

In his introduction to the second edition of Reginald Basset's *Essentials of Parliamentary Democracy* (1964), he spoke of parliamentary democracy as a 'noble and historic manner of conducting politics, reaching decisions and digesting the differences characteristic of a modern European society' (Oakeshott, in Basset 1964, p. xxii). According to Oakeshott, 'Basset was a Whig and he had the Whig's pious attachment to our institutions of government' (ibid.). He understood 'that politics is not a manner of imposing what one believes to be desirable, or even just, but of doing this in a manner which does not outrage those with different opinions' (ibid.) What we call parliamentary democracy is 'an instrument of remarkable refinement and responsiveness, thrown up in the course of our political history, capable of digesting the enterprise of zealots' (ibid., p. xxiv).

The weaknesses of the conversational metaphor for political activity are the same as those we have already identified in his conception of the state as a civil association. To be welcome to the conversation and capable of participating in it, a conversant needs a 'moral, intellectual and aesthetic bearing that is the privilege or misfortune of the few' (Plotica 2012, p. 304). This suggests that the idiom is of limited applicability in the age of mass man, in whom these characteristics are substantially absent. Furthermore, in a civil association, where security and order are presuppositions not purposes, decisions need to be taken, often under conditions of duress. This involves achieving closure on decisions taken and thereby pre-empting further exchanges. The image of conversation, moreover, covers up or ignores the

power relations evident in every discursive context, and Oakeshott had nothing to say on the role of political parties in this regard.

Conversational politics presupposes scepticism. It will be challenging, if not impossible, for non-sceptical conversants to participate if they think that politics is more than the ‘politics of repair’, merely emphasising the habitual and customary (Oakeshott 1991, p. 26). Non-sceptical conversants might believe, for example, that the structure of a society is “unfair” and wish to win an argument on how this might be rectified rather than participating in an endless conversation. Such a man, according to Dr Johnson, ‘heated in talk, and eager of victory, takes advantage of the mistakes or ignorance of his adversary, lays hold of concessions to which he has no right, and urges proofs likely to prevail on his opponent, though he knows himself that they have no force’ (Johnson 1753). An effective politician will appeal to the language and prejudices of his listeners in attempting to persuade, and will know that ‘treating your adversary with respect is striking soft in battle’, whilst respect is a precondition of successful conversation (Johnson, quoted in Boswell 1984, *Sunday, 15th August*). These are the very habits that made practical politics so distasteful to Oakeshott.

The above considerations lend support to Mouffe’s observation that division and antagonism are peripheral to Oakeshott’s political theory. His description of political conversation conveys an idea of plurality without significant antagonism. As we have noted, he was a keen student of Hobbes and no stranger to the existence of conflict and antagonism, but his political theory generally avoids engaging with the political consequences of this. This must count, at best, as a substantial omission, and at worst as a falsification of political experience. Other commentators contend that the metaphor of politics as conversation shows that he fundamentally misunderstood its nature.¹¹⁴ They argue that he advocated political passivism, or quietism, in his emphasis on conforming to the habits assimilated in a given political tradition. The metaphor of politics as conversation is seen as the essence of a passive understanding, which in turn is identified with political conservatism

¹¹⁴ See Crick 1963, 1991; Gellner 1980; and Pitkin 1976.

in which the past, in the form of a political tradition and its intimations, offers the primary reference point for politics.

Such criticisms, of course, neglect the fact that Oakeshott's account of conversational politics is an ideal type, and not a description of an achievable state of affairs. It is, Oakeshott admitted, suitable for good times and unachievable during periods of crisis. Politics is an 'inherently intermittent activity' rather than an on-going process, and like civil association, the politics of conversation will be 'as rare as it is excellent' (Oakeshott 1975a, p. 166, p. 180). As to the charge that the metaphor lacks the theoretical completeness and practical relevance of other models of democratic politics, Oakeshott never claimed to have elaborated a comprehensive theory or that his writings were a guide to practical politics. He also never suggested that democratic politics could or should be nothing but conversation.

Anti-rationalism and Tradition, or Practice

A typical assertion about political conservatism is that it can be grounded in a critique of enlightenment rationalism that questions the scope and limits of human reason.¹¹⁵ Jesse Norman MP observes: 'This is one of the central intellectual roots of conservatism throughout the ages', dating from Edmund Burke's *Reflections on the Revolution in France* (2004). John Gray describes Oakeshott's work as 'the deepest twentieth century critique of the enlightenment' (1995, p. 126). In this section the critique will be examined. It will be argued that whereas anti-rationalism may be a defining feature of tradition for conservatives, Oakeshott used it as a particular defence of a contingent tradition. That is, given his love of freedom and individuality, it makes no sense to read him as constructing a defence of tradition as intrinsically valuable. We should treat his anti-rationalist arguments in the context of his attempt to slow down the expansion of the managerial state, the defining feature of UK politics after 1945. Rationalism is the common

¹¹⁵ Not all anti-rationalists are conservative. John Morley (1886), F. A. Hayek (1949), the critic of "constructive rationalism", and Karl Popper (1949), were all concerned with rationalist errors.

denominator that united all his enemies: moralities of general rules, moral perfectionism, the state conceived as an enterprise association, the contemporary obsession with technology and “progress”, and, as we shall see, the politics of faith.

Oakeshott thought that there was a strong link between rationalism and “mass man”. He claimed that those social classes, which during the last four centuries have increasingly assumed political influence and authority, did not have time to obtain a political education before they gained power. As a consequence, they needed a crib: ‘A political doctrine, to take the place of a habit of political behaviour’ (1991, p. 30). The prevalence of rationalism can be seen as a failure of education. Rationalism in the modern era, Oakeshott argued, is a plausible method of concealing the absence of political education so that even those who suffer from the lack of education are often left ignorant that they lack anything (ibid., p. 35). By 1947 he thought that rationalism was so endemic that the inherited political habit and tradition that was the common possession of even extreme opponents in English politics, had been replaced ‘by merely a common rationalist disposition of mind’ (1991, p. 37).

The purpose of his anti-rationalist argument was to expose a pervasive intellectual error that he believed has dangerous social and political consequences. Minogue described Oakeshott’s rationalist target as ‘the monomodal bore targeted in *Experience and its Modes*, for whom philosophy, poetry, history and even science are essentially practical’ (2003, 1). The error is to think of politics as a succession of problems to be solved through the application of reason and the appeal to general rules: ‘That all contemporary politics are deeply infected with Rationalism will be denied only by those who give the infection another name’ (Oakeshott 1991, p. 25). A striking feature of rationalism is that it is a progressive infection. It is ‘of a kind which the passage of time must make more rather than less severe’, because it amounts to a ‘corruption of the mind’ (1991, pp. 36-37).

I will structure my analysis of Oakeshott’s anti-rationalist thesis around six purportedly rationalist errors which he identified. These are classified by Shirley Letwin as follows: (1) over-rating the power of the individual mind; (2)

disregarding the irrational components of human behaviour; (3) failing to distinguish particular from universal principles; (4) Utopianism; (5) “The Politics of Uniformity”; and (6) the denial of practical wisdom (Letwin 1952, p. 369).

The rationalist targets of Oakeshott’s attack conceive politics as an exercise to achieve social goals through the implementation of rationally deduced means. He dated the onset of rationalism as a pervasive political influence to the early 17th century. Its protagonists were Francis Bacon (1561-1626) and Descartes (1596-1650): Bacon claimed that there was only one way to restore a sound and healthy condition in human affairs: ‘Namely, that the entire work of understanding be commenced afresh, and the mind from its very outset not left to take its own course, but guided at every step’ (1991, p. 19). Oakeshott identified Jeremy Bentham (1748-1832) as the quintessential modern rationalist: ‘The age we live in is a busy age; in which knowledge is rapidly advancing towards perfection’ (Bentham 1776, Preface). Oakeshott described Bentham as a *philosophe*, which for him was a derogatory term, as it was for Burke: ‘The genius of the *philosophe* is a genius for rationalization, for *making* life and the business of life rational rather than *seeing* the reason for it, for inculcating precise order, no matter at what expense.’ (1991, p. 139). The rationalist overrates the power of the individual mind. He believes that thought is free from obligation to any authority ‘save the authority of reason’. He is the ‘enemy of authority, of prejudice, of the merely traditional, customary, or habitual (1991, pp. 5-6).¹¹⁶

The rationalist error to which Oakeshott focused most of his attention was the denial of practical wisdom. He distinguished two kinds of knowledge: technical knowledge and practical knowledge. The former ‘is susceptible of precise formulation’ (1991, p. 12). The latter, ‘is not reflective and (unlike technique) cannot be formulated in rules’ (ibid.).

¹¹⁶ This reminds us of Burke: ‘Prejudice is of ready application in the emergency; it previously engages the mind in a steady course of wisdom and virtue, and does not leave the man hesitating in the moment of decision, sceptical, puzzled and unresolved. Prejudice renders a man’s virtue his habit; and not a series of unconnected acts. Through just prejudice, his duty becomes part of his nature’ (1887, W3: p. 347).

In *Rationalism in Politics* Oakeshott portrayed rational knowledge, or technique, as remote from 'the genuine, concrete knowledge of the permanent interests and direction of movement of a society' (1991, p. 27). He likened rationalists to 'jumped up kitchen porters deputising for an absent cook. Their knowledge does not extend past the written word which they read mechanically - it generates ideas in their heads but no tastes in their mouths' (ibid.). The cook simile suggests that politics is about doing, and understanding what one is doing, not about following abstract theories. An experienced cook understands the art of cookery through practice, instinct, adaptation and modification. The *jumped up kitchen porter* is a rationalist cook, oblivious to the years that the skilled chef has spent getting to know his ingredients and tools. He attempts to succeed in the kitchen with what he can glean from cookbooks. As a result, he makes a mess of the dishes that he prepares. However, his repeated failures do not lead him to question his method of operating. Instead, each failure spurs the rationalist to search for a more comprehensive book of recipes. Oakeshott held that any attempt to derive theory from practice will necessarily fall short as a reliable guide to action: it can only be an abridgement, or abbreviation, of practice.

According to Oakeshott, this method of operating is no more workable in politics than cookery. Nonetheless, rationalism had come progressively to infect political life to the point where it 'is stronger now than at any earlier time' (1991, p. 25). The rationalist in politics disparages current practices, customs and morals, insofar as these do not accord with his rational deliberations about how society *ought* to be ordered. He is interested in the truth of an opinion and the 'rational' ground (not the use) of an institution is all that matters to him' (1991, p. 8). The political rationalist constantly scrutinises 'the social, political, legal and institutional inheritance of his society' (ibid.).

