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OXFORD MADE HIM

Heinz's arrival in England in October 1933 had elements of farce. Eager to practise his English, he struck up a conversation on the cross-channel ferry with an affable Englishman who turned out to be a homosexual attracted to the good-looking if confused young German. At Oxford, he disconcerted the Lincoln College porter by addressing him as 'sir'. On his first morning, he attended the matriculation ceremony in the Divinity School, but was unable to understand a word of the Vice-Chancellor's address, which was, as it happened, delivered in the Latin spoken by English dons. To show how cooperative he could be, he joined the Lincoln boat club, in which he rowed badly and without pleasure.

But such gaucheries in no way weakened his determination. 'I intend to get a first!' Heinz told his bemused friend John Douglas Pringle, later editor of the *Sydney Morning Herald*. He had decided that the best option open to him, as a foreigner and a refugee, was an academic career in political science. For this, a first-class degree was a necessary prerequisite. He would read modern greats (philosophy, politics and economics), the recently created variation on traditional greats (ancient history and philosophy) and he would do as brilliantly as he could.

Oxford enchanted Heinz. Unlike the German universities, it was left of centre and pacifist. Its union had recently passed the resolution: 'This House will not fight for King and Country.' Students and dons took easily to Heinz: this tall, dark, grey-eyed, somewhat mid-Victorian foreigner, who played the piano, tennis and chess and was a bit of a swot. But he remained an outsider.

Two men broke through his reserve. One was Tom Baily, a son of the vicarage, who read theology and planned to be a vicar himself. They became close friends. Tom invited Heinz to meet his family in the Lake District. Heinz invited Tom to meet his father in Istanbul, swim in the Bosphorus, sail on the Sea of Marmara and see the sights in old Stamboul.

Fifty years later, Heinz recalled this friend of his youth in a heartfelt memoir called *Canon Baily*. Tom was, he wrote, 'the complete English country gentleman'. Tall, slim, blond, always in flannels and tweed, with a long woollen scarf on cool days, he was 'a conservative with few illusions, an amused spectator of the follies of mankind'. His favourite reading was

The Times, Jane Austen, Anthony Trollope and railway timetables. 'He read the Barsestshire novels over and over again.' (He later became a regular reader of the Sydney sex education magazine *Forum* edited by Heinz's daughter, Bettina, whom he had christened.)

'For well over thirty years Tom tended his parish, conducting his Sunday services, marrying and burying parishioners all of whom he knew by name, baptising their children, visiting the sick, often on quite remote farms up the fells, taking Sunday School, helping run community organisations and carrying out all the tasks nowadays assigned to social welfare workers and counsellors. I never once heard him refer to religion.' Heinz was sure his friend no longer believed in the Anglican creed or even in God. But he did his duty year in and year out.

Heinz also accepted the family legend that his sister, Bettina, had turned down a proposal of marriage from Tom, who remained in love with her to his dying day, never marrying, but dividing his life between his duties as the Vicar of Shap and his attachment to the Arndt family.

Heinz's other friend at Oxford was his mentor and moral tutor, the philosopher Harold Cox. Even more than Tom Baily, Cox shaped Heinz's understanding of Englishness—or Britishness, since this dry, reserved don who dressed always in the compulsory flannels and tweed had been born in Glasgow and attended Glasgow High School. 'I now realise,' Heinz subsequently recollected, 'that his friendships with undergraduates reflected his repressed homosexuality, but I was too innocent at the time for the thought to have occurred to me, and in all the years of close companionship there was never an overt or covert hint or word or gesture from him. He took mildly amused note of my successive girlfriends, but never expressed the slightest desire to meet them.'

Cox listened patiently each week to Heinz's essays on the assigned topics. He would never intimate that he had heard these brilliant and devastating arguments countless times already. He would, however, ask probing questions, 'raising doubts, compelling me to clarify, distinguish, qualify, think'. He also taught Heinz about food and wine, painting and architecture. He introduced him to Ravel, Debussy and Stravinsky—a new musical world for a refugee from Breslau brought up in the self-sufficient heritage of the German–Austrian classics.

They took holidays together in Spain, Spanish Morocco and Istanbul. They also toured England in Cox's MG sports car. Once while they were sitting on a Norfolk beach at Overy Staithe, near Burnham Market, the

German hydrogen-powered airship, the *Hindenburg*, flew in from over the North Sea, its engine noise drowned by the roar of the waves. It was, in the propaganda of Dr Goebbels, an exemplar of National Socialist achievement. Heinz and his companion were struck by its daring beauty. As Heinz put it in a letter to a girlfriend, it was 'extraordinarily nice'.

