

Homo Ludens and Civil Association: The Sublime Nature of Michael Oakeshott's Civil Condition

THOMAS J. CHEESEMAN

The Alexander Hamilton Institute
21 West Park Row
Clinton, NY 13323
United States

Email: Tjpcheeseman@gmail.com

Web: <http://theahi.org>

Bio-sketch: Thomas Cheeseman is a candidate for doctor of jurisprudence at Vanderbilt Law School where he is a John W. Wade scholar. Thomas is also associated with the Alexander Hamilton Institute for the Study of Western Civilization.

Abstract: How should we consider Michael Oakeshott's distinction between Civil Association and Enterprise Association? Upon a cursory look, one might suggest that Enterprise Association is defined positively, by the goal it strives for, whereas Civil Association is defined negatively, by limiting what the state can do. This view is flawed. Instead, we should view Civil Association and Enterprise Association as distinct moral systems. In particular, we should view the two systems in light of their "fundamental emotions" -- play and seriousness with the associated personas of Homo ludens and Homo laborans. By considering Oakeshott's Civil Association in light of play, we can square the formalism of the later Oakeshott with the traditionalism of the earlier Oakeshott, and grasp the sublime nature of the associated Civil Condition.

Keywords: Homo ludens; Homo laborans; play; Oakeshott; Minogue; Huizinga; Civil Association.

INTRODUCTION

And the Stoics too, that conceive themselves next to the gods, yet show me one of them, nay the veriest bigot of the sect, and if he do not put off his beard, the badge of wisdom, though yet it be no more than what is common with him and goats; yet at least he must lay by his supercilious gravity, smooth his forehead, shake off his rigid principles, and for some time commit an act of folly at dotage.

—Erasmus, *In Praise of Folly*

What sort of man would reject the allure of utopia for a free and imperfect society? In accepting an imperfect society, is one necessarily entailed to only define the political order negatively? Throughout modern history, men of all creeds and ambitions have sought to bring about a just order of society; often, these endeavors have resulted in great leaps forward to desolation and despair. Standing up to the pessimism of the right about the West's lost traditions and

the schemers of a just society, we find Michael Oakeshott cautioning against despair and optimism. Yet, is Oakeshott merely a philosophical charlatan, deconstructing the work of others without providing his own answers? Does Oakeshott offer more than skepticism and quietism? In order to answer these questions, I will attempt, following Montesquieu's lead, to discern the fundamental emotion of Oakeshott's civil association and enterprise association (Montesquieu, 1748/1989). Drawing on Oakeshott's essay "Work and Play" and Johan Huizinga's *Homo Ludens*, I will argue that the concept of play and seriousness, with the accompanying personas of *Homo Ludens* and *Homo Laborans*, correspond to civil association and enterprise association, respectively (Huizinga, 1950; Oakeshott, 2004). Further, I will argue that the concept of play makes coherent the corpus of Oakeshott's work and provides the positive and sublime vision inherent in Oakeshott's civil condition. I will then suggest that while Oakeshott articulates a sublime 'civil condition' he mistakenly rejects a limited conception of natural law, based on the interplay of the individual and history, rather than on an abstract metaphysical system. Regardless of Oakeshott's flaws,

what Oakeshott offers us is a chance to celebrate modernity without having to embrace its associated errors.

The modern man derides play as mere trifle; he insists that the issues currently facing society are ‘serious’ and will require ‘serious’ action. Indeed, if pressed to define play, the ‘serious’ man would define the concept negatively: play is merely what is not serious. Play is the vapid folly that idles man’s mind and prevents society from approaching the better world we all desire. Easy as it may be to consign play to the periphery of life as something to entertain us in between serious endeavors, play assumes a much larger role in our lives and in the paths of civilizations. The concept of play and the associated terms of laughter, folly, wit, and joke compose a positive quality neither merely the leftovers of seriousness nor reducible to other concepts such as pleasure. Indeed, when one considers the ‘seriousness’ with which so many of us play, the fact that play comprises a field far greater than the negation of seriousness becomes readily apparent. What, then, is play?

In *Homo Ludens*, Johan Huizinga identifies four postulates of the play concept operative in every culture. First, Huizinga notes that all play is voluntary. For, “play to order is no longer play: it could at best be but forcible imitation of it. By this quality of freedom alone, play marks itself off from the course of the natural process” (Huizinga, 1938/1955, p. 7). Play cannot be reduced to mere biological instinct, but is rather rooted in a choice to act in one way rather than another. Further, Huizinga notes that, “play is not “ordinary” or “real” life.” (p. 8). In play, we move past the calculated goals of life, for in play, we are not calculating the utils we may gain. Clearly, in playing a game of Croquet, an individual is not solely seeking to lower his cholesterol; it is the enjoyment of the action in and of itself that provides the impetus for the game.

Next, Huizinga notes that play is “‘played out’ within certain limits of time and place. It contains its own course and meaning” (p. 9). Thus, certain basic activities in life are not play, such as cooking, cleaning, and office work. In fact, many, if not the majority, of our activities in life are not play, but are ‘serious’ goals we approach: getting a raise, deciding what color to paint the house, and other chores. Yet, even in something as essential as providing food, the play element shines through; within the confines of the kitchen and dining room, the game of producing a delicious and aesthetically pleasing dish engages one’s skill, taste, and interest. In

producing a more complicated pork tenderloin recipe or decorating a batch of cookies, the individual is not satisfying some need, but conforming to the meaning associated with the activity. Individuals, rather than seeing the magic of an activity as all encompassing, root the activity in a particular area- he will not experience the magic of cooking while in a sewage plant. Finally, Huizinga finds another, “very positive feature of play: it creates order, is order” (p. 10). When a child plays a game of ‘soldiers’ with his comrades, he does not need to be told what to do. Rather, through the process of playing, the children determine what various hand-signals mean and how one ‘dies’ in the game; for instance, if a pinecone lands at a child’s feet he has been ‘killed’. If one of the boys continues to refuse to ‘die’ in the game, later that night the child might pester their parents about how their friend cheated. While the parent might point out that the neglect of rules does not matter in the grand scheme of things, the child will hesitate to agree; the refusal to play along violates the sacred plane of play created by the children.

Here we recognize the different spheres of life that seriousness and play evoke. While the finery of culture may increase society’s utility, culture does not develop with an explicit eye towards utility. The “Serious Man” focuses on the utility gained for society, whereas the “Playful Man” focuses on the experience of that activity. We can differentiate the human personas of play and seriousness: *Homo ludens*, man the player, and *Homo laborans*, man the worker. *Homo laborans* is the man of enterprise, working towards exploiting the world to fulfill his goals and satisfactions. The *Homo laborans*, in fact believes that the instrumentalization of all behavior to satisfy human wants is the only way “we ought to spend our lives” (Oakeshott, 1960/2004, p. 306). If such a belief were acted upon, the non-instrumental nature of play would be seen as a defect, a type of conduct to be rejected for failing to contribute to society’s goal.

