

London Review of Books

The Intransigent Right at the End of the Century

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Rationalism in Politics, and Other Essays by [Michael Oakeshott](#), edited by [Timothy Fuller](#)
Liberty, 556 pp, \$24.00, October 1991, ISBN 0 86597 094 7

A few months after the fall of Margaret Thatcher, the most original thinker of post-war Conservatism died. Perhaps partly because of the commotion caused by the change of national leadership, the passing of Michael Oakeshott did not attract much public notice. Even the *Spectator*, which might have been expected to mark the event with a full salute, ignored it for half a year, before carrying a curiously distracted piece by its editor, reporting strange losses in the philosopher's papers, without so much as mentioning his political ideas. Perhaps another element in the muted reaction was the remoteness of Oakeshott's intellectual origins from the contemporary landscape. Anglo-Scottish Idealism of the early years of this century, its other lights long since extinguished, has become one of the least recollected episodes of the native past. Oakeshott was always held difficult to place. Although he was an exemplary patriot of British institutions, a superficial glance might lead one to think he was latterly more regarded in the United States. His last book, *The Voice of Liberal Learning*, was edited from Colorado. The first posthumous collection, an enlarged version of *Rationalism in Politics*, now appears from Indianapolis. The only extended survey of his work is a monograph from Chicago. But his profile, on either side of the Atlantic, continues to be elusive.

Oakeshott has most frequently been taken as the wayward voice of an archetypal English conservatism: empirical, habitual, traditional, the adversary of all systematic politics, of reaction no less than reform; a thinker who preferred writing about the Derby to expounding the Constitution, and found even Burke too doctrinaire. The amiably careless, comfortable image is misleading. To set Oakeshott in his real context, a comparative angle of vision is needed. For he was, in fact, one of the quartet of outstanding European theorists of the intransigent Right whose ideas now shape – however much, or little, leading practitioners are aware of it – a large part of the mental world of end-of-the-century Western politics. It is alongside Carl Schmitt, Leo Strauss and Friedrich von Hayek that Michael Oakeshott is most

appropriately seen. The relations between these four figures await documentation from future biographers. But whatever the circumstantial contacts or conflicts – some more visible than others – the lattice of intellectual connections between them forms a striking pattern. By generation, three were virtually exact contemporaries – Strauss (1899-1973), Hayek (1899-1991), Oakeshott (1901-1900). Older by a decade, Schmitt (1888-1985) overlapped with them, living like Hayek into his nineties, a longevity approached by Oakeshott too. They came from different disciplines – economics (Hayek), law (Schmitt), philosophy (Strauss) and history (Oakeshott) – but politics drew their concerns into a common field. There, they were divided by marked contrasts of character and outlook, and by the respective situations they confronted. The interweaving of themes and outcomes, across such differences, is all the more arresting.

The formative experience of all these thinkers was the crisis of European society in the inter-war years, as the established order came under increasing pressure from economic dislocation, labour revolt and middle-class back-lash, and then proceeded to buckle at its weakest points. In the Weimar Republic, the Westphalian Schmitt began his career as the most original Catholic adversary of socialism and of liberalism. In polemics of electric intensity, whose charge was increasingly aimed at the precarious parliamentarism of post-Versailles Germany, he treated their ideas as dilute theologies, which were bound to prove weaker than the force of national myth. His own positive doctrine became a neo-Hobbesian theory of politics. Its critical edge was to protect the state of nature depicted in *Leviathan*, the war of all against all in which individual agents are pitted against each other, onto the plane of modern collective conflicts: thereby transforming civil society itself into a second state of nature. For Schmitt, the act of sovereign power then becomes not so much the institution of ‘mutual peace’ as the decision fixing the nature and frontier of any community, by dividing friend from foe – the opposition that defines the nature of the political as such. This stark ‘decisionist’ vision came out of a regional background in which the choices seemed, to many others as well as Schmitt, to reduce themselves to two: revolution or counter-revolution. ‘We in Central Europe live *sous l’oeil des Russes*,’ he wrote. His own option for the second term – he was an admirer of De Maistre and Donoso Cortes – was never in doubt.

In England, where Schmitt’s incandescent early manifesto for the Roman Church was edited in a Catholic series of *Essays in Order*, polarities were not so acute. The Cambridge of the Twenties was a sheltered place, and Oakeshott’s concerns were not initially so political. His first publication was a tract on *Religion and the Moral Life* whose theme was the necessary completion of ethical choice by religious wisdom, and thus the substantive unity between civilisation and Christianity. Oakeshott’s personal piety seems to have declined over the years, yet the contrary accents of religious tradition and of radical choice remained: a combination recalling the early Schmitt, with the difference that Oakeshott’s background was Anglican rather than Catholic and his decisionism moral rather than political in register. But he had studied theology at Marburg and Tübingen, and was familiar with *Political Theology*,

Schmitt's famous application of religious categories to secular doctrines. When he turned to politics, Oakeshott's intellectual allegiance proved to be the same. It was on Hobbes that he set out to build a theory of the state. For both men, *Leviathan* – 'the greatest, perhaps the sole, masterpiece of political philosophy written in the English language', as Oakeshott termed it – was to be the touchstone for any modern account of civil authority.

Nor was this was the only parallel in their outlook. When he ventured political opinions in these years, Oakeshott's scorn for liberalism and democracy was scarcely less incendiary than Schmitt's. Giving his verdict on the other English philosopher usually held for a classic, he spoke with the authentic voice of the radical Right: 'Locke was the apostle of the liberalism which is more conservative than conservatism itself, the liberalism characterised, not by insensitiveness, but by a sinister and destructive sensitiveness to the influx of the new, the liberalism which is sure of its limits, which has a horror of extremes, which lays its paralysing hand of respectability upon whatever is dangerous and revolutionary ... He was meek, and until recently he inherited the earth.' Fortunately, that legacy was now passing into other hands. 'Democracy, parliamentary government, progress, discussion' and "the plausible ethics of productivity" are notions – all of them inseparable from the Lockian liberalism – which fail now to arouse even opposition,' Oakeshott scoffed: 'they are not merely absurd and exploded, they are uninteresting.' These lines were written in the autumn of 1932, on the eve of the Nazi victory in Germany. A few months later, Schmitt – who had been adviser to Brüning and then to Schleicher – went over to Hitler. Looking at the new regime from England, Oakeshott had decided by the end of the decade that, compared with available alternatives, representative democracy, however incoherent as a doctrine, had something to be said for it after all. Catholicism, however, was the repository of another tradition of profound importance, authoritarian without caprice, 'an inheritance we have neglected'. 'So far as this country is concerned,' he went on, 'I venture to suggest that many of the principles which belong to the historic doctrine of Conservatism are to be found in this Catholic doctrine' – which had been given constitutional shape in the Austria of Dollfuss and Portugal of Salazar. In April 1940, on the eve of the fall of France, he was still dismissing 'clap-trap about government by consent'.