The conservative Cox was distressed, however, by Heinz's gradual shift into the orbit of the Communist Party. Their association cooled and they lost contact. They met only once in the 36 years after Heinz left Oxford. He always recalled with pleasure the understated way Cox had initiated him into English civility. 'I hope you are getting better,' a friend said to Cox, who was suffering from cancer. 'I won't be getting better,' he replied. He took his own life soon afterwards.

However much Heinz admired British phlegm, liberalism, even humour, he would not pretend to be other than German. It was his nationality. He signed his letters, teutonically, 'Heinz Wolfgang'. He went to meetings of the German Club. He kept in touch with his German relatives. He was confident that the hysterical crowds worshipping Hitler in Dr Goebbels' propaganda films did not reflect the millions of Germans who opposed the Nazis. His own austere moral code, which his English friends mocked, was more Prussian than Bloomsbury.

Something of his tensions, uncertainties and dual loyalties surfaced suddenly in March 1936—two and half years after he left Germany—in his response to John Ford's film *The Informer* (1935). Based on the novel by Liam O'Flaherty (1925), it is the story of an Irishman (played by Victor McLagen) who betrays his country, is tortured by conscience and is condemned to death by a secret IRA court. In a long letter to a girlfriend, Pauline, Heinz wrote

I don't think I have ever seen a film which produces a particular atmosphere—the atmosphere of this tense nationalism, the underground work, the lowness and struggle of those rebels, and all that mixed with that devout Catholicism—so powerfully and vividly. It has swept me off my feet and I am amazed at myself. None of the sentiments which the film represents and glorifies appeals to me. I detest that nationalism, the spirit of lawlessness and revolt, I approve of the surrender of the rebel to the law, I have no understanding for [*sic*] the religious sentiments by which these men and women are swayed.

And yet the film carried me away to an extent which even now, after half an hour, seems almost incredible. It appealed to all that is irrational in me and that was enough to overpower everything else; maybe I am less rational, more sentimental than other people, which I would not like to believe. It is simply that we do not always think and reason but instead let ourselves drift and float on a current of instinct and emotion. That same instinct, the same emotions which drive nations mad, which make them swerve, as in a dream, in joy, anger, hate, pride and above all profound fear down to another crash and another short awakening before the current sweeps them away again. Any are mad [*sic*] is no reason for going mad ourselves, and an experience like mine tonight is a good warning to train one's mind against these forces by showing their latent power in our strangely built minds, or as the Germans would say, souls.

It was no easy matter to abandon 1,000 years of German culture and proclaim, with the leftist playwright Ernst Toller, *Ich War Ein Deutscher* ('I used to be a German'). But undergraduates' travel tales about the friendly Nazis increasingly repelled Heinz. At the last meeting he attended of the German Club, the speaker began his talk with a 'Heil Hitler' salute and then spoke for an hour about Hitler's Autobahnen. For a moment, Heinz thought of joining the Jewish Society.

He found some relief in left-wing politics. 'These were the thirties. We lived politics.' Students were overwhelmingly on the left. This meant they detested Mussolini and Hitler, admired Franklin Roosevelt and Jawaharlal Nehru, and despised Ramsay MacDonald, Stanley Baldwin and Neville Chamberlain. They were against nationalism and militarism, fascism and Nazism. They were also anti-capitalist because 'an economic system characterized by periodic disastrous depressions, chronic unemployment and stagnation, extreme inequality of wealth and income, and an ethic of each for himself and devil take the hindmost, was hopelessly inefficient as well as immoral'.

In the course of his five years in Oxford, Heinz began as a Wilsonian liberal, became a fellow-traveller of the Soviet Union and ended as a non-party communist. When he arrived in October 1933, he was still, like his father, committed to moral absolutes and opposed to violence. He noted Joan Robinson's *The Economics of Imperfect Competition* (in 1933, the *dernier*

cri), but did not need her rigorous proofs that there were unemployed workers in England. (He had watched the Hunger Marchers parade through the bleak Oxford streets.) He still shared his father's scepticism about the political wisdom of the uneducated proletariat, but he dropped in on the communist October Club, read the Webbs' *Soviet Communism: A New Civilisation?* (1935) and devoured the works of the Left Book Club. The one book that bowled him over was Beverley Nichols' passionate pacifist polemic, *Cry Havoc!* (1933), with its theme that 'Patriotism is an Evil—in every country'. Hitler must be stopped, they all believed, but without war or rearmament.