Yet what is lost by rejecting the conduct of *Homo ludens*? As Huizinga discovered in his research, play is a universal concept involved in almost every facet of culture, but intimately connected with the sacred ritual of societies from aboriginal tribesman and ancient Chinese to ancient Greeks and Renaissance Christians. Take for example Plato’s words that “life must be lived as play, playing certain games, taking sacrifices, singing and dancing, and then a man will be able to propitiate the gods, and defend himself against his enemies, and win in the contest.” For Plato, play not only pleases the gods, but furthers one’s standing with the gods in order to win favors against one’s enemies; therefore, play propels one into the holy and sublime. Play, which might be

derided as pointless, turns out to be the most significant human activity.

Huizinga's study is replete with other such examples that affirm the 'seriousness' of play for the vast multitude of societies. Indeed, Huizinga notes, following Plato, that in play "we in no way abandon the holy mystery, or cease to rate it as the highest attainable expression of that which escapes logical understanding" (Huizinga, 1938/1955, p. 27). The holy mystery is just that, a mystery, not to be dissected, analyzed, and perfected, but to be lived, to be played. Just like a glorious sunset over a rugged mountain, the sublime mystery calls for us to experience the moment. No man could ever set out to learn how to paint the sunset just to make a profit. Only by grasping what the picture brings out in humans, thus engaging in the sublime, could he depict the beauty. Whether any individual artist at any particular time might be focused on his potential commission for his portrait, it is not dollar signs alone that have driven him on the path. Even an enigmatic figure such as Andy Warhol, the master of pop-art, had his own ironic, playful spirit imbuing his enterprise. The *Homo laborans*' focus on utility neglects the higher experiences in life afforded by play.

Oakeshott elaborates on nearly the same point in *The Voice of Poetry in the Conversation of Mankind*. In the essay, Oakeshott describes the meeting of various modes of inquiry—be they poetry and practice or history and science—in order to learn from each rather than having one subsume the others. Thus, practical demands should not turn poetry into propaganda, nor should science impose its methods upon history. Instead, the distinct voices should help ascertain the totality of experience. Yet, can we imagine a physicist, who takes his work so seriously, to accept a subordinate existence for science? As Oakeshott notes, "in participation in the conversation each voice learns to be playful, learns to understand itself conversationally and to recognize itself as a voice among voices. As with children, who are great conversationalists, the playfulness is serious and the seriousness in the end is only play" (Oakeshott, 1960/1991, p. 490). The physicist is not seeking his solution to better the world, but rather for the value of the knowledge itself. If one considers the discipline of physics as a method of inquiry that is directed towards truth rather than any societal goal, and one that is governed by rules developed over time by the participants, we can easily see the play element within science. Outsiders cannot foist practical needs upon science, without destroying science. If a racist scientist sought to 'prove' his claim that non-Asians are mentally inferior to Asians, we would be skeptical as to whether he had been truly critical of his

methods in obtaining his desired result or if he had predetermined his goal before engaging in research. The pursuit of truth cannot bear the load of political and personal prejudices.¹

Furnished with sufficient conceptions of *Homo ludens* and *Homo laborans*, we can now see the political implications of the two personas when applied to government. We shall start with *Homo laborans* because, unlike *Homo ludens*, seriousness spans the traditional left-right political spectrum. In particular, consider how the persona links modern day liberals and Puritans in the 'Doctrine of Need.' In such a doctrine, the elite elevate the needs of the society, which the particular movement happens to define, to the exclusion of the other 'wants' of society. As Kenneth Minogue noted, "just as the conception of necessities was, for the Puritans, a moral battering-ram against the aristocratic style of life, so the attraction of 'needs' is that they appear to exclude anything frivolous, eccentric, subjective or capricious" (Minogue, 1963/1999, p. 97). Visualize the churches that Puritans built. Stripped down of the 'smells and bells' of a Catholic or Anglican church, the Puritan churches exemplify the *Homo laborans*' single-minded focus on achieving a goal without distractions. Similarly, in our age where opinion-makers expect universities to be relevant, how can a university justify teaching Latin when there are bridges to be built and starving persons to be fed? This instrumental mentality comports with the ideal type Oakeshott referred to as an 'enterprise association.' Oakeshott defines an enterprise association as a "relationship in terms of the pursuit of some common purpose, some substantive condition of things to be jointly procured, or some common interest to be continuously satisfied" (Oakeshott, 1975/2003, p. 114). Further, the leaders of the enterprise association must manage the subordinates to meet the end, quashing the eccentricities of the individual that may interfere with the realization of the substantive goal.

In contrast to the enterprise association, Oakeshott also presents the civil association. In this ideal type, the conduct of free individuals is restricted by the rules of society, but their substantive goals are not dictated by the government. Civil association has never been realized in its abstract perfection, but came closest to being realized in the West, particularly in the 19th century manifestations of the United States and Great Britain. The best non-political example of civil association may be a liberal arts education, as we shall address later. The *cives*, as Oakeshott terms the inhabitants of a civil association, behave as we would expect a *Homo ludens* to behave; they are rule abiding and playful. I will argue that

by understanding the *cives* as *Homines ludentes*, we can further explore the postulates of civil association. Just as importantly, the concept of *Homo ludens* clarifies Oakeshott's conception of authority in a civil association and makes coherent the formalism of Oakeshott's later work with the traditionalist prescriptions in his earlier work.

||

In Oakeshott's civil association, the *cives'* public concerns form the *respublica*—namely the political arena where the *cives* organize to voice their considerations for improving or maintaining their laws. However, the *cives* must restrain what issues they bring into the political arena in order to prevent the civil association from becoming an enterprise association. For, as we have discussed, the civil association eschews a common purpose for an arrangement solely qualifying how persons may legally act. Substantive wants, such as promoting church attendance, cultivating an acceptance of transsexuals, or feeding the poor may be laudatory, but none of them may be brought as goals into the *respublica* without destroying the *respublica*. The *respublica* is a limited engagement that allows persons to seek substantive wants in their private capacities. We see two of the principles of play inherent in the *respublica*—the engagement is confined to a particular area (of life) and individuals engage each other voluntarily. Further, within the *respublica*, the *cives* develop their own procedures for crafting the rules for the civil association. In many Western nations, the rules for passing legislation have been largely codified, but the practice existed long before written recognition. Even today, the way a particular political party in the US begins to consider proposing a law—who should introduce the legislation to the whole house, and the like—are practices that were developed by individual actions in the past and continue to develop with each new political event. Thus, within the confines of the *respublica*, we see another feature of play, that action creates order.

