

MICHAEL OAKESHOTT ON EUROPEAN POLITICAL HISTORY¹

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Abstract: This article examines Michael Oakeshott's views on European political history, based on the essays, reviews, lectures and unpublished works which he produced throughout his intellectual career. These pieces are less familiar than his writings on political philosophy, but deal with the same themes, notably the relationships between individuals, groups and the state. The conclusion is that Oakeshott was telling a new version of an old tale, the history of the development of a fundamental division in European political thought and practice between two contrasting forms of human association, one communal and consensual, the other individualistic and contractarian.

I

Michael Oakeshott (1901–90) has always been best known as a political philosopher, the LSE professor who launched a series of polemical attacks on the Rationalism he believed was infecting modern politics.³ Yet, throughout an intellectual career stretching from the 1920s to the 1980s, Oakeshott's essays, reviews and lectures also gradually developed a distinctive view of Europe's political development. Judging by the extant secondary literature, however, these ideas on history remain unfamiliar.⁴ Yet there have been signs of growing interest over the last decade,⁵ and there are now several reasons for thinking it worthwhile to combine some largely unknown and, in some instances,

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³ For the work on which Oakeshott's reputation as a critic of Rationalism is based, see M. Oakeshott, *Rationalism in Politics*, ed. T. Fuller (New Haven, 1989), p. 541. The only full-length account of Oakeshott's political thought is P. Franco, *The Political Philosophy of Michael Oakeshott* (Yale, 1990).

⁴ Those familiar with Oakeshott will know that his writings on history fall into two groups. Firstly, there are his historical writings on European political events and ideas. Secondly, there are his philosophical writings on the nature of historical understanding, contained in works such as *Experience and its Modes* (Cambridge, 1933) and *On History* (Oxford, 1983). Those interested in the latter, which will not be considered here, may consult the valuable series of articles written by D. Boucher; see 'The Creation of the Past', *History & Theory*, 23 (1984), pp. 193–214; 'Review of *On History*', *History of Political Thought*, V (1984), pp. 163–7; 'Overlap and Autonomy', *Storia, Antropologia e Scienze del Linguaggio*, 4 (1989), pp. 69–89.

⁵ *History of Political Thought* has itself recently published an article on his work on Hobbes. See I. Tregenza, 'The Life of Hobbes in the Writings of Michael Oakeshott', *History of Political Thought*, 18 (1997), pp. 531–57.

still unpublished⁶ sources with more familiar material from *Rationalism in Politics* and *On Human Conduct*⁷ to provide a coherent overview of Oakeshott's writings on Europe's political past.

The first reason is that these writings are interesting in their own right. Although, as we shall see, it is possible to trace Oakeshott's historical debts, he eventually came to see European political thought and practice in a distinctive way. His early intellectual career at Cambridge before the Second World War, examined below, ultimately provided the basis for a view of some originality. Oakeshott arrived at the conviction that what he called the 'character' of the modern European State, and thought about it, was constituted by a tension between an understanding of the State as a *societas*, and as a *universitas*. Exactly how he understood these Latin terms will be explored more fully below, but for the time being we may say that he was engaged in an ingenious re-working of the story of European politics as a tension between individualism (*societas*) and collectivism (*universitas*).

The second is that we may gain a better understanding of Oakeshott's writings at large by placing them in their context. Very little has so far been done on the early stages in particular of Oakeshott's intellectual career,⁸ but it will be argued that his experiences during the inter-war years had a lasting effect on both his historical and philosophical work on politics. The idea of a tension between two contrasting views of the State, both of which had broader implications, was one that he had already arrived at by 1939. Since this tension was important not only in the historical pieces we are about to examine, but also in the highly abstract and complex philosophy of civil association which makes up his later political philosophy, its conceptual origins and affinities are worthy of attention.

The third reason is that the opportunity then presents itself of setting Oakeshott's views against those of historians proper. Although Oakeshott read history as an undergraduate, and was a member of the History Faculty at Cambridge until 1948, he wrote much more philosophy than history, and it is instructive to compare the efforts of a comparative amateur with those of the professionals. A major difference is that his writings on medieval and modern political development integrate a broader span of events in a shorter space than has been customary amongst more recent authors. For all the excellent work that has been done during the last generation, synoptic, 'bird's-eye' views are rare. The detailed studies that have distinguished the works of many of the leading contemporary historians of political ideas, for example, simply

⁶ The two most substantial that will be used here are the thirty lectures on 'The History of Political Thought from Ancient Greece to the Present', which Oakeshott gave at the LSE in the later 1960s, and a substantial manuscript from 1925, 'A Discussion of Some Matters Preliminary to the Study of Political Philosophy'.

⁷ M. Oakeshott, *On Human Conduct* (Oxford, 1975).

⁸ A rare exception is R. Grant, 'Inside the Hedge: Oakeshott's Early Life and Work', *Cambridge Review*, 112 (1991), pp. 106–9.

do not lend themselves to this perspective. Historians such as J.G.A. Pocock, Q. Skinner, S. Collini, J. Burrow and C. Condren have all made enormous contributions to the discipline, but even at their most expansive they do not offer the sweeping vision that Oakeshott provides. Skinner's most synthetic work, on *The Foundations of Modern Political Thought*, terminates in the early modern period, and Pocock's *Machiavellian Moment* is concerned mainly with one branch of modern political thought, the so-called 'Republican' or 'neo-Roman' tradition.⁹

The final reason is that Oakeshott's preoccupations are still current, and likely to remain so. His interpretation of European history was one in which the various forms of group life — the State, the corporation, the guild and so on — provided the unifying theme. No more than a passing familiarity with the arguments between contemporary liberal and communitarian thinkers is necessary to recognize the perennial importance of this issue. Furthermore, there has been a revival of historical interest in earlier controversies of a similar sort. One need only examine the recent anthology edited by Stapleton, *Group Rights: Perspectives Since 1900*,¹⁰ or Runciman's work on *Pluralism and the Personality of the State*,¹¹ to be satisfied this is the case.

