In one of his first published essays, (The Importance of the Historical Element in Christianity), Oakeshott elaborates his idea of what is implied in the meaning of an historical identity. It is not a fixed or original datum any alteration to which represent a corruption to the thing itself. Nor does it consist of a minimal core or essence which despite differing manifestations remains unchanged through time. On the contrary, ‘(i)entity, so far from excluding differences, is meaningless in their absence, just as difference or change depend upon something whose identity is not destroyed by that change’. This ‘means . . . that the identity of’ an historical entity (in this particular case, the identity of Christianity), ‘is maintained, not in spite of, but because of, differences and changes’. The identity of a thing can be perceived despite the fluctuations of time because through its changes it exhibits a certain ‘qualitative sameness’. In this paper I want to stretch this idea (though, I hope, not to breaking point) in order to come to terms with the identity of Hobbes in Oakeshott’s work. In doing so I am not the first to apply this concept to contemporary understandings of Hobbes. In his essay ‘A Case of Identity’ M.M.Goldsmith examined the various identities certain distinguished Hobbes scholars had foisted on Hobbes. He suggests that modern psychological terminology is not out of place in categorising the interpretations offered by writers such as Strauss, Warrender and Macpherson. According to Goldsmith, Strauss’s Hobbes had a modernity complex, Macpherson’s Hobbes displayed subconscious Marxist tendencies, and for Warrender, Hobbes had an obligation fixation. Without denying their relative strengths, Goldsmith finds each of these readings ultimately unsatisfactory: ‘(e)ach identification turned out to be markedly peculiar to the analyst. By
emphasising a particular characteristic, each imposed a strange and narrow consistency upon Hobbes.\textsuperscript{4} Though it is neither strange nor narrow I would suggest that there is also a consistency in Oakeshott’s reading that is ‘peculiar to the analyst’. But Oakeshott is more than another Hobbes analyst and his reading needs to be assessed not only for its value in contributing to our understanding of Hobbes but because it is central to the broader philosophical vision that Oakeshott offers. In what follows I will explore the identity of Hobbes as seen through Oakeshott’s distinctive interpretative glasses and suggest that the changes encompassed by this identity can be made intelligible by relating them to broader developments in this project. In terms of its impact on the way scholars have come to rethink the meaning of Hobbes Oakeshott’s work undoubtedly stands alongside the contributions of Strauss, Warrender and Skinner. About this, however, the paper does not have a great deal to say. Rather, the purpose of the paper is to explain the changes by relating them to Oakeshott’s own philosophical project. In so doing I am taking seriously Oakeshott’s early claim, expressed in his first published work on Hobbes, that

\begin{quote}
(i) it is the business of philosophy continuously to renew itself. And such new philosophy may arise from the study of what belongs to an earlier time; and the study of what belongs to an earlier time is profitable, in the end, only when it is related to a genuine renaissance. But the study, if it is to result in anything valuable, must be close: it is only by this detailed study of a philosophical text that it can become, not merely an inheritance, but an inspiration for fresh thought.\textsuperscript{5}
\end{quote}

With some scepticism Oakeshott asks the question in this early essay ‘whether Hobbes’s writings, when studied in this way, can ever yield the philosophical inspiration which has come from (for example) either Plato or Spinoza’. This is a question, he suggests, which ‘cannot be answered in advance’, though, ‘the attempt (if it attracts us) is worth making.’\textsuperscript{6} Oakeshott’s enduring interest in Hobbes is based on an inspiration of this sort and the gradual convergence of his own substantive political theory with his reading of Hobbes demonstrates that he remained true to this idea of the relationship of philosophy to its past. Hobbes continually resurfaces in his work as a figure from the philosophical past who has something important to add to our conversation. But the voice of Hobbes as it is relayed through Oakeshott is a distinctive one which closely mirrors the preoccupations of its creator. As Ken Minogue has aptly put it, ‘Oakeshott’s engagement with Hobbes has been a central feature of his own philosophy, and is a model of what one philosopher can do with another.’\textsuperscript{7}

\textsuperscript{4} Ibid., p. 91.
\textsuperscript{6} Ibid.
Since there is much in Oakeshott’s reading of Hobbes that cannot be dealt with here\textsuperscript{8} I have focussed this study around the two central themes of agency and authority, as the changes made here seem to best illustrate the reconfiguration of the history of moral and political thought that Oakeshott develops as he comes to work out his own substantive political theory. In order to make the philosophical past intelligible to the present Oakeshott constructs two distinct interpretative frameworks. It is significant that these heuristic devices are discussed at the outset of his two most substantial works on Hobbes (the introduction to \textit{Leviathan} and ‘The Moral Life in the Writings of Thomas Hobbes’) indicating that his engagement with Hobbes was central to the working out of his methodological concerns.

In the introduction to \textit{Leviathan} Oakeshott makes his famous claim that the appropriate context for considering a work such as \textit{Leviathan} (‘the greatest, perhaps the sole, masterpiece of political philosophy written in the English language’\textsuperscript{9}) is nothing short of the entire history of political philosophy. This history can be analytically broken into three distinct sub-traditions: Reason and Nature, Will and Artifice, and Rational Will. Plato, Hobbes and Hegel are recognised as the masters of these respective traditions. Of the tradition of Rational Will Oakeshott observes that ‘its followers may be excused the belief that in it the truths of the first two traditions are fulfilled and their errors find a happy release.’\textsuperscript{10} Here Oakeshott is clearly employing the sort of triadic framework common to other post Hegelian philosophical Idealists. Though not always so explicitly presented, the British Idealists developed their own philosophical concerns in light of a dialectical reading of the history of political thought. The British Idealists, as David Boucher has put it, ‘had a conception of the subject matter, an intellectual framework if you like, in terms of which they appraised past systems of thought in order to advance their own.’\textsuperscript{11} Like Hegel they sought to overcome the deficiencies in past political thought, not by rejecting it in toto, but by incorporating the important insights of each tradition and superseding the defects. Though Oakeshott never endorses their teleological reading of historical development he shares their conviction that the history of philosophy is central to its current practice.

\textsuperscript{8} For an instructive reading of Oakeshott based on similar premises to mine but taking a somewhat different tack see Bruce Frohnen’s ‘Oakeshott’s Hobbesian Myth: Pride, Character and the Limits of Reason’, in \textit{The Western Political Quarterly}, December 1990, vol. 43, no. 4, 789–809.
\textsuperscript{9} \textit{Rationalism in Politics and Other Essays} (Indianapolis, 1991), ed. Timothy Fuller, p. 223.
\textsuperscript{10} \textit{Ibid.}, p. 227.
As I will show, Oakeshott’s early reading of Hobbes clearly takes its bearings from this construction of the philosophical past, and his criticisms of Hobbes proceed from the perspective of the Hegelian ‘Rational Will’ tradition. It should be pointed out that though it is assumed in Oakeshott’s early work, the only place he explicitly mentions this tripartite account of the history of political philosophy is in his introduction to *Leviathan*. He never fills in the detail of this history in the way Hegel, or indeed, Collingwood does. Moreover, he never employed it as a means to draw the sort of concrete historical accounts of political thought that Greenleaf has.

The second framework that Oakeshott uses for instilling intelligibility into past political thought was developed at the outset of ‘The Moral Life in the Writings of Thomas Hobbes’ and it tends to assume a preponderant place in the philosophical history he constructs later in his career, cutting across and in some sense surpassing the earlier tripartite account set out in the introduction to *Leviathan*. This second context adds another layer of complexity to Oakeshott’s reading of Hobbes, adding richness, yet making the relationship between the two philosophers less straightforward. In this case he also employs a triadic framework, this time in an attempt to make intelligible the moral experience of post-medieval Europe, and its reflection in the moral and political thought of the period.