The spirit of *Homo ludens* that characterizes the *cives* mentality is essential to the creation what Oakeshott refers to as the civil condition. Oakeshott argues that the relationship of *cives* in the *respublica* is not merely transactional. The *cives'* “civil condition is not only [a] relationship in respect of a system of rules; it is [a] relationship in terms of the recognitions of rules as rules” (Oakeshott, 1975/2003, p. 148). Oakeshott does accept that the rules “may be recognized in terms of approval or disapproval of the conditions they prescribe,” but maintains that disapproval does not deny the

rules their status. To return to the scenario created earlier, the boy who refused to ‘die’ in the game, no matter how many pinecones have landed at his feet, may have rejected the particular rule that led to his ‘death,’ but by refusing to accept the rule he has rejected the game as well.

Similarly, wholesale rejection of the laws in a civil association constitutes the dissolution of the association. Thus, if a *Homo laborans*, acting as a Native American activist, were to reject the existing property rights possessed by private individuals and physically prevent a natural gas company from hydraulic fracturing on their property to get at the natural gas stored under their land, the activist would not merely be rejecting laws but the civil condition itself. One person, a vocal minority, or a majority of persons may disagree with how ‘the bundle of sticks’ that compose the company's property rights are defined and may believe that fracking risks essential resources for society, but these persons cannot simply nullify those rights by aggressive action. Only within the *respublica*, the designated area of politics, may the *cives* change the adverbial conditions² or obligations of society. Action otherwise destroys the game. Further, there is not “any place in civil association for the charismatic authority of a leader: apart from charisma being ‘wisdom’ and therefore not authority, civil rulers are not leaders, their subjects are not followers, and *respublica* is not authoritative on account of being a schedule of inspired ‘managerial’ decisions” (Oakeshott, 1975/2003, p. 153). Neither to inspire nor lead, politicians exist to play the game of politics. What, then, is politics?

As Oakeshott sees it, politics centers on a debate concerning whether all “*cives* should have a civil obligation which they do not already have or should be relieved (or partly relieved) of a current civil obligation” (Oakeshott, 1975/2003, p. 163). One might push back against this definition and argue that a free society or a just society is devoid of real obligations. Perhaps politicians can organize society to conform to the General Will; in this instance, the obligations required of a citizen are the obligations that the citizen should want. In this case, can we really call what a man should want to do freely an obligation? According to Oakeshott, the answer is yes. Perhaps a student should want to do his studies and doing so may enable him to avoid subservience to others, but that does not change the fact that the student is being forced to do something that he might not otherwise do. Whereas in a civil association the rules merely qualify how a person can act, in an enterprise association, the rules are commands towards a substantive goal. In the enterprise association, play is constricted and freedom is re-

jected in so far as they do not contribute to the state goal. Thus, admirable as the hope for a new Soviet man and Soviet woman might have been, the ‘goodness’ of the goal did not negate the complete lack of freedom and the sizable obligation placed on the people.

As Oakeshott notes, “a civil prescription which made adultery a criminal offense is not shown to be desirable if and because this conduct is acknowledged to be morally wrong; and if parents are recognized to have a moral duty to educate their children it does not follow that a *respublica* in which this duty is not made a civil obligation is thereby defective” (Oakeshott, 1975/2003, p. 175). Simply because the new obligation would further an admirable goal does not provide the rationale for the *cives* mandating the conduct. Nearly all of us would agree that abusing children is wrong, but if a state refuses make it criminal to fail to report any knowledge of abuse to the police, it is no less of a state. If the morality of the action does not constitute a basis for the law, then what does? The answer to this question lies in the conduct of the *Homo ludens* and the peculiar nature of the civil association.

As Noël O’Sullivan observes, Oakeshott insists that “the aim of decision (in politics) must be the creation and maintenance of civil association and that civil association ends once rule-following ceases to be its constitutive feature” (O’Sullivan, 2012, p. 306). In the game of basketball, determining how many steps one can take without committing a turnover is aimed at furthering the game; however, creating a rule that players may not score more than twice to make sure the other players do not feel bad violates the game. While both are rules, one deals with how to better facilitate the game, whereas the ‘feelings’ rule makes basketball an instrument for a particular end. After a game of basketball in which one team wiped the floor with the other, it would be a malapropism to decry the inequity and injustice of the situation. The point of competition is to compete. A team that loses because of their incompetence or relative lack of skill has not been denied justice. Undergirding the civil association is the *Homo ludens* rejection of any attempt to destroy the political arena: for to allow the destruction of the political arena is to allow the destruction of the play element.³

How should the *Homo ludens* determine the policies that enhance the civil condition? Steven Gerenscer makes an admirable attempt to fuse the traditionalist Oakeshott of “Rationalism in Politics” with the formulistic Oakeshott of “On Human Conduct,” placing tradition as something useful to consider in deliberations (Gerenscer, 2012). However, I find this portrayal of Oakeshott too negative; Oakeshott

believed that the civil condition, which is highly connected to the particular traditions of a society, was a moral association itself, not merely a pleasant arrangement. The lack of a substantive ‘moral’ goal does not preclude the possibility of a distinct moral imagination; indeed the imposition of a goal may be itself an immoral act, given the negative consequences. As Oakeshott recognized in his earlier treatments of law, “a philosophical concept must always be an affirmative or positive concept, never merely a negative concept. Negativity is merely a sign of an imperfect definition. And where the given concept is negative, one part at least of the business of a philosophical enquiry is to transform this negative into a positive” (Oakeshott, 2007, p. 174). Thus the division between civil association and enterprise association is not a divide between a negatively defined association and a positively defined association, but between two distinct moral visions. Indeed, to move past the formulistic concerns specific to *On Human Conduct*, we can adopt Kenneth Minogue’s distinction between free societies versus justice societies, or ‘one-right-order’ societies (Minogue, 2010). As Minogue argued, democracy is eroding the moral life of free societies by removing choice and responsibilities. Minogue objected to this process because each removal of choice and responsibility was a blow to individualism; as persons have progressively fewer responsibilities they have less reason to behave in the responsible manner necessary to personally survive and maintain our individualist system. While most civilizations in the history of the world have accepted that there is one right order for the world, be it Sharia law, the rule of the proletariat, or the Mandate of Heaven, the West is unique in its dedication to liberty. This is not to say that the West has experienced a pure and abstract liberty, whatever that might mean, but that often individuals were not commanded to act solely according to their station.