The political rationalist, like the rationalist chef, is similarly inclined to interpret political failures not as evidence of failure in his own approach, but of the need for a more thorough implementation of rationalist social engineering. Rationalism involves, however, a discernible error, a

misunderstanding regarding the character of human knowledge ‘which amounts to a corruption of the mind’ (1991, p. 37). Oakeshott asserted that the error lies in the assurance it attributes to technique and in its ‘doctrine of the sovereignty of technique’ (1991, p. 25). By refusing to acknowledge this error, the rationalist is a threat to the order and health of society.

Oakeshott was greatly influenced by Michael Polanyi in making the distinction between practical and technical knowledge. Polanyi was a research chemist. His personal experience of twentieth-century totalitarianism gradually drew him to philosophy. In ‘Rationalism in Politics’, Oakeshott remarks in a footnote that ‘some excellent observations on this topic are to be found in M. Polanyi, *Science, Faith and Society*’ (1991, p. 13 n.4). In his 1948 essay, ‘Science and Society’, he calls attention to Polanyi’s ‘brilliant Riddell Memorial Lecture on *Science, Faith and Society*’ (2007, p. 243 n.1). Oakeshott clearly felt that there was much in common between his emphasis on practical knowledge, which cannot be formulated in general rules, and Polanyi’s idea that scientific research cannot proceed on the basis of rules alone: ‘The rules of research cannot be usefully codified at all. Like the rules of all other high arts, they are embodied in practice alone’ (Polanyi 1946, p. 33). Both believed that a central problem with modern politics was an erroneous theory of knowledge. Mark Mitchell judges that Polanyi subsequently developed this area of his thought more thoroughly than Oakeshott (2001, p. 34).

In *Political Education* (1962), Oakeshott underscored the contingent nature of political activity, which he described as ‘attending to the general arrangements of a set of people whom chance and choice have brought together’ (1962, pp. 112-113). The activity takes place within a state. Political activity concerns the manner in which the legal structure of the state is improved and revised (ibid., p. 135). In his view, political activity necessarily takes the form of adjusting the current arrangements by ‘exploring and pursuing their *intimations*, to make them more coherent’ as they are always only partly coherent (1991, p. 57). Political activity is an exploration of the ‘sympathy for what does not fully appear’ (ibid.). Political activity ‘is a consequential enterprise, the pursuit not of a dream, or of a general principle, but of an intimation’ (ibid.)

Oakeshott admitted that there are other understandings of political activity. One conceives of politics as an empirical activity, by which he meant the pursuit of immediate desires, either one's own or others (1991, p. 46). But, he held 'this is politics without a policy' and the only kind of education appropriate to this would be an 'education in lunacy - learning to be ruled by passing desires', or what he also described as 'the politics of the felt need', where politics are always swayed by the mood of the moment (1991, p. 9).

Within the empirical conception, he claimed that political activity directed to the satisfaction of popular desires becomes a succession of crises. Something must be added to empiricism to make it work. For rationalists this something is a premeditated end to be pursued, or an ideology, which provides a way of discriminating between 'those desires which ought to be encouraged and those which ought to be suppressed or redirected' (1991, p. 48). Exponents of a political ideology believe that it is the spring of political activity.

In *Political Discourse* (1991, pp. 70-95), Oakeshott acknowledged that ideologies such as Liberalism, Socialism, Capitalism and so forth can be useful as 'vocabularies of beliefs'. They can act as a crib or shorthand method of communication which encourage political discourse in certain directions and suggest certain conclusions (ibid., p. 77). We can view a political ideology as an offer to see political situations and what is desirable and undesirable in a certain way and an 'invitation to consider some consequences of political decisions and actions to be more important than others' (ibid., p. 74). Moreover, in spite of the fact that ideologies often manifest only marginal differences and there is interaction between them, it is impossible to reflect on political situations or to participate in political discourse 'without having command over one of the special political vocabularies current in contemporary Europe' (ibid., p. 76). In contemporary Europe the problem is the degree to which traditions of behaviour have been superseded by ideologies and 'the extent to which the politics of destruction and creation have been substituted for the politics of repair' (ibid., p. 26).

Oakeshott argued, like Burke, that ideologies become dangerous when their component beliefs are given the logical status of axioms. This would necessarily impose a certain logical status on their conclusions. It implies that political discourse is somehow demonstrative rather than persuasive. But political decisions concern what is to be done in contingent situations where there may be several alternatives to choose from: 'As soon as argument concerns itself with any contingent emergent situation (...) it must relapse from proof into undemonstrative argument' (1991, p. 83).¹¹⁷

He claimed that the error in the ideological understanding of politics is that what it takes as the spring of activity is, in fact, only the result of subsequent reflection on it. In truth, political ideology 'merely abridges a concrete manner of behaviour' (ibid.). He argued, for example, that the *Rights of Man*, enshrined in the Constitution of the United States, did not exist in advance of political practice. They were abridgements of actual political conventions: 'The inspiration of Jefferson and the other founders of American independence was the ideology that Locke had distilled from the English political tradition' (1991, p. 32). Politicians who think that they are formulating some wholly new political idea are mistaken. They are pursuing what is intimated within an immanent tradition. Ideology supposes that politics is the result of intellectual premeditation, and falsely supposes that because it is a body of principles, not itself subject to the activity of attending to the arrangements of society, it is able to direct that activity. He cited Rousseau's concept of a '*volonté general*' as an ideological principle that is supposed to substitute for deliberative discourse, but he thought that it had no instructions whatever for interpreting any actual political situation or the response to it. He attributed this to the fact that both moral and political ideals are incommensurable. What Aristotle calls the "admitted goods", or 'preferable conditions of things', of a society 'cannot necessarily be secured on any one occasion' (ibid., p. 80).

¹¹⁷ 'As circumstances are infinite, are infinitely combined, and are variable and transient: he who does not take them into consideration is not erroneous, but stark made, he is metaphysically mad. A statesman, never losing sight of his principles, is to be guided by circumstances: and judging contrary to the exigencies of the moment, he may ruin his country forever' (Burke 1887, W7: p. 41).

Oakeshott noted a second version of ideological discourse: where truth is claimed to spring not from an ideology composed of axioms, but from one consisting of propositions understood to contain definitive information 'about human beings, human circumstances and the course of events' (1991, p. 85). For example, so-called laws of conduct, or laws of social change. He argued that even if reliable "laws" of social change could be established, they would not give us meaningful propositions in terms of which political dialogue and reflection could be undertaken. Let alone could they become demonstrative: 'For all political deliberation entails beliefs about what is better and what is worse (...) and explanatory laws themselves can provide no prescriptions' (1991, p. 91).

Moreover, these explanatory laws are incapable of generating political deliberation or political discourse, proving decisions to be correct or incorrect, as the more generalised the information, the less it can provide anything useful to political reflection and debate. Oakeshott re-emphasised the importance of contingency to political understanding. Every particular political situation will diverge from an ideal type in some way, and recognising this reality is crucial to reaching an accurate assessment of a situation (1991, p. 93). The divergences from the ideal constitute the practical situation of the politician. No recognition of a situation in terms of an ideal type is capable of counselling a response to the situation, let alone a single correct response. The best that can be hoped from this type of activity is that it might 'provide a vocabulary of beliefs in terms of which some more marginally reliable maxims might be formulated' (ibid., p. 94).

Rationalism is used both to explain and prescribe action, and fails to differentiate between the two kinds of knowledge involved in all activities. It concentrates on technical knowledge, the knowledge of rules and principles used for means/end reasoning, at the expense of practical knowledge. The latter is key to understanding a practice such as politics: we do not learn how to cook by reading cookery books, and we cannot practise effective politics by referring to abstract principles. The rationalist has no sense of the 'cumulation

of experience' (Oakeshott 1991, p. 6). The rationalist 'is the *enemy* of authority, of prejudice, of the merely traditional, customary or habitual' (ibid.). Moreover, Oakeshott argued, rationalism in politics leads to the error called the *Politics of Uniformity* that is hostile to variety. He quoted Godwin to illustrate the point: 'There must in the nature of things be one best form of government which all intellects, sufficiently roused from the slumber of savage ignorance, will be irresistibly incited to approve' (1991, p. 10).¹¹⁸

A precondition of demonstrative reasoning in politics is that the prospect of a clash between moral ideals must be eliminated. This is an impossible condition to fulfil, as every ideal has an opposite. Freedom, for example, can be opposed to order. Privileging the former would result in anarchy. Privileging the latter would result in totalitarianism. Furthermore, 'demonstrative argument can be only concerned with the relations between abstract ideas', but as soon as disagreement relates to an emerging contingent emergent situation it necessarily must revert from proof into undemonstrative argument (1991, p. 83). Oakeshott expressed this as the consequence of both moral pluralism and contingency. The essence of political discourse is that it is argument concerned with 'contingencies, not necessities; with probabilities and expectations, not with demonstrable certainties; with conjectures, not proofs; with surmises and guesses, not with calculations' (1991, p. 80). This is similar to Burke's claim that nothing universal can be rationally affirmed on any political subject because all political activity is contingent.¹¹⁹

Oakeshott's anti-rationalist argument should not be conceived as irrationalism. This would be misleading. He specifically stressed the need to distinguish between rationalism and rationality. In 'Scientific Politics', published in March 1948, he emphasised the gap between his position and any form of irrationalism: 'There is as much difference between rational enquiry and "rationalism" as there is between scientific enquiry and

¹¹⁸ William Godwin (1756-1836): *Enquiry Concerning Political Justice* (1992).

¹¹⁹ 'Circumstances which some gentlemen pass for nothing give in reality to every political principle its distinguishing colour, and discriminating effect. The circumstances are what render every civil and political scheme beneficial or noxious to mankind' (Burke 1887, W3, p. 240).

“scientism” and it is a difference of the same kind’ (1993a, p. 99). What Oakeshott rejected is not reasoned argument, but the idea that reason is only what can be reduced to rules, general beliefs or merely technical knowledge. In a letter to Popper, he emphasised that when he argued against rationalism he was not arguing against reason. His point was that rationalism was unreasonable: ‘That reason has a place in politics, I have no doubt at all, but what I mean by rationalism is the doctrine that *nothing* else has a place in politics - and this is a very common view’ (1948).¹²⁰ Moreover, in the political context the hankering for demonstrative political argument is dangerous as it may lead to discontent with conventional political discussion (1991, p. 95).

Political deliberation is not demonstrative in nature. So if we adopt the rationalist point of view we will come to regard it as a kind of unreason. He considered this would be a terrible mistake because a dialogue that deals with speculations and options and the weighing of circumstantial *pros* and *cons* is reasoning, ‘and it is the only sort of reasoning appropriate to practical affairs’ (ibid.). The practical effect of adopting the rationalist point of view might be to bring all political discourse into disgrace. So much so that we might be inclined to do without it altogether - to give up reflection and argument because they could not be demonstrative (1991, p. 95).

