

MICHAEL OAKESHOTT ASSOCIATION

'Michael Oakeshott as Liberal Theorist' by Wendell John Coats, Jr.

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My purpose here is not to attempt to categorize the thought of Professor Oakeshott solely for the sake of categorizing. Rather, I hope to show that in his major works Oakeshott has made one of the most interesting and logically coherent statements ever of the liberal point of view, and is to be considered as one of the pre-eminent political theorists of modern European individualism. If this is the case, then his work requires to be studied for the light it may shed on liberalism as a coherent tradition of political theorising. At first glance, it may seem mischievous or even mean-spirited to discuss the "liberalism" of Michael Oakeshott. As is well known, he dislikes the hasty and abbreviated to politics implicit in "isms" of any sort. Further, he himself uses the word "liberal" in a narrower, historical fashion to designate a view, traceable to John Locke, which started from a position of "natural rights" to argue for the limitation of sovereign authority, and which evolved into claims for material benefits from the state^[1] ("Salus populi, suprema lex!").

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Yet, making explicit what is already in the word itself, I believe it is not unfair to use "liberal" in the history of political thought to indicate a view of the state as subordinate to, and arising from, the freedom of individual conscience – or sometimes individual appetite – regardless of whether the claim is grounded in some "natural right." (Otherwise, we should have to deny the epithet "liberal" to a writer such as John Stuart Mill, who defended individual liberty not from "nature" but for its effects at a certain historical moment.) And I emphasize the freedom of individual conscience to distinguish this view from that of ancient writers like Plato and Aristotle, who saw political association as a means for habituating nonphilosophic citizens to moral virtues, regardless of the issue of individual judgment and choice. From this starting point, the liberal view usually moves to the necessity that obligation to authority arises from the consent of individuals. In some accounts, it conceives of the state as an executed contract, or the result of one, created by the acts of individuals. Emphasis is usually placed upon

individual rights delimiting the role of the state in order that it not interfere unduly with the private activities of religion, commerce, raising a family, and so forth. In some late nineteenth and early twentieth century accounts, emphasis is placed upon the positive role of the state in furthering individual material welfare as the condition for intellectual and political development. Even here, however, the first priority is not the functioning and harmony of the state or whole, but making possible the development of individual faculties to the point at which consent to obligation becomes common-sensically meaningful.

The most fundamental assumption of liberalism, usually implicit, seems to be the idea that "value is individual." This phrase of J.E. McTaggart goes some way, I believe, toward finding a common thread in what we have come to know as liberal theories of political life. It means that all judgments of good, bad and worth must be made and judged for individuals as individuals, not as parts of wholes. (That this is only partially achievable is one reason, of course, that Aristotle's *Politics* has remained such a lively and relevant account.) And this view manifests itself in the requirement that political obligation arise from individual consent, and for some, that material goods be distributed on the basis of a matrix of individual economic choices.

Thus, the "individuality of value" implies that while concepts and tasks may ascend in generality and comprehend one another (as grand strategy comprehends diplomacy and tactics, for example), judgments of good, bad and worth are not hierarchic in this fashion. While the state may functionally comprehend the individual in some respects, it has no intrinsic worth in itself on this view, but is good or bad for individuals considered as such, whether philosophic or not, rather than first as contributors to, or participants in, political justice. This a-political view has at least some of its origins in the teachings of Christ and the Stoics (which require no political mediation for moral redemption) as passed on by the medieval nominalism of the British Isles; and it has been a test of skill of secular liberal theorists since Hobbes and Locke to reconcile it with the common-sense value of preserving the political association.