The three specific moral idioms (as he refers to them here) are the morality of communal ties, the morality of individuality, and the morality of the common good. Since the first of these fell into desuetude with the break-up of the medieval order the second and third are the crucial ones for understanding the thought and experience of morality and its reflection in politics in modern times. Of the morality of individuality Hobbes is recognised to be a master (and, importantly, not as the representative of a tradition in need of

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13 Though according to Ken Minogue he also used it in his lectures on the history of political thought at the LSE, see *Morality and Politics in Modern Europe: The Harvard Lectures* (New Haven and London, 1993), ed. Shirley Robin Letwin, p. vii–viii.

14 On this see Boucher ‘W.H. Greenleaf’.

15 Though the second of these frameworks clearly becomes Oakeshott’s dominant vehicle for conceiving the philosophical past it should be stressed that these two frameworks, because they are analytical constructs, are not in any sense incompatible with one another. Nor is it the case that Oakeshott simply abandons the first of these frameworks in favour of the second. The point is simply that the second of these frameworks becomes dominant later on and the original (more recognisably Hegelian) structure gradually recedes from view. It is this dynamic that helps us account firstly, for the changes to his reading of Hobbes and, secondly, for the growing convergence of this reading with his own substantive political theory.
supersession). A similar framework is also employed in his essay ‘The Masses in Representative Democracy’ as well as the recently published *Morality and Politics in Modern Europe*.

All of these works touch on themes which were given full expression in the last essay of *On Human Conduct* where the history of modern understandings of the state in terms of the opposition between the ideal characters societas and universitas was fully developed. It seems that this framework was different from the former in that it was deployed for a different purpose and dealt with different subject matter. Where the former dealt with the whole history of political philosophy — a history conceived philosophically, not historically — the focus in the latter is primarily on the history of modern political thought. For Oakeshott, reflection on politics occurs on one of three, not always readily distinct, levels, and political thinkers rarely attain that level of abstraction whereby the link between politics and the whole of human experience is made. Plato, Augustine, Spinoza, Hobbes and Hegel undoubtedly qualify here, but the status of others such as Locke, Burke, Mill is less clear.

Oakeshott, of course, despite what he says about the importance of studying the classic texts of political or legal philosophy, has no intention of compiling a list of ‘Greats’. Rather, his account of the modern history of political reflection in terms of the opposition between the morality of individualism and collectivism enables him to cover a broader category of thought than the purely philosophical and move into a form of historical explanation. For the remainder of this paper I want to focus on the way this shift in frameworks in order to come to terms with past political thought was reflected in the nuances of his analysis of Hobbes. This will be done by examining respectively Oakeshott’s treatment of Hobbes’s theories of volition and authority.

### I

**Volition, Agency and the World of Practice.**

Towards the end of his extensive 1937 review of Leo Strauss’s *The Political Philosophy of Hobbes* Oakeshott argued that,

although Hobbes set an example followed in one way or another by almost every later political thinker of starting with will instead of law, he never had a satisfactory or coherent theory of volition, and the whole Epicurean tradition to which he belonged did not bear fruit until this lack was remedied, and the remedy was, in fact, the union of a reconstituted natural law theory with Hobbes’s Epicurean theory — a union indicated in such phrases as Rousseau’s ‘General Will’, Hegel’s ‘Rational Will’ and Bosanquet’s ‘Real Will’. The most profound movement in modern political philosophy is, as I see it, a

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revivification of the Stoic natural law theory achieved by the grafting upon it an Epicurean theory; it springs from the union of the two great traditions of political philosophy inherited by Western Europe from the ancient world.

From the perspective of the recently arrived ‘Rational Will’ tradition Oakeshott makes the judgment that Hobbes’s theory of volition is incoherent as it stands. It is necessary however, to determine the precise reasons for this judgment since they are not exactly those offered by other philosophical Idealists.

In his Lectures on the History of Philosophy Hegel set the tone for subsequent Idealist readings of Hobbes where he clearly identifies him, and other English philosophers such as Bacon and Locke, with the hedonistic tradition of Western thought stretching back to the Roman Epicureans and the Greek Cyrenaics. For Hegel, the Hobbesian state of nature is a condition ‘like that of the animals — a condition in which there is an unsubdued individual will.’

Despite this we find in the History of Philosophy a reading of Hobbes sympathetic to Hegel’s account of the emergence of modern subjectivity. In contrast to the prevailing view that authority, whether in the form of Holy Scripture or positive law, is external, an ideal set before the individual, Hobbes, according to Hegel, ‘sought to derive the bond which holds the state together, that which gives the state its power, from principles which lie within us, which we recognize as our own.’ He is also said to have derived the principles of monarchical power from universal determinations, and to have recognised that the natural state where individual wills are pitted against one another is ‘not what it should be, and must hence be cast off.’ Nevertheless, on Hegel’s reading, Hobbes’s identification of the will with appetite ultimately renders his theory defective. For Hegel the self only achieves true freedom when arbitrary willing is superseded — that is, when the will chooses its ends in a rational or intelligent manner; when the universal is chosen over mere subjective preference. Only here does the content and the form of the will coincide, since, ‘when I will what is rational, then I am acting not as a particular individual but in accordance with the concepts of ethics in general. In an ethical action, what I vindicate is not myself but the thing.’ In other words, the completely indeterminate subjective

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17 *Hobbes on Civil Association*, pp. 147–8.


side of the will which ‘has an infinite aspect in virtue of its form’ is connected with the determinate content of the will, that is, the external act of the will which is chosen in accordance with the concrete universal and in so choosing the will realises its potential. Hegel has claimed to have restored the proper place of Reason in the formation of the free will, though at a fundamentally new level to that which Hobbes’s chief target, the scholastics, had drawn it.

The dominant, if not exclusive, reading of Hobbes by Idealist philosophers, following Hegel, centred on the claim that he was perhaps the seminal figure in the history of modern hedonist thought. Conscience, rationality and the moral ties that bind individuals together, so the argument runs, are mere chimera and are reduced by Hobbes to mere animal appetite. From Coleridge to Collingwood philosophical Idealists placed Hobbes at the centre of the modern hedonistic theory of human motivation. On T.H.Green’s reading, for instance, feeling is said to be the exhaustive mode of consciousness, and reflection its mere servant. ‘Conscience’, the rational will, and the actual fabric of moral custom and law, can all be explained in terms of feeling. According to Green, feeling forms the basis of all the dominant ethical theories from Hobbes down, though with him we get a most stark and uncompromising formulation:

With Hobbes, the feeling on which morality rests is the mere animal appetite, the sense of want, with the impulse to appropriate that which will satisfy the want. This appetite, however, has to lose its merely animal character before it will account even for the state of universal warfare in which, according to Hobbes, society begins. ‘Homo homini lupus’, but the wolf eats when he is hungry, and has done with it. Base appetite, supplemented with the capacity to calculate in instrumentalist terms offers an explanation for the origin of positive law and ‘of the judgment ‘I ought’, which, Green argues, ‘Hobbes finds simply in the command of a ruler’. The ruler is none but ‘the appetite of some one strong enough to enforce its satisfaction, in submission to which the appetites of others gain more than they lose’. Further, ‘appetite, transformed (it is not explained how) into deliberate self-interest, is thus the source at once of the idea of duty, and of the ‘moral sentiments’, or the affections which dispose us to realise the idea.’