Leo Strauss, meanwhile, from an Orthodox background in Hessen, had made his debut in the Zionist movement with texts on Jewish religion and politics – his first significant piece was on *Das Heilige* – before moving to the study of Spinoza's Biblical criticism, and thence to research on Hobbes. This brought him into contact with Schmitt, with whom he enjoyed friendly relations in Berlin. Before leaving Germany in 1932 he devoted his last publication – in the same months as Oakeshott was pronouncing his sentence on Locke – to the most arresting of Schmitt's works, *The Concept of the Political*. In a critique that was both admiring and admonitory, Strauss argued that Schmitt's laudable rejection of liberalism had mistaken its philosophical bearings for Hobbes's theory of the state was not an antidote to modern liberalism, but its very foundation. In radicalising Hobbes's matter-of-fact view of the

human passions and their resolution in civil society into a tacit exaltation of enmity as the necessary signature of any political life, Schmitt had only produced a 'liberalism with a minus sign'. What was needed was a 'horizon beyond liberalism'. Intimations of this could nevertheless be found in Schmitt's text, when he spoke of an 'order of human things' that lay in the return to an undefiled nature. It was this natural order, Strauss remarked, which the liberal conception of culture had forgotten. Schmitt took these objections in his stride, making a few quiet adjustments in subsequent editions of his work to accentuate the hints of a religious background that Strauss had noted. He also helped Strauss get to France before Hitler came to power. Six months after the installation of the Third Reich – on the day Goering elevated Schmitt to the Prussian State Council – Strauss was writing to him from Paris, asking for an introduction to Maurras. In 1934 Strauss moved to London, where he complained that Schmitt's latest publication, his first development in legal theory under the new order, had incorporated Strauss's proposals for an advance beyond decisionism without acknowledgment.

It was in England that Strauss now under-took the demonstration that Hobbes was the theoretical fount of a levelling modern individualism. Appearing in 1936, *The Political Philosophy of Hobbes* argued that the revolution wrought by Hobbes was to replace the classical vision of a political order founded on philosophical reason and shaped by aristocratic honour with a doctrine of sovereign power motivated by fear and fabricated from will: a construction built on the marshlands of 'his denial of any gradation in mankind', because he could conceive of 'no order – that is, no gradation in nature'. Commended to the English reader by the impeccably liberal Ernest Barker (who performed the same service for Oakeshott's survey of contemporary political doctrines soon afterwards, forming an incongruous *trait d'union* between the two men), Strauss's book was on the whole well received by Oakeshott, as the most original study on Hobbes to have appeared in many years. But whereas for Strauss the remedy to Hobbes's defiled naturalism lay intact in the ancient wisdom set forth by Plato, for Oakeshott the incoherence of Hobbes's naturalistic doctrine of will was only to be overcome in the modern reunion of reason and volition in Hegel and Bosanquet – even if their synthesis remained to be completed.

In 1938 Strauss moved to the United States, where after the war he occupied a chair at Chicago in the same period that Oakeshott was at the LSE. There he produced the remarkable series of works – in form, an oracular retrospect of the history of philosophy from Socrates to Nietzsche, in effect, a systematic political doctrine – which has since nurtured the most distinctive and strong-minded school of American conservatism. There were two principal themes in this oeuvre. A just political order must be grounded in immutable demands of natural right. Nature, however, is inherently unequal. The capacity to discover truth is restricted to a few, and to endure it exhibited by scarcely more. The best regime will therefore reflect differences in human excellence, and be led by an appropriate élite. But although the highest virtue is philosophical contemplation of the truth, this does not mean – contrary to a

superficial reading of the *Republic* – that the just city will be ruled by philosophers. For philosophy gazes without faltering, not only at the necessary conditions of political order, discomfiting as these may be to demotic prejudice, but at the far more terrible realities of cosmic disorder: the absence of any divine authority, the delusion of any common morality, the transience of the earth and its species – every insight that religion must deny and society cannot survive. Unfolded at large, these truths would destroy the protective atmosphere of any civilisation and with it the conditions for the pursuit of philosophy itself.

Esoteric wisdom and exoteric opinion must therefore remain distinct, on pain of mutual destruction. Leisured gentlemen instructed in rule – but not raised to truth – by philosophers should uphold a rational order of political stability against levelling temptations. Under their rule, theoretical knowledge could find institutional shelter, without dangerous side-effects on civic practice. In keeping with his teaching, which now enjoined such prudence on the philosopher, Strauss made, during the Cold War, the concession – earlier unthinkable – of describing these views as a contribution to liberalism: albeit ‘in the original sense’, understood by the ancients, of a ‘liberality’ that was another name for ‘excellence’. In the campus emergency of 1968 he even publicly endorsed Richard Nixon. In general, however, Strauss eschewed official bromide or partisan pronouncement; that was the role not of the teacher but of the taught.