Stapleton and Runciman both discuss the controversies that took place in later nineteenth- and early twentieth-century England over group rights, in which 'pluralists' claimed groups such as churches and trade unions had the power to protect the individual from being left defenceless against the most powerful of all groups, the State. Both also recognize the modern relevance of these arguments; Stapleton, for example, includes writings by W. Kymlicka and M. Walzer alongside excerpts from J.N. Figgis and F. Maitland, who were active in the earlier period.

Let us begin, then, with Oakeshott's time at Cambridge between 1919 and 1939. It was then that he formulated the thesis that there was a basic division in European political thought and practice between two contrasting understandings of the State, the role of other groups and associations with it, as well as of the nature of its inhabitants.

⁹ An interesting question which cannot be explored here for reasons of space is whether the inevitable price of the undoubted scholarly superiority of the work of Pocock, Skinner and company over Oakeshott's own efforts at political history was a certain limitation of vision, or whether the undeniable narrowing of perspective their works exhibit has another explanation. Similarly, whether 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, or whether he simply possessed the greater self-confidence of an earlier generation, must remain an open question.

¹⁰ *Group Rights: Perspectives Since 1900*, ed. J. Stapleton (Bristol, 1995).

¹¹ D. Runciman, *Pluralism and the Personality of the State* (Cambridge, 1997).

II

The early debates in which Maitland and other 'pluralists' such as J.N. Figgis¹² were involved indelibly coloured Oakeshott's approach to European political history and are the starting point of our enquiry.

As a history undergraduate at Cambridge after the 1914–18 war, Oakeshott could not avoid coming across historians such as Maitland and Figgis,¹³ both of whom were leading advocates of the pluralist case for interposing various other associations between the individual and the (British) State. In a study of Ernest Barker, the first Professor of Political Science at Cambridge, who sympathized with pluralism and was also something of a mentor to Oakeshott, Stapleton writes,

The Pluralist movement developed in the first decade of the twentieth century, mainly in response to the seemingly high-handed treatment of voluntary associations in the Taff Vale (1901) and Free Church of Scotland (1900–4) cases. It acquired further momentum between 1910 and 1914, against the background of the militancy of labour, the suffragettes, and the Irish Unionists.¹⁴

Maitland had first encountered many of the arguments used to make a case for pluralism in the work of the German historian Gierke, part of whose massive work on Natural Law he had translated and published in 1900.¹⁵ Gierke, writing under the influence of a speculative, particularly Hegelian, philosophy of history, saw historical development as driven by the opposing principles of unity and plurality. In European, and especially German, history, this struggle had taken the form of a continual battle for dominance between two contrasting types of association. The first was communal, consensual and protective of its members, and was typified in the medieval era, for example, by

¹² Constraints of space mean that only Maitland, Gierke and Barker are discussed here. However, D. Nicholls, *The Pluralist State: The Political Ideas of J.N. Figgis and his Contemporaries* (London, 2nd edn., 1994), argues that Figgis and Oakeshott both favoured a conception of the state as the provider of a legal framework within which groups and individuals retained as much autonomy as possible; see *ibid.*, p. 82.

¹³ All Cambridge history undergraduates were required to study English constitutional history, a subject marked by 'the legacy of Maitland', as C. Brooke put it in the *History of Cambridge University*, Vol. IV (Cambridge, 1993), p. 326.

¹⁴ J. Stapleton, *Englishness and the Study of Politics. The Social and Political Thought of Ernest Barker* (Cambridge, 1994), pp. 68–9.

¹⁵ O. Gierke, *Das deutsche Genossenschaftsrecht* (Berlin, 4 vols., 1868–1913). Maitland translated portions of Vol. 3, *Rechtsgeschichte der deutschen Genossenschaft*, as *Political Theories of the Middle Age* (Cambridge, 1951), p. 197. The most recent English translations from Gierke have been made by M. Fischer, in *Community in Historical Perspective. A Translation of Selections from Das deutsche Genossenschaftsrecht (the German Law of Fellowship)*, ed. A. Black (Cambridge, 1990). Black's selected passages are mainly from Vol. I, in which Gierke describes the assumptions and broad scope of his work.

the guild. The second was ruthlessly individualistic and absolutist, and was favoured in particular by rulers seeking to remove all challenges to their authority.¹⁶ It had culminated in the modern State, which was highly suspicious of any groups which stood between it and the host of disaggregated individuals who made up its subjects.

As Gierke understood the situation, the need was to revive the first form of group life. This he saw, following Tacitus, as an ancient Germanic heritage descended from the Teuonic hordes who had so plagued the Roman empire. This heritage had been all but obliterated in Germany by an individualism which originated in the medieval revival of Roman law and the development of canon law, and had been increasingly destructive of all intermediary associations separating the individual and the State.¹⁷

Maitland adapted Gierke's views to an English context. Like Ernest Barker, who also translated Gierke, he placed less stress than Gierke on the need for the State and other groups to form an organic unity.¹⁸ Since he lacked the background of German nationalistic cultural reaction against what historians such as Troeltsch perceived as the rationalistic, atomizing influence of the Western European (i.e. non-German) Enlightenment, this is not surprising. The intricacies of the notion of real personality and the precise differences between English and German pluralism, however, are not crucial here; it is enough to appreciate that as an undergraduate Oakeshott was becoming familiar with a long-term overview of European history going back to at least the medieval era, in which the main thread of the narrative was provided by a tension between two forms of human association, including the largest human association of all, the State.

This was in the later 1910s and early 1920s. By 1925, Oakeshott was constructing a political theory of his own. 'A Discussion of Some Matters

¹⁶ For a succinct summary of Gierke's division of German and European history into five periods, see A. Black, *ibid.*, pp. xxiv–xxv.

¹⁷ Gierke's main concern in defending group life against state incursions, not strictly relevant here, was to establish the 'real personality' of the group. Black explains this idea by saying that for Gierke 'the real personality of voluntarily formed associations was implicit in the social forms . . . and political evolution actually found throughout German history, for example in the medieval towns and guilds . . . Such bodies . . . behaved as if their members believed they could decide and act as collective entities.' They were therefore entitled to legal and moral recognition as persons, with an existence that did not depend on the will of the ruler. See A. Black, *ibid.*, p. xv. At p. xvii Black argues that Gierke was simply wrong to believe that real personality was essential to the legal acquisition of corporate status and security of freedom of association. A helpful contemporary discussion of some of the many difficult philosophical problems posed by the idea of the real personality of groups can be found in A. Vincent, 'Can Groups be Persons?', *Review of Metaphysics*, 42 (1989), pp. 687–715.