Rather than completely rejecting Hobbes’s theory, writers such as Hegel, Green and Collingwood saw in hedonism a necessary if insufficient explana-

24 Ibid.
27 Ibid.
tion of volition.\textsuperscript{28} Equally inadequate is the account of morality which separates moral reasoning from the phenomenal world of action in the manner of Kant or, indeed, any account which holds moral qualities to be radically separated from the human agent. According to post-Kantian Idealist thought the deficiencies of these respective moral theories are only superseded where the individual actively identifies his will with the complex of community life where Reason is said to reside. As Oakeshott suggests this is indicated in Rousseau’s General Will, Hegel’s Rational Will, Bosanquet’s Real Will, but also, we may add, in Bradley’s notion of ‘My Station and Its Duties’,\textsuperscript{29} and Collingwood’s attempt to discover an encompassing theory of mind.\textsuperscript{30}

In his 1935 review essay on contemporary Hobbes literature Oakeshott makes the point, in contradistinction to these earlier Idealists, that what is generally taken to be Hobbes’s uncompromising view of human selfishness is in fact the logical conclusion of his theory of knowledge and is not the premise of his moral theory.

His premise is a doctrine of solipsism, a belief in the essential isolation of men from one another, and expounded as a theory of knowledge. This isolation, it is true, is modified by ‘the most noble and profitable invention of all other’, speech; but it remains a merely artificial modification. And when this genuine premise of Hobbes’s argument is appreciated, the attribution to him of the doctrine of the essential selfishness of man is seen at once to be mistaken. Others have held an egoistic view of human nature, and have based that view upon their observation of human behaviour; but no such argument is to be found in Hobbes. His doctrine is that each man is unavoidably shut up within the world of his sensations; and there is no more meaning in speaking of him as ‘selfish’ than there is in speaking of anything else that is monadically conceived as selfish — the universe as a whole, or an electron.\textsuperscript{31}

Moreover, Oakeshott also claimed in this essay that ‘the true nature of Hobbes’s individualism has yet to find its expositor, we still have to wait for the interpreter who will show us that this individualism is based, not upon any foundation in moral opinion at all, but upon a theory of knowledge, upon a thorough-going nominalism and an almost as extreme solipsism.’\textsuperscript{32} While it is unclear whether Oakeshott ever saw himself as this interpreter it cannot be doubted that Oakeshott consistently saw Hobbes as nothing other than a towering figure in the history of modern individualism; an individualism arising from nothing other than the nominalist glasses through which he viewed the world.

\textsuperscript{29} \textit{Ethical Studies} (Oxford, 1927).
\textsuperscript{30} See especially \textit{The New Leviathan} (Oxford, 1942).
\textsuperscript{31} ‘Thomas Hobbes’, p. 275.
\textsuperscript{32} \textit{Ibid.}, p. 272.
According to Oakeshott, Hobbes’s civil philosophy ‘is based, not on any vague belief in the value or sanctity of the individual man, but on a philosophy for which the world is composed of *individuae substantiae*.’

Since, according to Oakeshott, Hobbes’s theory of volition is in fact derived from his theory of knowledge it is reasonable to assert that it was precisely the latter, ie. the radical solipsism and nominalism, which was found wanting. Oakeshott’s reasons for claiming Hobbes’s theory of volition to be inadequate should be seen in terms of the theory of practical knowledge fully elaborated in *Experience and Its Modes*. In practical life the world is viewed *sub specie voluntatis*, and Oakeshott’s theory of the will, consistent with the way he reads Hobbes at this stage, is tied to his understanding of the achievement of practical knowledge. It is from this perspective that Hobbes’s theory of volition is said to be inadequate. Oakeshott contends that radical solipsism is capricious because it fails to acknowledge the world it implicates. Mere activity, which is not conditioned by the world of value, or, if it does assert value, recognises it only as subjective preference, is a vicious abstraction. In light of Oakeshott’s account of the nature of practical experience and his nominalist reading of Hobbes it is not difficult to see why at this stage he found Hobbes’s theory of volition inadequate.

Specifically, Oakeshott rejects the view, entailed by a nominalist reading of experience, that practice is no more nor less than a collection of mere opinions. Whether they be ‘personal or social estimates of value’ defenders of this position deny that such opinions can ever constitute a world of moral or practical knowledge. In *Experience and Its Modes* Oakeshott described this position in the following way:

Nothing, it is said, is more frequent than a difference of opinion on these questions of moral value: what one judges to be good, another considers bad; what one believes to be right, another thinks wrong; what one holds to be admirable, another finds despicable. The most elementary lesson of life is the necessity of recognizing these irreducible differences; a life passed in an attempt to reconcile them would indeed be febrile and fruitless. And what is true of moral judgments is true, no less, of all practical judgements whatever; they belong to no world and recognize no criterion of coherence.

There is perhaps no more intrepid enunciator of this position than Hobbes himself. One reference will suffice:

But whatsoever is the object of any mans Appetite or Desire; that is it, which he for his part calleth *Good*; And the object of his Hate, and Aversion, *Evill*; And of his Contempt, *Vile* and *Inconsiderable*. For these words of Good, Evill, and Contemptible, are ever used with relation to the person that useth them: There being nothing simply and absolutely so; nor any common Rule.

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33 *Rationalism in Politics*, p. 280.
34 *Experience and Its Modes* (Cambridge, 1933), p. 254.
of Good and Evill, to be taken from the nature of the objects themselves; but from the Person of the man (where there is no Common-wealth;) or, (in a Commonwealth,) from the Person that representeth it...

Though the solipsistic predicament of man in Hobbes’s world may be susceptible of qualification via the artificial contrivance of language, its fundamental nature is, according to Oakeshott, not open to change. Even allowing for the mitigating effects of language (or other artificial institutions such as the Sovereign) on man’s predicament, judgments of value, according to Hobbes, are only ever ‘used with relation to the person that useth them’. The judgments of the mind are not corrigeble according to the arrangements of objects in the world since world (or object) is invariably other than mind (subject).

According to the view asserted in *Experience and Its Modes*, it is possible to infer that Oakeshott found Hobbes’s position inadequate because judgments of value according to the latter never rise above the level of mere opinion to the world of practical knowledge. Such a view, says Oakeshott, ‘is open to a fatal objection’. For,

(i) if anything were a matter of *mere* opinion there could be no difference of opinion. It belongs to the character of a mere opinion that it can never be contradicted: in the region of mere opinions, what one asserts the other never denies. Yet not only does this view of practical experience assert the possibility of a difference of opinion, but it is obliged to assert it. A ‘mere opinion’, in this sense, must fall outside possible experience. Everywhere there is the possibility of contradictory opinions, and where these are possible we have left behind a collection of mere opinions and have, at least, entered a world of opinions.

To deny the proposition that opinions constitute knowledge, however rudimentary, is to deny that opinion is a component of experience, since, according to Oakeshott, all opinions make some implicit assertion of reality.

Oakeshott’s rejection of Hobbes’s theory of volition arises, not from a hedonistic reading of Hobbes’s theory, but from Hobbes’s inadequate depiction of the nature of practical experience. Seen from the perspective of the argument of *Experience and Its Modes*, Hobbes’s understanding of experience would seem to be nothing but a set of random, chaotic, unmediated encounters with an external world, incapable of generating true knowledge. This of course is wholly at odds with Oakeshott’s contention that every experience implies a world of coherent, integrated ideas. Practical knowledge, as is the case with the worlds of history and science, is only possible because each so called ‘fact’ implicates, and can only exist in relation to, such a world of ideas. Clearly, the theory of volition constructed in *Experience and Its Modes* draws on ideas com-

36 *Experience and Its Modes*, p. 254.
mon to earlier Hegelian theories. Moreover, despite his subtle, but significant, divergence from other Hegelian readings of Hobbes’s understanding of the will, Oakeshott’s own theory of volition nevertheless reflects the judgment common amongst these writers concerning the inadequacy of Hobbes’s account.