The veiled pole star of Strauss’s journey through the past was Nietzsche, the one modern thinker who – he believed – had grasped the full depth of the crisis of modernity, once philosophy had abandoned propriety with Hobbes, by setting out to relieve man’s estate rather than pursue eternal truth, and social forms became detached from natural order. The equivalent authority for Oakeshott was Burckhardt. Characteristically, he liked to compare the two to the advantage of the Swiss seer, as a friend who shared Nietzsche’s abhorrence of mass society and contempt for democracy, but displayed a cool equanimity rather than an ‘erratic and pathological sensitivity’ towards them, and disdained to offer any cure for the times. These were, in fact, largely imaginary virtues: Burckhardt’s venomous anti-semitism and often deranged political small-talk have no counterpart in Nietzsche. Nor did Oakeshott’s own record in these years live up to the contrast he sought to make. The war left him a nationalist, and the post-war election an alarmist. Forgetting earlier dicta, he now announced that ‘there is nothing whatever in common between British Conservatism and any of the categories of Continental politics. Loose talk of this sort about British politics merely liberates a fog of unreality.’ The Labour Party was another matter. Recent German experience was all too ominously germane to its enterprise, even if ‘the absence of a *coup d’état*’ in its accession to power had misled observers at first. But ‘established tyranny cannot for ever conceal its character except from willing slaves,’ and it was now clear (1947) that ‘the Labour Party has an *incentive* to become despotic, the *means* to become despotic, and that it has the *intention* of becoming despotic.’ Indeed Oakeshott could already detect ‘a simple plot to establish, not by force but by subterfuge, a single-party system and the slavery from which it is inseparable’.

Strauss would have found such parochial diatribes overwrought.

But the Burckhardian standpoint still yielded a position close to the Nietzschean, if with its own twist. Whereas for Strauss, modern political democracy rested on a denial of the inequality of man as a permanent gradation within nature, for Oakeshott this inequality was the outcome of a historical differentiation. In the late Middle Ages, a new character emerged on the scene, as Burckhardt had shown, the *uomo singolare* an autonomous moral individual freed from the shackles of community, capable of choosing his own way of life. The spread of this kind of individuality, the pre-eminent event of European history, gradually gave rise to institutions expressing its freedom. These achieved their climax with the parliamentary government that emerged in England in the late 18th and early 19th centuries. But the salutary dissolution of traditional communities had also released a dangerous multitude of opposite bent. These Oakeshott called individuals *manqués* – all those left behind in the new conditions because they were unwilling to accept the responsibility of personal independence, a swarm of moral and social failures consumed with ‘envy, jealousy and resentment’. By the late 19th century, this inferior mass had pressed towards a dire change: the gradual transformation of ‘parliamentary’ into ‘popular government’, whose ‘first great enterprise was the establishment of universal adult suffrage’. For, Oakeshott went on, ‘the power of the “mass man” lay in his numbers, and this power could be brought to bear upon government by means of the “vote”’ – that is, a regime based on ‘the authority of mere numbers’. Modern democracy in this sense defied, not the hierarchy of natural gifts, as in Strauss’s view, but that of existential choices. For the anti-individual behind universal suffrage, Oakeshott explained, ‘is specified by a moral, not an intellectual, inadequacy’.

The nuance here is reproduced in their respective conceptions of the vocation of philosophy. For both men, this was the supreme endeavour of human understanding, and one so uncompromisingly radical that it could never consort directly with politics: politics required a customary stability which philosophy’s ruthless quest for the truth must subvert. In Oakeshott’s formula, philosophy was ‘experience without presupposition, reservation, arrest or modification’ – a phrase to make Burke shudder. The practice of politics, by contrast, necessarily involved all four of the conditions that philosophy as theory precluded.

‘Philosophy is the attempt to dissolve the element in which society breathes, and thus it *endangers* society,’ wrote Strauss. Oakeshott was if anything even more outspoken.

‘Philosophy is not the enhancement of life, it is the denial of life ... there is something perhaps decadent, even depraved, in an attempt to achieve a completely coherent world of experience: for such a pursuit requires us to renounce for the time being everything which can be called good or evil, everything which can be valued or rejected as valueless.’ The tension between the two poles in the discourse of each – a metaphysics of scandal and a pragmatics of convention – found differing resolutions, however. For Strauss, philosophical knowledge could not disclose itself to the vulgar, but might shape the forms of civic life from afar, so long as the barriers between esoteric and exoteric truth were maintained. For Oakeshott,

philosophy and politics were categorically separate: politics was a second rate activity that inherently involved ‘mental vulgarity, unreal loyalties, delusive aims, false significances’ – but on the other hand, it was proof against improvement by philosophy, which could shed no light even on the worth of particular political projects. The belief that it might do so, indeed, could lead to the worst of all practical delusions: the notion that institutional forms were amenable to intelligent design, the characteristic idiocy of ‘rationalism in Politics’.

Here paths inevitably parted. Strauss’s ideal remained what Oakeshott abjured: the deliberate forethought for a well-governed city that had been the aim of the line from Socrates to Cicero which he described and admired as ‘classical political rationalism’, and reproached Burke – whatever his other merits – for abandoning. Behind the opposite prescriptions lay contrasted intellectual starting-points: normative origins located alternatively in the late Medieval and the Ancient worlds. This was a sharp division. Oakeshott could dismiss the *polis* as irrelevant to modern government; Strauss could take the pogrom as an epitome of the Middle Ages. But beyond this basic difference of horizon, there was a contemporary reason for the divergence of emphases at this fork. The peculiar vehemence of Oakeshott’s refusal of any idea of ‘political engineering’, no matter how piecemeal, as a malignant dream that could only be coercive and abortive, came from the ordeal of Labour rule and talk of Labour planning. These were less urgent concerns in Chicago.

They were to be conveyed there, however, by the thinker who had preceded Oakeshott in the indictment of economic planning in particular, and of social ‘constructivism’ in general. Hayek had arrived at the LSE in 1931. His intellectual background in Austria was quite unlike that of Strauss, Oakeshott or Schmitt: thoroughly secular, positively liberal, exempt from any supra-sensible temptation – Mach was his first philosophical enthusiasm. His political mentor was Ludwig von Mises, famous for his denial of the mere possibility of a socialist economy, and his uncompromising defence of a pure model of free-market capitalism. There was no more outspoken champion of classical liberalism in the German-speaking world of the Twenties. Yet the Austrian political scene, dominated as it was by the conflict between a social-democratic Left and a clerical Right, left little room for this outlook. Here Mises had no hesitation: in the struggle against the labour movement, authoritarian rule might well be required. Looking across the border, he could see the virtues of Mussolini. The blackshirts had for the moment saved European civilisation for the principle of private property: ‘the merit that Fascism has thereby won will live on eternally in history.’ Adviser to Monsignor Seipel, the prelate who ran Austria in the late Twenties, Mises approved Dollfuss’s crushing of labour and democracy in the Thirties, blaming the repression of 1934 which installed a clerical dictatorship on the folly of the Social Democrats in contesting his alliance with Italy.