¹⁸ O. Gierke, *Natural Law and the Theory of Society, 1500 to 1800. With a Lecture on the Ideas of Natural Law and Humanity*, by Ernst Troeltsch, trans. E. Barker (Cambridge, 1950).

Preliminary to the Study of Political Philosophy' remains unpublished, but is a valuable source of information regarding his ideas in the inter-war period. It shows, for example, that although he was critical of Laski (for being insufficiently appreciative of Bosanquet's Idealism), he could nonetheless identify him as a fellow supporter of a 'new movement' which he hoped would 'put a too exalted so-called "State" in its place'.¹⁹ Given Oakeshott's later reputation as a Conservative, the fact that he shared common ground with Laski, who had not yet rejected pluralism in favour of Marxism, may come as something of a surprise.

That such connections have been obscured may be due in part to the discrediting of pluralism in England by association with fascist corporatism and National Socialism in the 1930s. For Barker, for example, the advent of National Socialism represented a logical outcome of the increasing tendency to exalt the real personality of the German folk-group or fellowship that had begun with eighteenth-century romanticism.²⁰ Oakeshott concurred;²¹ by this time a lecturer in history at Cambridge, he told his undergraduates that Hitler's regime was simply a form of tribalism in which individual identity was lost altogether.²²

Shortly before the war Oakeshott wrote an introduction to a documentary reader, *The Social and Political Doctrines of Contemporary Europe*, in which he argued that the relevant political distinction was not between left and right but between those who would 'plan and impose a way of life upon a society' and those who 'not only refuse to hand over the destiny of a society to any set of officials but also consider the whole notion of planning the destiny of a society to be both stupid and immoral'.²³ To use the terminology Oakeshott later employed in *On Human Conduct*, States could be described either as civil associations, in which the rule of law provided a framework for individuals to pursue their own ends, or as an enterprise association, in which the State managed and perhaps even determined the pursuit of a common goal or purpose.²⁴ From our point of view, the importance of these classifications is that they had a historical derivation; their genesis and development could be traced in the past.

¹⁹ M. Oakeshott, 'A Discussion of Some Matters Preliminary to the Study of Political Philosophy' (unpublished manuscript, 1925), p. 169.

²⁰ See Barker's editorial introduction to Gierke, pp. lxxxii ff.

²¹ There were, however, several points of disagreement between Oakeshott and Barker. See Oakeshott's review of Barker's edition of Gierke, *Natural Law and the Theory of Society*, *Cambridge Review*, 56 (1934), pp. 11–12, and Stapleton, *Englishness and the Study of Politics*, for a useful discussion.

²² M. Oakeshott, 'National Socialism', unpublished lecture, c.1936.

²³ *The Social and Political Doctrines of Contemporary Europe*, ed. M. Oakeshott (New York, 1950), p. xxii, n. 1.

²⁴ Oakeshott, *On Human Conduct*, Part III.

III

The end of the Second World War found Oakeshott in revisionist mode. Although he continued to draw on the work of historians he had known since his youth, such as Acton and Maitland, he had begun to reconsider the periods into which political thought was divided — ancient, medieval and modern — and the relationship between them.²⁵ It need hardly be stressed that the attitude a historian or political theorist takes to any or all of these periods is usually highly revealing. To begin with the ancient world, he acknowledged its importance without sliding into more-or-less uncritical admiration. Whereas Leo Strauss, for example, saw Plato and Aristotle as having given a 'classic form' to political philosophy,²⁶ Oakeshott recognized the Greeks as the inventors of politics in Europe, but did not go on to draw the conclusion that they had arrived at a definitive understanding of it. In fact, Oakeshott tended to see Rome, rather than Greece, as vital for understanding subsequent developments. The Romans, he believed, were 'the only European people who have shown a real genius for politics'.²⁷

The reason for this admiration is not difficult to discern. If Oakeshott regarded the Greeks as the inventors of politics, he saw the Romans as the inventors of 'by far the most comprehensive and elaborate system of law that any people, save in modern times, has elaborated for itself'. Rome became 'a legally organised society in a manner in which even Athens never became'. In his eyes, Rome, in both its Republican and Imperial periods, had been 'a civil association . . . a set of private persons joined in the recognition of a law to which they, all alike, owed obedience'.²⁸ The significance of this attitude is worth making explicit — Oakeshott was claiming, in effect, that the Roman State had provided an early example of a non-purposive understanding of a State, an example handed down to the medieval and modern worlds. But, given that it is a 'fact that Roman law existed as an authoritative tradition' in political thought between 1200 and 1600',²⁹ we need to appreciate precisely which features of it Oakeshott seized on.

It was *lex*, the positive law of the Romans, which interested Oakeshott. In particular, it was what the form of *lex* implied, as distinct from its content, which he found so important. 'In *lex* [the Romans] discovered a means of

²⁵ See, e.g., Oakeshott's review of J. Bowle, *Western Political Thought, Spectator*, 179 (1947), p. 626.

²⁶ L. Strauss, *What is Political Philosophy? and Other Essays* (Free Press, 1959), p. 27.

²⁷ M. Oakeshott, 'The Political Experience of the Ancient Romans', unpublished lecture, c.1966–7, p. 1

²⁸ M. Oakeshott, 'Roman Political Thought (3)', unpublished lecture, c.1966–7, pp. 1, 8, 10b.

²⁹ M.P. Gilmore, *Argument from Roman Law in Political Thought, 1200–1600* (Cambridge, MA, 1941), p. 7.

modifying, and even abolishing, ancient custom' which came to be thought of 'as itself *lex* and therefore capable of being emended in a law-making process'. This Roman belief that 'by means of a known process of making law, they had command over their own rules of order' was, he claimed, nothing other than 'an elementary belief in what later came to be called sovereignty . . . [A] sovereign authority is not merely one which has no contemporary superior, but one which is emancipated from the past'.³⁰ Sovereignty of this sort, Oakeshott believed, was one of the definitive characteristics of the modern European State.