The original introduction to *Leviathan* (1946) is notable for the emphasis it places on Hobbes’s voluntarism, which, according to Oakeshott, arises not from a moral doctrine about the sanctity of the individual, ‘but on a philosophy for which the world is composed of *individuae substantiae*.’ In other words, it derives from Hobbes’s radical epistemological nominalism. In this the 1946 introduction is consistent with the 1930’s essays on Hobbes. However, in ‘The Moral Life in the Writings of Thomas Hobbes’ (1962), as indicated by the title, Oakeshott seeks to uncover the moral doctrine he sees at the heart of Hobbes’s theory. This is a significant change from his 1930’s view that Hobbes’s ‘indi-

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38 Oakeshott’s departure from the traditional reading of Hobbes on this (and it should be stressed that Hegel, Green, Collingwood etc. were largely reiterating conventional wisdom here — their philosophical adversaries, such as Bentham, Mill and Austin, had the same basic working understanding of Hobbes, though, of course, this latter group took his putative hedonism to be one of the great strengths of his theory) seems to lie in the different emphasis Oakeshott gives to the intellectual tradition that Hobbes is said to belong to. It is significant that Oakeshott reads this particular tradition in terms of the master conceptions ‘Will and Artifice’ and not, as his predecessors had done, in terms of ideas such as hedonism/egoism. To the tradition that Oakeshott recounts ‘Epicurus was an inspiration rather than a guide’ and though it was nourished by Roman law, the ‘politico-theological ideas of Judaism’, and Augustine it was reinvigorated from the fourteenth to the seventeenth centuries in the ideas of late scholastic nominalism (Introduction to *Leviathan*, p. liii). On Oakeshott’s reading Hobbes’s closest intellectual affinities are to Duns Scotus, Ockham and the theologians of the fifteenth and sixteenth centuries who grappled with problems arising from the new found status of the individual, rather than to Epicurus, Machiavelli (contra both Collingwood and Strauss), and subsequently, Bentham and the utilitarians. Accordingly, Oakeshott places less significance (and certainly no moral significance) on Hobbes’s equation of will and appetite [*Leviathan*, ch. 6, p. 38, *De Homine*, XI, 2, in *Man and Citizen* (New York, 1972), ed. Bernard Gert, pp. 63,4] than other writers since, according to Oakeshott, what many have regarded as egoism in Hobbes’s theory of man ‘turns out to be neither moral nor a defect; it is only the individuality of a creature shut up, without hope of immediate release, within the world of his own imagination’ (Introduction to *Leviathan*, p. liv). A passage more indicative of what Oakeshott takes to be the true nature of Hobbes’s individualism comes in chapter 5 of *Leviathan* where Hobbes defines reason in thoroughly agent relative terms. According to Hobbes, the spurious appeal to ‘right reason’ to settle disputes (rather than to a recognised judge) ‘is as intolerable in the society of men, as it is in play after trump is turned, to use for trump on every occasion, that suite whereof they have most in their hand. For they do nothing else, that will have every of their passions, as it comes to bear sway in them, to be taken for right reason, and that in their own controversies: bewraying their want of right reason, by the claim they lay to it’ (*Leviathan*, p. 26).

39 Introduction to Hobbes’s *Leviathan*, p. lv.
Individualism is based, not upon any foundation in moral opinion at all, but upon a theory of knowledge, upon a thorough-going nominalism and an almost as extreme solipsism. Rather than seeing Hobbes’s radical individualism as an inadequate theory of volition Oakeshott comes to regard this as the great virtue of his thought. On this new reading Hobbes is seen as the philosopher, par excellence, of the morality of individuality, which, along with the morality of communal ties and the morality of the common good, constitutes one of the three major idioms of moral discourse to be found in the last thousand years of European history. Oakeshott is able to retreat from the judgment that Hobbes’s theory of volition is inadequate because he now reads Hobbes in terms of a new framework. This new framework accounts for the shift in the type of individualism that is given emphasis in his various readings of Hobbes: from epistemological to moral individualism. The modern individualist disposition is a recurrent theme in Oakeshott’s later writings and in works such as ‘The Masses in Representative Democracy’ and the final essay of On Human Conduct Oakeshott does little to hide his belief in its superiority over other expressions of the moral life. It is also central to his account of the authority relations that constitute civil association. It is to this that we now turn.

II

Authority, Law and Civil Association

Though Oakeshott only fully developed his theory of civil association late in life, the question of civil authority was the subject of one of his first essays. Before considering Oakeshott’s treatment of Hobbes’s theory of authority I want to briefly discuss the argument of this essay as it reveals a philosophical perspective some distance removed from Hobbes and one which Oakeshott subsequently reworked at least partly through his engagement with the latter.

41 Rationalism in Politics, pp. 295–298.
42 Patrick Riley (‘Michael Oakeshott, Political Philosopher’, in The Cambridge Review, October 1991, 110–113, at p. 112) refers to an unpublished 1963 essay where Oakeshott explores the similarities between the condition of man in Hobbes’s state of nature with the struggle for recognition in Hegel’s master/slave dialectic. Here Oakeshott rejects the idea that the Hobbesian pre-civil state is merely a clash of unsubdued individual will. Above all else man in the state of nature is governed by the desire to be accorded honour, to be first in the race, and this invariably entails the recognition of superiority by other competitors. Only the civil condition provides a situation where the permanent fear of being dishonoured (which is what violent death at the hands of a competitor signifies) is abated. This seems to reinforce the point pursued most extensively in ‘The Moral Life’ concerning the centrality of pride, as the source of aristocratic individuality, in Hobbes’s moral theory. See Rationalism in Politics, pp. 341–44.
The manner in which the argument advances is indicative of his early understanding of philosophical method. One commentator suggests that here ‘Oakeshott’s Hegelianism reveals itself more as a philosophy of explanation . . . than anything else.’

Though I tend to endorse this, I would also claim that arising from this is a recognisably Hegelian understanding of the state, which, though never in any sense repudiated, is transformed significantly in his later theory of civil association.

In this 1929 essay Oakeshott sets out to answer three general questions: ‘First, What do we mean by authority? secondly, What do we mean by the state; and thirdly, Where, then, is the authority of the state?’ The philosopher removes the inconsistencies implicit in ordinary understandings of the term by transforming them into a coherent whole. In order to determine what is itself authoritative we need to distinguish the cause of authority from its ultimate ground. Only the whole ground of authority will provide a sufficient definition, whereas the mere cause of authority is no more than an abstraction. The distinction is between that which produces or causes a belief and the reasons which ultimately ground a belief. Only the second can be authoritative, resting on nothing outside itself. Oakeshott rejects the common understanding of authority that takes it to be both external and coercive. By external he means that which takes the place of first hand experience, to be done away with where such experience exists. By coercive he means that which does not attempt to explain or persuade. There is a certain ambiguity contained in this understanding. Authority, he suggests, cannot be both external and coercive, for

if it be external, then it can be coercive in only a vague, metaphorical sense. For an external ‘authority’ can refer solely to the historical or psychological cause of belief, opinion or action, never to its whole ground, and it would be absurd to maintain that the power which actually compels a belief belongs merely to its cause.

A belief has authority when it is sustained by adequate reasons. We may derive our beliefs from an external source — an expert, a parent, a schoolteacher, indeed, a tradition — but the ultimate ground of these beliefs is to be found in the judgment we make, either, of the adequacy of such sources, or, in reasons unrelated to the source itself. A merely external authority ‘is a bare abstraction. . . it is a cause severed from a ground.’ An external authority can only be said to be coercive in the negative sense that it fails to persuade. Whereas that which is authoritative is coercive in and of itself. It is a self-sufficient whole;

46 Ibid., p. 75.
47 Ibid., p. 78.
48 Ibid., p. 76.
‘absolute, irresponsible, self-supporting and inescapable.’ 49 A belief is only inescapable, is able to compel action and thought, when it is supported by ‘our world of ideas as a whole.’ 50 This is the sole ground of an authoritative belief.