Politics should not be seen as the improvement of society in line with some abstract ideal, which is said to be absolute in value and universal in application, and which can be rationally applied according to a science of politics, which he described as the attempt to convert the enterprise of politics into ‘social engineering’ (1993a, p. 102). Oakeshott observed that the failure of the scientific form of politics is the failure that can be forecast for all ideological politics as it will be out of touch ‘with concrete, specific realities of any political occasion’ (ibid., p. 103).

Manning and Robinson point, however, that in his criticism of ideological politics he completely failed to address the role of ideology as a language of

¹²⁰ This point is elaborated by Oakeshott in his 1950 essay, ‘Rational Conduct’ (1991, pp. 99-131).

commitment: 'Unless they admit to writing ideologically, it would appear that Oakeshott and Popper have thrown out the ideological baby out with the rationalist holist bathwater. Ideologies that must be dismissed as academic nonsense can, after all, make political sense' (Manning and Robinson 1985, p. 55).

Burke claimed, in his criticism of the *Jacobins*, that a resort to rationalism and abstract principles is the radical style. Oakeshott went further: rationalism is incoherent, whoever uses it. In his view, modern liberals were as guilty as socialists for their dependence on rationalism. He cited Disraeli to underscore his point: 'My objection to Liberalism is this, that it is the introduction into the practical business of life of the highest kind- namely politics- of philosophical ideas instead of political principles' (quoted in Oakeshott 1993a, p. 107). He thought that all contemporary politics were deeply infected with rationalism, not just those of the left. The significance of Hayek's *Road to Serfdom* (1944) was that it is still a doctrine: 'A plan to resist all planning may be better than its opposite, but it belongs to the same style of politics' (1991, p. 26). Not only is rationalism incoherent, it is dangerous as rationalists do not recognise the damage they can do in politics: 'The conjunction of dreaming and ruling generates tyranny' (1991, p. 434).

A particularly dangerous rationalist tendency is manifested in a revised type of utopianism that takes up one social problem at a particular time and is ready to disrupt the whole of society merely to solve that particular problem. Oakeshott gave the problem of unemployment as a contemporary example as one for which a permanent solution was sought: 'I should say that no problem in politics is ever solved permanently, and that no problem in politics should be allowed to get out of proportion' (Oakeshott to Popper, 1948). The real business of politics, he opined, is to maintain society in all its arrangements 'stable as well as progressive' (ibid.). the problem with rationalism is that it tends to get individual problems out of proportion.

Having rejected empiricism and ideology as being appropriate elements of political activity, Oakeshott asserted that the ends of political activity appear

within and can be appraised only when they are related to an already existing tradition of political activity (1991, p. 56). Political activity then springs from the existing traditions of behaviour and the 'amendment of existing behaviour by exploring and pursuing what is intimated in them' (1991, p. 62, italics added). So what did he mean by the pursuit or exploration of intimations?

The pursuit of intimations is something less than 'logical implications or necessary consequences' but this does not mean they are any less important for that reason (ibid., p. 57). He admitted that there is no fool-proof procedure to determine the intimation worthiest of pursuing. Mistakes are often made and the upshot may even be contrary to what was intended. Oakeshott used the term intimations in opposition to dreams, general principles, logical implications and necessary consequences. The *pursuit of intimations* captures an aspect of many familiar experiences: imagining possibilities; wanting to attempt something new; believing that a course is necessary or unavoidable; wanting to make amends for past mistakes; defending current practices against charges that they are mistaken or inadequate.

The pursuit of intimations accepts the unavoidability in politics of appraisal, judgement and decision. If political actors could deduce logical implications from their situations, they could surmount familiar constraints. The reality is, however, that 'a politician always has a certain field of vision and a certain range of opportunity'. What he can reflect on, aspire to, or to change is 'subject to the historic limits of his situation' (1996, pp. 116-117).

The underlying activity of pursuing intimations is conforming to a principle of continuity, and a search for coherence in our current practices. Oakeshott argued that although a political tradition may be 'flimsy and elusive' it is, nonetheless, not without identity: 'what makes it a possible object of knowledge is the fact that all its parts do not change at the same time and that the changes it undergoes are potential within it' (1991, p.61). The virtuous politician will understand that his choices are bound by the tradition to which he belongs and that the rationalist, ideological style of politics is dangerous and delusional.

Oakeshott's account of politics, as the pursuit of intimations, is clearly conservative in its implicit justification of a prudent approach to change, broadly in the manner of Burke. Both stress the dangers of the rationalist manner of thinking that leads to ideological politics, and the risks of disregarding tradition. However, we should also note some important differences between them, not least the different role that each gives to tradition. For Burke, tradition is a stock of accumulated wisdom: the 'general bank and capital of nations and of ages' (1887, W3: p. 346). This suggests that traditions have a strongly normative status, as long as they are not tyrannical in kind. Oakeshott emphasised the contingency of tradition: the way that things have turned out in the activity of pursuing intimations. There is nothing providential or normative about a tradition of behaviour.

Oakeshott's account of political activity as the pursuit of intimations within a tradition of behaviour can be challenged on several respects. The first concerns the status of his assertion that politics is the pursuit of intimations: 'Our mistakes will be less frequent and less disastrous, and our achievements more manageable, if we escape the illusion that politics *can ever be anything more than the pursuit of intimations*' (1991, p. 58, italics added). In this phrase politics as the pursuit of intimations is presented as an empirical fact. If it is a fact, then to believe and act otherwise courts disaster. But, if we accept this argument then it constitutes a strong recommendation that we should become traditionalists. But this contradicts his argument that philosophy is explanatory, with nothing practical to recommend.

The pursuit of intimations initially conveys an idea of tentative, gradual change to the *lex of respublica*. But this begs the question of how to explain political conquest and revolution. Oakeshott insisted that the Norman Conquest of England and the Russian revolution of 1917 were the pursuit of intimations and not the obliteration of a current tradition of behaviour. Neither event was 'a genuine cataclysm' (1991, p. 59). The pursuit of intimations can sanction any activity short of a "genuine cataclysm": 'Political crisis appears within a tradition of political activity; and salvation comes from

the unimpaired resources of the tradition itself (ibid.). Oakeshott did not explain why the Norman Conquest was not a genuine cataclysm. In any event, it does not upset his theory because he stipulated that if events are genuine cataclysms, they are ‘the end of politics’ (ibid.). If they are not genuine cataclysms they are the pursuit of intimations, by definition.

John C. Rees argues that for Oakeshott’s assertion to be coherent the meaning of the word “intimation” has ‘*either*’ to be stretched to cover all events normally described as political (including crises) - in which case “political activity” is made equivalent to “pursuing intimations” at which point the thesis is a tautology (1953, p. 74). Or the thesis is interpreted in its ordinary sense, in which case it becomes a hypothesis, subject to empirical tests: ‘As a hypothesis it has to face overwhelming tests to the contrary’ (ibid.). But if the proper meaning of Oakeshott’s assertion is that politics *ought* to be the pursuit of intimations, this is a normative judgment unmoored from a moral perspective, grounded merely in prudential considerations, and distant from many ordinary understandings of the purpose of politics.

The essay ‘Rationalism in Politics’ is not a philosophical essay but a polemic against progressive politics of the type that installed the Welfare State in the UK after 1945. He repeated his long held view that philosophy is ‘not to recommend conduct but to explain it’ (1991, p. 34). But RIP is both an explanation and a recommendation. Notably in RIP he did not use the language of ideal opposites to frame his analysis. The rationalist and the pursuer of intimations are not presented as opposites. The rationalist is presented as a dangerous existential threat and the pursuit of intimations as a logical necessity. Rationalism and the rationalist are described in emotive and pejorative terms such as the ‘vice of rationalism’ (ibid., p. 33). The politicians of Europe are described as ‘jumped-up kitchen porters’ (ibid., p. 27).

The Example of Education

It is instructive to follow Oakeshott’s analysis of the developments in state-sponsored education to illuminate his anti-rationalist argument. This was the

only policy area he commented on in any detail. Oakeshott was especially concerned about what he saw as the possibly irreversible damage being done by the state to the education system as a consequence of rationalist thinking, which he felt had appropriated morality and moral education to its ends. (1991, pp. 40-41). Rationalists thought the proper method of moral education was by rule, by the presentation and explanation of moral principles. They failed to recognise that ‘moral ideas are a sediment’ that are significant only as long as ‘they are suspended in a religious or social tradition, so long as they belong to a religious or social life’ (ibid.). Oakeshott claimed that the destruction of parental authority was one casualty of moral rationalism. The alleged abuse of parental authority had led to its critics to deplore the scarcity of “good homes”: ‘we end up by creating substitutes, which complete the work of destruction’ (ibid., p. 41).

Oakeshott claimed that a society which has adopted a rationalist idiom of politics will inevitably be steered or drift towards a wholly rationalist form of education (Oakeshott 1991, p. 37). For this reason, he thought that rationalism would lead to a progressive degeneration in a civilisation’s ability to think. He was not directly concerned with the pursuit of indoctrination through education, as in totalitarian societies, but the more insidious business of offering ‘no place for any form of education which is not generally rationalistic in character’ (ibid., p. 38). This means that education becomes focused on training in technical knowledge for utilitarian reasons, rather than an initiation into the moral and intellectual habits and achievements of a society, without any ulterior purpose, and the acquisition of genuine skill through doing (ibid.). He thus rejected even second-order utility to justify university education, which meant that he was antipathetic to efforts initiated by Margaret Thatcher to reform British universities by applying business management principles, a procedure that has proceeded apace in recent years.¹²¹ Oakeshott wrote in his 1950 essay, ‘The Idea of a University’, ‘a university is not a machine for achieving a particular purpose or producing a particular result; it is a manner of human activity’ (1989, p. 106).

¹²¹ See Marina Warner’s speech on the ‘disfiguring of higher education’ for a contemporary analysis of the issue (2015).

Oakeshott was critical of the Education Act 1944, the so-called “Butler Act” (named after R.A. Butler, the Conservative Minister of Education). Prior to the Act the system of secondary education was an *ad hoc* creation, which failed to provide universal access. The Act remedied this. It initiated a system of universal, free secondary education, and raised the school-leaving age from fourteen to fifteen. Secondary schools were classified as “grammar”, “technical” and “secondary modern”, and targeted at pupils with different levels of ability and different aptitudes. Places at the former were filled by selection of the more academically talented pupils at age 11, by examination.