It is interesting to note that Barker had differed from Maitland in being a defender 'of the Latin heritage of Western civilisation, against the vogue of Teutonism in Victorian Britain'. Whereas 'Germanism was epitomised in [Maitland's] eyes in a high capacity for free association' and Latin principles of sovereignty were seen as supporting 'uniformity and compulsion', Barker argued that the Roman idea of sovereignty ensured the ruler was seen as a public officer and politics as a matter of impersonal law.³¹ Whether or not Oakeshott owed something of his own emphasis on the rule of law to Barker, his attitude to Rome certainly also differed sharply from Gierke's. For Gierke, Roman government had been autocratic, and modern states simply represented a return to this absolutism after the extinction of the medieval freedom of the Germanic peoples.³² Oakeshott did not see either Rome or the modern state as fundamentally autocratic, and he did not elevate the primitive Germanic tribe into the ideal model of political association. The view of the medieval world he put forward was more ambiguous than that.

After the final collapse of Imperial Rome, what government there was began from an entirely different basis. Rather than the civil rule of the Empire, Europeans were subject to what Oakeshott called 'lordship': the authority to rule by virtue of ownership. The political history of the ensuing centuries, he argued, was the story of the emergence of a 'somewhat hesitating' distinction between rulership and the lordship from which it 'circumstantially emerged'.³³ He was not original in considering this theme a definitive feature of medieval politics — Maitland's mentor Vinogradoff, for instance, related how 'the Emperor Frederick . . . asked whether [he] was not by right lord (*dominus*) of everything held by his subjects', only to be told that 'he was lord in the political sense, but not in the sense of an owner'.³⁴ It is, however, rather more unusual to see this distinction extended from the medieval to the modern period so that modern political history becomes the story of attempts to avoid

³⁰ M. Oakeshott, 'Roman Political Thought (3)', pp. 2, 4.

³¹ J. Stapleton, *Englishness*, p. 75.

³² This is a slight over-simplification; Gierke was hopeful that the nineteenth-century State would finally give legal recognition to the real personality of groups.

³³ Oakeshott, *On Human Conduct*, pp. 218–19.

³⁴ P. Vinogradoff, *Roman Law in Medieval Europe* (Oxford, 1929), p. 62.

a return to the medieval situation in which authority was based on proprietary right.

Oakeshott, then, wanted modern politics understood as a continuation of medieval political life rather than as a sharp break with it. That is not to say that he saw no difference between medieval realms and modern States. He took the historiographically uncontroversial view that modern States differed both in enjoying sovereign authority and in the degree of power at their disposal.³⁵ The former change was registered at a theoretical level in the work of Bodin,³⁶ the latter in what Oakeshott called the growing ability to control men and things that resulted from a new understanding of the secular and natural worlds. The emergence of these sovereign, powerful States had a profound effect on political thought. Whereas in the medieval period the main concern had been with the authority of the ruler — the form and derivation of the right to rule — in modern times, thanks to the massive increase in power that governments experienced, attention increasingly turned to their offices or activities, to what they should or should not do, rather than to the question of their right to do it.

According to Oakeshott, the answers to the question 'What is the appropriate activity of government?' had fallen into two main categories. On the one hand, government could be seen as mainly concerned with guarding the law, understood as 'a system of prescriptive conditions indifferent (. . . not merely impartial) to the satisfaction of wants'. On the other hand, government was thought of as the management of 'a common purpose and the direction of its pursuit' in which law was 'a set of prudential managerial conclusions specifying' the nature of the purpose and how to pursue it.³⁷ We have, in other words, two quite distinct notions of what kind of a collectivity the State is, and of the position of the individual within it. We are dealing now with ideas that Oakeshott was putting forward in the 1960s and 1970s, but the continuity with his pre-Second World War thought is plain. This distinction between civil and managerial (or 'enterprise') associations is recognizably a reformulation in more precise terms of his early distinction between the planned and unplanned society. Having given an overview of the history he believed lay behind these distinctions from ancient times onwards, we must now pay more attention to his treatment of their medieval and modern expressions.

³⁵ Cf., e.g., G. Elton, who wrote that after the sixteenth century '[n]o-one would wish to deny the physical power of monarchs increased', in *Reformation Europe, 1517–55* (London, 1963), p. 301.

³⁶ Bodin defined sovereignty as 'that absolute and perpetual power vested in a commonwealth which in Latin is termed majestas'; his editor tells us this 'marks the break' with medieval kingship. See J. Bodin, *Six Books of the Commonwealth*, ed. and trans. M.J. Tooley (Oxford, 1953), pp. xxiv, 25.

³⁷ Oakeshott, *On Human Conduct*, p. 253.

IV

Oakeshott's essay 'On the Character of the Modern European State', which forms the final third of *On Human Conduct*, was his most sophisticated treatment of modern European political history. In it, he made use of two terms from Roman civil law to denote the two different conceptions of the kind of group ties involved in membership of a state. These terms had an analogical function — that is, they were employed in answering the question 'What is a State like?' According to Oakeshott, one important way in which late medieval and early modern thinkers tried to understand this new form of political life was by comparing it with relationships with which they were already familiar, and two in particular figured prominently.

The first, *societas*, originally described a form of contract. In the Roman private law of obligations, it required only the agreement of the contractors, the *socii*, and their good faith, *bona fides*, to come into existence.³⁸

The second, *universitas*, referred to 'a corporate body created by the [Roman] State, such as municipalities or the guilds (*collegia*) of different trades'. Although 'both the State and corporate bodies might have property which they held exactly like individuals', so that 'some *universitates*, such as municipalities, had things which they owned for the use of the public . . . *res universitates*', in the eyes of Roman private law the *universitas* was not itself a person.³⁹

It is important to understand that for Oakeshott these were not purely legal descriptions of two different kinds of group life. Each also implied certain moral and political values. Nor was he alone in thinking this; it appears that here again Oakeshott was drawing on his early historical education. In his Introduction to Gierke, Maitland had cautioned that 'an Englishman will miss a point in the history of political theory unless he knows that in a strictly legal context, the Roman *societas*, the French *société* and the German *Gesellschaft* should be rendered by the English "partnership" and no other word'.⁴⁰ Maitland wanted to prevent confusion between partnerships (*societates*) and corporations (*universitates*) in the study of a period in which the application of both concepts was widening beyond their original legal sphere.