Here we begin to see the contours of the positive nature of Michael Oakeshott’s civil condition. Instead of seeking to make people or society ‘just’, or aiming to increase utility by implementing a capitalist regime, civil association is a moral association for liberty. Thus, the maintenance of liberty provides the standard for the politicians of the *respublica*. But what is liberty? Here, I think we will benefit from utilizing another distinction of Minogue’s: liberty versus liberation. As Minogue notes, “The point about freedom as it had traditionally been understood was that it incorporated moral limitations with it; liberty was distinguished from license, and those who enjoyed it accepted the conventions and limitations of their duties in respect of family” (Minogue, 2010, pp. 214-215). In contrast, liberation is conceived of as an ab-

solute freedom, one which requires society (a word neatly inserted in the stead of government) to eradicate prejudice. Often, this ‘prejudice’ is the result of various voluntary organizations in society, such as churches and men’s clubs, which are emblematic of the ‘heteronormative, racist, xenophobic, transphobic patriarchy’ allegedly controlling society. As Minogue notes, “to destroy this nexus of trust, to treat authority as if it were no different from oppression, is to diminish one of the major resources of Western life, leaving us unprotected against a more brutish world in which the state claims to save us from the oppressions of social authority” (Minogue, 2010, p. 297). In seeking a more perfect ‘liberty’ or more precisely a liberation from the oppressive world, activists and revolutionaries erode liberty by ignoring the particular historical circumstances that lead to the growth and development of liberty; and as a result, historically, the pursuit of liberation has brought about an even worse tyranny, as the French and Russian Revolutions demonstrate.

Oakeshott’s defense of cultural practices in his earlier work is inseparable from the freedom presented by Oakeshott in “On Human Conduct” when understood within the context of history. Indeed, we might go so far to say, as Leslie Marsh suggests, that those practices, habits, and customs known as tradition actually compose the mind of each individual and make voluntary action both possible and necessary (Marsh, 2012). How then did these traditions develop within Western Civilization? I think we can readily conclude, as Huizinga did, that “civilization is, in its earliest phases, played. It does not come *from* play like a babe detaching itself from the womb: it arises *in* and *as* play, and never leaves it” (Huizinga, 2012, p. 173). We might note here, that, contrary to popular caricature, traditions are not frozen in time. Rather, human interactions often confront new situations that force agents to modify their behavior slightly, such that no tradition is ever wholly old or new. Specifically, the *Homo ludens* engages life by playing according to the traditional rules but responding in ways that are not proscribed by the rules and gradually adjusting the rules themselves. In a superficial example, consider the engagement of meeting new people. Gradually, one gathers a sense of how to behave and develops particular ways of interacting that produce more convivial and specific relationship; persons surrounded by their friends are likely to have particular customs that elicit laughter. Indeed, when you interact with someone who clearly has no interest in interacting with you—but for the benefit they can extract from the engagement—the conversation quickly becomes uncomfortable. Those persons most successful at ‘using’ others must accept the ‘game’ of hu-

man interaction and develop the practices in the process. No person sat down and designed the market, marriage, or churches that compose so much of the traditional way of life. Indeed, what makes these activities so engaging, indeed sublime, is the character imparted to them by the play element. If one simply defends marriage for the benefits it brings society and demands that we accept specific criteria, the play element and the sacredness have been expelled from the activity.

|||

Oakeshott’s defense of a non-instrumental or playful approach to life is mirrored by his contempt for the instrumental or rationalist outlook on life. The *Homo laborans* mentality has led to the insistence that by focusing our mental efforts on the task of utilizing the earth we shall realize an elevated state of existence, a New Atlantis. Yet, in the war against human wants charges of treason began—idleness and inefficiency, play and dreaming were a foolish sin, stopping man from entering the gate of a new Eden. We thus come to Oakeshott’s allegorical story about the Tower of Babel; the story typifies the mindset of *Homo laborans* and the resulting impact on society. Representing the supreme *Homo laborans* is Nimrod, the leader of the Babelians. Nimrod, as imagined by Oakeshott, “was admired for his audacity and he acquired a considerable following of flatterers and hangers-on who, dazzled by his blasphemies, surrendered to his leadership” (Oakeshott, 1983, p. 184). Oakeshott sets up the *Homo summus laborans* as an individual who shows irreverence for the mores of his time, supposedly demonstrating his independent mind. Yet, Nimrod, fearing the threat God posed to him, “determined to deal radically with an insecurity that had become his obsession. It was no good trying to outwit or to intimidate God...he must be destroyed” (*ibid*). For the *Homo laborans* is “a creature of wants; of desires that cannot have more than a temporary satisfaction,” always leading to new wants (Oakeshott, 1960/2004). Nimrod, being the embodiment of *Homo laborans*, realizes that the only way to end frustration is to destroy frustration; by realizing utopia Nimrod will destroy the uneasiness of life. Nimrod rallies the people to the cause of the Tower of Babel in order to wage war against God and end his anxieties associated with scarcity. To mobilize the people, Nimrod must draw up the moral ideal that will ‘light a fire in the minds’ of the Babelians: the manifest superiority of the ideal distinguishes it from the consolation of everyday life. Indeed, Nimrod, as the “leader of a cosmic revolution,” leads an enterprise that

not only fails, “but entails the destruction of all the virtues and consolations of the *vita temporalis*” (Oakeshott, 1983, p. 189). Ultimately in Oakeshott’s tale, the Babelians become obsessed with the project and, fear being cheated out of the ‘right’ to enter Eden, rush into the tower to make sure Nimrod has not entered Eden alone. As a result, the mass influx of people crashes the tower, killing everyone inside. The moral ideal ‘learned’ by every Babelian was ultimately their downfall; the Babelian obsession with the perfect ushers in a crushing nihilism, the ‘death’ of all members of the enterprise.

How did the Babelians learn the moralistic ideal? More importantly, how does the *Homo ludens* learn the rules guiding his non-instrumental mentality? In order to answer these questions we must briefly engage Oakeshott’s philosophy of education. As Oakeshott noted, education “is learning to follow, to understand and to rethink deliberate expressions of rational consciousness; it is learning to recognize fine shades of meaning without overbalancing into the lunacy of decoding” (Oakeshott, 2001, p. 69). Further, while learning, one “is learning in acts of constantly surprised attention to submit to, to understand and to respond to what (in this response) becomes a part of our understanding of ourselves” (Oakeshott, 2001, p. 70). Thus, Oakeshott distinguishes between learning and conditioning. Real learning requires the learner to think through the facts and understand the rules and conduct from the subject’s mind. Suppose we were trying to understand the sermons of an antebellum Southern preacher, say James Henly Thornwell. In order to understand such a mind, we must engage the world as Thornwell saw it. We cannot simply see that he defended slavery and cast our condemnations at him. Ignoring the fact that cursing a dead man seems to be an exercise in futility, nothing can be gleaned from this attempt to ‘learn.’ Indeed, only a cynical man could call this learning. Rather, understanding Thornwell’s ideas and actions as he did provides us a window into another world. Yet, to fully empathize with the character, the student has to recognize that his own assumptions diverge from his subject’s. The student not only gains the ability to write about Thornwell, but will now be aware of his own assumptions, changing how he views the world. In this sense, learning is a fundamentally transformative experience. Most importantly, as Oakeshott recognized, “one may learn to read only by reading with care, and only from writings which stand well off from our immediate concerns” (*ibid*). If the student could not look beyond how terrible his peers consider slavery or how en vogue persons find radical individualism, the process of learning can never take place. The words of Thornwell’s

sermons will be nothing more than stillborn ideas in a sea of current pretensions.