This system was designed to fulfil what were then thought to be the needs of the economy for the provision of managers, technicians and workers. For Oakeshott, it was a good example of his view that Rationalism often generates ideologies that are inappropriate, because they are derived from the activities that they claim to guide. In education, social utilitarianism had become the lodestar, whereas for Oakeshott, it should be an introduction for the young to the values and traditions of their culture.

Kenneth Minogue assessed how rationalist education fared in Oakeshottian terms in his Presidential Address to the Michael Oakeshott Association conference in 2003. Before long, according to Minogue, the comprehensive system of education inaugurated by the 1944 Act was taken over by another abstract idea: ‘That the schools should be instrumental to the remaking of society as something less stratified by class than what exists’ (2003, p. 2). This led to the abolition of grammar schools and introduction of neighbourhood schools of mixed ability. A further rationalist idea emerging at this time was the idea that pupils should be allowed to respond freely to their own individual need for knowledge at their own pace, at the expense of rote learning, which, according to Minogue, led to a breakdown of authority and discipline in British schools (*ibid.*, p. 3).

Subsequent innovations were vibrantly rationalistic in the sense of manifesting an ‘irritable tendency to solve problems’, such as the introduction of the National Curriculum (Minogue 2003, p. 3). These innovations together with a succession of examinations at ages 7, 11, 16, and 18 and an inflation in

grade results led to the point that pupils were arriving at the doors of universities with less preparation than ever before: 'They have been, as it were, trained but not educated' (ibid.). Far from being an introduction into the culture and values of a society, getting an education today is understood as the acquisition of skills, which Oakeshott described as 'a training in technique, a training that is, in the half of knowledge which can be learnt from books when they are used as cribs' (1991, p. 38).

Comment

Oakeshott's political rationalist is something of a "straw man". The rationalist is such an egregious character that it is easy to knock him down. It is questionable, however, whether any recent political thinker comes close to his characterisation of the rationalist. David Kettler claims that 'no serious political thinker since the middle of the nineteenth century has doubted that a complex tension marks the relationship between continuity and innovation, that the new is in some sense generated by the old' (1964, p. 488). Oakeshott characterised political activity in 1947 as politicians finding the intricacies of the world so unmanageable that they were enchanted 'by the offer of a quick escape into the bogus eternity of an ideology' (1991, p. 34). An alternative, more charitable, description is that politicians were doing their best in the financially difficult circumstances of post-war Britain to implement a set of reforms that had broad popular support and which, moreover, were intimated in the political tradition.

The pursuit of intimations assumes that an existing political practice is broadly coherent. Given the contingency of tradition, it may well be that a tradition of behaviour is intimated unclearly, so there is no obvious direction intimated. Oakeshott admitted that intimations can point forward, backwards and sideways. The beliefs that compose a tradition are described as 'a multi-voiced creature', which seems to be a 'most unreliable oracle' and it is unreasonable to expect a straight answer from 'our somewhat miscellaneous beliefs, preferences, approvals, disapprovals' (1965, p. 90).

An existing practice, moreover, may be coherent, but morally reprehensible. In South Africa, for example, the institutional apparatus of apartheid could be seen as the result of the pursuit of the intimations of the social and political practices of the white Afrikaans majority after the Second World War. But, for most outside observers, such a pursuit of this intimation is ethically reprehensible because the tradition itself is offensive.

The pursuit of intimations, like tradition, can also fail to provide answers. It is an open question as to how we choose between conflicting intimations. If there is a dominant intimation to be followed, as Hayek noted, ‘the decisive objection to any conservatism (...) is that by its very nature it cannot offer an alternative to the direction in which we are moving’ (1960, p. 1). The most it can do is to slow down unwelcome developments, ‘but since it does not indicate another direction, it cannot prevent their continuance’ (ibid.). Moreover, if Oakeshott was correct that anti-rationalism had progressively infected the practice of politics, he was implicitly recommending that we have no alternative but to pursue the intimations of an infected tradition of behaviour. But, this would only serve to make a situation worse, not better.

It is unclear whether he believed that a tradition had boundaries, and that the pursuit of intimations must be necessarily within the boundaries of that tradition. Or, whether his claim is merely that any end of political activity must have been intimated in some political society at some time. His example of the Declaration of the Rights of Man, though, suggests the latter. He claimed that the French revolutionaries were not requesting abstract rights grounded on a theory of the ultimate nature of man, but the legal and political rights concretely embodied in the English constitution. Whereas it may be true that the revolutionaries took some inspiration from England, it is unlikely that many historians would agree that their demands were merely intimated in the common law rights of Englishmen at that time. Moreover, if Oakeshott is correct, this would justify an end of political activity if intimated in *any* tradition, unless his claim was that the French and English traditions were the same.

My thesis is that one should interpret his doctrine of anti-rationalism on which his political conservatism is based as an attempt counteract progressive thought, which in the post-war period favoured a purposeful, managerial state. It is mistaken to interpret him as using anti-rationalism to ground uncritical traditionalism, or conservatism. The conservatism of Oakeshott, like Burke, was characterised, in the first instance, by opposition to the idea of complete or radical change, and not by opposition to change as such or by any commitment to preserving all institutions and traditions. Both claimed that the rapid implementation of rationalist schemes put societies at risk of destruction or chaos and should be resisted. The justification of this presupposes the primacy of the socio-political values of order and stability, which cannot themselves be determined by an appeal to history or tradition.

Oakeshott claimed that conservatism is a disposition to value a particular state of affairs, not merely any state of affairs. The disposition is obviously affected by current circumstances: 'If the present is arid (...) this inclination will be weak or absent' (1991, 408). The circumstances in which he wrote his conservative essays disposed him to be conservative as the direction of change meant that things could only get worse from his perspective. Andrew Sullivan rightly concludes that Oakeshott offered only a 'contingent defence of a contingent tradition' (2007, p. 5). By this he means that Oakeshott could not use the anti-rationalist argument to support any tradition. This would be unsustainable from the moral point of view. It is a contingent defence in that rule of law liberalism, which I contend best describes his political disposition, does not need an anti-rationalist thesis to support it. We noted in Chapter Three that he argued that civil association is the only *moral* form of compulsory association that is the state, which is a sufficient defence in itself.

Oakeshott's anti-rationalist doctrine should be read as a tactical defence of what was left of rule of law liberalism in post war Britain. It added little to the prudential "conservative" arguments offered by Burke 150 years earlier in his defence of Old Whiggism. Jesse Norman describes Oakeshott's anti-rationalism as 'a highly sophisticated and nuanced generalization of Burke' (2013, p. 9). But, Oakeshott's arguments lack the emotional impact of Burke's,

who always made explicit the moral basis of his argument. Burke supported the aims of the American revolutionaries and radical reform in Ireland, for example, not on the basis of the pursuit of intimations, but from a belief that both causes were morally justified. Norman describes Burke's conservatism as one of value, whereas Oakeshott's is one of disposition (2013, p. 10).

The Politics of Faith and the Politics of Scepticism

In the posthumously published *The Politics of Faith and the Politics of Scepticism* [PFPS], Oakeshott described two opposing styles of political activity. The opposition is that between the politics of faith and scepticism. The subject of PFPS, which is generally thought to have been completed in 1952, is no longer rationalism, but an analysis of the tradition of European politics in terms of the movement between two extreme styles of politics, or "polarities", which began to emerge in the 15th century and which have lasted to the present day, 'to which our current habits and manners are joined by an unbroken pedigree' (1996, p. 2). The extremes, or poles, are associated with the ideals of faith and scepticism.

Oakeshott cautioned the reader against making the mistake of 'converting logical opposites with historical enemies', or of regarding faith as a reaction against scepticism, or the source of faith as the failure of scepticism, or the spring of scepticism in the collapse of faith', (ibid., p. 30). The polarities are both theoretical and historical, and Oakeshott claimed that practice in modern times has always been a mixture of the two styles and has never reached either extreme: 'Historically our practice and our understanding of government has occupied a *middle region* with only sporadic excursions to the horizons' (ibid., p. 11, p. 38; italics added).

In this section I consider whether the opposition of the politics of faith and the politics of scepticism offers any further insight into Oakeshott's account of political activity, or whether it is merely a reworking of his anti-rationalism thesis. It may be significant that the term "rationalism" largely dropped out of Oakeshott's writings from the early 1950s onwards, for reasons that are

unclear. It may also be significant that *PFPS* went unpublished in his lifetime, which suggests that Oakeshott was to some extent dissatisfied with certain aspects of it. We should note two considerations that may explain this. First, as Kenneth Minogue pointed out, *PFPS* arguably had a different objective to *RIP*. The latter is a harsh polemic against rationalism. The former, however, attempted to “domesticate” rationalism as part of a broader theory of modern politics (2012, p. 246). It will be seen that the process of domestication did not achieve its objective. Second, it was, as Timothy Fuller remarks, as close to a book of advice with practical implications as Oakeshott produced, and as such an enterprise anathema to him. This may be why he decided to leave it unpublished.

The polarities of faith and scepticism reflect different views on the activity, or practice, of governing. The politics of faith is identified with the desire to achieve perfection by political means, when government activity is not understood as merely ancillary to the pursuit of perfection but recognised as ‘the chief inspirer and sole director of the pursuit’ (Oakeshott 1996, p. 25). “Faith” in this context is not to be confused with a doctrine of ‘cosmic optimism’ in which perfection is an inference from the creator, or a providential gift (*ibid.*, p. 23). On the contrary, it is a secular mind-set, which he styled as “Pelagian”. Faith is the belief that the achievement of perfection can be achieved by our own efforts and that human power is adequate to achieve salvation.

There are, of course, as many versions of the Politics of Faith as there are interpretations of the meaning of perfection, but in modern times the Politics of faith has been expressed in two main idioms; a religious version and an economic version (1996, p. 58). According to Oakeshott, the politics of faith had dominated political thought and action for the past one hundred and fifty years. This was made possible by the discovery of ways to continually increase the power of government. The increase in power was, in fact, the most important condition of the rise of the politics of faith: ‘It belongs to this style of politics to welcome power rather than to be embarrassed by it’ (*ibid.*, p. 28).

His discussion of the role of power suggests the near-inevitability of the dominance of faith in contemporary circumstances. He called it a 'general rule' that what men wish to do is determined by what they can imagine themselves doing with the resources they have at their disposal. He claimed that the politics of faith is not the cause of a great increase in the amount of power available to government, but the consequence of a contingent expansion of that power (1996, pp. 45-6). The more power that is available to government, the more government will be tempted to exercise ever closer control over the activities of their subjects, and the available powers to control and direct 'themselves generated the beliefs which belong to the politics of faith' (1996, p. 46).