As we have seen, in the overview of European political history that Maitland and Gierke had developed, the post-medieval period had been dominated by the idea of the State as a *societas*. In their view, the group life offered by medieval *universitates*, by the guilds and corporations, had been destroyed by the increasing prominence of contractarian forms of association, and especially by the idea of the State as a contractual grouping. Gierke in particular had deplored this development; in Maitland's words, he believed that the State

³⁸ *Ibid.*, pp. 199–200.

³⁹ *The Institutes of Justinian*, trans. T.C. Sandars (London, 1922), p. 92.

⁴⁰ Maitland, 'Introduction' to O. Gierke, *Political Theories of the Middle Age*, pp. xxii–xxiii.

'had become a merely collective unit — a sum of presently existing individuals bound together by the operations of their own wills'.⁴¹

Oakeshott agreed with Maitland and Gierke that 'political theory . . . borrowed the contract of partnership . . . rather than the act of incorporation' as an analogy for (the relationship between members of) the State; as he put it, 'by the fifteenth century *societas* had become the commonest reading for the character of a realm'. However, he explained both the reasons for and results of this change in a different way. He rejected the view of modern European history as a 'quest for community' consequent on the destruction of a 'civilisation of . . . persons who knew themselves as partners in communal solidarities' by the 'cold and hostile world of transactional engagements'.⁴²

One of the few works to pursue this theme in recent years, A. Black's *Guilds and Civil Society in European Political Thought*, has claimed that the idea of *societas*, for example, implied 'the notion of human society as an arena of relatively free-floating relationships, in which people were involved in buying, selling . . . marrying and entering partnerships'. This Roman conception of social life then contributed to what Black calls 'the early diffusion of liberal ideas about person and property' or 'the values of civil society' in the medieval period. With the rediscovery of Roman law in the twelfth century, *universitas* as well as *societas* re-entered the European political vocabulary. Although Black sees the degree of continuity between Roman *universitas* and medieval guilds as 'unclear', he believes that both involved values quite different to those assumed in the contract of *societas*,⁴³ as both placed great importance on 'brotherhood' and mutual aid.

Obviously, there was potential for tensions and clashes between the two sets of values. This is why Oakeshott wished to use them together — neither would serve by itself as an analogy for the nature of the modern State. Indeed, he believed this was why they had more or less passed out of use by the end of the early modern period. Yet the anachronism involved in applying them to the modern period in which they had become defunct was justified, he

⁴¹ *Ibid.*

⁴² Oakeshott, *On Human Conduct*, pp. 213, 320. Note that Oakeshott is not arguing in this passage that in the legal or general literature of the middle ages and after, *universitas* implied some kind of warm, close-knit relationship, but rejecting a view of the medieval period put forward by nineteenth- and twentieth-century critics of modernity.

⁴³ A. Black, *Guilds and Civil Society in European Political Thought* (London, 1984), p. 280; see pp. xi, 6, 35. It is worth noting that in the introduction to this work Black acknowledges that his model of 'civil society' was partly suggested by Oakeshott's *societas* (p. xiv). In *Community in Historical Perspective* (p. 258, n. 5) he also suggests that in certain respects Oakeshott's *societas* was identical with Gierke's notion of a *Rechtsstaat*. Black also discusses Oakeshott in *State, Community and Human Desire. A Group-Centered Account of Political Values* (Hemel Hempstead, 1988), his own attempt at a theory of human association.

believed, because the divergent understandings of what it meant to be a member of a State which they denoted had not themselves disappeared.

Before we can turn to Oakeshott's account of the tension between *societas* and *universitas* in modern Europe, however, we must examine how he believed *societas* had been understood when it began to expand beyond its purely Roman, legal meaning in medieval times. Members of *societates*, he claimed, were persons 'each pursuing [their] own interests or even joined with some others in seeking common satisfactions, but related to one another in the continuous acknowledgement of the authority of rules of conduct indifferent to the pursuit or the achievement of any purpose'.⁴⁴ Relationships covered by this very general characterization included those of friendship, suitors to a court, speakers of a common language and even membership of the human race.

It is particularly important to notice that Oakeshott did not see choice as a definitive feature of *societates*. One may choose to join certain sorts of *societas* — as, for example, one chooses ones friends — but that is not the essential thing; rather, 'what is intrinsic to this mode of association is not the choice to be related but the [mutual] recognition of understood terms of relationship — the acknowledgement, for example, of a common linguistic or moral condition'.⁴⁵ The significance of this point emerges in relation to the fact that modern European States are compulsory associations — if members of a State understood as a *societas* are said to be 'free', therefore, *this cannot be because they have chosen to belong*. Their freedom lies in the fact that the *socii* 'are not joined in the pursuit of any common purpose but only in respect of their common acknowledgement of the authority of a law which does not and cannot specify substantive conduct and does not require approval of the conditions it prescribes'.⁴⁶

A *universitas*, by contrast, presupposed 'persons associated in respect of some identified common purpose, in the pursuit of some acknowledged substantive end'. Corporate association, Oakeshott insisted, must be purposive, for it is 'only by specifying the object, the purpose or the interest in terms of which they are related' that the members can 'give an intelligible account of their relationship'.⁴⁷ So, as an analogy for the character of a State, the idea of *universitas* suggested 'a many . . . become one in the joint pursuit of a common substantive purpose'. Such a State he called an 'enterprise association', and the laws appropriate to it are 'prescribed conditions of conduct deemed to be instrumental to the purpose pursued'.⁴⁸

⁴⁴ Oakeshott, *On Human Conduct*, p. 201.

⁴⁵ *Ibid.*, p. 202.

⁴⁶ *Ibid.*, p. 251.

⁴⁷ *Ibid.*, p. 116.

⁴⁸ *Ibid.*, p. 205.