Oakeshott responds to those who would make education more relevant with knives bared. In “The Universities,” Oakeshott takes particular aim at the effort to make education serve ‘scientific humanism’ to save civilization. Scientific humanism, or the goal of alleviating the needs of society through technical progress, is precisely what Oakeshott railed against the Tower of Babel story. Oakeshott’s critique of scientific humanism—or the *Homo laborans* mentality—represents a specific example of his dissent from the project of consciously trying to ‘save’ our civilization. With regards to the moralistic endeavor of ‘redeeming’ society, Oakeshott notes “this (the saving) is all well if you are trying to save a man’s soul or convert a drunkard, but in this sense civilizations cannot be ‘saved,’ they cannot take the pledge and from that moment never touch another drop” (Oakeshott, 2001, p. 123). As we saw earlier, when one want is satisfied another will spring up, but more generally, life has no neat and clean solutions.

In criticizing Oakeshott, Paul Franco notes, “but, as in so many other aspects of his philosophy, Oakeshott’s determined effort to avoid utilitarianism and instrumentalism leads him to hive education off from any sort of moral or practical or societal effect” (Franco, 2012, p. 192). Franco insists that “the university can be—indeed, must be—more than that: not merely an interval but a transforming power” (*ibid*). This pleasant Babelian sentiment, imbued with the best of intentions, misses Oakeshott’s message. Franco says education must be transformative, but transformative to what? Shall we ‘teach’ students the American creed such that the next generation ceremoniously snaps off salutes to the flag and worships the myth of the Founders, creating little foot soldiers for liberty? Or should we impart the proper level of ‘tolerance’ for the cause célèbre to the proper strictures of the Radical Chic? Oakeshott would certainly agree that education is relevant. Indeed, as Oakeshott sees it, “as civilized human beings [those who have been educated], we are the inheritors neither of an inquiry about ourselves and the world, nor of an accumulating body of information, but of a conversation, begun in the primeval forests and extended and made more articulate in the course of centuries” (Oakeshott, 1960/1991, p. 490). Education is nothing less than grappling with our entire civilization’s identity and thought, but men only acquire and develop our education and culture. There will be no ‘transvaluation of values’ brought about through a new education schema designed to revitalize society from its state as a mausoleum culture. It is

only by abandoning the narrow needs of today that we can tend to the fields of tomorrow. But unlike the farmer, who knows what crops he will produce and knows how to allocate his field, man is not to be allocated. Man is to play.

Today, the belief in ‘saving civilization’ or ‘saving society’ has taken hold, with activists crafting governments in the West ever towards the enterprise association ideal. Who are these people who would wish to be allocated by the elites? In “The Masses in Representative Democracy,” Oakeshott sets out to analyze the historical embodiment of the *Homo laborans*, the mass man. Oakeshott believes that the mass man cannot be understood by himself, but only in relation to the individual. From the twelfth century onwards, “the enjoyment of the new opportunities of escape from communal ties gradually generated a new idiom of human character”—individualism (Oakeshott, 1960/1991, p. 365). The individualist embraced his release from the communal ties of the past and enjoyed his newfound ability to pursue his preferences. Unfortunately, not everyone was suited for the new environment of freedom. Oakeshott notes with regards to the mass men that, “we need not speculate upon what combination of debility, ignorance, timidity, poverty or mischance operated in particular cases to provoke this character; it is enough to observe his appearance and his efforts to accommodate himself to his hostile environment” (Oakeshott, 1960/1991, p. 371). Long before the age of democracy, Oakeshott notes that the mass men, or the individual manqués, began to resent and rebel against their freedom. The individual manqués at first persuaded themselves that their poverty resulted from their lack of rights. Surely, if they obtained the same rights as the nobles and bourgeois the individual manqués would attain the same results. According to Oakeshott, we thus see the anti-individual disposition in the sixteenth century clamoring for rights, long before the growth of workers’ movements in the nineteenth century. Consider the English Diggers and their much less radical cousins the Levellers during the English Civil War. These groups pushed for universal suffrage and either sought the abolition of property rights or demanded that the ‘natural right’ to property that each man possessed be respected. In either case, we see demands by the individual manqués to be given rights so that they can become equals with the nobles. Notice however, that the ‘rights’ demanded are not the right to dispose of one’s property freely, but rather that these individuals be given property. As with all demands for positive ‘rights’ what is really demanded is an entitlement based on the infringement of others negative rights. The individual manqués demands are not for rights and freedom, but for a state im-

posed telos. It is no coincidence that the Puritans who we discussed earlier in this paper also sought at first to live in a society with communal property. Only starvation and death could dissuade the Puritan ideologues of their grand design, resulting in the institution of property rights and the survival of the Puritans.

For Oakeshott, the mass men represent the seeds of a new barbarism that opposes the individualist idiom and will seek to undermine it. How did these mass men obtain power in an age before democracy? The mass men “composed the natural-born recruits for the army of retainers which was to take the place of ‘subjects’ in states managed by lordly monarchs and their agent. Indeed, from one not insignificant point of view, enlightened government may be recognized as a new response to what had been called ‘the problem of the poor.’ Utilizing the morality of communal ties, the mass man sought to impose himself on society. As Oakeshott explains the historical situation, the growth of the mass men led to destruction of civil association and the imposition of the enterprise association model on society. The base materialism and destruction of the civil condition is the dire situation of our age. Everywhere new towers are being built up and collapsing upon themselves. Yet, is it the yearning for communal ties that solely brought about this situation?

IV

In the history of liberalism, individualism, and liberty, the current generation ballyhoos one character above many others: John Stuart Mill. How might Oakeshott have dealt with Mill? More importantly, if Mill and his epigones like H. L. A. Hart have had a significant impact on society and the mass men, then perhaps Oakeshott’s interpretation of Modernity needs additions to properly diagnose the sickness of the West.

If ever there was a *Homo laborans* philosopher *par excellence*, J. S. Mill would be the clear choice. As a short biography notes with regards to Mill, “the boy’s precocity, combined with his father’s extremely high standards, unusual breadth of knowledge, and resources, resulted in Mill having an amazing range of Greek classics by the time he was eight years old” (Mill, 1859/2002, p. iii). Like the helicopter parents of today, Mill had his nose thrust firmly to the grindstone. Without going too far into a psychological analysis of Mill, we may simply note that from Mill’s birth until his death, play was not a topic very often countenanced. From his rigorous studies as a child, to his ‘mathematical’ approach to society and free expression, one can only glean a delib-

erate seriousness about Mill's life. I am not trying to smear Mill, only to place his enterprise association ideas within the context of a very serious or *Homo laborans* background.⁴