Hayek was in close touch with Mises in this period, when his own energies were devoted to pursuing the arguments against socialist economic calculation, and to upholding his variant of the Austrian theory of the business cycle against Keynes. There is no record of his view of the Dollfuss regime – certainly of any protest against Austro-Fascism – but he may well have

shared Mises's attitude towards it. At any rate, there was to be a striking coincidence in their subsequent political interventions, once the Second World War had broken out. Evacuated to Cambridge, Hayek produced in 1944 the impassioned cry of alarm against the totalitarian logic of collective planning – *The Road to Serfdom* – that made him famous. Among its leading themes was the fundamental continuity between socialism and Nazism, as malignant products of specifically German origin – whatever their later capacity for general contagion. This was precisely the argument, developed on a more extensive scale, of Mises's *Omnipotent Government*, completed in America a month later, but based on a manuscript written four years earlier in Switzerland just after the Anschluss. Here the motive for totalised incrimination of Germany lies on the surface, serving all too visibly as an exculpation of Austria, the land of 'the *only* people on the European continent who' – in the days of the Heimwehr – 'seriously resisted Hitler'.

After a decade in Great Britain this was not a claim Hayek, whose *Road to Serfdom* avoids all reference to his native country, would have made. His polemic was aimed at the terms of English political debate. There it found a ready resonance in the Conservative Party, and may have stirred Churchill to his prediction of a British Gestapo should Labour win the forthcoming elections. But its vehemence left Hayek somewhat isolated in the post-war climate of opinion, when the Attlee Government failed to live up to his billing. Still, however unpopular in the Labour consensus, his intervention might have been expected to earn all the more honour from those set upon resisting that. Oakeshott was not among them: he dismissed *The Road to Serfdom* as just another example of doctrinaire rationalism, little more than a plan to oppose planning. Discouraged by this atmosphere, Hayek left for the US in 1950, as Oakeshott was invested at the LSE.

At Chicago, Hayek put aside his more technical economic work for the development of a social and political theory that became in time the most ambitious and complete synthesis to emerge from the ranks of the post-war Right. Among its themes were many – the overriding significance of the rule of law, the need for social inequality, the function of unreflective tradition, the value of a leisured class – cultivated by Strauss across the campus. Neither thinker ever referred to the other, however. Did temperamental antagonism, or intellectual indifference, dictate the silence? Whatever the case, latent tensions of outlook between them were to find expression in due course. Schmitt, on the other hand, was never far from Hayek's mind – standing as the prime example of a skilled jurist whose sophistry helped to destroy the rule of law in Germany, yet a political theorist whose stark definitions of the nature of sovereignty and the logic of party, at any rate, had to be accepted.

But it is Hayek's relationship with Oakeshott that is of most significance for understanding each. In *The Constitution of Liberty* (1960), published just before *Rationalism in Politics* (1962), Hayek distinguished two intellectual lines of thought about freedom, of radically opposite upshot. The first was an empiricist, essentially British tradition descending from Hume, Smith and Ferguson, seconded by Burke and Tucker, which understood political

development as an involuntary process of gradual institutional improvement, comparable to the workings of a market economy or the evolution of common law. The second was a rationalist, typically French lineage descending from Descartes through Condorcet to Comte, with a horde of modern successors, which saw social institutions as fit for premeditated construction, in the spirit of polytechnic engineering. The former line alone led to real liberty; the latter inevitably destroyed it. Thus far, the distinction looks all but identical to Oakeshott's. But in Hayek's account Locke becomes central to the authentic tradition of freedom, while Hobbes is cast as the political rationalist *par excellence* – a mind out of national character, progenitor of what were later to be the lethal fallacies of legal positivism.

Social constructivism was not the only threat to genuine liberalism, which also laced potential dangers from another quarter – the rise of modern democracy. Equality before the law, Hayek continued, might seem to lead naturally to equality in making the law. But the two were in reality absolutely distinct principles, and the latter could undo the former. For the idea of popular sovereignty contained the assumption that declarative public law – what legislative majorities might at will decree – could override the inherited wisdoms of private common law, transgressing the inviolable limits that a liberal order placed around individual property and person. In this sense, Hayek remarked, an authoritarian regime that repressed popular suffrage but respected the rule of law could be a better guardian of liberty than a democratic regime liable to the temptations of economic intervention or social redistribution. Still, that was an extreme hypothesis. So far, at any rate, democracy could be justified as the most peaceful form of change and the best means of educating the masses to greater maturity. But these were technical and provisional advantages, which did not make it a value in itself.

A decade later, Hayek was more pessimistic. *Law, Legislation and Liberty* opened with the avowal that his political ideals had not attracted the support they merited, and that he had failed to bring home that 'the predominant model of liberal democratic institutions' in the Western world 'necessarily leads to a gradual transformation of the spontaneous order of a free society into a totalitarian system'. To avert this fatal propensity, which Hayek remarked that Schmitt had in his time understood – but also encouraged – more than any other observer, three truths urgently needed to be understood. The first was the fundamental difference between a spontaneous order and a purposive organisation, or what Hayek now termed a *cosmos* and a *taxis* – the one an un-intended yet coherent web of relations within which individual agents pursued their different ends, regulated only by common procedural rules; the other a willed enterprise seeking to realise substantive collective goals. The rule of law could be preserved only so long as the structure of government reflected a principled separation of the two, according an absolute priority to the maintenance of the first, as the condition of a market economy in a free society, and confining the second to strictly delimited, subordinate functions in the public interest. All current democracies confused these requirements, permitting the reckless trespass of *taxis* onto the proper ground of

cosmos, with the intrusion of macro-economic steering and the erection of a welfare state, in the name of an imaginary 'social justice' – a notion without meaning. For the spontaneous order of the market not only precludes equality, it necessarily ignores desert: success within it is undeniably often a mere matter of chance. The social hierarchy it generates is thus, unlike Strauss's, not founded on a cultural gradation in nature. Hayek confessed that this was perhaps too uncomfortable a truth to be widely proclaimed, and – in a move now recalling Strauss – concluded that religion might after all be a necessary dummy to assure social cohesion, against dangers from those who were disappointed in the run of chance.