In contrast to a *societas*, choice was intrinsic to membership of a *universitas*. 'The corporate associate is free in respect of his association . . . being a choice of his own.'⁴⁹ Yet — and here we come to the crux of the matter — a State is not a kind of group that one can simply choose to leave or join, without, at any rate, immediately becoming a member of another such group. The consequence of Oakeshott's reasoning ought to be clear — the freedom characteristic of membership of a *universitas*, the freedom to associate or disassociate at will, is lacking where the State itself is understood as a *universitas*, because states were not, and are not, voluntary associations.⁵⁰

Oakeshott believed that the fact that states were manifestly compulsory associations, whereas membership of a *universitas* implied choice, was one reason why *universitas* was less popular as an analogy for the state than *societas* was. In addition, a *universitas* was the creation of a superior legal authority, which did not capture the sovereign quality of the modern European state.⁵¹ There were circumstantial as well as logical considerations. Kings were distinguished from their peers not by the size of their estates but by the office they held — they were not leaders of a corporation dedicated to the development of their lands, but dispensers, however self-interested, of justice. The extreme diversity of customs, language and culture within their realms also mitigated against the belief that the State could be thought of as being like a *universitas*.⁵²

V

In fact, Oakeshott saw this belief in the diversity of medieval and early modern Europe as perhaps the single most important factor favouring the adoption of the analogy of *societas* rather than *universitas*.⁵³ We have not yet made explicit that as far as Oakeshott was concerned, both of the types of association we have been discussing implied a certain kind of associate.⁵⁴ It was no coincidence, Oakeshott argued, that the analogy of *societas* came to be

⁴⁹ *Ibid.*, p. 251.

⁵⁰ It might be thought that Oakeshott was innovating in making 'voluntariness' a feature of *universitas*, because pluralists tended to regard it as individualistic. This however would be an error; the kind of group Gierke valued, for example, was precisely one which members had chosen to belong to, one of which they were not merely naturally (as with the family) or compulsorily members. The kind of 'voluntariness' pluralists disliked and associated with corrosive individualism took the form of acts of will by persons acting solely in their own interests with no regard for a wider community.

⁵¹ Oakeshott, *On Human Conduct*, pp. 157–8.

⁵² *Ibid.*, pp. 207 ff.

⁵³ *Ibid.*, p. 233.

⁵⁴ This is less eccentric than it sounds. Compare Plato, *Republic*, Bk. II, 369 ff.; Aristotle, *Politics*, Bk. III, ch. iv. See also Montesquieu, *The Spirit of the Laws*.

favoured over that of *universitas* at the same moment as 'a new kind of drama' in the history of human personality or character was beginning.⁵⁵

Over a century previously, Jacob Burckhardt had drawn attention to this change in his work on *The Civilisation of the Renaissance in Italy*, in which he argued that 'at the close of the thirteenth century Italy began to swarm with individuality'. It is relevant to note that Burckhardt thought that medieval persons understood themselves only as 'a member of a . . . family or corporation — only through some general category'. This medieval self-understanding, he believed, had been supplanted by a host of new human types, including the 'all sided man', 'l'uomo universale'.⁵⁶

It is surprisingly easy to find further historiographical support for the thesis that 'a profound change in social attitudes began around 1100';⁵⁷ Morris has argued that *The Discovery of the Individual* was taking place between 1050 and 1200. Skinner began his work on *The Foundations of Modern Political Thought* with the observation that '[a]s early as the twelfth century the German historian Otto of Freising recognised that a new and remarkable form of social and political organisation had arisen in Northern Italy . . . Italian society had apparently ceased to be feudal in character'.⁵⁸ Ullman has written of the end of 'the absorption of the individual by the community' in his study of *The Individual and Society in the Middle Ages*.⁵⁹ With particular reference to economic practices, Macfarlane too has located *The Origins of English Individualism* in the medieval period.⁶⁰

Now, it is worth recalling an alternative account of the emergence of individualism. As Macfarlane points out, to historians and philosophers such as Macaulay, Tawney, Marx and Weber, individualism is a phenomenon of the sixteenth and seventeenth centuries, a feature of early modernity, the period in which these writers believed that there had been a change from a distributive Catholic ethic to an accumulative Protestant one, from an integrated and hierarchical society to a ruthless and competitive one.

⁵⁵ Oakeshott, *Rationalism in Politics*, p. 64.

⁵⁶ J. Burckhardt, *The Civilisation of the Renaissance in Italy* (London, 1990), pp. 98 ff.

⁵⁷ A. Black, in *The Cambridge History of Medieval Political Thought, c.350–c.1450*, ed. J.H. Burns (Cambridge, 1988), pp. 98 ff. See also A. Black, 'Society and the Individual from the Middle Ages to Rousseau', *History of Political Thought*, I (1980), p. 145.

⁵⁸ Q. Skinner, *The Foundations of Modern Political Thought*, Vol. I (Cambridge, 1978), p. 3.

⁵⁹ W. Ullman, *The Individual and Society in the Middle Ages* (Baltimore, 1966), pp. 5, 32. Ullman, Black notes in *Community in Historical Perspective*, p. xxix, 'had a profound respect for Gierke'.

⁶⁰ A. Macfarlane, *The Origins of English Economic Individualism* (Oxford, 1978), pp. 52–4.

Oakeshott, by contrast, saw individualism as nurtured in and by the medieval period; he was, therefore, questioning the rise of what C.B. Macpherson called *The Political Theory of Possessive Individualism* in the early modern period. So, for example, for Macpherson twentieth century 'liberal democracy' had its roots no further back than seventeenth-century England; it was then that 'the principles' of the modern State 'were all developed', including 'a new belief in the value and rights of the individual' conceived 'as essentially the proprietor of his own person or capacities'.⁶¹

For Oakeshott, though, the roots of individualism were much older and much broader. 'Of course this disposition displayed itself in commerce', he agreed, but added (rather rudely) that 'anyone who believes . . . that it was of "possessive individualists" that Pico della Mirandola, or Montaigne or Hobbes or Pascal or Kant or Blake or Nietzsche or Kierkegaard wrote is capable of believing anything'.⁶²

It is worth reiterating the significance Oakeshott placed on the emergence of the individualistic persona. Briefly, it is that it implied the kind of state grouping or association that he had described under the heading of *societas*. Of course, this did not exclude *socii* from choosing to become members of any number of *universitates* contained within the State, but the state of which personae of this kind are members is not itself a *universitas*. The State understood as a *universitas* implied a character of an altogether different kind, as we shall now see.