Within Mill's arid utilitarianism, custom is viewed as naught more than prejudice. As Mill contends, the customary rules of society "appear self-evident and self-justifying. This is all but universal illusion is one of the magical influences of custom, which is not only, as the proverbs say a second nature, but is continually mistaken for the first" (Mill, 1859/2002, pp. 4-5). Oakeshott confronted such an idea in "Rationalism in Politics" and neatly disposed of the idea as a false pretense of knowledge (Oakeshott, 1960/1991). As we noted earlier, liberty, as opposed to liberation, assumes a cultural framework that provides a nexus of trust necessary for voluntary interaction. Mill, on the other hand, fails to take into account the limited abilities of the human mind. Rather than being a rational calculating instrument, the human mind cannot calculate how to maximize its utility or foresee all the consequences of its actions. As the 20th century demonstrates, the attempt to fully plan an economy fails for a number of reasons, including the failure of central planners to acquire local knowledge (Hayek, 1945). Humans are not purely rational, but, utilizing a market, respond to incentives, thereby producing an efficient allocation of resources. In this way, the market operates like a super computer, showing that customary, non-conscious designed patterns of behavior can be far superior to rationalistically determined behavior. Similarly, customs produced by human action, but without human design, harness the specific knowledge of humans gained through experience. Unlike Mill's contention that "to an ordinary man...his own preference...is not only a perfectly satisfactory reason, but the only one he generally has for any of his notions of morality," man's reliance on custom does not rely on preferences (Mill, 1859/2002, p. 5). Instead, as argued earlier, the acceptance of customs is part of a non-instrumental mentality towards society. Thankfully, the 'playing' out of specific practices and the gradual adjustment of rules leads to an adaptive process that allows for both change and a reasonable forecast of the associated consequences.

Yet, when Oakeshott deals with individual actions in "On Human Conduct," he presents a complicated process. Oakeshott postulates that human conduct is composed of two things: self-enactment and self-disclosure. Oakeshott defines self-disclosure as "choosing satisfactions to pursue and pursuing them; its compunction is, in choosing and acting, to acknowledge and subscribe to the conditions intimated or declared in a practice of moral intercourse"

(Oakeshott, 1975/2003, p. 76). By contrast, self-enactment is "choosing sentiments in which to act; and its compunctions are conditions of 'virtuous' self-enactment intimated in the language of moral conduct" (*ibid*). What exactly do these terms mean? Self-disclosure deals with how others perceive our actions, whereas self-enactment deals with how we conceive of our own actions. Thus, if I were to help a child escape an abusive environment, I would be disclosing my intention to fix this situation. If I were to fail to act, persons would view me as guilty of violating our 'practices of moral intercourse'. If I only rescued the child to win the favor of women, I would not be guilty, but my intentions would be viewed as shameful. Yet Oakeshott posits that moral conduct is neither focused upon solving problems nor confined to one standard. Rather, in moral conduct, 'there is room for the individual idiom, it affords opportunity for inventiveness, it may be spoken pedantically or loosely, slavishly or masterfully' (Oakeshott, 1975/2003, p. 65). By restricting his explanation of human conduct solely to choice, has Oakeshott opened up an entirely different problem? As Noël O'Sullivan notes, despite the benefits of defining the self as Oakeshott does "it [the definition] is open to the charge of identifying selfhood with a narrowly existentialist emphasis on choosing as the primary expression of human identity" (O'Sullivan, 2012, p. 306). What role do customs play in human identity? Can men ever truly escape identifying with a tribe or community?

The apparent issues in Oakeshott's description of human conduct can be broken down into two parts: the issues that can be resolved in understanding Oakeshott's goal in "On Human Conduct" and issues that seem to come from errors within the body of his work. With respect to the first set of issues, we must recognize that *On Human Conduct* is vastly different from the other magnum opuses of the age, such as *A Theory of Justice* or *The Constitution of Liberty*. Oakeshott, following in the tradition of Hobbes, deals with the static and abstract postulates of a free society, rather than presenting a guide for his followers. Oakeshott's recognition in his third essay in *On Human Conduct* that the modern political situation of the West is characterized by ebbs and flows between enterprise association and civil association. Whereas the third essay and the corpus of Oakeshott's early political writings analyze the dynamic elements of society, the first two essays of *On Human Conduct* focus on the postulates of human conduct and the postulates of civil association. Further, Oakeshott explicitly recognized in *On Human Conduct* that self-disclosure occurs within "conditions articulate in relationships, customs, rules, duties, etc.," that com-

pose “considerations currently believed to be appropriate in the intercourse of ‘free’ individuals” (Oakeshott, 1975/2003, p. 76). And yet, while the play element may help us understand Oakeshott’s work as a coherent whole, issues remain within the Oakeshottian framework that cannot be resolved by further reference to Oakeshott’s work. Instead, by engaging the postulates of play we discussed earlier, we can critique and make coherent the sublime civil condition.

√

Within Oakeshott’s philosophy, I would argue we find three major issues: (a) Oakeshott appears to attack the notion of a community in various works including “The Tower of Babel” and “The Masses in Representative Democracy,” but leaves us to wonder where else individuals learn the habits and customs essential to society; (b) Oakeshott’s infamous swipe at Edmund Burke, while celebrating arch-rationalist Thomas Hobbes, seems to undermine Oakeshott’s critique of rationalism; (c) Oakeshott suggests in the essay “On Being Conservative” that conservatism can be separated from the concept of natural law, but introduces the equally mystical concept of intimations. We can address all three issues through a brief examination of Edmund Burke’s conception of natural law and the concepts relationship to play. In particular, I will be relying heavily on Peter J. Stanlis’ *Edmund Burke and the Natural Law*, a book recognized by no less than Russell Kirk as the finest book ever written on Burke (Stanlis, 1958/2003).

Unfortunately, to begin our discussion of Edmund Burke and the natural law, we must vanquish a common misunderstanding. Derived from Leo Strauss’s interpretation of Burke in *Natural Right and History*, certain scholars have characterized Burke as a proto-historicist (Strauss, 1965). If we give but a cursory look at Burke’s speeches on India or Ireland, we soon realize that the historicist Burke never existed. If Burke merely accepted what history provided, then why did he reject the oppression of religious minorities and the Irish by the English crown? Yes, Burke certainly respected local customs and found them to be an essential part of a society, but this recognition does not preclude Burke from accepting a natural law theory. Yet, in order to understand how Burke reconciled the individual, the community, customs, and the natural law, we must understand the larger Christian tradition within which Burke operated.

While contemporary liberals will almost certainly claim that secularization caused the rise of Western individualism, the real history of individualism must be traced

further back. Oakeshott, as we noted earlier, pointed to the rise of individuals in the 12th century; however, we can go back further to understand the ideas essential to the realization of individualism in society. The answer is almost certainly yes and we can trace western individualism back to its Christian roots. At first glance, the idea that Christianity and individualism are not only linked, but the advent of western individualism is in great part a product of Christianity may seem absurd. When we denizens of modernity consider Christianity and Christian doctrine’s condemnation of egoism, we cannot help but believe that Christianity is not the basis of individualism, but that Christianity is opposed to individualism. Certain historical developments and not necessity determine our association of individualism and egoism. An individual may choose his actions in a variety of ways, including according to his own preferences or according to his Christian beliefs. Christian doctrines on the relationship of the individual to the state and the individual to the community compose an essential paradigm to understand Western individualism. Further, by understanding these two positions we can better understand where Oakeshott’s interpretation of modernity goes awry.