Thus, I am asking the reader to consider if there is not a common assumption, explicit or otherwise, in accounts ranging from the Hobbesian and Lockean states of nature to modern defences of economic freedom, and whether, if so, this may not be the idea of the "individuality of value." Such a definition might not please those within this tradition who are divided over whether individuality is best nourished by adherence to formal authority, or by a matrix of countervailing social and economic passions, or by a tenacious assertion of the idea of natural rights of acquisition. Yet this definition would serve to set all these groups off from theorists for whom individuality and distinctness as high ends have not been thought interesting – Plato,

Aristotle, Cicero, St. Thomas Aquinas, Karl Marx, and some modern sociologists and scientists, for example. Nor would this approach be at odds with those who have characterized the liberal view as deriving political duties (such as they are) from antecedent individual rights or passions, or prudential calculations about those passions. The individual starting point is required unless one is prepared to discuss the fundamental worth of individuals as inseparable from some sort of whole- political, social, natural, cosmic, and so forth. The criterion "individuality of value" would exclude from "liberalism" only those theorists claiming the label who start from a position that individual judgments are beholden to the previous "social choices" of others, and who begin, intentionally or not, to return to the ancient view that the worth of nonphilosophic persons cannot be discussed in abstraction from communities.

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An interesting feature of Oakeshott's treatment of such matters is its logical coherence. Oakeshott starts from an initial premise that philosophy, as the investigation of conditions of intelligibility, has no direct bearing upon practical experience (the realm of good, bad, and common-sense individuality), since philosophy and practice are different mediations of experience and have no common subject-matter in a world in which all experience, following Hegel, is mediate.[2] Oakeshott, in a Kantian fashion with regard to the limits of reason,[3] can then be very precise and direct in his theoretical accounts of civil and political matters without concern that he will be led to undesired practical and political conclusions. Theoretical conclusions have no immediate consequences for practical life, and even in practical life, obligation to authority arises not solely from understanding, but from assent. (For Oakeshott, a theoretical syllogism could never validly conclude in a practical action.) The best political guide remains careful consideration of proposed policies and legislation in the light of the practices and traditions which are their wider context, with an eye and ear for what is "intimated," or tacitly acknowledged, or does not range so far from existing practices as to be unconvincing – the Victorian acceptance of bloomers but not shorts for bicycling, for example.[4] Here Oakeshott is clearly reminiscent of Hume, Burke, and the Roman or "conservative" inheritance in European politics. Thus, Oakeshott can employ the terms "political" and "civil" in Aristotelian and Ciceronian fashion, to refer to the comprehensive or self-sufficient association,[5] without (unlike these ancients) attributing to the comprehensive association any intrinsic worth in a natural order. Obligation, for Oakeshott, is grounded in assent as a condition necessary to make understandable the idea of an individual moral agent, a theoretical creature necessary, because of the autonomy of his self-understandings, for the idea of civil

association as formal association as distinct from association to habituate certain specific responses.[6] Obligation here is not a promise to obey, but only acceptance of the procedures by which authority is constituted;[7] civil association is achieved in formal obligation which promises no substantial action. Since citizenship for most people is a *fait accompli* from birth, this seems to be the minimal civil condition to which one could subscribe without compromising one's status as a moral agent linking belief and action. The highest logical priority remains the integrity of the individual agent rather than the balance or health of the comprehensive association (which exists in the understandings of individual agents), because politics is human conduct, which requires the autonomy of self-understandings to occur.[8]

To link this abstraction to something more familiar, it can be seen that Oakeshott is close to Hobbes and Hume here in grounding individual freedom in a system of authority which demands little by way of promises of specific action. That is, Oakeshott distinguishes obligation, or assent to authority, from approval of the conditions of authority, and from a promise of obedience.

The practical effect of this abstraction, when it is achieved by citizens, is of course to preserve form and order in the body politic when there is little substantial agreement, or in times of crisis. Yet, for some, this entire discussion would be a distinction without a difference. Aristotelian and Platonic political science, for example, strongly grounded in the realm of sight and "the visible," simply cannot make sense of such Roman and Norman abstractions; and some of its modern proponents are prone to dismiss them as illusions susceptible of immoderate vulgarization.[9]