VI

In a revealing aside, Oakeshott confessed that his vision of modern European political history 'owes much to Ranke and . . . Neurankeaner historians . . . who held that the dominant theme of modern European history is the tension between religious and civil association, continuously transformed'.⁶³ Well before he came to write his essay 'On the Character of the Modern European State', he had decided that the understanding of the State as a *universitas* 'emerged first in modern Europe in a religious version' which had left its mark on all later politics of that sort.⁶⁴ It seems that he self-consciously set out to re-tell the story of modern European politics as torn between St Augustine's heavenly and earthly cities, with those who understood the State as a *universitas* attempting to realize the heavenly city here on earth, often with hellish results.⁶⁵

⁶¹ C.B. Macpherson, *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford, 1962), pp. 1–3.

⁶² Oakeshott, *On Human Conduct*, p. 242, n. 1.

⁶³ *Ibid.*, p. 286, n. 1.

⁶⁴ Oakeshott, *Morality and Politics in Modern Europe*, p. 92.

⁶⁵ A. Black seems to concur; he raises the question of whether 'the ultimate horror endured by Europe' under National Socialism is not best understood as 'the state as

We have no space in which to do more than mention one or two of the factors which Oakeshott believed had favoured the understanding of the State as a *universitas*. One such was the Reformation, which resulted in ‘not merely the expropriation of the alleged undesirable authority of the *sacerdotium* but the appropriation of this very desirable and extensive authority by the civil ruler’. It was crucial, he argued, to realize that ‘the sacerdotal authority which in part thus fell to the regnum was different in kind from that which a civil ruler already enjoyed’.⁶⁶ In particular, the acquisition of the Papal *potestas docendi*, the authority to be ‘the director of the education of Christendom, the guardian of learning and the arbiter of knowledge . . . intimated a transformation of the office’ of rulers who appropriated it. Temporal and spiritual authority were ‘assimilated to one another not merely jurisdictionally but substantively’.⁶⁷

Oakeshott conceded that in writers such as Aquinas and Dante one could already detect a belief that ‘ruling was to have the custody of the material, moral and spiritual welfare of a community with a teleology of its own into which the individual soul had been assimilated’.⁶⁸ He considered, nevertheless, that this belief had remained comparatively undeveloped, if only because medieval governments simply lacked the power to give it practical expression.

In the post-Reformation State, by contrast, ‘the tireless extension and elaboration of a central apparatus of ruling’⁶⁹ had made the belief that the State was a corporate enterprise far more plausible. As well as drawing strength from the development of the executive, administrative face of the State, the belief that the State was a *universitas* was encouraged by colonial and imperial ventures. Here, States enjoyed authority in virtue of their *dominium*, their ownership. Warfare too promoted this view. ‘The five centuries of modern times’, as Oakeshott saw them, had ‘been a period of continuous warfare’, so that ‘to be preparing to make war or to repel an enemy, or to be at war, or to be counteracting the consequences of the belligerence of others . . . has been the normal condition of every European state’. A State at war, Oakeshott argued, ‘is indisputably turned in the direction of association in terms of a substantive purpose’. Consequently, ‘the status of “subject” recedes before that of . . . role-performer in an enterprise’.⁷⁰

guild’; see *Guilds and Civil Society*, p. 217. However, Black writes in *Community in Historical Perspective*, p. xxiii, that ‘one may find parallels between Gierke’s belief in a distinctive German political culture . . . and elements in National-Socialist ideology. But it would be naïve to suppose that such an ideology was implicit in Gierke’s way of thinking’.

⁶⁶ Oakeshott, *On Human Conduct*, p. 222.

⁶⁷ *Ibid.*, p. 280.

⁶⁸ *Ibid.*, p. 223.

⁶⁹ *Ibid.*, pp. 267–8.

⁷⁰ *Ibid.*, pp. 272–3.

Perhaps the most important factor favouring the understanding of the State as an enterprise association, however, was a development in the history of character. Just as Oakeshott believed that the analogy of *societas* had increasingly come into favour thanks to the growth of individualism, he saw a corresponding development in the history of character or personality which benefited the idea of the State as a *universitas*.

The disposition of the 'individual *manqué*', as Oakeshott called it, had emerged concurrently with that of individuality. The 'desuetude of a communally organised life . . . excited some', but it 'depressed and discomfited others'. 'The counterpart of the agricultural entrepreneur . . . was the displaced labourer; the counterpart of . . . the *libertin spirituel* was the dispossessed believer'. Whatever 'combination of actual loss, debility, ignorance, timidity, poverty, loneliness, displacement, persecution or misfortune' had created this character, he found himself without the ability or 'confidence . . . to make choices for [himself] in matters of belief, language, conduct, occupation, relationships and engagements of all sorts'.⁷¹

As the morality of individuality became more prevalent, its contrary underwent a transformation. 'What had been no more than an inability to hold his own in belief and conduct became a radical self-distrust . . . the discomfort of ill-success turned into the misery of guilt . . . and in the course of time his natural submissiveness prompted the appearance of leaders' who could tell him 'what . . . to ask for and to do'. This 'anti-individualism', more extreme than the character of the 'individual *manqué*', implied 'a persona . . . that could only be accommodated in the sort of association which the analogy of *universitas* suggested for the character of a state'.⁷²

Amongst the concrete historical examples Oakeshott provided of states inspired by this hostility to individualism were Hitler's Germany and Stalin's Russia, although he believed that Calvinist Geneva had furnished a much earlier example.⁷³ Although it is harder to find anything in the writings of historians to correspond with his interpretation of the emergence of anti-individualism, it is not impossible. One work that Oakeshott seems to have admired was N. Cohn's *The Pursuit of the Millennium*,⁷⁴ which he described as the history of 'a sixteenth-century chapter in the history of Gnostic belief'.

Cohn's work described the attempts of millenarian sects to achieve a final, collective salvation in this life, led by 'would-be prophets or would-be messiahs' whom he describes as 'half-intellectuals' with a sense of 'mission' that would recognize 'no other claims'. It is not hard to see how such figures could be identified with Oakeshott's 'anti-individual'. Similarly, Cohn's account of

⁷¹ *Ibid.*, p. 275.