However much Heinz 'lived politics', his plans for an academic career depended on his getting a first-class degree. At first, he enjoyed his course immensely, 'plunging into one subject after the other with naïve and argumentative excitement: philosophy, economics, history, politics—and English. I worked on my English every day. The tutorial system with its requirement of writing two essays a week for three years taught me to write as nothing else could have done.' G.M. Trevelyan's social history especially thrilled him: it was a revelation that history was not, as he had been taught in Breslau, about kings and wars, but about ordinary people. 'He worked like a dog,' his brother said.

But Heinz was soon disenchanted. Oxford was in a stale period. He had arrived two or three years too early. He found philosophy 'anaemic'—until late in his course when he read A.J. Ayer's *Language, Truth and Logic* (1936). Economics was likewise limited—again, until late in his course, when he read Keynes' *General Theory* (1936). Politics was also dull—until he discovered Karl Mannheim's *Ideology and Utopia*, yet another revelation from 1936. (The German version had been published years before, but it was the controversy engendered by the English version that excited Heinz—and that deepened his commitment to communism.) One of his tutors, the conservative John Maude, advised Harold Cox that Arndt was 'unteachable'—that is, too argumentative and dogmatically left-wing.

At the end of June 1936, Heinz unburdened himself to his friend Pauline: 'I have no hopes whatever for a first.' In July, he tried to explain himself

As so often before I felt so utterly futile and silly, so superfluous all the time. I bore everybody else with continuously talking about it. And yet the stake is so immense. Everything, whether I shall be able to lead the life I want to lead, to do those things for others

which I feel myself able to do, all my fortunes of [*sic*] the rest of my life, depend on what my examiners will think of my performance during those 30 hours two weeks ago and those few minutes on the 17th which I still have before me.

As it happened, he got his first. In March 1937, the Assistant Registrar certified that

...it appears by the Registers of the University of Oxford that Heinz Wolfgang Arndt Lincoln College satisfied the Examiners in the Final Honour School of Philosophy, Politics, and Economics in Trinity Term, 1936, and was placed by them in the First Class; and having, in accordance with the Statutes of the University, kept the prescribed residence and passed all necessary Examinations, was on the fifteenth day of October 1936 formally presented and admitted to the degree of Bachelor of Arts.

The next career move would be a doctorate of philosophy, an Oxford DPhil, for which he needed a scholarship to supplement his monthly remittance of £20 from his Uncle Leo in Poland and the modest fees he earned as a college tutor. After New College turned him down ('My German nationality decided the matter'), Lincoln awarded him a scholarship of £120 a year. It was enough. He was now that new phenomenon: a research student—part of 'an unorganised and socially unimportant fringe of the student community', neither don nor undergraduate, with no standing compared with the honours schools.

In October the Board of the Social Studies Faculty cautiously accepted the theme he selected for a thesis: 'The place of Romanticism in English political theory during the nineteenth century.' It would draw on his German and English experience. In Germany, his teachers had discussed the old *völkisch* theories of race, blood, folk-soul and nation. He knew that these ideas had taken a National Socialist direction (although Nazis had tended to shun them as high-faluting). Yet in England a broadly related set of ideas—Romanticism—had led to Burkean Conservatism, far less sinister than National Socialism, but also, in Heinz's judgement, suspect. How did they differ?

He wrote again to Pauline

I want to find out how much there is in English political theory of that 'political Romanticism' which was enormously in vogue in Germany and which is in fact the precursor of Nazi and Fascist political theory. Romanticism is a bad word and I have to use it in default of a better one. It is really the anti-rationalist theory of the State and of Society, the emphasis on a *Stande-Staat* i.e. a class structure resembling feudalism, the stress on history and tradition, the revival of religion, the emphasis on feelings and passions as opposed to reason and the intellect, the birth of nationalism, the view that the State is everything, that men are unequal (the *Führerprinzip*), anti-liberalism, anti-French Revolution, the reaction against the 18th century, and so on. These doctrines have had comparatively few exponents in England (Coleridge, Burke, Carlyle, Disraeli and some others), but it may be worthwhile to find out what there is of them, and particularly why rationalism has been so strong in England and has withstood them so well. Most of the people with whom I have discussed the subject did not think much of it. I think it's worthwhile.