This is not a problem for Oakeshott, who, reflecting on historic European practices, spends some time showing that all specific actions and utterances are performed and made in terms of general practices or systems of meaning. Thus, to assent to a practice of authority is for Oakeshott somewhat like assenting to speak French while in France, as distinct from approving of the French language, or promising to say some specific sentence while speaking French. In fact, if a putative practice of authority included stipulations sufficiently specific as to be unambiguously performable in single actions, it would expose itself (in Oakeshott's lexicon) as an "instrumental" practice only masquerading as a "civil" practice. It would thereby reveal itself as an instance of a sub-civil "enterprise association" formed to accomplish a substantial purpose like getting in the harvest, or putting out fires.[10] The freedom of citizens arises not so much in the silence, but in the generality, of the laws or practices of authority; and obligation to a practice of authority is recognition of mutual subscription as the basis for the civil or comprehensive association. Without due distortion, we may perhaps

view all of this as Oakeshott's theoretical rendering of the European idea of civility as the tie among the diversity of human characters emerging from the medieval realms, a kind of fidelity more "watery," urbane and moderate than those of a tribe, race, nation or religion, or the "political friendship" of the polis (itself formed from tribes and villages).

Yet Oakeshott does retain from the Greek philosophers the ability to reason syllogistically. He is not guilty of using the words "civil" and "political" in the redundant and gratuitous fashion of many modern writers, who employ the terms to refer to economic or police functions without even explaining what is logically distinctive about the idea of the "political." Consider, for example, Max Weber's well-known definition of the political association as one that claims a legitimate monopoly of the means of physical force in a given territory. Weber's definition cannot logically distinguish the function of the political association from that of a mere police association or army, and thus leaves us with the meaning of the word "political" still to seek. Or consider any of those engaged in the Baconian project of accumulating information and technology to "subdue nature," and who usually equate the state with an economy or a laboratory (filled with "role-performers"). Not only do they fail to isolate a distinctively "political" or "civil" function, but they give weight to the charge that the entire vocabulary of justice is an illusion produced to disguise the material interests of the "stronger." The mark of "civil" and "political" must be their comprehensiveness if they are to remain unredundant.

In Oakeshott's account, the civil association comprehends or includes these narrower economic and police functions, and politics is the activity of attending to the general rules of this civil or comprehensive association. (There is no political association for Oakeshott – that would imply a return to the closer ties of the Greek poleis.) Thus, Oakeshott's use of "civil" may be seen to differ from that of Hegel and Marx, who, based on Rousseau's critique of Hobbes and Locke, used the expression "civil society" (*bürgerliche Gesellschaft*) to refer to economic life. And his account may be seen to differ from that of Hobbes and Locke in resisting the equation of civil association or society with the state or commonwealth, an institution achieved in the uneasy accommodation of "civil" and "enterprise" association.

The idea of civil association is also the idea of self-sufficient association for Oakeshott, since it has the formal purpose only of perpetuating recognition of itself as a legitimate system of authority; whereas police, economic, religious, and military associations all have substantial purpose to accomplish. (Or, in the terms of Aristotle, they are done for the sake of something else.) Thus, they can never be self-sufficient activities, since their aim lies always outside of them in a realm of substantial actions which exhaust themselves in being accomplished, while civil association demands only an act of