Yet whatever the need for such individual consolations, there was a general rationale for *cosmos* of the market. It was the evolutionary product of historical competition between rival economic practices which had proved its worth in the superior overall growth of production and population it had assured. With this, Hayek's doctrine took a concluding utilitarian turn. The yardstick of a desirable order was not philosophical truth but practical well-being. In its own terms, this was a perfectly coherent conclusion. But his theory still faced an awkward difficulty in the apparent institutional outcome of the spontaneous social mechanisms it celebrated. For was not the steady erosion of the division between *taxis* and *cosmos*, with the seemingly inexorable growth of the welfare state, itself pre-eminently an evolutionary process? To roll it back required – according to Hayek's new prescriptions – drastic redesigning of the structure of the state. Indeed, what he now proposed was nothing less than a dismantling of every known legislature into two novel bodies with different competences and disparate electorates, to correspond to the two ontological kinds of order – the more powerful chamber, guardian of the rule of law as such, striking anyone under the age of 45 off the voting-roll. This, as even sympathisers could not fail to notice, was a violent attack of the very constructivism his theory had set out to purge. Hayek was unmoved. Such was the price of preserving *nomos*, or the law of liberty, from the logic of popular sovereignty. Assemblies had to be stripped of their powers of general meddling, in order to secure the limited government – based on the rigour of law, not the licence of consent – which was the only guarantee of freedom. The correct formula, Hayek explained, was demarchy without democracy.

Two years after the first volume of *Law, Legislation and Liberty* appeared, Oakeshott published his own culminating work, *On Human Conduct*. Its leading theme was the fundamental distinction to be made between the idea of a 'civil association', articulated by procedural rules, and an 'enterprise association', devoted to the attainment of substantive goals. Government conceived as an engagement in keeping with the first was a 'nomocracy', and in pursuit of the second a 'teleocracy'. The correspondence between this dichotomy and Hayek's was plainly intimate. Hayek was aware of Oakeshott's couplet (developed in lectures, and perhaps first employed in print in praise of Geoffrey Howe in 1967) and had typically acknowledged it. The courtesy was not returned. Obituarists have stressed Oakeshott's charm of character, but his virtues did not include conspicuous generosity in intellectual matters.

Withal, however, his construction was distinguished from Hayek's by two essential differences. Oakeshott did not place the superiority of civil over enterprise association as a conception of government on any evolutionary foundation, as the necessary political form of spontaneous economic progress. Instead, he again sketched a particular history, presenting the emergence of the modern European state as from the outset drawn towards the opposite ideals of – in Medieval terminology – *societas* and *universitas*: rule envisaged in juridical or in managerial terms.

Each of these dispositions derived from a miscellany of contingencies, without ulterior logic. But though they had co-existed from the start, they were structurally irreconcilable. The state could take the form either of a civil association or of a managerial enterprise, but there could be no legitimate combination of the two. In other words, although Oakeshott's dichotomy has a seemingly more casual genesis, in the mere relative happenstance of the European past, it actually acquires a far more absolute – even fanatical – force than Hayek's. Where *Law, Legislation and Liberty* allows for a necessary, if tightly circumscribed exercise of *taxis* by the liberal state, the antithesis of *societas* and *universitas* in *On Human Conduct* is unappeasable. Behind the idea of government performing calculable tasks, Oakeshott wrote, lay a 'canaille recently emancipated from one idiom of servility and not able to afford to be repulsed by the smell of another' – among whose worst current aromas was 'the vile expression, "social choice"'. Government as civil association, based on the pride of free individuality, excluded collective purpose.

But if this was so, what could motivate the compact of civil association itself? Hayek's answer had been anticipated and dismissed early on, as no more than 'the plausible ethics of "productivity"': in Oakeshott's eyes, any justification of *societas* in terms of the satisfaction of material wants was to be deplored as the 'saddest misunderstanding of all'. This was the kind of concern, indeed, that had typically moved teleocratic projectors, from Bacon's ominous dream of forcing nature to yield up her secrets onwards. Even if he never expressed it with quite such eloquence, Oakeshott shared the hostility Strauss always expressed towards technological lordship over the natural world. This was a basic dividing-line separating them from Hayek, who remained to the end resistant to even moderate ecological arguments. But Strauss's alternative rationale for the best regime, as the shield of philosophers, was not available to Oakeshott either. He was left, on his own terms, with an acute problem of justification. For if their association was void of purpose, why should individual agents ever accept a public authority at all? In Oakeshott's construction, government without goal yields what looks very much like an *état gratuit*. His famous image of politics – a vessel endlessly ploughing the sea, without port or destination – is in this sense all too apt. For why then, it might be asked, should any passengers want to board the ship in the first place?

Oakeshott attempted to answer the question with another analogy, formally more developed, actually yet more extravagant, in *On Human Conduct*. Subscription to civil association was entirely non-instrumental. But a non-instrumental practice – acts performed for their own

sake, not for ulterior ends – was the definition of moral conduct. It might seem from this as if Oakeshott, having dismissed any prudential case for the civil condition, was going to give his will-less slate an ethical foundation. But this would be an illusion. For what he proceeds to identify as a morality is a ‘colloquial idiom’ of conduct, spoken with varying degrees of skill and verbal style by different speakers. Civil association, in other words, is actually modelled on language rather than dictated by virtue.