Medieval rulers, however, did not have such powers at their disposal. Governments did not have the capacity and competence to pursue this style of politics, and this realisation stood in the way of the enterprise ever occurring to them (ibid., p. 48). A significant and continuing casualty of improvements in the methods of power has been the disappearance of the intermediate authorities that historically stood between a weak central government and its subjects, leaving them 'naked before a power which in its magnitude was becoming comparable to a force of nature' (ibid., p. 49). The centrality of the link between power and the politics of faith was, for Oakeshott, almost a law of nature. Every technological progress that 'adds to man's mastery over his world' and improves productivity when arrogated to government makes the Politics of Faith more likely (1996, p. 50). If the politics of faith is a consequence of the stimulation that the availability of power gives to the aspirations of government, it is difficult to see how the politics of scepticism stands a serious chance in the modern age.

Oakeshott claimed that the politics of faith is a style of politics, pursued in more than one style, 'which is *coeval* with the modern world' (1996, p. 65). Although this idiom of politics has been universal throughout modern Europe, it has never been the sole property of any European country or political party (1996, p. 66). Both understandings of governing have been ever-present in modern times, although the particular form each takes will depend upon

contemporary circumstances. They are styles of political activity, and not unchanging doctrines. Each has manifested in varying degrees of completeness and in a variety of versions' (1996, p. 21). In Oakeshottian terms, a "productivist" version of the politics of faith has come to be the common currency of mainstream political parties. The faith that human perfection can only be achieved in a "productivist" community, this being more than the search for a higher standard of living (ibid., p. 63).

The prevalence of faith has resulted in the extended meanings given to certain words in our political vocabulary. "Security" is extended to mean "welfare", then further extended to mean "salvation". "Work" becomes first a right, then a duty. Every minimum is converted into a maximum until "freedom from want" and the enjoyment of happiness are claimed as rights (ibid., p. 63). Oakeshott quoted E. L. Thorndike (1940) as a modern day example of the productivist version of the politics of faith, the lineage of which can be traced back to Francis Bacon. Thorndike claimed that when we reflect on human nature in relation to welfare it shows 'that man has the possibility of almost complete control of his fate, and that if he fails it will be by the ignorance and folly of men' (Thorndike in Oakeshott 1996, p. 65).¹²²

What is notable, Oakeshott stressed, is the 'manifold character quality of our manner of government', and it never had been 'simple, monolithic, or homogenous' (1996, p. 8). This explains the ambiguity present in our political vocabulary, as it has had to serve two masters. In view of his strictures against rationalism, Oakeshott made the surprisingly revisionist claim that the ambiguity has functioned to hide divisions '*which to display fully would invite violence and disaster*' (1996, p. 21, italics added). The main defect of our ambiguous political vocabulary is mainly philosophical. The ambiguity makes it problematic for us to think clearly about our politics and 'stands in the way of profound political self-knowledge' (ibid.). In other words, if either style of political activity came to dominate our political life, the upshot would be worse than the muddle in which we find ourselves. This suggests that

¹²² Oakeshott described Francis Bacon as 'the chief architect of the politics of faith' (1996, p. 52).

Oakeshott had become somewhat reconciled to contemporary political realities.

But what is the politics of scepticism, and is it something we can glimpse even remotely in contemporary political activity? In contrast to his exposition of the politics of faith, Oakeshott's description of the lineage and tenets of the politics of scepticism is somewhat sketchy. Its most fundamental feature is that it is disinterested in the pursuit of human perfection (1996, p. 31). He suggested that the roots of sceptical politics can be found in 'prudent diffidence rather than in some radical doubt' (ibid.). Prudent diffidence was combined with an understanding of human nature associated with writers such as Hobbes, Spinoza, Pascal and de Montaigne among others. When they contemplated the 'the weakness and wickedness of mankind and the transitoriness of human achievement' in the context of the the activity of governing led to political scepticism (1996, pp. 75-6)

The "prudent diffidence" refers to the arguments against perfectionism we already noted in his second 'Tower of Babel' essay where, he claimed, to pursue perfection 'as the crow flies' will invite disappointment and misery (1996, p. 31). The detachment of governing from the pursuit of perfection, he argued, deprives the activity of government of any ulterior comprehensive purpose. As there is no ulterior purpose and, in particular, no common good to be pursued, the "specific activity" of governing is the maintenance of order, which the sceptic recognises as a great and difficult accomplishment and, where appropriate, to enhance the system of rights and duties and the attendant system of means of redress, 'which together compose the superficial order' (ibid., pp. 32-34). So sceptical politics, like conversational politics, is appropriate to a civil association, but altogether alien to an enterprise association.

We have noted already that Oakeshott attributed the emergence of the politics of faith to the circumstantial ability of governments to harness more and more power for themselves as a consequence of developments in science and technology. The politics of scepticism is a mirror image of this consideration:

‘They are, generally speaking, the politics of the powerless’ (1996, p. 69). It is the style of governing suitable to conditions in which government has only a small opportunity to direct the activities of its subjects. Thus scepticism is the default position when the levers of power are absent. But scepticism needs something to recommend it in the presence of power, which is the contemporary default position.

The springboard of the modern politics of scepticism is, unsurprisingly, anti-perfectionism, anti-rationalism and a non-purposeful understanding of the law grounded largely on prudential considerations, it reflects all of the unifying themes of Oakeshott’s political doctrines. He did not link these ideas directly to the politics of scepticism, which is perhaps surprising, as *PFPS* was written shortly after the essays collected in *Rationalism in Politics*. But, nonetheless, the themes are implicit in much of what he says.

To the sceptical school belongs ‘a distinguished body of writers; to go no further than the great names, Hume, Burke, Bentham, Macaulay, and, I think, Adam Smith himself’ (1996, p. 73). The inclusion of Bentham and Smith in the sceptical school suggests an idiosyncratic interpretation of their work. Oakeshott claimed that true sceptics resist the politics of faith because they object to the imposition of any comprehensive pattern of activity, whether economic or otherwise. And the reason they opposed any version of the politics of faith is because they detect a whole range of mistakes. These include an unjustifiably optimistic reading of human behaviour, ‘the impoverishment of mankind by reducing all activity to that which could easily be controlled by government’, a misreading of the political importance of private property and ‘bringing the law into disrepute’ by expecting it to do what it cannot do and the promotion, at home and abroad, of that ‘insecurity which in their view it should be the chief office of government to mitigate’ (1996, p. 73).

The opposition of faith and scepticism is, then, a reworking of Oakeshott’s ideal contrasts between reason and tradition, moral perfection and imperfection, individuality and mass man, and civil association and enterprise

association. There is, however, a significant difference. In the previous cases, Oakeshott unequivocally demonstrated the fitness of one ideal to his understanding of the human condition. We might expect that he would simply denounce the “politics of faith” as the “son of rationalism”, and aver the fitness of the politics of scepticism, but this was not the case. He remarked that ‘mere denunciation’ of the politics of faith was out of place, and insisted that we must recognise the politics of faith not on its own terms ‘as the final orientation of our political activity’, but as ‘a flight to one of the extremes of which our complex politics is capable’ (1996, p. 127). The trigger for a movement in one direction between the poles is largely circumstantial. It is seldom the result of design, more likely it is the consequence of negligence (ibid., p.12).

The gist of Oakeshott’s argument, as Fuller highlights in his introduction to *PFPS*, is ultimately Aristotelian, because it locates the activity of governing as a mean between the two “polarities”. Oakeshott claimed that each style of politics, when standing alone, will provoke a characteristic nemesis, which in both cases ‘turns out to be a self-destructive stops this self-destruction (ibid.)’. Minogue described Oakeshott’s argument as a ‘revisionist exercise’ in showing that the politics of faith must be granted an essential place in western political life (2012, p. 234). So “mere denunciation” would be a futile exercise in view of this historic reality. The best that can be achieved is to make an argument to return to a more sceptical style of politics as a counterweight to the dangers inherent in the politics of faith. The modern day challenge of the politics of scepticism is to identify the way in which government can most economically undertake its age-old function of maintaining ‘*an order and balance relevant to the current conditions and activities of the society*’ (1996, pp. 86-87, italics added). Its job is to promote an understanding of politics as a conversation in which past, present and future all participate.¹²³

¹²³ This quotation echoed Burke, who in *Reflections on the Revolution in France*, described society ‘as a partnership in all science, a partnership in every virtue and in all perfection. As the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born’ (1887, p. 359). Oakeshott also used the partnership metaphor when he described

This is a practical political recommendation. Oakeshott implicitly conceded the supremacy of the politics of faith. “Order and balance” are relevant to the “current conditions and activities of the society” - which he acknowledged to have long been dominated by the politics of faith and to have resulted in the Welfare state. Thus his recommendation can be reduced to a plea to do what is necessary to maintain order “most economically”, in view of the consideration that in a representative democracy, mass man will take the trappings of the Welfare state for granted. We should note that by “economically”, he refers not just to the use of resources, but the use of power. The sceptic appreciates the rule of law on account of it being a manner of governing that is economical in its use of power. He sees that government by the rule of law is an emblem of that dispersion of power which government exists to promote (1996, p. 88). However, as noted in Chapter Three, this assertion only makes sense if we conceive of the state as being purposeless.

Oakeshott claimed that the problems associated with the politics of faith overshadow those of the politics of scepticism. The politics of faith is not compatible with the circumstances of modern Europe, which is characterised by moral and cultural pluralism. It risks awakening ‘the politics of Terror’, which lies dormant in all versions of government as the pursuit of perfection, when it is foisted on a diversified community’ (ibid., p. 95). The politics of faith is only suitable for a monolithic society, which might be expected to have monolithic politics; and as faith entails the ‘minute and comprehensive control of all activities’, it is clearly unsuitable for pluralistic societies (1996, p. 92).

Moreover, the politics of faith is self-defeating. If government promises salvation, the achievement of government will ‘be too great or too small, and in both cases gratitude is turned to hatred’ (1996, pp. 97-98). The minute control over the activities of the subjects, and the devotion and sacrifices

government under the rule of law as involving a ‘partnership between past and present between governors and governed which leaves no room for arbitrariness’ (1996, p. 88).

required of them, attached to a single overpowering principle that this style of politics requires, will be shown to be to no avail. Government will claim that nothing should be allowed to stand in the way of the pursuit of perfection. The politics of faith in its pure form results in the kind of dystopia we noted in his second ‘Tower of Babel’ essay ‘where engagements, loyalties, undertakings will be swept aside’ and actual misfortunes will be ignored or discounted ‘while the poor, the oppressed, the terrorized, the tortured are forgotten’ (1996, pp.98- 99). It is unlikely that citizens will be loyal to a state that wreaks such mayhem ‘Where it will be difficult to hide the slaughter and impossible to conceal the corruption, and where the ship is so conspicuously preferred to the crew’ (ibid.).