understanding (or misunderstanding) and assent. For example, a fire-house exhausts its purpose in putting out a fire, and is always dependent on something outside itself for perpetuation – another fire. Civil association, by contrast, may on occasion require the substantial action of putting out a fire, but the accomplishment of this aim would not exhaust its purpose, which is higher in generality or more formal – the recognition of itself as a practice of authority to be taken into account in performing substantial actions.[11] “Civil” and “political” are distinguished by the comprehensiveness or generality of purpose to which they refer, and Oakeshott’s vocabulary of politics remains meaningful or logically unredundant. We might also note here in passing that Oakeshott’s combination of Roman and Greek ideas represents a logical advance over the Lockean account in the *Second Treatise*. Locke’s account did not get beyond making the state or commonwealth the protector of private property as the resolution of the tension between the Latin “civil” and the Greek “political”; between the Roman association of private property holders and the Greek comprehensive ordering of citizens. Thus, Locke’s account would not have escaped the Aristotelian charge that there is nothing distinctively political in economic and military associations to increase trade and provide security. Not only philosophy, however, but also history is distinct from practical and political experience, and their judgments of worth or value, in Oakeshott’s account of experience. Thus he permits another escape from the conceptual contortions which have tied up some liberal theorists. Conceiving of historical experience as the writing of a story in which the self-understandings and disclosures of individuals are recounted as the basis for explanation,[12] Oakeshott can give an account of the modern state, as it evolved in the understandings of various thinkers and historical actors, without equating it with a logical construct partially intimated in it – civil association. In other words, by writing two accounts of things civil and political,[13] one theoretical and one historical or contingent, Oakeshott is able to avoid dubious methodological and anthropological devices such as the “social contract” to account for the moral primacy of individual assent. His theoretical account of civil association, the artful synthesis of two millenia (sic) of diverse thoughts and visions, has no exact correspondence or necessary connection to the historic account of a modern European state, although it is intimated in certain passages of the modern state’s history following the break-up of the medieval realm. Briefly, Oakeshott suggests that the modern state has been understood along the lines of both civil association, or a practice of authority, and an “enterprise association” or corporation with a substantial purpose to accomplish: neither view has ever been able to silence the other completely, although the latter view is now clearly in the ascendant in a world replete with wars and crises.[14]

In simpler language, this is to say that not everyone has accepted the idea of civility as the basis for comprehensive association; others have held tenaciously to the Baconian idea of an association to conquer nature, and the latter view grows in influence as it creates problems for which it claims to have the only solutions. To summarize thus far, I have tried to show that Oakeshott has performed a service to political theorizing by demonstrating that a logically coherent account of civil association as the comprehensive and self-sufficient association may be given which preserves both the Aristotelian idea of politics as the activity of attending to the arrangements of the whole, and the liberal idea of the individuality of value, as mediated by the Roman and Norman idea of fidelity to authority as the bond among citizens. I have suggested that this is an advance in logical coherence on Locke, who bordered on equating civil association with an economic and military alliance to secure property, and thus has made civil association logically redundant. For Oakeshott, the freedom of citizens arises not in the silence but in the generality of the laws. And here is the glimmer of brilliance in the insight that it was the achievement of the practice of civility which permitted the European peoples to accommodate the feeling of the subjective freedom of the individual personality with the ancient claim that politics is concerned with the whole of life. There is also the glimmer of brilliance in a theoretical articulation of this insight as the idea that politics (as opposed to ruling and governance) involves the formulation of general laws as the basis for civility among individuals responding to these laws as they understand (or misunderstand) them, and are obliged to them. One might say that Rousseau and Hegel were on their way to this solution, but neither knew when to stop, and instead went on to make such extravagant claims that their clearer insights were overshadowed.

3

At this point, however, critical attention may direct itself to the question of Oakeshott's radical separation, even in analysis, of philosophical, historical, and poetical experience, one from another, and from practical experience as the realm of good, bad, and worth.[15] All of Oakeshott's modalities of experience are seen as historic achievements, except for practical experience, which, while not "necessary" is unavoidable.[16] One is compelled to ask the basis for the separation of experience in this fashion. Are we simply a contingent unfolding of infinite forms of experience? Or is the whole account of experience (and politics) really a view from the poetic or aesthetic standpoint - a fleeting and purely formal image, created by a benevolent sorcerer with the practical intent of weakening the radical and imbalanced union of philosophy and

politics in our time? If not, then where is the ballast in Oakeshott's account?