Far from being the antithesis of reason, authority is simply that which reason, as the ultimate ground of belief, compels us to accept. This is not, of course, the artificial reason of the philosophe whose genius ‘is a genius for rationalisation, for making life and the business of life rational rather than for seeing the reason for it, for inculcating precise order, no matter at what expense, rather than for apprehending the existence of a subtle order in what appears to be chaotic.’ 51 Oakeshott here defines reason as ‘our world of ideas in so far as it is a coherent whole’. Anything less than this is not authoritative, since an authority which we can escape is an imposter. 52

Oakeshott applies a similar procedure to understanding the state. A number of competing definitions of the state in ordinary usage are assessed and each are found to be abstract and inadequate. A philosophical definition of the state cannot be considered satisfactory unless and until it supersedes these abstractions and considers it as a coherent whole. The philosopher’s task is not to randomly choose one of these definitions since ‘pluralism run to seed is not an engaging spectacle’, nor is it to add together a series of partial and incomplete definitions in the hope of constructing a complete account. It is rather to find a complete and convincing account of the state in the light of which these other conceptions appear as abstractions. The following accounts of the state are assessed: the state as a piece of territory, the state as a collection of legal or economic persons, the state as a secular whole, ‘or persons organised for secular purposes’, the state as the political machinery of government.

All of these accounts point to important features of the state. Some, depending on their degree of abstraction, are more adequate than others. The state understood as ‘politically organized society’ is less abstract than the state understood as ‘secular society’, ‘because the political whole more nearly supplies to our complete needs than the secular whole; the merely political man is more complete than the merely secular man.’ 53 However, none of these accounts offer themselves as entirely adequate because they all imply something beyond themselves, namely, the concrete whole of which they are a part. The state cannot simply be identified with the government, rather, ‘it is the social whole which government implies and requires for its explanation; for to explain a thing is to think of it in terms of the whole which it implies.’ 54 To sep-

49 Ibid., p. 78
50 Ibid., p. 79
51 Rationalism in Politics, p. 139.
53 Ibid., p. 84.
54 Ibid., pp. 83–4.
arate the ‘political machinery of government’ (which some take to be identical with the state) from society is an abstraction since the latter is implied by the former. It is to fall short of a complete explanation of the state. Because it is complete in itself, that is, it requires nothing beyond itself to explain it, the state is a concrete fact. Nothing short of this is adequate.

Since law is the ultimate voice of government, and authority is that ‘from which there is no possibility of appeal’ it follows that law, from one viewpoint — that of the legal practitioner — is the ultimate authority in the state. For the practising lawyer or judge there is no authority outside the existing body of laws. However, this is simply a legal fiction, not a concrete fact. The authority of law and government is derivative, it rests on something outside itself, namely, ‘the moral and political opinions of its subjects.’ Further, it is not sufficient to claim, with Locke, that authority resides in the consent of the people. Authority, since complete in itself, is independent of whether consent is given or withheld: ‘consent itself requires an authority upon which to rest.’

There is no agent or set of agents, short of the state itself, to which authority can finally be attached. Though it is difficult to pin down, authority in the state is not illusory. He concludes as follows:

The authority of the state is not mere government and law, nor is it founded upon a contract or any other form of the consent of the people, but resides solely in the completeness of the satisfaction which the state itself affords to the needs of concrete persons. Apart from its completeness, the state has no authority, for that only is authoritative, in the full sense, which is itself complete. Of this authority, and of no other, can it be said: Non est potestas super terram quae comparetur ei.

It is significant that Oakeshott concludes his first essay on authority with this clear reference to Hobbes, indicating a belief that Hobbes’s purely legal conception of the state is an abstraction and therefore an inadequate explanation of the nature of authority. Oakeshott is working here with a set of ideas developed by other Idealist political philosophers. Though analytically separable, the state and society are, in practise, a unified whole. Notably Oakeshott subsequently rejected the claim that his argument could be labelled Hegelian or Bosanquetian, suggesting that though he owed much to Hegel and Bosanquet he also found many of their arguments fallacious. No doubt Oakeshott would also reject the comparison with Green, but his attempt to distinguish the source of authority from its ultimate ground bears a certain resemblance to the latter’s Lectures on the Principles of Political Obligation (interestingly, the first of these goes under the title ‘The Grounds of Political Obligation’). Green rejected Austinian theories of sovereignty precisely because they failed to give a com-

55 Ibid., p. 86.
56 Ibid., p. 87.
57 See correspondence in ibid., pp. 87–90.
plete account of the grounds of authority in society. The authority of law, that is, the coercive part of the state, rests on the substantive conditions of social existence which it presupposes and whose end it serves. The business of law, says Green, ‘is to maintain certain conditions of life — to see that certain actions are done which are necessary to the maintenance of those conditions, others omitted which would interfere with them.’\(^{58}\) Law only has value for Green to the extent that it promotes the ethical ideal implicit in society.

Oakeshott’s early estimation of the Idealist theory of the state is clearly expressed in a 1936 review, where he claimed that this theory ‘is the only theory of the state which has paid thoroughgoing attention to all the problems which must be considered by a theory of the state.’\(^{59}\) Though he went on to claim that it has yet to receive a satisfactory statement, it is clear that all subsequent theories of the state must build on the insights of writers such as Hegel, Green and Bosanquet. By siding with these thinkers Oakeshott apparently puts himself at odds with both the Hobbes-inspired Austinian school of jurisprudence and Hobbes himself.

We saw in the previous section that at this stage Oakeshott judged Hobbes’s theory of volition to be inadequate. This is a view which he retreats from as he makes a shift in interpretive frameworks. On the question of authority also, there are to be found some indicative alterations. However, from the beginning, Oakeshott’s reading of Hobbes on the question of authority stood in stark contrast to the interpretations offered by the sovereignty theorists and earlier Idealists.

In a 1934 review, Oakeshott makes the point that Hobbes does not succumb to the temptation ‘of that ‘individualism’ in political theory’ which insists on separating the state from society. He says here that ‘the notion of the State taking up and directing a separable part of the life of society corresponds closely to the seventeenth century notion that when man entered political society he surrendered, not the whole, but a part of his natural rights — and it is a notion from which Hobbes might have rescued us if we had listened to him.’\(^{60}\)

So from an early stage Oakeshott is careful not to implicate Hobbes in his criticism of views contrary to his own position on authority. He never follows the view of Bosanquet and Green that Hobbes’s Sovereign rules merely by force.\(^{61}\) Hobbes’s theory of authority, says Oakeshott, ‘has suffered from its

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being isolated from the system of his thought.'\textsuperscript{62} An accurate account of his theory of authority will only emerge by following through Hobbes’s argument from its conceptual presuppositions. That is, Hobbes’s radical theory of knowledge permeates the whole of his thought. On this reading, the authority of the Sovereign is not a practical expedient, it is rather a logical necessity ‘exactly paralleled by the necessity of fixing the meaning of names if language is to serve any useful purpose at all . . . ‘ Because man is primarily a solipsistic creature of passion liable to conflict with others who share his world he requires a commonly recognised authority with the capacity to control men’s external actions. What Oakeshott finds remarkable about Hobbes’s theory of authority, ‘and what on any other interpretation appears as a mere contradiction’, is its exclusive concern with the control of men’s actions. Hobbes’s Sovereign has no concern with his subject’s intellect or conscience, since ‘when a man is by himself, when he is speaking to himself, it is not necessary that the language he uses should be understood by others’. According to Oakeshott, Hobbes’s rejection of authority in philosophy, especially his rejection of Aristotle, far from being inconsistent with his view of the necessity of a common political authority, is actually entailed by it.\textsuperscript{63} This is a view that Oakeshott consistently maintains and is elaborated in his subsequent writings on Hobbes. Indeed, this distinction between different types of authority is central to his later argument that the authority of law is not a function of its desirability. It is nevertheless possible to see in this brief, early discussion of authority in Hobbes a contrast with the full-blown theory of state sovereignty expounded by Oakeshott in the essay ‘The Authority of the State’.