There was a logic to this move. It was Carl Menger, founder of Austrian economics, who first made a general theoretical case for the beneficence of social institutions that were the product of spontaneous growth as opposed to intentional design. To illustrate the merits of the market, he compared it to two other human inventions that were also in their own way unplanned: law and language – whose slow crescence had been the themes of the great figures of German romantic scholarship, Savigny and Grimm. What Hayek and Oakeshott did, each in his own way, was to extend the same reasoning to the state. But whereas Hayek took the market and common law as his paradigms for a political constitution, Oakeshott chose language as the enabling metaphor. The two options have a quite distinct logic. Economic transactions satisfy human wants – the market exists only as a clearing-house of utilities; legal rules, too, reflect social exigencies, and are regularly altered to further practical ends. From these background analogies, a plausible conception of ‘the political order of a free people’, in the form of the Hayekian state, could be projected, as answering to the same aims. Language, however, is not generally amenable to deliberate change, and is notoriously other than merely instrumental in function.

On the other hand, of course, it provides no appropriate emblem of morality either. The second half of this century has seen many attempts to use language as an-all purpose key to the understanding of human affairs – even at this late date, the ‘linguistic turn’ still retains a blowsy appeal for those who live predominantly by words. Oakeshott’s version is in this sense no more, or less, simple-minded than those of Heidegger, Lévi-Strauss, Wittgenstein, Lacan, Habermas, Derrida or others. But it has its own specific syllogism. Civil association is non-instrumental: practice that is not instrumental is moral; morality is a language of conduct; so political order can be conceived as a vernacular of civil intercourse. In this chain of forced analogies, the significant elision is the second one. For there is a much more familiar and unambiguous kind of practice performed for its own sake than the moral – and it is this which actually supplies the silent support of the whole construction. The real gist of *On Human Conduct* is a conception of politics taken from aesthetics. This becomes visible whenever Oakeshott seeks to illustrate his claim that moral conduct or civil association is a language: ‘an instrument which may be played upon with varying degrees of sensibility’ by so many ‘flute-players’, all nevertheless ‘concerned with the same skill’; a vernacular which can be ‘spoken pedantically or loosely, slavishly or masterfully’, which ‘the ill-educated speak vulgarly, the purists inflexibly’, leaving ‘the connoisseurs of moral style’ to ‘delight in the small perfection of those flashes of felicity which redeem the dullness of commonplace moral

utterance’.

This way of seeing politics, as the occasion for aesthetic performance, has a considerable history. By a nice irony, the sharpest critique of it was written by Carl Schmitt, whose *Political Romanticism* (1919) had already captured this strain in the outlook of the author of *Rationalism in Politics* (1962) – indeed even singling out for demolition the phrase that became its most famous slogan, the notion of politics as an ‘endless conversation’.

Oakeshott’s romanticism, however, was of a paradoxical kind. For it continued to be encased within a formal allegiance to Hobbes. It would be difficult to think of a more incongruous authority for any ‘non-instrumental’, let alone quasi-aesthetic understanding of the state. The pact of civil association between individuals in *Leviathan* is supremely an instrument to secure common ends – the aims of security and prosperity, ‘mutual peace’ and ‘commodious living’. Thereafter, the sovereign power it institutes can override any private claim, save that to life itself, in the collective interest. The ‘mortal god’ lacks no managerial prerogatives in his care of the community. Hobbes flatly declares, in a formula to make monetarist hair stand on end, that state expenditure must be in principle without limit: ‘commonwealths can endure no diet.’ Cambridge scholars like to complain about Strauss’s wayward use of classical texts, but compared with Oakeshott, about whom they have had little to say, he was philological loyalty itself.

The question that is posed, of course, is why Oakeshott should have selected Hobbes, of all unlikely patrons, for his theory of *societas*? The answer lies in what Hobbes excludes. There is no place for rights in his scheme of things. Once the sovereign is constituted, subjects have only obligations. Here indeed there is no cant about consent: just a limpid statement of duty – obedience to civil authority. It was this that drew Oakeshott. Scorning ‘the absurd device of a Bill of Rights’ and ‘drivel about something called “society”’, he dismissed – as he once put it to an American audience – ‘the fanciful doctrine of the Declaration of Independence, in which governments are said to exist merely to secure rights that they have not themselves the authority to prescribe, and where the “consent” of subjects can legitimise nothing more than the apparatus of power which is necessary to provide that security’. The merit of the Hobbesian state was to leave no ground for the typical claims of modern democracy.

There still remained a difficulty. Due subjection to the conditions of civil association, Oakeshott insisted, was not dependent on any approval of them (which might then be withheld): it was an unconditional obligation. But if obedience to civil authority was, as Hobbes had laid down, the rule of just conduct, did that mean any law it decreed was therefore justice? The formalism of Oakeshott’s account of *societas*, association without aim or approbation, risked an unacceptable conclusion that might sanction the vagaries of rationalism. To avoid this, there had to be some other principle to lend it colourable substance. Here his background in English Idealism, otherwise recessive in his work since the war, came to his help. Oakeshott found the supplement he needed in a weak echo from Hegel: law should not conflict with the ‘educated moral sensibility’ of the time. Where he had once

looked forward to a theory of Rational Will as the necessary corrective to Hobbes, he now fell back on a merely consensual *Sittlichkeit* – convention clear of reason. Like some uncomfortable, half-forgotten visitor from the past, Hegel is still received in *On Human Conduct*, but he is out of place. Oakeshott's effort to make the supreme theorist of the state as a substantive, goal-directed community – *universitas* raised to the highest power – into a humble clerk of civil association is a whim even by the measure of his Hobbes. For Hegel, the ethical life realised by the modern state was a rational pattern of social forms reflecting the immanent development of a universal history. In Oakeshott's version, the husk of political order harbours no more than a pulp of random custom – for each moral language is as contingent as the past of the people that speaks it, and the world is divided among unrelated vernaculars. And even on these terms, the filling disintegrates, since no modern community has ever contained just one 'educated sensibility'. The collision of moral codes within the same state is the stuff of the political life which the dream of civil association represses.

Nearly all of Oakeshott's obituarists stressed his unworldliness, typified by his indifference to the official honours his achievement might have been expected to deserve. There is no reason to doubt that this was an appealing trait of the man. But it also tells something about him as a thinker. Although Oakeshott was trained as a historian, and in one compartment of his mind always knew more about the actual detail of the European past 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 ever proposed. For, as the slightest glance at its record shows, from the outset the overwhelming *raison d'être* of the European state was warfare, the most 'managerial' and 'instrumental' of all collective activities. Oakeshott could never afford to register the logic of military competition for state construction: his vision of public authority is purely domestic. War was simply a period of exception, when the proper role of the state as the watch of civil peace was temporarily 'suspended'.