Oakeshott never addresses these questions systematically. He simply notes that, for whatever reasons, this is where we find ourselves, and implies by his silences that sufficient moderation is to be found in listening discerningly to the intimations of our traditions and general practices. Yet, it is precisely at this point that Oakeshott's theoretical account of both experience and civil association must be defended if it is to stand its philosophic ground. It would be possible here to lump Oakeshott's political thought facilely into the general category of Kantian liberalism (as mere delineation of a formal, civil association to which rational individuals could consent) and argue that his treatment of practical experience, as distinct from philosophical exploration, stands or falls with a Humean or Kantian-like account of practical experience and practical reason, distancing the most fundamental ethical questions from theoretical reason, which is permitted only to sketch their boundaries. Or, it would be possible, emphasising passages about the continuity of historic practices, to treat Oakeshott's writings as merely a more sophisticated version of Burkean liberalism (with fewer political examples!). But I believe that to cast Oakeshott's thought in this or that narrow mold, and cart it out only on certain occasions, would be to cheat ourselves of something very interesting. As I am seeking to show, the implied defence in Oakeshott's few philosophic claims is to be found in their ability to produce a coherent account of the civil and political aspects of modern individualism.

Consider, as part of this demonstration, Oakeshott's critique of what he calls modern "rationalism" – "the most remarkable intellectual fashion of post-Renaissance Europe" [17] It confusedly attempts to separate the form and content of specific knowledge and craft in the formulation of a universal method applicable to all subject-matters; [18] in the fashion, for example, of the modern pseudo-scientific enterprise to reduce all academic disciplines to the methods of modern physics. As Oakeshott sees it, the attempt to separate the "how" from the "what" of any concrete knowledge and put it in books and techniques is an illusion which, over time, results in the loss of genuine skill. The "how" and "what," the form and the content, of any concrete activity arise simultaneously and reciprocally, and can be separated only in the irrelevance and loss of fluid skill evident, for instance, in the politics of our age. This critique of modern rationalism is consistent with Oakeshott's general account of experience and its modalities. The distinctness of the various modes of experience – practice, history, science, poetry – arises because they have no common subject matter beyond "raw" experience unknowable except in specific mediation. The form and content of each (as experiential possibilities) arises in a give-and-take between the absolute claims of each, which over time

achieves a recognizable and coherent way of mediating experience. (In this sense, we might say that the "proto-type" for all experience, in Oakeshott's account, is poetic experience, which collapses into fleeting, unified instants the content and form of specific thoughts and experiences.)[19] Since there is nothing outside of experience on this view, the modalities of practice, poetry, science, and history can never address one another except in a kind of "social" conversation where each is admitted for what it appears to be, since, carefully speaking, they have nothing in common to talk about, according to Oakeshott.[20] There are, in brief, no transferable forms of experience or activity. At a practical level, we find a similar teaching in the ethics of Aristotle, the philosopher of "common-sense," who tells us that an intelligent man will always choose a method appropriate to his subject matter.[21] This is the basis for Aristotle's choice of a rough dialectic method (over a precise one) for expositing the activity of politics, a branch of moral action. Aristotle obviously did not accept the notion of a universal method for all subjects, but on the other hand, he could never have accepted with consistency something like Oakeshott's account of experience and its various mediations, presupposing the tension between "subject" and "object" as the primary datum of something called "experience." Aristotle clearly believed that the unchanging order of the world was accessible to the intellective faculty when this was correctly tutored, since the intellect was part of this order, and also contained it.[22] A question then arises whether, although Oakeshott's account of experience is consistent with his practical teaching about the inseparability of method and subject matter, it is logically necessary as a basis for it. The answer appears to be that it is logically necessary, and here can be seen something intelligent which Oakeshott has preserved from Aristotle for an individualistic age which could probably not recover Aristotle's understanding of man's natural ends. Surveying a century littered with the debris of "rationalist" political projects, Oakeshott is concerned to explain what is amiss. Simply to say to his world (as he does in footnotes) that it has combined the worst of ancient and medieval claims for "Reason" – broad scope and scholastic rigidity, respectively[23] - will not go very far in getting attention. And so Oakeshott has taken his practical bearings from something all can appreciate, a Socratic starting point of sorts – skill in crafts. Oakeshott can agree with the Athenian philosophers that skill is acquired and preserved through patient apprenticeship, but his explanation of why this is so is very different, since he sees no natural ends from within a psyche which contains and recollects them. For an age with predominately "nominalist" assumptions – that there are meanings in the mind, and things in the world – there is always the danger of too much abstraction, the danger of meanings and things getting too far apart. This is what