This is a description of the consequences of the politics of faith at its polar extreme. It might be realised only in totalitarian states, such as the former USSR and the present day Islamic State.¹²⁴ But even in a less extreme form, its defects are clear. Oakeshott clearly had the post-war welfare state in mind when he spoke of the logic of security. “Security”, he claimed, has a scale of meanings in our political vocabulary. There is a critical point on the scale, on one side of which protection against some of the shifts of fortune is recognised to be among the activities of government. Up to this point the inspiration behind government protection is the observation of actual miseries suffered. Security is understood as the ‘assurance of relief’ (1996, p. 99). The limit to security being understood in this manner is the protection that can be afforded without enforcing an all-embracing blueprint of activity on the community (ibid., p. 100). When a person is defended against misfortune in such a fashion as to ‘deprive him of the authority to defend himself, the limit is passed’ (ibid.).

Beyond this point on the scale, security becomes understood as well-being, and the purpose of government is understood as being to provide for this. This

¹²⁴ Oakeshott held that Russia was an obvious example of the Baconian version of the politics of faith: ‘What distinguishes it from most of the other regimes in Europe which have moved decisively in the direction of faith is the degree in which it has divested itself from every vestige of the pull of scepticism’ (Oakeshott 1996, p. 132 n.6).

results in a community organised for the exclusion of unpleasant circumstances. This requires the government to control the activities of the community minutely in the pursuit of well-being. When perfection is identified with security, the normal condition of the subject will be one of slavery 'qualified by whatever privilege he can secure for himself by an even more prostrate submission' (ibid.). But this is a self-destructive style of governing. Productivity will decline as there is little reward for effort.

Oakeshott's objection to the politics of faith combines his distaste for the productivist orientation prevalent in modern society with a libertarian attitude to the state provision of social welfare that can trace its lineage back to Kant. The price of security is submission and liberty is destroyed. Its major consequence is that it leads to a concentration of power that justifies government having and exercising more power. This becomes self-defeating as government inevitably fails to deliver because the protectors pledge more than they can deliver. It is only 'when *the pull of scepticism* is exerted on this version of faith that self-defeat is avoided' (1996, p. 102, italics added).

Oakeshott contended that in its ideal form, the politics of faith has a moral infirmity. Moral activity, he claimed is one in which a 'norm of self-limitation' is discernible (1996, p. 103). But the politics of faith does not recognise such a norm. Oakeshott quoted Nassau Senior¹²⁵ as an example of what he meant: 'It is the duty of government to do whatever is conducive to the welfare of the governed. The only limit to this duty is power' (Nassau Senior in Robbins 1952, p. 45). The pursuit of perfection contains no conception of self-limitation, as whatever state we are in can always be made more perfect. The only constraint is the power and resources available. But just to respond to the provocation of power, to follow wherever it may lead and to take advantage of every increase, 'is not a moral activity; it is only a display of energy' (Oakeshott 1996, p. 103).

Not only does the politics of faith lack self-limitation; it is, on the contrary, self-aggrandising. The recognition of the politics of faith as the pursuit of

¹²⁵ Nassau William Senior (1790-1864), British lawyer and economist.

perfection 'harnessed to power' provides momentum for continuous improvement in the tools and techniques of power. He referenced the extension of education and the activities of the BBC as examples of how enterprises can become endowed with a 'spurious moral character' due to the energy and determination with which their objectives are pursued (ibid., p. 104). Without a principle of self-limitation, such activities transform their pursuit from being a moral activity to a 'mere response to the incitement of power' (ibid.). We should highlight the importance of "self-limitation" to him. As we noted in the discussion of order and power, Oakeshott believed the greatest threat to individual freedom was the increase in the means to exercise power available to modern governments. This makes the politics of faith particularly problematic in contemporary circumstances as it lacks self-limitation at a time when the instruments of power are constantly being augmented.

In contrast to the dystopia that results from an unqualified pursuit of the politics of faith, the downside of pursuing the politics of scepticism is 'both less devastating and more subtle', but 'it is unsteady when it stands by itself' (1996, p. 105). If the politics of faith leads to greater government, the politics of scepticism represents the idea of minimal government. It is not, however, to be confused with anarchy. The politics of scepticism has the positive office of maintaining the public order of a community: 'it can rise above minimum government, and be imperial in its own province' (1996, p. 106). Scepticism is not to be associated with weak government: 'It is paramount because its activities are limited'. Under normal circumstances this style of government is never fully stretched. It has something left in reserve for emergencies - in contrast to the politics of faith, which, by definition, is always at the end of its tether in the pursuit of perfection.

In his account of government according to the politics of scepticism, Oakeshott echoed the idea of a "Night-watchman" state, popularised by Robert Nozick in *Anarchy, State and Utopia* (1974). Nozick explained how the minimal state results from a rejection of anarchy. Its functions do not extend beyond the provision of protection against force, theft and the enforcement of

contracts. But whereas both Nozick and Oakeshott rejected “Utopia”, or “perfectionism”, Nozick offered a rights-based libertarian defence of minimal government, whereas Oakeshott offered qualified scepticism to trim the activities of the state.

Whereas the politics of faith is dangerous because it lacks a principle of self-limitation the weakness of scepticism springs from the opposite source: ‘The severe self-limitation that belongs to its character’ (Oakeshott 1996, p. 106). The purpose of the politics of scepticism is to preserve public order, but its tendency to be scrupulous, and never disproportionate, in carrying out this duty tends to leave implementation of the task unprepared. He concluded that scepticism, like faith, when it remains by itself is somewhat inappropriate in modern Europe communities, which can be characterised by a disposition for hasty and continual change. The politics of faith is alive to change and will endeavour to suppress it when it conflicts with the pursuit of perfection. The politics of scepticism, however, is relatively uninterested in any kind of change. The consequence is that it will tend to be inattentive to those effects of change that come within its jurisdiction. Namely, the advent of circumstances which require a modification in the scheme of rights and duties if order is to be maintained. The insensitivity to change ‘is a defect of the virtue of this style of government’ (1996, p. 107).

Oakeshott’s claim was that government in the sceptical style is not sensitive enough to changes in moral opinion, security considerations and such like that intimate changes to the laws of a society or the activities of government. Scepticism’s resistance to the necessary changes means that it is likely to be overcome by the ‘nemesis of political quietism’ (1996, p. 108). The nature of scepticism is its tendency to understatement. It is unlikely to recognise conditions of emergency in a timely fashion. The final nemesis of scepticism is its tendency to reduce politics to ‘play’ (ibid., p. 110) Oakeshott defined play in this context as an activity that is practiced on certain formal occasions and in accordance with precise rules. The meaning of the activity to the participants lies not in the targeted end result, but in the mood in which it is enjoyed and fostered in the cause of attaining the end result. Oakeshott had in mind the

English tradition of the administration of justice and parliamentary government where opponents can be friends and debate takes place without hatred. This is, of course, foreign to the politics of faith ‘where debate is argument, not conversation’ (1996, p. 111).

But the style of governance according to the politics of scepticism is out of sympathy with contemporary political sensibilities. It assumes imperfection, accepts plurality, and remains neutral between different conceptions of the good life. But the intellectual temper of this mode of government is foreign to an activist climate of opinion in a world where all activities are taken seriously, where industry is considered virtuous and the energetic pursuit of goals a good thing, the assumptions of scepticism ‘fix upon government the character of frivolity’ (1996, p. 110). That is to say, the two poles of our politics can be reformulated as a contrast between “earnest” and “play”, a variant on the contrast between “work” and “play” identified in Chapter One. This was central to Oakeshott’s ideas about how we should live, given his understanding of practical life as inherently frustrating due to the never ending process of new wants emerging from the satisfaction of current wants.

Oakeshott’s contended that in modern Europe, faith and scepticism are not merely opponents, but also necessary partners if disaster is to be avoided. This reflects his reluctant acceptance that rationalism and the politics of faith are so ingrained in our political culture that to pretend otherwise would be futile. The unsuitability of the sceptical style to the governance of modern Europe, which in itself is evidence of its defeat, is an inappropriateness ‘to a condition of “emergency” and “war”’ (1996, p. 113). He accepted that the model for the allied victory in the Second World War was the state organised as an enterprise association dedicated to victory and the unconditional surrender of the enemy. This marked the ascendancy of the politics of faith. Consequently, he argued, no government can expect to stay in power, and no party can assume to be heeded, which does not at least have the appearance of being ready to respond to emergencies.

Oakeshott argued there is an asymmetry between the deficiencies of faith and scepticism. The politics of scepticism ‘suffers from a strong contingent liability to self-defeat’ (1996, 125). It is unstable when it stands by itself. While the pull of scepticism may rescue faith from certain self-destruction, the counter balance of faith saves scepticism from only probable self-destruction. That is, the flaw in the politics of faith is innate, in the politics of scepticism it is conditional.

Oakeshott formulated a general practical principle to capture his view of where the mean lies between faith and scepticism: ‘Excess and defect are not equidistant from the mean’ (1996, p. 115). He reminded us of Isocrates’ observation that moderation consists in deficiency rather than in excess. The mean is a lot closer to scepticism than faith. As a practical matter, he argued, we should recognise that our current style of politics offers a liveable intermediate region in which we can avoid its harmful extremes by pursuing a doctrine of moderation, as offered by Halifax in *The Character of a Trimmer* (ibid., p. 121). The *Trimmer* has the virtue of not interpreting the words in our political vocabulary in their furthest scope. He is one who ‘disposes to keep the ship on an even keel (...) he will be found facing in whatever direction the occasion seems to require for the boat to go even’ (ibid., pp. 123-124). The *Trimmer* has a much closer affinity to scepticism than faith and ‘he has the advantage of the sceptic in his ability to recognize change and emergency’ (ibid.).

The *Trimmer* might be an apt metaphor for Oakeshott himself in the nineteen fifties. He had retreated from the principled attack on rationalism set out in *RIP* but had not yet defended the principled libertarianism, which he did twenty years later in *On Human Conduct*. The *Trimmer* is the quintessential Oakeshottian conservative, suspicious of the ‘jump to glory style of politics’ where governing is understood as a ‘perpetual take-over bid for the resources of human energy’ in order to concentrate them in a single direction (1991, p. 426). This style of politics operates on the principle that ‘to govern is to turn a private dream into a public and compulsory manner of living’ (ibid.). Oakeshott viewed the *Trimmer* as having more in common not with referee,

not a star player: 'Strong, alert, resolute, economical and neither capricious nor overactive' and careful to avoid blowing his own whistle' (ibid. p. 433).¹²⁶

I wish to suggest that Oakeshott's reliance on scepticism as the basis his anti-progressive argument may have left many otherwise sympathetic readers with "one hand clapping" when reading *PFPS*. His opposition of faith and scepticism is problematic in that it highlights the limitations of his binary method of comparing and contrasting "ideals" - in this case, faith and scepticism. Oakeshott does not justify why he chose "faith" and "scepticism" as polar opposite styles of governing in his reading modern European history. It is merely asserted. He could have chosen simplicity and complexity as the poles, or collectivism and individuality, which might have been more consistent with the contrasts he drew elsewhere.