It is however, Oakeshott’s substantial post war essays on Hobbes (the introduction to \textit{Leviathan}, 1946 and 1974,\textsuperscript{64} and ‘The Moral Life in the Writings of Thomas Hobbes’, 1960) that are crucial to the theory of authority given full expression in \textit{On Human Conduct} and ‘The Rule of Law.’\textsuperscript{65} It is to these writings that I will now turn.

Perhaps the most immediately striking difference between the two versions of the introduction to \textit{Leviathan} is the way in which Oakeshott systematically substitutes the terms civil association for civil society and cives for subjects. By itself this indicates a certain convergence with his own theory of authority as it is most fully developed in \textit{On Human Conduct}. Along with these semantic changes Oakeshott made some significant alterations to the theory of obligation

\textsuperscript{62} ‘Thomas Hobbes’, p. 275.

\textsuperscript{63} \textit{Ibid.}, p. 276.

\textsuperscript{64} The revised version of the introduction to \textit{Leviathan} was originally published in \textit{Hobbes on Civil Association} (Oxford, 1975) and reprinted in the 1991 edition of \textit{Rationalism in Politics}. My references are to the latter.

\textsuperscript{65} In \textit{On History and Other Essays} (Oxford, 1983).
possibly in response to criticisms made by Warrender and Brown.\textsuperscript{66} I do not have the space here to discuss all the changes from the original to the revised versions of the introduction. However, the changes made to the theory of obligation perhaps best illustrates the growing interpretive position that the ideal character civil association assumes in the later part of Oakeshott’s career. In the original introduction (1946) Oakeshott attributes to Hobbes four different senses of the word obligation, where obligation is taken to mean being bound, to be forbidden or to suffer impediment.\textsuperscript{67} The first, where a man is prevented from performing an action simply because of an external obstacle, such as the power of another man, is termed physical obligation. The second is internal and occurs whenever a man is prevented from acting because he deduces that the consequences of the act may be harmful — this is rational obligation. Oakeshott suggests that the labels rational and physical obligation are used for convenience because the sense of obligatoriness involved is of a different order from that arising from laws in the proper sense. The third type of obligation is termed moral and arises from an act of authority, which is the product of a voluntary act. The creation of the Sovereign is an act of this type. On this account moral obligation does not exist in the state of nature. Only authority can curtail natural right since

an authority is a will that has been given a Right by a process called authorization, which (in turn) is the voluntary act of those who are to be morally obliged or bound by the commands of the authorized will. This voluntary act of authorization is a surrender (by mutual covenant) of the natural Right of each man, which, in a single act, creates and endows with authority an artificial Representative man or body of men who, in respect of the endowment is called Sovereign. The sole cause of moral obligation is the will of this Sovereign authority; the only sort of action to which the term moral obligation is applicable is obedience to the commands of an authority authorized by the voluntary acts of him who is bound. The answer to the question, Why am I morally bound to obey the will of this Sovereign? is, Because I have authorized this Sovereign, ‘avouched’ his actions, and am ‘bound by my own act.’\textsuperscript{68}

The fourth and final sense of obligation, ie. political obligation (a term not used in the revised version), Oakeshott suggests, is a combination of the first three:

Civil society is a complex of authority and power in which each element creates its own appropriate obligation. There is the moral obligation to obey the authorised will of the Sovereign; there is the external physical obligation


\textsuperscript{67} Introduction to \textit{Leviathan}, p. lix.

\textsuperscript{68} \textit{Ibid.}, p. lx. In Hobbes words, there is ‘no obligation on any man, which ariseth not from some act of his own’ (\textit{Leviathan}, p. 141).
arising from force or power; and there is the internal rational obligation of self-interest arising from fear of punishment and desire of peace. 69

A commonwealth is therefore a combination of these various elements each resulting from a separate motivation.

In the revised edition the distinctions physical, rational, moral, political are discarded and Oakeshott reformulates his account of obligation in general. Civil obligation is said to be one instance of moral obligation. In the pre-civil state, Oakeshott now reads Hobbes as saying, man makes agreements with others in order to make more secure the satisfaction of his wants enabling at least a partial escape from the precariousness of mutual isolation. 70

It is in these original, evanescent agreements that the origins of moral conduct are to be found. The obligations they entail are genuine since they arise from an act of will. However, the only thing binding the parties to the contract is fear of the consequences of not obeying and at this stage where there exists no common adjudicator, neither party enjoys, to any meaningful extent, a greater capacity to enforce punishment for non-compliance. Further reinforcement for these agreements may be found, when, for instance, both parties adhere to the maxim that honesty is the best policy. This is further strengthened if coupled with the belief that such maxims (termed by Hobbes the laws of natural reason) are recognised also as laws of God. There may be good reasons for obeying these laws (because of reward in heaven or because if honest a man’s reputation will not suffer) but as long as there exists no common power there is no guarantee that either party will perform his part of the agreement. The first performer to any agreement makes himself vulnerable to the other party. Where there is no security, therefore, these ‘laws’ cannot be said to be obligatory. In this sense Oakeshott suggests the obligation arising from these transactions are ‘examples of pure but imperfect moral obligation.’ 71

Civil obligation like all other forms of obligation arises from a voluntary act and is therefore also a moral obligation. 72 However it is different from the so-called pure but ‘imperfect’ type in at least two important respects. First, the covenantors agree to establish a sovereign actor to whom they surrender both their right to unconditionally govern themselves and their power to act in accordance with this right. The establishment of a common authority, along with appropriate power necessary to enforce judgments, removes the insecurity of the state of nature as well as the reasons for not adhering to contracts entered into. Second, the obligation to obey the Sovereign encompasses all other moral obligation. In authorising the Sovereign to make and interpret laws the covenantors surrender their right to recognise the authenticity of all ‘laws’ save

69 Ibid., p. lxi.
70 Rationalism in Politics, p. 286.
71 Ibid., p. 287. Oakeshott discusses the transition of these ‘laws’ from rational theorems to moral obligations in ‘The Moral Life’, ibid., p. 309–312.
72 Ibid.
those of the Sovereign’s making. Even the ‘laws’ of God only become authen-
tic laws when enacted by the Sovereign. Indeed, Oakeshott adds an extra-
section to the original description of the civil association where he argues that ‘in a
civitas the pax dei is an integral part of the pax civilis’.  

So, consistent with the position he was to fully elaborate in On Human Con-
duct in respect to his own theory of civil association, Oakeshott’s claim in the
revised version of the introduction is that civil obligation is the same sort of
obligation that exists in the state of nature, it ‘is a “moral” obligation; it arises
from a genuine surrender of right.’  

It is not an entirely new form of obligation as he had claimed in the original version, but is simply a more encompassing
version of an already existing category of obligation. Like Warrender,
Oakeshott holds that civil obligation is the continuation of a type of obligation
that existed in the state of nature. However, though these rules of conduct may
be buttressed by the recognition that they are the laws of God, they are not,
according to Oakeshott, dependent on their having divine sanction.  

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73 Ibid., p. 267. In the original version this was discussed as a right, as opposed to a
duty, of the sovereign — see p. xlii.