Oakeshott calls the error of modern Rationalism – the illusion that it can rationally devise systems or techniques from makeshift parts and apply them universally without effective limits. Oakeshott endeavours to show that when practical action is skilful, this is not what actually happens, even if it is conceived in these terms. Rather, in Oakeshott's account of experience and skill, both the form and content of any concrete activity arise simultaneously and creatively, and we are not at liberty to trade them around like pieces of a mechanical puzzle, without paying a price. Oakeshott's account is in agreement with the Aristotelian insight that gaps or leaps in the steps of any concrete knowledge produce immoderation, especially in politics and governance. And Oakeshott has given an account of this practical insight for an age which has lost an understanding of itself as part of a nature which could divulge these insights in the proper intellectual progression.

4

Another comparison of Oakeshott with Aristotle may help us to decide if Oakeshott has said something interesting, or simply presented us with an illusion of sorts. Is it possible that the context for politics, the comprehensive or self-sufficient association, be formal association with no extrinsic or substantial purpose to accomplish?

Oakeshott implies (in a mood reminiscent of Hegel's leaps from the implicit to the explicit) that Aristotle was on his way to what he, Oakeshott, has in mind by civil association.[24] But, in spite of his attempts to minimize them, there are clearly important differences between Aristotle's account and Oakeshott, not only over the purposes of the self-sufficient association, but over the relation of the intellectual and moral virtues to politics as well. Most importantly, politics for Aristotle was not "human conduct," an interior Stoic realm of choices not causes; and the regime was not a neutral authority separate from the holders of power. Aristotelian politics, even in the mixed regime, involved not primarily individual understandings and misunderstandings, but habituation to the best way of life which the circumstances permitted. Political (not civil) association was natural for Aristotle because it reflected and enhanced the happy actualisation of the potentials of hierarchic and interlocking natural human faculties, the pinnacle of which was pure intellect – the only eternal part of the psyche, and the only principle of action capable of performance solely for its own sake.[25] Now, I want to try to show here that Oakeshott's idea of assent to a practice of authority (as distinct from approving of it, or promising to obey it) would have been unintelligible or illusory for Aristotle (though perhaps not for Cicero). Oakeshott can make this distinction, and we can follow him in it, because it was a distinction achieved by some of our medieval predecessors. Yet they achieved

it by cultivating a faculty of the soul known as the will, a faculty opaque to the light of the intellect, and capable of opposing (without pathology) the conclusions of reasoning. By contrast, if the "beings" of the world were given in the psyche, as Aristotle said, then the idea of assent to a practice of authority detached from substantial actions would be simply nonsense. Oakeshott's account requires an abstract faculty in humans which can know certain general rules or meanings, yet still choose to subscribe to others without illusion or philosophic irrelevance. Or, it at least requires the civilized residue of that insight in the understandings of his secular audience, if the account is to make sense of their experience. Oakeshott's account of civil association falls somewhere between what he calls in one essay the traditions of "Will and Artifice" and the "Rational Will." [26]

We must also ask whether Oakeshott's theoretical articulation of the historic European political practices sheds light on the activities of rule and politics beyond that provided by Aristotle's reflection on the Greek city-states. My judgment is that it does, because it systematizes and draws out (as well) Roman ideas and words about civil and public life, and the Romans showed more of a genius for rule and governance than did the Athenians.