The Christian notion of community, or rather the Christian distinction between the individual and the community provides a persuasive response to Oakeshott’s condemnation of community. Jesus said in the Gospel of Luke:

If any man come to me, and hate not his father, and mother, and wife, and children, and brethren, and sisters, yea, and his own life also, he cannot be my disciple. And whosoever doth not bear his cross, and come after me, cannot be my disciple. For which of you, intending to build a tower, sitteth not down first, and counteth the cost, whether he have sufficient to finish it? Lest haply, after he hath laid the foundation, and is not able to finish it, all that behold it begin to mock him, saying, this man began to build, and was not able to finish. Or what king, going to make war against another king, sitteth not down first, and consulteth whether he be able with ten thousand to meet him that cometh against him with twenty thousand? Or else, while the other is yet a great way off, he sendeth an ambassage, and desireth conditions of peace. So likewise, whosoever he be of you that forsaketh not all that he hath, he cannot be my disciple (New Testament, 14:26-33).

Here, Jesus attacks the hierarchal and rigid social system extant in the Jewish community during his time. Rather than understanding one's self as a part of the communal whole, a Christian must bear his own cross; a Christian must act as an individual. Yet, we often hear Christians use such terms as a 'community of believers' or 'disciples of Christ', terms which seem to conflict with our notion of individuality. Instead of conflicting with individuality, the community of believers represents a voluntary community, not associated for egoistic reasons, but for a non-instrumental good. In contrast, Mosaic Law, which is both the political and moral law of Judaism, purports to establish a just society, falling into the category of an enterprise society.

Christianity posits a more complicated relationship between the political realm and the moral realm. As Jesus said, "Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's" (New Testament, Matthew 20:21-22). Political law is not subsumed under the moral law in Christianity. As the Christian doctrine developed, the distinction between the perfection of Jesus and the frailty of the mortal human condition was further emphasized. St. Augustine, considered one of Christianity's most important early defenders, argued that the City of Man could never approximate the glory of the *City of God* (St. Augustine, 1998). A fundamental skepticism about immanent utopia characterizes the early orthodox Christian thought. Indeed, as St. Thomas Aquinas noted "the general principles of the natural law cannot be applied to all men in the same way on account of the variety of human affairs: and hence arises the diversity of positive laws among various people" (St. Thomas, 1917, Question 95, Second Article, Reply to Objection 3). Unlike Judaism or Islam, where the holy scriptures have promulgated the just laws of society, Christianity and Christian thought recognizes a multiplicity of possible arrangements dependent on circumstances. Indeed, as I will discuss, the Christian (particularly Catholic) notion of community and society necessarily utilizes custom. The Christian notion of community recognizes free action, a non-instrumental, sublime good, and particular customs, elements that we have already associated with the play element. For this reason, I would argue that the term community obfuscates discussions rather than serving as a useful analytical tool. Instead, we should distinguish between the two notions of community: I would suggest we regard the Christian community as an "Individualist Community" and we regard anti-individualistic communities, such as traditional Jewish and Islamic communities, as "Collectivist Communities".

We can now address Oakeshott's conception of community. Whereas Oakeshott portrayed community as the fulfillment of the enterprise association in his Tower of Babel story, we can reasonably argue that an individualist community fits with Oakeshott's civil association. Yet, we can go further and argue that the individualist community and the Christian, and by extension Burkean, notion of natural law is an essential part of the civil condition. First, if we look at modern Western history, we can easily see that the individualist community has acted as a powerful break on the gradual conversion of the state into an enterprise association. In America, characterized by the individualistic communities that Tocqueville extensively described in "Democracy in America", the ideal of the civil association has fared far better than in European states. Yet, perhaps the prevalence of individualistic communities and the realization of a civil association are merely correlated or perhaps I have reversed the causality. Thus, the historical argument is both the easier argument to make and the more superficial argument. In contrast, we can address the postulates of play and the postulates of civil association, focusing on the potential corruptions of the *cives* from a collection of *Homo ludens* to a collection of *Homo laborans*.

While Oakeshott's point about the individual manqué explains a certain portion of the destruction of civil associations in the West, the corruption of a Burkean conception of natural law inherent in the Western tradition helps explain the damage our civil associations have incurred in recent history. In the place of the non-instrumental natural law, came a program of progress, an attempt to recreate society. However, we have already told this story in the context of seriousness and play. In large part, the play spirit animates the traditional natural law. Consider a few elements of play we have already discerned; play generates order; the order play creates gradually changes through further play; play is non-instrumental; play is sublime. All four qualities listed play prominently in Burke's conception of the natural law.

As we have previously stated, Burke subscribes to a Christian worldview, an individualistic worldview. Indeed, for anyone familiar with Burke's writing outside of the *Reflections of the Revolution in France*, Burke vociferously defended various freedoms for American colonists, religious minorities, the Irish, and the Indians. Yet, Burke's defense never deals with abstract rights, but with the particulars of the situation. How did Burke reconcile his regard for the particulars with his respect for the sublime? According to Burke, man is a political animal; or to reformulate it, man by his nature seeks to be part of a game or an enterprise. In

the case of the game, man experiences the sublime through playing the game by the rules. Similarly, Burke believed that the realization of the sublime comes through the rootedness of humans in a particular set of circumstances; the particular set of rules the human being “plays” enables him to experience the sublime. In situations such as the French Revolution or post World War I, where the ‘rules’ have been destroyed, man has been denied the option of a ‘game’. As a result, man seeks to be part of an enterprise. Thus, we might controversially note that there is more political wisdom in the words of Georg Sorel than John Stuart Mill; when people are stripped of their traditions, they will not pursue an abstract liberty according to pure reason, but seek a myth to dissolve themselves into a collective. In the absence of distinct traditions, the mass men, the utopian dreamers, and other lost souls will unite to achieve one glorious goal. Unfortunately, like the Tower of Babel, the glorious goal will collapse as well. The persons, who sought to elevate themselves towards the goal, to wear a different mask, will meet nothing but failure; the collapse of the goal and resulting chaos will mean nothing.

The resulting nihilism is not inevitable. Rather, as we saw earlier, the play element provides an alternative to the nihilism. And yet, play occurs within a limited arena. Outside of the political realm, the free man must play within a particular arena. The most obvious arena we may present is the individualist community. While man may play alone⁵, play generally creates order and custom best through the interaction of many individuals. Within the context of an individualist community, we find the greatest potential for the sublime to take hold and regenerate a genuine culture. In contrast, moves toward pure individualism, whether based on an abstract notion of liberty or through welfare payments that allow the individual to avoid depending on his neighbors, make the move from *Homo ludens* to *Homo laborans* inevitable. The reason for the change is simple; by destroying the constitutive rules of the game, you are destroying the game itself; you are ending the civil condition.