Scepticism, as Oakeshott describes it, is not the polar opposite of faith but a version of faith, in as much as the maintenance of order is considered by its practitioners to be the purpose of government. This is a version of the problem we noted in Oakeshott's claim that a true civil association is purposeless, although order is presupposed. What scepticism entails is merely contingent upon what the voters in a representative democracy need from government to maintain order. Contrary to what Oakeshott claimed, the polar opposite of faith is anarchy: defined as 'the absence of a master, a sovereign' (Proudhon, 1969 p. 264).

In setting up the politics of faith as a "straw man", appropriate for an enterprise association, it was easy for Oakeshott to knock it down as

¹²⁶ Several politicians have been described as Oakeshottian. In the *New Statesman*, Ed Smith recently argued that David Cameron is essentially Oakeshottian: 'Instead of setting the agenda, he holds the right balance; in place of vision, he seeks informal compromise; far from using logical arguments to pursue utopia, he has a non-rational grasp of his particular era and its demands. These are the features of an Oakeshottian conservative' (2013, p. 2013). Dean C. Hammer argued that George W. H. Bush was an 'Oakeshottian President' who sold himself to the electorate on the basis that 'what matters is not who has a better plan for the future but who can best manage the present' (1995, p. 301). On the left, Adam Gopnik claimed in the *New Yorker* that Bill Clinton's 'lack of consistent principle and a "bottom line"' makes him a model Oakeshottian statesman' (1996, p. 196).

something only Utopian dreamers, of whatever political persuasion, could conceive. The opposition of faith and scepticism offers little insight into the dilemmas of politics in a modern, pluralistic and democratic European state. There is broad consensus that the task of the state is to improve the provision of public goods such as security, health and education. But there is disagreement as to the specification of these goods, how best to provide them, and how best to distribute the costs of provision among citizens. As the goods are incommensurable, political debate is often a matter of setting priorities, not exclusion.

Conclusion

I have attempted a critical assessment of the political doctrines of Michael Oakeshott. I acknowledged in the introduction that to claim that Oakeshott advances a doctrine, or doctrines, might be controversial. Such a claim would have offended both him and those commentators who subscribe to the idea that he was a “disinterested philosopher” who was aloof from the concerns of practical politics. But, as I hope to have demonstrated, he had quite a lot to say on the matter, although he approached it selectively. Oakeshott was indifferent, however, to much of what interested most political theorists of his generation and those of today: ‘He has sought refuge from confronting the tensions and decisions which plague political life. And in this he has systematically bypassed the work of most of those now thinking about politics’ (Kettler 1964, p. 488).

My contention that Oakeshott promoted doctrines is based on two considerations. A sizeable portion of his work, such as his book reviews, his *Notebooks*, and many of his posthumously published essays and monographs, most notably *The Politics of Faith and the Politics of Scepticism* (1996) are

clearly not strictly “philosophical” in the way he himself defines the term. That is, these texts are not merely explanatory. Moreover, *On Human Conduct* (1975a), his last major work, is suffused with value judgments. These are particularly concentrated in the final essay. This is not a criticism: most contemporary political theorists assume that the subject of politics is unavoidably normative.

I have used the term ‘doctrine’ in Crick’s sense: ‘A coherent sum of assertions regarding what a particular topic should be’ (*op. cit.*, p. 24). Oakeshott concerned himself with two topics: firstly, the question of what the state is for and, secondly, the matter of securing an understanding of the nature of political activity. In answer to Andrew Vincent’s question about whether Oakeshott was really using philosophy to advance a conservative ideology, my answer is that he was not. His doctrines are not sufficiently comprehensive to warrant the term “ideology”. Moreover, he was only contingently conservative. That is, he was conservative in the actual circumstances in which he wrote. This does not mean that he would have been conservative in all circumstances.

My central claim is that Oakeshott’s work, in its conception of the state as a civil association, can be reasonably interpreted as idealising what I have called “old fashioned liberalism”, or “rule of law liberalism”. Yet, he realised that the direction and tone of politics during his lifetime was developing inexorably towards a conception of the state as an enterprise association. The most he could contribute, under these conditions, was to slow this march, or, in his words, to undo the work of the “progressives”. In this sense he can be described as conservative, and *Rationalism in Politics* can be read as contributing to a conservative objective. However, Oakeshott was pessimistic that the process could be reversed given the constraints of popular democracy and the “infection” of all political parties with rationalism. *The Notebooks*, in particular, reveal a rich seam of cultural pessimism in his thinking.

Oakeshott did not deny the importance of doctrines. Writing in *The Social and Political Doctrines of Contemporary Europe* in 1940 he said, ‘these

doctrines are all we have, each of them are an expression of something in our civilization' (1940, p. xii). They are a way, he posited, of 'conceiving the fundamental character of society, and by implication, five separate and distinct ways of conceiving the nature and earthly destiny of man' (1940, p. xiv).¹²⁷ By his own definition of doctrine, Oakeshott's argument that the state conceived as a civil association is morally superior to an enterprise association surely qualifies. It is a distinct way of conceiving the nature and earthly destiny of man. Civil association is a libertarian destiny; enterprise association is a collectivist destiny. Oakeshott's preference for the former is indisputable.

Oakeshott claimed, moreover, that those doctrines are not philosophies in the strict sense but, nonetheless, have a body of philosophical ideas connected to them (1940, p. xv). Woven into his doctrines are a number of distinct philosophical ideas, examined here in antecedent chapters, which I will now review in summary.

In Chapter One, I explored the values and dispositions that underlie Oakeshott's political thought. These are grounded in a specific understanding of the human condition and the inescapable fact of mortality. This is captured in his expression, "the deadliness of doing", a reference to the never-ending process in which the satisfaction of one desire merely creates another. How to cope with this reality was a constant preoccupation for Oakeshott. His musings in the *Notebooks* on the ontological condition of mortality and the potential for both religion and love to help us deal with the limitations that defy dreams of human perfectibility are particularly striking. So too is the deep scepticism he exhibits towards claims advanced in the name of three of the rising forces of the twentieth century -- science, materialism and progress.

The worldly/spiritual duality is one of a succession of dichotomies, or contrasting "ideal types", through which he explained his thinking. While these vary in their terminology and focus, each of these dualities expresses an entrenched dichotomy between the modernist notion of the conscious pursuit

¹²⁷ The doctrines are Representative Democracy, Catholicism, Communism, Fascism and National Socialism.

of pre-determined goals - an endeavour that is bound to lead to disappointment, frustration and futility - and the 'worldly' embrace of the sensual, the experiential and the contingent. Restated, and subtly re-conceptualised, versions of this duality crop up throughout his writing. The first appearance of this dichotomous habit can be located in an early essay *Work and Play* (1995), in which he counters the instrumental pursuit of pre-determined goals – which he calls “work” -- and the spirit of play, an intuitive embrace of the ethos of enjoyment, experience and emotion. The metaphor of 'play' is especially important. It signals his commitment to the intrinsic value of experience, as opposed to the pre-determination of one's goals and desires.

He further marks a contrast between 'worldly man' and 'religious man'. Such ideas undergird his critique, advanced during the 1940s, of rationalism and its influence upon politicians and planners. Those who lived in the 'worldly way', he maintained, directed their lives towards the pursuit of various kinds of 'immanent' ideals, including those associated with religion. Fulfilment, according to this model, was deferred to an unknown and unknowable future, with goals pursued only so far as they fitted with this schema; accomplishments praised according to norms that had been stipulated prior to experience itself. But 'religious man' - unlike many actual people who pursued religious convictions – did not, he insisted, live by deferring satisfaction, but was fully immersed in, and open to, the pleasures and pain associated with experience in the here-and-now, living genuinely in the present. The truly good life, he was convinced, was that associated with the unselfconscious libertine, a character who – following conventional usage – he typically sketched in the image of the gentlemanly amateur.

The Notebooks illustrate the constitutive role in this thinking of his romantically inclined, non-materialistic conception of the good, and suggest that interpretations that stress his Tory traditionalism, and set him in the footsteps of Burke, are wide of the mark. They show too that he was endlessly preoccupied by the figure of the rakish gentleman, a character typically presented in the wider contemporary culture as emblematic of a disappearing age. Oakeshott sanctified “the gentleman” as the vehicle for the ideal of

unfettered individuality. He is a central motif in Oakeshottian thought, and is arguably the inspiration for the notion of civil association.

The gentlemanly amateur was, for him, a descendant of the Epicurean tradition. This suggests that an author widely seen as the high priest of twentieth-century Conservatism, was in fact a strong advocate of a conception of freedom that was strongly individualistic and decidedly libertarian. The enemies of liberty were latter-day stoics: 'To despise ambition & to be free from the world had become a cult - a negative cult. But with Epicurus it was a positive way of life - "Live Alone"'. The freedom of the Stoic was an escape: that of the Epicurean a fulfilment' (2014, p. 230).

The overall picture that emerges of Oakeshott through a consideration of his values and disposition is of a complex figure who looks, for the most part, much more like a libertarian individualist than a Burkean conservative. The ethos to which he subscribed was recurrently depicted through positive references to the 'manly' values associated with the gentleman, including "'Physical' courage, nerve, respect for tradition & contempt for convention, a proud sense of personal honour, an indifference to death'. These qualities he characterised as the moral outlook of an aristocrat (2014, p. 507).

I noted in Chapter One the extent of the romantic influence upon him. This helps explain the difficulty of aligning Oakeshott with any single ideological perspective. Indeed, *The Notebooks* lend support to the argument that his work can, in some ways, be read as an elegiac hymn to a way of life that was fast disappearing. Oakeshott had a highly individualistic, romantic and pessimistic mind that was growing increasingly disillusioned with the pattern and pace of twentieth-century life.