He slogged away for two years, trying to convince the dons. Three factors made his task harder. The first was the limited resources available to research students in Oxford; even so great a university suffered from English provincialism. 'The facilities of research at Oxford are inferior to London,' Heinz wrote. 'The Bodleian, with its subsidiary libraries, the fine law library of All Souls, and several smaller libraries, provide most of the material the ordinary Research Student needs. There is however a shocking dearth of even the most essential foreign literature and, even apart from that, almost every student will find occasional journeys to the British Museum or the Public Record Office or other libraries in London necessary.'

The second problem was that he had become a disciple of Karl Mannheim. The sociology of knowledge that reduced political philosophies to class-based, self-serving programs was, for him, a 'tremendously exciting discovery', a revelation. You no longer asked if an idea was true or false; you looked for its social function. The application to society and politics

of absolute moral standards now became 'naïve' and 'shallow', and books written in that spirit were now 'unreadable'.

But the Oxford dons found Mannheim's relativism uncivilised, intolerable and Germanic. What mattered to them was the truth or falsity of a proposition, not its sociology. Heinz was aware that (as he put it, mimicking donnish style) 'a certain orthodoxy in the general approach and in the choice of subjects is not considered a disadvantage'. He also knew that his best chance of getting Oxford University Press to publish his thesis was to study under an influential supervisor and to produce a work that 'does not offend the traditional code or political and academic orthodoxy (the second qualification is generally a corollary of the first!)'.

Yet he could not complete his thesis and, at the same time, abandon his convictions on which it was based. How was he to find a supervisor who had even a minimal sympathy with Heinz's mixture of Mannheim and Marx? He was allocated to Denis Brogan, who declined. He was transferred to Harold Beeley, who was more sympathetic but left Oxford soon afterwards. The Board of Faculty then suggested that Heinz find a supervisor himself.

He sounded out Ernest Barker at Cambridge, who was 'quite useless'. (It would have involved travelling to Cambridge once a month in the hope of catching Barker at home during his lunch hour 'amidst distractions caused by numerous small children'.) Finally, he was assigned to G.D.H. Cole, who generously put his enormous private library at Heinz's disposal but was otherwise 'not helpful'. Heinz never found the right supervisor.

A third factor making academic life difficult for him was the Spanish Civil War. It dominated everything (including his thesis) in the way that the Vietnam War did academic life 30 to 40 years later. The left saw the war as a contest between a Popular Front of socialists, idealists, liberals, democrats and all men of good will on one side of the barricades, and fascists, clerical-fascists, monarchists, national socialists, militarists and reactionaries of all kinds on the other. The right saw the war as a battle for God and civilisation against Stalinists, anarchists, dissident communists and leftist dupes of all kinds.

British intellectuals from George Orwell to Stephen Spender supported the Popular Front, almost to a man. 'Did you read in the papers this morning of the horrible mess in Spain?' Heinz wrote to Pauline in May 1937

Not without provocation Government aeroplanes bombed the German battleship *Deutschland* on Saturday as she was lying

off Ibiza—where she had no business to be; result: 20 dead, 70 wounded. Further result: immediate Cabinet meeting in Berlin; five German warships bombed a town at the south coast, in Government hands, for one hour and a half. Also an Italian submarine sank a Spanish merchant vessel: 50 drowned. God knows how this business is going to end. There is nobody to stop the Germans going on with their atrocities. In Germany the people have been told of an ‘unprovoked murder of scores of brave German sailors’ and obviously they are furious and could support the Government in anything they wish to do. It is only by letting Germany and Italy play havoc in Europe that the Western countries can buy peace for a little while longer.

Heinz now moved forward from liberalism, as Spender had put it in 1937. There was no longer time to waste on popular or conservative diversions. (‘Where are you going to be during the Coronation?’ he asked Pauline in April 1937. ‘I shall probably spend the day in the Bodleian. The only question is how to spend the evening as quietly as possible.’) He had become a committed fellow-traveller of the Soviet Union and the Communist Party. ‘There could no longer be any doubt,’ Heinz wrote, ‘about the need to work with Communists who were foremost in the struggle. We listened enthralled to [Clement] Attlee, Nye [Aneurin] Bevan, Jimmy Maxton and Harry Pollitt at Popular Front rallies. We applauded Esmond Romilly going off to fight in the Communist-led International Brigade.’ He saw no need to modify his enthusiasm as Stalin took over the Spanish government. In 1937, he applauded Koestler’s *Spanish Testament* (1937), with its ‘moving account of Franco’s persecution of Spanish Communists’, but not Orwell’s *Homage to Catalonia* (1938), with its moving account of the communists’ persecution of Spanish anarchists.