74 Ibid., p. 288.

75 Earlier (note 38) I suggested that the difference between Oakeshott and earlier He-
gelian readings of Hobbes could be understood by comparing the slightly different read-
ings of the tradition Hobbes is said to belong to and the significance that is thereby
attached to certain texts over others. In accounting for the difference between Warrender
and Oakeshott perhaps a similar claim can be made. Warrender claimed that the obliga-
tion to obey all covenants is underwritten by the fundamental obligation to obey natural
law (The Political Philosophy of Hobbes, p. 37). Obligation to adhere to natural law is
subject to the existence of, what Warrender calls, validating conditions (Ibid., p. 14–17).
In the absence of these the laws of nature are suspended, though not negated. According
to Hobbes, it is a law of nature ‘that men performe their covenants made’ (Leviathan,
p. 93). However, for the first performer this law is suspended if he ‘has no assurance the
other will perform after’ (Leviathan, p. 89). Further, it is only just to renge on a contract
if the fear of adhering to it arises after the covenant has been made (Leviathan, p. 90. See
Warrender pp. 43–4). Since it is likely in the state of nature that events giving rise to such
fears are common, most contracts are rendered invalid. Importantly however, some cove-
nants, according to Warrender, are obligatory in the state of nature and ‘the function of the
sovereign is not to make valid a covenant that was previously invalid, but to prevent (by
taking away subsequent causes of fear) what is already a valid covenant from becoming
invalidated’ (Warrender, p. 44). Oakeshott’s revised discussion of obligation in Hobbes
seems to be, at least partly, a response to Warrender. In particular, Oakeshott’s original
reading did not seem to adequately account for Hobbes’s crucial distinction between ob-
ligation in foro interno and in foro externo (Leviathan, ch15 p. 103). In the original intro-
duction Oakeshott claimed that the laws of nature, as hypothetical theorems, ‘oblige
merely in foro interno’ (Introduction, lix. For Warrender’s criticism of Oakeshott see
This revision is partly an act of clarification. The terms rational and physical obligation Oakeshott no doubt felt had rather confused the overall sense of the picture of Hobbes he was trying to draw. But it also reveals the way in which the idea of civil association, as one form of moral association, developed in his mind.

Further indication of civil association as a tool for interpretation comes in the greater care Oakeshott takes to distinguish law from command in Hobbes. Though law, according to Oakeshott’s Hobbes, ‘is a command, the expression of the Will of the Sovereign’, in the revised introduction Oakeshott points out that not all commands are law, but only those that prescribe general rules of conduct applicable to all subjects.\(^76\) The distinction between command and rule is an important feature of Oakeshott’s own theory.

\(^76\) Ibid., p. 262.
There is also a subtle, but interesting, alteration in the wording on the question whether civil law can be either inequitable or unnecessary. Since, according to Oakeshott’s Hobbes, the civil condition knows only one law, civil, no valid law can be considered unjust. However, in the first version the Sovereign has the right and the duty (a right is what he may do, a duty what he must do) ‘to make only such laws as are equitable and necessary.’ In general, inequitable laws are those which conflict with the theorems of natural reason, and unnecessary laws are simply those which restrict activity indifferent to the maintenance of peaceful coexistence. Though Oakeshott insisted that these considerations have no bearing on the authority of law, this reading does seem to indicate that the Sovereign has an obligation, however vaguely specified, to frame laws that cohere with a standard independent of his own judgment. Importantly however, the configuration changes in the revised version. It is now the rights and ‘faculties’ of the Sovereign that are specified. It appears that the Sovereign no longer has duties. If unnecessary laws or laws increasing rather than decreasing contention are enacted then they are to be deplored but for subjects there is no appeal, to even the vaguest conception of the Sovereign’s duty, beyond civil law. In the revised version Hobbes is presented as a consistent and unequivocal voluntarist, purged of all traces of the natural law tradition.

Indication of a complete shift away from natural law theory is also found in the way in which Oakeshott alters the section originally entitled ‘the rights and obligations of the subject’ which subsequently reads ‘the obligations and liberties of the subject.’ The manner in which this section is rewritten has significant implications for Oakeshott’s reading of Hobbes’s theory of authority. It concerns the question of the extent of the subject’s obligation to obey the civil law. Since what this obligation depends upon is crucial to his own theory I will quote at length. In the original version Oakeshott claimed that,

since the contents of the commands of the sovereign authority (though not the authority of the commands) are derived, generally speaking, from the articles of peace, there are some things which, although they may in fact be commanded by the sovereign, are not obligations. For example, no subject is obliged to kill or injure himself, none (except as punishment) is obliged to suffer a greater deprivation of his natural liberty than any other, and there is no obligation to an authority that manifestly fails in its office of protection. The appeal here is from what the law ordains to the end for which the legal order was instituted; and when it succeeds freedom replaces obligation (emphasis added).

77 Introduction, p. xli.
78 Ibid.
79 Rationalism in Politics, p. 262.
81 Ibid., p. xliii.
On this reading the end for which the legal system is enacted provides the authority according to which the validity of any particular law is assessed. Though clearly the end (peace) here defined is a minimal one, it is nevertheless an end, or a condition, which does not arise spontaneously, but must be created and maintained by substantive action, initially on the part of the covenantors and subsequently by the Sovereign’s law making activity. Law therefore, has an instrumental relationship to this condition and those laws which conflict with it are not obligatory. In keeping with Oakeshott’s own purposeless theory of civil association the subsequent version of the introduction omits all discussion of law in terms of ends. There are certain rights (to protect oneself etc) that subjects do not transfer when they agree to the contract and hence, are not obliged to act in such a way that they are threatened. However the revised introduction is notable for the way in which all traces of instrumentality has been removed from Hobbes’s civil association.

Oakeshott’s denial of any element of instrumentality in Hobbes’s commonwealth removes the justification, if it previously existed, for viewing it as an example of an enterprise association. It seems that Oakeshott had not worked out the distinction between civil and enterprise association until the late 1950s and subsequently and this is reflected in the ambiguities in his original introduction to *Leviathan*.82

Furthermore, in Oakeshott’s later writings on Hobbes, civil association as an ideal character assumes a central interpretive role. It is an organising category by which Hobbes’s thought can be explained. To introduce into the interpretation of the commonwealth any element of instrumentality would corrupt the clear-cut distinction Oakeshott draws between civil and enterprise association understood as ideal characters.83 This has clear implications for the task he sets himself in *On Human Conduct*.

Most of the critics of Oakeshott’s theory of civil association have accepted one or more of the inter-related assumptions of what John Liddington has

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82 In 1951, for instance, Oakeshott argued that what severely restricts the operational power of the *Leviathan* is the tightly circumscribed end for which it was established in the first place — ‘... there was no lust for government in Hobbes: the *Leviathan*, he thought, must be omnipotent, but he never imagined it omnicompetent. Intoxication with the opportunity which great power gives for doing great things was no part of the character of this *Leviathan*, whose limited but essential office was to be guardian of the peace. It was to operate, not arbitrarily, but by rule of law, and whatever was not forbidden was to be allowed. Supreme power was never more narrowly hedged or more finely directed to a special purpose, while being left with its necessary supremacy unimpaired’, ‘A Reminder from “Leviathan”, *The Observer*, (29 July, 1951), 4.

83 It may also be noted that this extends to his reading of Hegel. Because Hegel’s *Philosophy of Right* comes to be read in terms the ideal character civil association rather than from the perspective of the ‘Rational Will’ tradition it is a highly formal reading that is offered — see *On Human Conduct*, pp. 257–63.
termed the liberal-utilitarian view of law. The liberal utilitarian assumes the following: all laws are instrumental, all compulsory associations restrict men’s freedom, the fundamental question about freedom in the state is, ‘How far does government determine men’s performances?’ Much of the discussion of the relationship between law and liberty in Hobbes has traditionally hinged on (at least) the second and third of these assumptions. For the moment I want to discuss the first of these assumptions in connection with Oakeshott’s reading of Hobbes.

We have seen that in the original introduction Oakeshott hinted at the idea that law is instrumental to the achievement of an end (ie. peace) whereas it is removed entirely from the revised version. The original reading was consistent with Hobbes’s claim that the obligation to obey the Sovereign lapses to the extent that his laws fail to promote the end for which the commonwealth was erected. Hobbes says that the obligation, and liberty of the subject, is to be derived, either from those [covention instituting] words, or others equivalent; or else from the end of the institution of sovereignty, namely, the peace of the subjects within themselves, and their defence against a common enemy.