So determined was Oakeshott to exclude any trace of common enterprise from the idea of government that he was even driven to deny all existence to the nation-state. Politically, his own outlook was thoroughly nationalist. Who could doubt the superiority of English institutions to 'the five futile "republics" of France', the fake unification of Italy, the anarchy of Spain and the banditry of Greece: indeed to the 'conspicuous failure of most modern European states (and all the imitation states elsewhere in the world)'? But philosophically, the conjunction of nation with state left ajar an unacceptable suggestion of collective agency, which had to be closed.

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. Within the individual there were two contrary bents, one towards a sturdy spiritual 'self-employment' in a life of adventure, the other towards a menial 'partnership' for the reception of benefits – and such were the springs of the two types of government, which could not be reconciled. All

of Oakeshott's imposing erudition ends in the bathos of this small parable of the divided soul of economic man. The laws of rule – the social realities of the accumulation of power and property in the history of the West – were so forgotten in the mists of the rule of law, the ideal habitat of the self-employed man, that Oakeshott could actually write with boyish enthusiasm that the Romans and the Normans were the two great donors of civil association to Europe: as if their states, machines of conquest and colonisation without peer, were not among the most ruthlessly single-minded and successful 'enterprise associations' of all time.

It was the theorist of political decision, not of conversation, who understood what such examples meant for any realist jurisprudence. In his last *tour de force*, published under the Federal Republic, *Der Nomos der Erde* ('The Law of the Earth'), Schmitt showed that the very term fetishised by Oakeshott and Hayek to bespeak the transcendence of abstract procedural rules, exempt from all specific social directives, in its origins actually signified the opposite: and that none other than Thomas Hobbes had been the first to make this clear. 'Seeing therefore the Introduction of Property is an effect of Commonwealth ... it is the act only of the Sovereign; and consisteth in the Laws, which none can make which have not the Sovereign Power. And this they knew well of old, who called that *Nomos* (that is to say, *Distribution*), which we call Law; and defined Justice, by *distributing* to every man *his own*. In this Distribution, the First Law, is for Division of the Land itself.' For Schmitt, such original distribution presupposed a founding appropriation, what he called a *Landnahme*: the occupation of territory that necessarily preceded any division of it, and which English soil had known as memorably as any, under Roman boot and Norman stirrup. The 'radical title' (as Locke put it) underlying any law lay in such taking and allocating, as the etymological linkage of *nomos* with *nemein* (to take) suggested. Here, conceptually and historically, the oppositions between rule and goal, law and legislation, the civil and the managerial, dissolve. *Nomos* and *telos* are one.

Schmitt's exploration of the spatial logic behind any legal regulation did not lead to a metaphysic of origins. He drew from Weber, whom he had known and in many ways resembled in cast of mind, a ready grasp of social and historical variation. He had no difficulty in seeing the kind of distinction that Oakeshott wanted. Towards the end of the Weimar period, he had noted the difference between the ideals of a *Regierungsstaat* and a *Gesetz gebungsstaat* – a governing as opposed to a law-giving state – and the greater approximation in the 19th century of the English state to the first and the Continental to the second; although he stressed that neither had ever existed as a pure type. In the 20th century, however, with the massive increase in economic regulation, welfare provision, cultural supervision by public authorities – he pointed out that by 1928 over half of national income was controlled by the Weimar Government – a 'structural change' had occurred. The *Gesetzgebungsstaat* not merely everywhere predominated, but was now moving towards a new configuration, in which the state was increasingly becoming something like 'the self-organisation of society'. If we ask what was the common anxiety that lent imaginative energy

to the work of all these thinkers, this is an expression that suggests its nerve-centre.

After the debacle of the First World War, and the victory of Bolshevism in Russia, the old political world of landed rulers and limited electorates, modest budgets and stable currencies, had crumbled away. A new kind of mass enfranchisement and expectation gripped Europe: the arrival of a democracy capable of brushing aside, in the pursuit of security or equality, traditional barriers between the tasks of government and the affairs of business – a semi-oligarchic state and a still hierarchic civil society. Where would popular sovereignty without social liability lead? Communism was, of course, the first and greatest danger. Fascism, which looked to some as if it might be an antidote, proved little better – indeed, in German guise at least, all but identical. But even when these were seen off, there was still the welfare state, a creeping version of the same disease. In the course of six decades, political judgments of this changing scene varied. Strauss and Oakeshott, scornful of liberalism before Hitler came to power, were more circumspect after the war; Hayek, who described himself as a classical liberal during the war, repudiated the term as too compromised when he got to America; Schmitt, who never had any truck with liberalism, moved from Catholic authoritarianism to National Socialism, before ending as an informal doyen of the most respectable postwar constitutionalism. But beyond the discrepant local sympathies of these careers – with their splay of temporary identities – Conservative, Zionist, Nazi, Old Whig – they reflected a common theoretical calling.

It was Schmitt who found the symbol for it. His later work is haunted by a theological image. Again and again, he alluded to one of the most enigmatic of all apocalyptic texts, the Second Letter to the Thessalonians, without ever quoting it. What does Paul say there? ‘The mystery of lawlessness doth already work; only there is one that restraineth now, until he be taken out of the way; and then shall be revealed the lawless one, whom the Lord Jesus will slay with the breath of his mouth, and bring to nought with the manifestation of his coming.’ It was the second clause that mattered. Who was the Restrainer – the *katechon* who holds back the prowl of evil on earth, until the arrival of the Redeemer? Learned speculation has debated the cryptic identity of the *katechon* (this is its sole Scriptural appearance) since the time of Tertullian. In Schmitt’s own writing, the obscure figure assumes various – typically oblique – historical guises, as political or juridical restrainer in different epochs. But the Stygian cap fits the collective effort of this cluster of thinkers. For these were indeed constructions designed to hold something back. What they all in the end sought to restrain was the risks of democracy – seen and feared through the prisms of their theories of law as the abyss of its absence: *to misterion tes anomias*, the mystery of lawlessness.