The general shortcoming of the politics of the Greek poleis, and the systematic reflection on it by Plato and Aristotle, was arguably the failure to achieve a clear idea and practice of authority, distinguished from the balance of power at any moment. A regime or constitution for Aristotle was an ordering of citizens in a specific way, and the "state" changed when the ordering of citizens changed. [27] The key to political stability in Athenian political science was psychic harmony in citizens, or a balance of power deriving from psychic balance in at least one segment of the citizens, in many cities. Thucydides' implied criticism of his fellow Athenians in The Peloponnesian War, for example, seems to have been precisely that they were imbalanced through too much daring, and of the Spartans that they were imbalanced through too little daring. [28] The instability of Greek politics, then, seems to have derived in part from the inability to achieve a faculty of the personality (like the "will") capable of assenting to a constitutional characteristic known to the Roman and European tradition as authority, distinguished from the actual ordering of the citizens at any moment, or from the political programme, or governance, of the oligarchs, the democrats, and so forth. The Roman idea of fidelity to the authority of its practices, inseparably bound to its civil religion (and well appreciated by that Greek ambassador, Polybius), achieved a stability which gave the Roman constitution, in all its mutations, a longevity absent from the Athenian.

Over a period of two millenia, the European peoples managed to combine both Christian and re-discovered Greek ideas within the Roman and Germanic governmental institutions and practices they inherited. In the passage of that history known as modern liberalism, systematic reflection on politics usually proceeded by accounting for the freedom of individuals in the silence of the law, in the fashion of Hobbes and (to some degree) Locke. Until Hegel, it seems to have resisted the Aristotelian idea of politics as the art of attending to the comprehensive association, of balancing the claims of the other arts and sciences, because this would appear to conflict with the claims of individual, and later, self-expression. It might have made citizens the mere "matter" of a political craft or techne. But Hegel, in the end, was too much of a "rationalist" to permit the extension of the claims of nonphilosophic freedom to extend beyond the realm of the "personality."

Oakeshott, however, has managed to combine the Aristotelian claim for politics as the practical art of attending to the arrangements of the comprehensive association with the requirements of individuality, by simply noting that assent to the authority of general laws (versus commands or directives) leaves room for both ideas, and in both theory and practice. That is, the freedom of citizens (versus role-performers) arises in acts of individual judgment subsuming particular policies under general laws, like deriving a policy of conscription from the requirement to provide for the common defence. Assent to the authority of general laws is the only quality that could be assented to without promises of substantial action which would make the general relationship of civility impossible. Nor is Oakeshott's account here sharply at odds with the Aristotelian requirement that political association teach moral virtues, so long as these virtues or habits can be nourished by laws sufficiently general to be incapable of specifying particular actions, and thus still require acts of individual judgment to be operative. Nor is Oakeshott forced to the logically extreme (and politically immoderate) position of asserting, like Rousseau and Kant, that we are "free" in obeying a law which we give to ourselves. The "creative" act (not his language) for Oakeshott is restricted to the assent to authority postulated if we assume the freedom of reflective consciousness in civil associates. I am unable to see that any other theorist of modern liberalism has given as coherent an explanation as Oakeshott of the diverse historical inheritances in its political experience. And, while hoping to evade the ghost of Hegel, I would venture to suggest, in addition, that Oakeshott's theoretical account of modern European political practices and reflection issues in insights which reiterate the relevance of Aristotle's account for modern politics, while indicating its limitations for an individualistic age, separated from Aristotle by Roman law, and persuaded by coherence in systems of wilfully-created concepts, rather than intellectual conjunction with

the “beings that are.” To avail ourselves of the lucid insights of Athenian political science about psychic and political equilibrium in the different kinds of human beings (“spirited,” “appetitive,” for instance), will become more relevant to governance in our Western societies as they become even more democratic, or materialist and egalitarian. These insights are an important political resource in our inheritance from the past. To remember and recover the insights of our more abstract and politically talented Roman and Norman forebears[29] about the authority of law and its place in rule and governance, will also become more relevant as we find our populaces in periods of sufficient political disequilibrium that Athenian (and Tocquevillean) equilibrium techniques will no longer check further disorder. Prudent political practice will involve knowing when to tap which inherited resource, and how to incorporate both in the self-understandings of a liberal world of discourse.