In Chapter Two, I considered Oakeshott's account of morality. I noted that this is an area of his thought that has received relatively little systematic attention. I suggested that his account is exclusively concerned with the morality of individuality. He ignored the question of altruism: what we owe to others beyond the mere observation of current moral conventions in our self-disclosures as we transact with others. His reverence for individuality is so

extreme that it results in contempt for “mass man”, who is obsessed with security. Quite frequently – as for instance in his essay ‘The Masses in Representative Democracy’- he depicts “mass man” as an archetype who stands in stark contrast with the spirit and ethos of the rugged individualist, the courageous gentleman. This is an unlikely starting point for most contemporary political theorists.

What is apparent here is that one of the sources of such judgements was Oakeshott’s enduring, Edwardian unease about the advent of mass democracy. “The people” are very rarely invoked in a positive manner in relation to the politics of his age. As he put it in 1955, the nature of democratic politics ‘is what makes democracy difficult. Not only, or not so much, the stupidity of the mass, but their superstition’ (2014, p. 373). This powerful seam of pessimism about the participative dimension of democratic politics needs to be brought into plain sight for those debating his relevance, and must be considered along with those features of his thought that continue to appeal today. This should not be taken to mean that his thinking was devoid of insight for those theorising on the nature and specificity of ‘the political’, but it ought to suggest that an anchorage in Oakeshottian thinking is an inherently paradoxical, and necessarily uncomfortable one, for those committed to democratic values.

When individualism is combined with Oakeshott’s romanticism, anti-materialism and dislike of modernity, it is evident why he argued that the state should be organised as a civil association. This is the form of political association best suited to a gentleman who is indifferent to materialism and considerations of the common good, such as him. For Oakeshott, material “aspiration” was both vulgar and futile as the satisfaction of one want merely leads us to focus on a new want.

His preference for a morality of habitual behaviour over a morality of reflective rules, grounded in his scepticism and anti-perfectionism suggests that for him morality is merely conventional. There is no vantage point from which to criticise existing moral practices other than what is intimated by an

existing moral tradition, a conclusion that many will find disturbing. His argument was based on his philosophical claim that theory and practice are separate and, as we saw in Chapter Four, is the ground for his anti-rationalism and critique of ideologies.

I examined two claims that are crucial in Oakeshott's argument for the superiority of civil association. Firstly, he argues that morality necessarily presupposes individual freedom of choice. Moral self-enactment consists of making one's own choices, and virtue consists of promoting one's own good opinion of one's self. But merely to equate morality with freedom of choice underrates the scope of morality. He argues that the constraints apparently imposed by moral convention are not really constraints, properly understood. He claims that morality is a non-instrumental practice that prescribes *how* we act in our transactions with others, not *what* we choose to act upon. His contention that moral conventions are 'adverbial', not instrumental, is the crucial move in his account of morality as it relates to the superiority of civil association. It enables him to argue that there is no sense in the idea of a morality of the "common good". Conduct can only be virtuous if it is chosen. By extension this precludes a role for government in promoting substantial moral ends. A government cannot promote the "common good" without destroying the freedom of its individual citizens. This is immoral according to his stipulation of morality as rooted in the freedom of the individual to make her own choices.

In Chapter Three, I examined the presuppositions of Oakeshott's argument that the state conceived as a civil association is the only truly moral form of political association. The coherence of the argument depends on several controversial claims. The first is that individual freedom is the basis of human dignity. The second is that laws are like moral rules, properly understood. They are non-instrumental rules that do not compromise freedom. The third, and most controversial, is that a state can be conceived as not having a purpose - a civil association. If it has a purpose it is an enterprise association that subordinates the freedom of choice of its citizens to the state's purpose and thereby threatens human dignity. As a state is a compulsory association

from which is impossible to exit, it follows that an enterprise association is immoral. Oakeshott came dangerously close, moreover, to an unqualified positivist account of law where justice means little more than ensuring that the proper procedures are followed in enacting legislation. I conclude that Oakeshott's doctrine of a civil association is problematic, unless it is construed as reflecting the broad preferences of freedom-maximising individualists.

In Chapter Four, I considered his account of political activity. In particular, I examined his contention that political activity cannot and ought not be thought of as anything other than the pursuit of the intimations of an existing political tradition. We can best understand Oakeshott's anti-rationalist thesis as an attempt to undo the work of "progressives": those advocating greater state direction of society and the economy on rationalist grounds. Whether formulated as traditional politics (as contrasted with rationalistic politics) or as the politics of faith (as contrasted with the politics of scepticism), his arguments can be construed as an attempt to stay the threats to individuality and pluralism posed by the collectivist and perfectionist idiom of government. This, he believed, has been increasingly present in European politics since 1945. He was pessimistic, however, that much could be achieved, as contemporary political activity had become heavily "infected" with the politics of faith and rationalism.

I consider Oakeshott's account of political activity as incomplete for two main reasons. Firstly, his idealisation of politics in a civil association largely ignores its antagonistic dimension. He expressed a preference for minimal politics. This is achieved in a civil association where freedom-loving individualists converse over worthwhile amendments to "civic desirabilities". Based upon a utopian image of the state, this is a caricature of political activity so far removed from concrete experience that its usefulness must be in question. Secondly, his argument that politics are, and ought to be, the pursuit of the intimations of a political tradition both ignores the fact of revolution and suggests that radical change is impossible, even though he recognised that there is nothing providential or normative about a tradition of behaviour.

The historian of medieval Europe R. W. Southern claims that a writer's success of a writer must be assessed by the on-going study of his works. And, more importantly, 'by later scholars improving or enlarging his works, and going on to follow a similar method with similar material' (Southern 2001, p. 33). By this demanding standard Oakeshott must be judged as having had a limited impact. At the inaugural Oakeshott Association Conference, the philosopher Anthony Quinton argued that 'Oakeshott has practically no direct philosophical legacy' (2001). But that judgement refers to general philosophy, of which Oakeshott wrote relatively little after *Experience and its Modes*, except for his account of agency in the first essay in *On Human Conduct*. Where the history of political ideas and political theory are concerned, though, there are only a few examples of Oakeshott's ideas being improved and enlarged, it is clear that they remain of interest to a select audience, as evidenced by the quantity of secondary literature produced in recent years.¹²⁸ William M. Clay remarked of Oakeshott's legacy, however, at the 2013 meeting of the Michael Oakeshott Association, 'that Oakeshott's work will always be a minority taste and enjoy a marginal influence'.

This thesis has been largely concerned with Oakeshott's political theories, although engagement with this side of his work has demanded excursions into other areas of his thought. But we must note that the attraction of Oakeshott's ideas for many is much broader than politics. This is especially the case for those interested in history, education, religion and aesthetics, and those attracted to his analysis of the human condition and how to deal with its challenges. Noel O' Sullivan, for example, lists four reasons for reading him. First, his positive outlook 'in an age whose leading intellectuals such as Heidegger, Sartre, Camus and Beckett were best known for such concepts as nothingness, absurdity, angst, despair and nihilism' (2001, p. 1).

The second reason is that Oakeshott gave a precise account of the ideal of civilised living. The third reason is Oakeshott's philosophical understanding of 'the role of imagination in disclosing the full texture and complexity of human

¹²⁸ Kenneth Minogue's *The Servile Mind: How Democracy Erodes the Moral Life* (2012) is an exception.

experience' (ibid., p. 6). The fourth is 'Oakeshott's ideal of liberation which links his philosophy to his personal life' (ibid., p. 7).

When we consider his influence on practical politics, both of the politicians who have had the opportunity to champion Oakeshott in a public forum in recent years have declined to do so. Oliver Letwin MP gave a scathing critique of his concept of the state as a civil association in the 'Oakeshott Memorial Lecture' at the LSE on the 19th October 2011.¹²⁹ He described the teleocracy/nomocracy, or civil/enterprise association distinction as a 'wholly inadequate distinction' to describe the character of the modern state and the conclusions Oakeshott came to were erroneous. Letwin argued that it is obvious that the modern state is both a civil and an enterprise association and described Oakeshott's argument that the state can manage by adverbial rule 'as contortionist attempt to rescue a false thesis' (Letwin 2011). Jesse Norman MP is evidently well versed in, and favourable to, many of Oakeshott's ideas, but concludes that if we are looking for inspirational conservative ideas we are more likely to find them in the social conservatism of Burke than in Oakeshott's anti-rationalism.¹³⁰

Both of these judgements are too severe. Letwin overlooks the point that civil association is an ideal, not a goal that we should try to achieve. As regards Norman's comparison of Oakeshott with Burke, he does not see that neither author aims to promote conservatism merely for the sake of conservatism. Both harness anti-rationalist arguments in defence of a specific specific: that to Britain posed by the French revolution in the case of Burke; and the threat to rule of law liberalism posed by the enterprise state in the case of Oakeshott.

Kenneth B. McIntyre describes the reception of Oakeshott by American conservatives as resembling 'the sound of one hand clapping' and states that his influence on public intellectuals and policy makers has remained

¹²⁹ Conservative MP for West Dorset, Minister of State for Policy in the Cabinet office since 2010 and one of David Cameron's inner circle. He is Oakeshott's *de facto* literary executor following the death of Shirley Letwin

¹³⁰ Norman is the Conservative member for Hereford and South Herefordshire. He gave the Michael Oakeshott Memorial Lecture at the LSE in 2013.

negligible (2010, p. 255). Andrew Sullivan recalls that, 'I remember once discussing Oakeshott with the father of neo-conservatism, Irving Kristol. For him Oakeshott was anathema, a dangerous relativist an irresponsible bohemian, indifferent to the need to fight and win in political conduct. In this diagnosis, Kristol was indeed correct' (2010).

Yet in terms of inspiring others, nothing could be further from Oakeshott's personal ethos. Oakeshott offered insight, not inspiration. He wrote, in the context of Hobbes, that human life is a predicament and 'every masterpiece of political philosophy springs from a new vision of the predicament, each is the glimpse of a deliverance or the suggestion of a remedy' (1975b, p. 6). In his analysis of the purpose of the state, Oakeshott vividly illustrated one aspect of the modern political predicament. The cost to individual freedom posed by the managerial enterprise state that has multiple purposes, but no over-arching sense of purpose. He laid bare the assumptions, trade-offs and risks we take in preferring a version of the politics of faith to the politics of scepticism. Moreover, he was consistent in doing this from a moral point of view, without ever resorting to consequential or materialist arguments.

But Oakeshott knew all too well that the conditions in which individuality could thrive were disappearing, and so the individualist ideal that he lauded was freighted with a deep sense of elegy and loss. The medley of ideas discussed in this thesis constitute the platform upon which his own, highly distinctive understanding of the political took shape. Politics, he argued, needed to be understood within its own limits, and insulated from moral visions or ideological programmes that threatened to jeopardise its constitutive features. And it needed to be preserved, above all, from hubristic theories that regarded it as the vehicle for the realisation of some ulterior purpose.

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