Each put up their own barriers against the danger. The dichotomies which are the signature of their work – the esoteric and the exoteric, the civil and the managerial, the friend and the foe, the lawful and the legislative – are so many cordons. Their function is to hold popular sovereignty at bay. The different gifts displayed in this enterprise, whatever view is taken of it, were remarkable. For all his tendency to textual dressage, Strauss’s range and subtlety as a

master of the canon of political philosophy had no equal in his generation. Schmitt's moral instability never impaired an extraordinary capacity to fuse conceptual insight and metaphoric imagination in lightning-flashes of illumination around the state. Hayek could seem tactically ingenuous, but he fashioned a theoretical synthesis out of his epistemology and economics whose scope and strength have yet to be supplanted.

Oakeshott was the literary artist in this gallery. His writing varies considerably in quality, and can be whimsically arch at one moment and curiously crude at another, disconcertingly close to *Punch* or *Cross-Bencher*. But at its best, when it moves into high register, it can rise to a lyrical beauty. Oakeshott was a stranger to argument, which he anyway largely disavowed: his expositions have nothing of it. Nor, despite his prescriptions, do they have the least character of conversation: Oakeshott's declamations bear no relation to the tentative rhythm of a conversational style, such as one finds in Hume. What they are is rhetoric – a sustained exercise in the art of seduction, not of interlocution. There is a touch of Edwardian lushness in this prose. But to understand its spell, it is only necessary to consult – the most apposite example – the excursus on religion in *On Human Conduct*.

If we compare the general fortune of these thinkers of the radical Right to that of more conventional eminences of the Centre, there is a pregnant contrast. The work of just one theorist, John Rawls, has probably accumulated more scholarly commentary than that of all four put together. Yet this veritable academic industry has had virtually no impact on the world of Western politics. The reticence of its subject, who has never risked his reputation with express commitments, is no doubt part of the reason. But it is also to do with the distance between a discourse of justice, however olympian, and the realities of a society driven by power and profit. The quartet considered here had the political courage of their conviction. But they also went, more largely, with the grain of the social order. So although they could often appear marginal, even eccentric figures to their colleagues, their voice was heard in the chancelleries. Schmitt counselled Papen and received Kiesinger; Straussians thronged the National Security Council under Reagan, and surround Quayle; Hayek earned formal homage from Thatcher on the floor of the Commons; and Oakeshott, as we shall see, is an increasing inspiration in the penumbra of the styleless Major. Even arcane teaching can reach gentlemen. They are the heirs.

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Letters

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'The impeccably liberal Ernest Barker' (Perry Anderson: *LRB*, 24 September)? Would 'peccably' be better? In 1937 he made a favourable comparison between Hitler and

Cromwell in a swastika-draped hall in Hamburg: see his *Oliver Cromwell and the English People* (Cambridge, 1937).

William Lamont
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Vol. 14 No. 21 · 5 November 1992

William Lamont points to Ernest Barker's *Oliver Cromwell and the English People* as a peccant moment of his liberalism ([Letters, 22 October](#)). *Touché*. Still, if Lamont's own work on William Prynne and Richard Baxter teaches us to distinguish between different kinds of 17th-century Puritan, not to smooth out their paradoxes, and to set each in the collective context of the time, the lesson is valid for 20th-century liberals too. Barker's 1936 lecture to the Sthamer Society in Hamburg, coloured – as he explains – by memories of friendship with the Weimar Ambassador to London after whom it was named, contains a culpable mixture of diplomatic and ingenuous elements. But although he did compare Cromwell and Hitler as national leaders, in an epilogue written after his return to England, the comparison was not simply favourable, since Barker stressed the difference between religious and racial conceptions of the nation, contrasting the Protector's tolerance of Jews with the Führer's anti-semitism, and the antagonism between the principles of freedom of conscience and of political uniformity. If any English ruler was 'the precedent and example of the totalitarian leader', it was Henry VIII rather than Cromwell – whose portrait Barker draws with creditable balance. Significantly, he took issue with Carl Schmitt in doing so. In *The Concept of the Political*, Schmitt had cited Cromwell's virulent speech against Spain in September 1656 as a supreme expression of the demarcation of friend from foe that constitutes the essence of political life. Barker replied that Cromwell's declaration of enmity was conceived neither in strictly political nor exclusively national terms. 'It is a speech in terms of "the religious", and it is couched in the interest of a common European Protestantism' – a martial but confessional internationalism, whose limits no Puritan could transcend.

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What does intransigent mean? intransigent is defined by the lexicographers at Oxford Dictionaries as Unwilling or refusing to change one's views or to agree about something. Although the tax cut helped ignite a boom on Wall Street, it didn't do much to change the tune of the city's intransigent legislators. Millions of pounds of public money have been poured into campaigns designed to convince intransigent bottle-users of the error of their ways. In line with a recent select committee report, he backs more reconciliation and greater court powers against intransigent parents. They have at times had to withstand considerable provocation from intransigent bigots on the extreme wing of unionism. For this lifelong Londoner and intransigent radical, the use of "turn of the ____ century" is common enough but I don't see any reason not to simply write circa 1700, c. 1800, c. 1900, etc. Provides the same information in a much tauter fashion. And as for circa 2000, shouldn't that be 'the turn of the millennium'? Nothing could have been better suited to the courageous, intransigent Saint-Ex than the life of a pilot with *Air Mail*. The work was dangerous and demanding, the discipline rigorous, and the solitude unbroken. In his books, the descriptions of the hours spent His head ducked far down inside the cockpit, he kept his eyes glued to the artificial horizon; for outside he could no longer distinguish earth from sky, lost in a welter of primeval darkness. . . . At this very moment the storm opened above his head and through a rift, like mortal bait glittering through the meshes of a net, he spied several stars. . . . At a single bound, as it emerged, the plane had attained a calm that seemed wondrous. There was not a wave to rock him, and like a sail-boat passing the jetty he was entering sheltered waters. . . .