Further,

the obligation a man may sometimes have, upon the command of the sovereign to execute any dangerous, or dishonourable office, dependeth not on the words of our submission; but on the intention, which is to be understood by the end thereof. When therefore our refusal to obey, frustrates the end for which the sovereignty was ordained; then there is no liberty to refuse: otherwise there is.

Oakeshott (at least in his later phase) would no doubt claim that here Hobbes’s discussion of ends are not ends ‘properly so-called’ (in the way that the theorems of natural reason are not, unless enacted by the Sovereign, properly called laws). That is, peace is not in fact an end but the minimal condition required to make possible the pursuit of any particular ends that individuals make their own. On this reading ‘peace’ and ‘order’ may be the defining features of Hobbes’s commonwealth but they are not its end. This position is consistent with Oakeshott’s argument that freedom does not stand in a consequential relationship to civil association, rather, ‘it is inherent in its character.’

Despite this it is difficult to escape the conclusion that in some moments Hobbes goes beyond a strictly formalist conception of law and links authority

85 Leviathan, pp. 141–2.
with desirability. That is, Hobbes was doing more than merely specifying the inherent character of *lex* (to use Oakeshott’s term), he was also addressing the ultimate question as to why the terms of civil association should be adhered to in the first place. As well as describing the nature of law he was also justifying it and attempting to persuade his contemporaries to adhere to its requirements. In so doing he offered a criterion by which the validity of particular laws, as well as the whole body of law could be assessed. By contrast, Oakeshott’s use of the ideal character civil association to explicate Hobbes’s philosophy clearly cannot accommodate Hobbes’s discussion of law in terms of ends.\(^\text{87}\)

On Oakeshott’s reading, Hobbes’s commonwealth is a civil association because it is first and foremost an authority-based association. Power is restricted to punishing breaches of the covenant. As soon as power is employed to impose substantive performances on subjects the Sovereign undermines this authority relationship, turns the commonwealth into an (explicit?) enterprise association, and potentially endangers his right to rule. For this reason in the revised introduction Oakeshott ends the section ‘the rights and ‘faculties’ of the Sovereign’ with the observation that ‘the office of the Sovereign has no rights of ‘lordship’; its *dominium* is solely *regale*.\(^\text{88}\) Oakeshott, therefore, comes to reject the sort of criticism that T.H.Green levelled against Hobbes that ‘where there is no recognition of a common good, there can be no right in any other sense than power.’\(^\text{89}\) On Oakeshott’s reading it is precisely because authority relationships are *not* tied to a conception of the common good, stand on no extrinsic end, that they circumscribe the use of power and protect individual freedom. As he was to state it in *On Human Conduct*, civil association, unlike enterprise association, preserves the link between belief and conduct ‘which constitutes ‘free’ agency’,\(^\text{90}\) because in it the authority of law is not dependent on approval of its content. Where civil association respects the contingency of human conduct, treating agents as agents and leaving them free to formulate their own purposes, enterprise association makes particular, contingent purposes compulsory. That is, enterprise association disregards the contingency of human conduct (contingency being perhaps the central feature of Oakeshott’s account of agency spelled out in *On Human Conduct*) which civil association

\(^{87}\) Though it is beyond the scope of this paper to discuss I would argue that a similar sort of contention is central to much of the criticism that civil association as an entirely purpose independent body of rules has attracted. For a re-reading of the idea of civil association along minimally instrumentalist lines which seems to me to be a fruitful approach to take to Oakeshott’s critics see David Mapel, ‘Civil Association and the Idea of Contingency’, *Political Theory*, 18 (1990), 392–410.

\(^{88}\) *Rationalism in Politics*, p. 263.

\(^{89}\) *Lectures on the Principles of Political Obligation*, § 47.

\(^{90}\) *On Human Conduct*, p. 158.
respects because it is based on the idea that no purposes are necessary and, therefore, none are made compulsory. The separation of the formal authority of law from the desirability of its content clearly represents something of a departure from the argument pursued in ‘The Authority of the State’ where Oakeshott suggested that law, as the voice of government, ‘no matter what its particular character be . . . always draws its power from a source outside itself . . . For no government . . . was ever a strictly sovereign power, or had ever more than derivative ‘authority.’ The authority that ‘resides solely in the completeness of the satisfaction which the state affords itself to the needs of concrete persons’ more closely resembles the derivative authority characteristic of enterprise association. The state as a philosophically understood ‘going-on’ has clearly receded in the face of civil association as an ideal character.

Again this raises many issues which cannot be fully canvassed here. For a more complete discussion of the problems involved I refer the reader to Mapel’s, ‘Civil Association and the Idea of Contingency’. A crucial difference between Oakeshott and Hobbes (which is assumed, rather than discussed, in my analysis) is that where Hobbes is a social contract theorist Oakeshott denies that civil association is a voluntary association. Oakeshott’s theory of civil association presupposes the detailed elaboration of the traditional, or practice based, nature of all human activity, developed most extensively in the first essay of On Human Conduct. The effect of this elaboration is to render obsolete Hobbes’s contract as the origin of authority. Yet, since it is based on the same fundamental distinctions as those he attributes to Hobbes, Oakeshott is able to develop a recognisably Hobbesian theory of civil association while endorsing Hume’s insight that institutions arise less from conscious construction than from the unintended byproduct of the interplay of countless individuals choosing contingent ends in their never ending effort to affect change in the world of practice. Despite this obvious difference (between Oakeshott and Hobbes), Oakeshott’s discussion of the nature of moral practices, prior to his account of civil association, is at least analogous to his discussion (in his later readings) of the origin of moral obligation in Hobbes’s state of nature. But where Hobbes uses the contract as a freely chosen agreement to demonstrate the voluntaristic nature of authority, Oakeshott argues that civil association, though not the product of an explicit choice, nevertheless protects, rather than diminishes freedom, because, along with other moral practices, it is adverbal by nature. Importantly however, unlike earlier proponents of Oakeshott’s ‘Rational Will’ tradition, the freedom connected with authority in civil association is decidedly non-teleological. Here I am simply reinforcing Paul Franco’s judgment that Oakeshott attempts to build a bridge between the distinct strands of thought represented by Hobbes on the one hand and Hegel, Green, and Bosanquet on the other (see Franco, ‘Michael Oakeshott as Liberal Theorist’ in Political Theory, Vol. 18 No. 3, August 1990, 411–436).


For Oakeshott’s discussion of what is entailed in theorizing a phenomenon (a ‘going-on’) in terms of an ideal character see On Human Conduct, pp. 1–31.
Conclusion

Readers familiar with On Human Conduct will easily recognise what the changes to Oakeshott’s reading of Hobbes represent to the argument of this book. By interpreting and subsequently appropriating Hobbes in the way that he does Oakeshott remains true to the understanding of philosophy he enunciated in his first work on Hobbes. Whatever the merit scholars may accord Oakeshott’s reading of Hobbes, and whatever the ultimate explanatory value civil association has for understanding the experience of authority in the modern state, it is impossible to deny that Oakeshott’s engagement with Hobbes was central to the inspiration that gave rise to this central feature of his political philosophy. Though it is beyond the scope of this paper to offer either a critique or defence of Oakeshott’s idea of civil association it is worth while pointing out that the idea of non-instrumentality on which it is based, and which has been central to the attack of most of his critics, is ambiguously presented in his early reading of Hobbes. Though this ambiguity is certainly clarified in Oakeshott’s later work on Hobbes, it seems to come at the cost of attributing to Hobbes a somewhat artificial unity. We may question the way he reads Hobbes but perhaps in the end this misses the mark when the nature of Oakeshott’s project is understood. To return to where we began and extend Goldsmith’s psychological terminology, it is perhaps not stretching it too far to suggest that Thomas Hobbes assumes a distinct identity in Oakeshott’s writings and it is the identity of one who is, or at least became, his seventeenth century alter-ego.

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