How should we understand the balance between the rules and the game? As Aquinas noted, “to a certain extent, the mere change of law is of itself prejudicial to the common good: because custom avails much for the observance of laws, seeing that what is done contrary to general custom, even in slight matters, is looked upon as grave. Consequently, when a law is changed, the binding power of the law is diminished, in so far as custom is abolished. Wherefore human law should never be changed, unless, in some way or other, the common weal be compensated according to the

extent of the harm done in this respect.” (St. Thomas, 1917, Question 97, Second Article, On the Contrary). Aquinas’s rationale sounds very similar to the practical, non-instrumental reasoning that Oakeshott prescribes for the *cives*; changes should only occur for the benefit of the civil association. Oakeshott asserted that, “if a ‘higher’ law is postulated, such that the authority of *respublica* is conditional upon a correspondence with it, this ‘law’ (if it is to serve a theoretical purpose) must itself be shown to have authority” (Oakeshott, 1975/2003). Given what we have discussed, is there any question that the organically developed rules composing the civil association serve as the basis of authority? We cannot separate the sublime experience of the civil condition and the sublime experience of Burkean natural law; the play element unites the two experiences into one. While gradual, prudential change may preserve the game, a wholesale re-ordering of the rules destroys the game.

If man’s instrumentalization of society has led to the widespread increase of the state and the destruction of our individualist morality, what solution does Oakeshott offer? How do we convert a *Homo laborans* to a *Homo ludens*? Turning to Oakeshott’s use of Plato’s metaphor of the state as a boat, what is a captain to do when his ship enters treacherous waters? In truth Oakeshott presents no solutions for society. Though a ship may be caught in rough waters and charging fast towards a perilous cliff, pulling all control from the captain, it takes but an errant wind to send the ship back out to sea, towards new challenges and new adventures. Therein lies the magic of Michael Oakeshott. Oakeshott does not present a solution to the problems of modernity, precisely because there is no solution for a “captain” to implement. Rather, Oakeshott forces us to put asides our “serious” concerns, governed as much by chance as by choice, and gives us the opportunity to embrace the adventures of the open seas; a chance to think, a chance to play, and a chance to dream.

NOTES

1. Obviously, each individual scientist will have a multitude of beliefs that he will have to contend with in his pursuit. A dedicated environmentalist and conservationist would have to proceed carefully if he were to research climate change; in his desire to “help the environment” he might make suppositions about feedback loops and other casual mechanisms that would render his model useless.
2. Qualifying actions, but not designating actions; within the civil association, the state instructs that however you act, you don’t act “murderously” or “fraudulently,” but it does not tell you to do a particular action.
3. Admittedly, this case, as Corey Abel has helpfully pointed out to me, is an “easy” case. Instead, what if we were proposing a rule to make the game more entertaining? Provisionally, I would suggest that such a rule change, which enhances the engagement in the limited field, would clearly “fit.” However, in the process of this paper, I’ve articulated a “positive” vision of Oakeshott while articulating a “negative” view of politics. This is an issue to be addressed in another paper.
4. This is not to suggest that an individualist must have a weak education. Rather, I mean to suggest that children, for whom play comes easiest, should allowed to be children with all the associated frivolity. If your education is an enterprise, rather than an adventure, the satisfaction of learning will come from imposing your ideas rather than experimenting. In a way, I am partially persuaded by Maurice Cowling’s work that Mill is not an individualist, but a rationalist looking to impose uniformity on society. By contrast, Oakeshott has no interest in ruling others.
5. I for one “play” alone when I drink scotch. While at first, I simply poured a dram and enjoyed over time, I have developed my own ritual. I grab a freshly cleaned glencairn glass, pour about two fingers, and allow the dram to sit. Meanwhile I grab my edition of Michael Jackson’s Complete Guide to Single Malt Scotch. I open the page to the particular single malt and test whether I apprehend the same smell, the same taste, and the same finish. And yet, even I have expanded the “tradition,” it is with friends that I have gotten the most out of the experience. Competing to see who can discern the most transforms the scotch into much more than the chemical components.

REFERENCES

- Franco, P. (2012). *Un Début dans la Vie Humaine*. In: Franco, P. and Marsh, L. (eds.), pp. 173-196.
- Franco, P. and Marsh, L. (eds.) (2012). *A Companion to Michael Oakeshott*. University Park: Pennsylvania State University Press.
- Gerenscer, S. (2012). Oakeshott on Law. In: Franco, P. and Marsh, L. (eds.), pp. 312-336.
- Hayek, F. A. (1945). The Use of Knowledge in Society. *American Economic Review*, 35: 519-30.
- Huizinga, J. (1938/1955). *Homo Ludens: A Study of the Play Element in Culture*. Boston: Beacon Press Books.
- Marsh, L. (2012). Oakeshott and Hayek: Situating the Mind. In: Franco, P. and Marsh, L. (eds.), pp. 248-267.
- Mill, J. S. (1859/2002). *On Liberty*. New York: Dover Publications.
- Minogue, K. (1963/1999). *The Liberal Mind*. Indianapolis: Liberty Fund.
- Minogue, K. (2010). *The Servile Mind*. New York: Encounter Books.
- Montesquieu, C. (1748/1989). *Spirit of The Laws*. London: Cambridge University Press.
- Oakeshott, M. (1962/1991). *Rationalism in Politics*. Indianapolis: Liberty Fund.
- Oakeshott, M. (1983). *On History and Other Essays*. Indianapolis: Liberty Fund.
- Oakeshott, M. (1975/2003). *On Human Conduct*. Oxford: Oxford University Press.
- Oakeshott, M. (2001). *The Voice of Liberal Learning*. Indianapolis: Liberty Fund.
- Oakeshott, M. (1960/2004). Work and Play. In: O’Sullivan, L. *What is History? And Other Essays*. Exeter: Imprint Academic Press, 303-314.
- Oakeshott, M. (2007). The Concept of Philosophical Jurisprudence. In: O’Sullivan, L. *The Concept of Philosophical Jurisprudence*. Exeter: Imprint Academic Press.
- O’Sullivan, N. (2012). Oakeshott on Civil Association. In: Franco, P. and Marsh, L. (eds.), pp. 290-311.
- Stanlis, P. (1958/2003). *Edmund Burke and the Natural Law*. Piscataway: Transaction Publishers.
- Strauss, Leo (1965). *Natural Right and History*. Chicago: University of Chicago Press.
- St. Thomas Aquinas (1917). *The Summa Theologica: Part I-II*. Dominican Press.
- St. Augustine (1998). *The City of God Against the Pagans*. London: Cambridge University Press.