⁷² *Ibid.*, p. 277.

⁷³ It must be stressed that Oakeshott did not see the disposition towards anti-individualism as determined by social or economic position.

⁷⁴ N. Cohn, *The Pursuit of the Millennium* (London, 3rd edn., 1984).

those who took part in such movements as people and who had experienced the collapse of traditional social and kinship groups and who had no 'recognized and assured place in society', forming an 'unorganized, atomized population', fits Oakeshott's description of 'the individual *manqué*' quite neatly. Cohn even included 'peasants without land' and 'journeymen and unskilled workers living under the continuous threat of unemployment' in his list of the 'amorphous mass' caught up in millenarianism.⁷⁵

It could be said that what is unhistorical is not the 'ideal type' of the 'anti-individual' and the values it represents, but Oakeshott's own animosity towards it. If that animosity is removed, there is no reason why it should be any less historically viable, by his own criteria, than his account of the 'individual'. It may simply be the case that his sympathy for the latter is more widely shared by historians.

We cannot leave Oakeshott's character types without noting that he ascribed to both the individual and his anti-individualistic counterpart an appropriate theological understanding. The God of the individual was 'an Augustinian god of majestic imagination, who, when he might have devised an untroublesome universe, had the nerve to create one of self-employed adventurers of unpredictable fancy . . . and thus acquire *convives* capable of "answering back" in civil tones with whom to pass eternity in conversation'. By contrast, 'the deity corresponding' to the disposition of the anti-individual 'is the Proprietor of an estate of vast resources who, although he may be suspected of being somewhat niggardly, is nevertheless . . . a "providence", not the author of rules . . . but the source of substantial benefits'.⁷⁶

To be fair, Oakeshott himself recognized that in the use of his characters he was yielding to 'the temptation to seek a more general explanation than a historical understanding can provide'. The proposition that 'hidden in human character there are two powerful and contrary dispositions, neither strong enough to defeat or put to flight the other'⁷⁷ is simply not verifiable through historical evidence, and the few critics who have paid any attention to Oakeshott's views on the history of political thought have tended to see his discussion of the character of the anti-individual as the weakest link in his chain of reasoning.⁷⁸

VII

Let us recapitulate. We saw that Oakeshott encountered long-term views of European political history at an early stage of his career, while reading history at Cambridge, in the form of writings by historians such as Maitland and

⁷⁵ *Ibid.*, pp. 13–15, 282–6.

⁷⁶ Oakeshott, *On Human Conduct*, p. 325.

⁷⁷ *Ibid.*, p. 323.

⁷⁸ See, e.g., D. Boucher, 'Politics in a Different Mode'; P. Anderson, 'Review of *Rationalism in Politics*', *London Review of Books* (24 September 1992), pp. 7–11.

Gierke. This was in the late 1910s and early 1920s. By the end of the 1930s he had gone some way to developing an interpretation of his own. Like Gierke he identified two main forms of group life in terms of which the State had been understood. At this stage, he argued that European politics was divided between those who wanted to impose a planned society and those who wanted to maintain the rule of law.

In the post-war period Oakeshott traced this story of the two forms of association, which he later specified more precisely as the civil and the managerial, back to classical times. He argued that the medieval world inherited (or reinvented) the tension between these two forms of association, thanks not least to the rediscovery of Roman legal ideas. This tension — between the idea of a State as a managed association directed towards an approved end (virtue, salvation, economic growth, etc.) and as the guarantor of a framework of laws to regulate the inevitable collisions between individuals pursuing ends of their own — was passed directly from the medieval to the modern world, heightened at the same time by the increase in power and accession to sovereign authority that modern states enjoyed.

To express more accurately the distinction between the two forms of association he was describing, Oakeshott seized on two Roman legal terms which had actually been used in medieval and early political life and thought, *societas* and *universitas*. He had historiographical grounds for doing so, for historians such as Maitland and Gierke had previously interpreted the transition from the medieval to the modern world in terms of the increasing dominance of contractarian forms of association, or *societates*, over communal, corporate forms of life. Each of these terms carried implications that stretched beyond the legal sphere — they invoked contrasting and potentially conflicting moral and political values. In particular, the kinds of freedom associated with these terms differed radically. Members of *societates* were free not because they had chosen to belong (whether or not they had done so — one cannot choose to be, for example, a member of the human race) but because they were not subject to the pursuit of any ends other than self-determined ones. By contrast, the freedom enjoyed as a member of *universitas* lay precisely in the power to choose to dissociate from the pursuit of whatever goal defined the association in question. This freedom Oakeshott believed was lost whenever the state, a compulsory organization, was understood as a *universitas*.

We turned next to what is perhaps the most controversial feature of Oakeshott's account of European political history, his application to it of the idea, gleaned it would seem from his reading of such major figures in the history of political thought as Plato, Aristotle, Hobbes and Montesquieu, that different forms of association each imply a certain kind of associate appropriate to them. Perhaps surprisingly, we found that there was significant historiographical support for his belief that the late medieval and Renaissance

periods saw a major transformation of the European personality in the form of a burgeoning individualism. Oakeshott connected this with the increased popularity of the analogy of *societas* as a means of understanding the state. His belief in a contemporaneous surge of hostility to individualism due to the decline of communal life, accompanied by a corresponding increase in demands for the development of the State along managerial, purposive lines found less warrant in the works of historians at large, though it was not wholly absent.⁷⁹

Even when due allowance has been made for criticism of Oakeshott's treatment of imperfectly historical 'types' such as the anti-individual, what remains is a stimulating, provocative and remarkably synthetic account of European political history. In addition, his insistence on the preservation of agency (or 'human conduct') and his demonstration of the way in which the 'logic' of human practices (one might say the dynamics of human relationships) provides a powerful source of historical continuity give grounds for thinking that Oakeshott's views on European history ought to provide a lasting source of inspiration and reflection for historians.

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⁷⁹ Although the explanation for this relative absence of support remains unclear, whether it is the case that Oakeshott's views simply have little basis in evidence or whether historians fight shy, perhaps for reasons that are not themselves historical, of declaring that modernity has become increasingly slavish, is an interesting question which we have no space to explore.