[1] Michael J. Oakeshott, “On the Character of a Modern European State,” in *On Human Conduct* (Oxford: Clarendon Press, 1975), 245, note 2, and “The Rule of Law,” in *On History* (Oxford: Basil Blackwell, 1983), 162. Oakeshott implies that this development has flowered in part from Locke’s having made the executive rather than the judicial the power responsible for the execution of the laws, a blurring of the medieval distinction between the realms of *jurisdictio* and *gubernaculum*, of rights and policy. Over time, the welfare of citizens was affirmed as a proper object of policy. [2] In the sense that all experience is had in modality, there is nothing outside of experience (Michael J. Oakeshott, *Experience and its Modes* [Cambridge University Press, 1933], 17-18).

[3] The practical effect of the separation of practice as the realm of good and bad, from philosophy as the investigation of conditions of intelligibility, is similar to the effect of Kant’s separation of the noumenal and phenomenal realms – the most fundamental ethical questions become ultimately inaccessible to theoretical reason. See Oakeshott, *Experience and its Modes*, 1. [4] Michael J. Oakeshott, “Rational Conduct,” in *Rationalism in Politics* (London: Methuen, 1962), 95-96. [5] Michael J. Oakeshott, “On the Civil Condition,” in *On Human Conduct*, 110. [6] *Ibid.*, 112.

[7] *Ibid.*, 163.

[8] *Ibid.*, 164

[9] Consider the concern in the works of Leo Strauss and his students for the dangers of “abstraction from the body” in politics. This insight is an important corrective for some of the utopian projects of our time (and even disarms somewhat the charges of radical feminism about the abstraction of masculine thought). But by apparently taking it bearings almost exclusively from the most

obvious abuse of authority in recent history, this school of thought risks not bringing to attention in its pedagogy the importance for civil and political order of one particular abstraction – assent to the authoritative procedures by which law is made. [10] Oakeshott, "On the Civil Condition," in *On Human Conduct*, 114-17. [11] *Ibid.*, 147 [12] Michael J. Oakeshott, "On the Theoretical Understanding of Human Conduct," – in *On Human Conduct*, 104-07. [13] That is, the second and third essays, respectively, of *On Human Conduct* – "On the Civil Condition" and "On the Character of a Modern European State." [14] Oakeshott, "On the Character of a Modern European State", 272-74.

[15] Oakeshott, *Experience and its Modes*, 311.

[16] *Ibid.*, chap. 5.

[17] Oakeshott, "Rationalism in Politics," 1. [18] *Ibid.*, 8. See also Wendell J. Coats. Jr., "Michael Oakeshott and the Character of Experience" (unpublished doctoral dissertation. University of Michigan Microfilms.) [19] Michael J. Oakeshott, "The Voice of Poetry in the Conversation of Mankind," in *Rationalism in Politics*, 246. See also *Experience and its Modes*, 297, for Oakeshott's early view that art and poetry occurred within practical experience; and the "Preface" to *Rationalism in Politics*. [20] Oakeshott, "The Voice of Poetry," 202. [21] Aristotle, *Nicomachean Ethics*, Book I, chap. 3.

[22] Aristotle, *De Anima*, Book III.

[23] Oakeshott, *Rationalism in Politics*, 16-18.

[24] Oakeshott, "On the Civil Condition," 110. But compare with Aristotle, *Politics*, Book III, chap. 9, on the ties among citizens. [25] Aristotle, *De Anima*, Book III.

[26] Michael J. Oakeshott, "Introduction" to Thomas Hobbes, *Leviathan*, ed. By Michael J. Oakeshott (Oxford: Basil Blackwell, 1946). xii. [27] Aristotle, *Politics*, Book III, chap. 3.

[28] The point is that most of Thucydides' analysis is of the war in terms of psychological balance of power. [29] See, in this connection, Oakeshott, "On the Rule of Law," 164: and Sir Henry Pollock and Frederick Maitland, *The History of English Law* (Cambridge: Cambridge University Press, 1898), Book I, chaps. 3-5.