Heinz wrote to Pauline about Attlee’s passionate speeches to the Oxford Labour Club in February 1938, when Franco was winning the civil war and Hitler was being rapturously welcomed into Austria, now as part of the Reich. ‘He was given an extraordinary reception. At the conclusion of his last speech (he had to address crowds who had assembled in three different places) hundreds of undergraduates and townspeople carried him on their shoulders all through the High to Carfax, through the Corn, the Broad, the Turl and through Brasenose Lane to the Radcliffe Camera where he had a car waiting. ‘The speeches were ‘sound and interesting’, but the Labour Party was still too ‘flabby’

compared with the Communist Party, especially in its opposition to Hitler, Franco and Mussolini.

Heinz's postgraduate years, which began with the Spanish Civil War, ended with the Munich crisis of September–October 1938 and the British government's appeasement of Hitler. If Spain made him a fellow-traveller, Munich made him a committed, if non-party, communist. Mannheim's relativist sociology had already undermined Heinz's belief in absolute moral standards and his opposition to revolutionary violence. Heinz now saw these former principles of his as the ideological weapons of the ruling class.

There was also a personal influence: his American friend Leslie Epstein (later Falk). Epstein was Jewish, a Rhodes Scholar studying microbiology and 'one of the gentlest and most charming persons I have ever met'. Thirty years after Munich, Heinz recalled his furious arguments with Epstein.

He gradually convinced me that communism was the only rational approach to the world's problems. In his gentle but scientific way, he argued convincingly that the end justifies the means. To condemn revolution was the obvious tactic of the ruling class. How, without violent revolution, could the 'New Civilisation' of the Soviet Union have been achieved which the Webbs had just described so eloquently on the basis of first-hand knowledge? I remember, about this time, reading the famous discussion between H.G. Wells and Stalin which turned largely on the issue of ends and means and being impressed by Stalin's impeccable logic.

It was this logic that enabled 'many of us to shrug off with an uncomfortable shudder' whatever parts of the reports of Stalin's purges they could not dismiss as capitalist propaganda. They must prepare, Heinz maintained, for war against Hitler in support of the Soviet Union and not for more appeasement.

Later he was to say that 'I insufficiently understood the importance of political liberty', but there was no denying at the time 'the joys of being a Communist'. They alone, he said, had the true faith and understood the laws of history and progress. They alone looked at society scientifically and rationally. They despised those around them who were still in the fetters of superstition and reactionary ideology.

'We also enjoyed "the camaraderie of a secret society" (even when Party duties were legal) working selflessly for the world-wide revolution.' Finally,

there was the less selfless appeal of a working-class doctrine that left no doubt that 'leadership in the struggle and power after victory belonged to the intellectual elite'—that is, to Heinz and his comrades.

Heinz spent his last days in Oxford assembling gas masks in the Oxford Town Hall and digging air-raid shelters near the Natural Science Museum. His friends' letters reflect the conflicting moods of that desperate autumn of 1938. In mid-September, as Chamberlain flew to Berchtesgaden to meet Hitler, Heinz's German-Jewish friend Ira, who was holidaying in Zürich, tried to see a brighter side: she was 'not at all proud of Hitler's achievements', she told 'Heinzle', but it can't be denied that 'he has done a lot for Germany. A few years ago, nobody would have thought of listening to the speeches of a German chancellor as they do now. And for an English Premier to go and see him, why, it would have been unthinkable. I wonder whether he was sick in the plane.'

Later in the month, Pauline wrote to Heinz: 'I have just heard Hitler's speech and the first English translated précis of it in my room by myself. I managed to feel slightly happier by the end of the original, as I had feared that it would be something far worse and that it would immediately precipitate us into war. But somehow the English translation followed by accounts of military precautions which are being taken in this and other countries completely depressed me again.'

Tom Baily's mother, Mary, was often in touch with Heinz during the crisis. Shortly before the Munich conference in late September, she wrote

I feel perhaps it is better to say nothing until after this conference but I fear and hope that I may not have to be completely ashamed of my country. I am almost certain that you must be greatly disturbed in your mind and heart, and I just wanted to show that my husband and I are not unmindful of you and trust you will always rely on our friendship and affection.

A few days later, and immediately before the Munich conference, she wrote again.

You would be looking at the situation with the mind of a true German, just as I hope a true Englishman will look at it. I hope the true and real German mentality will arise and triumph over the dark sinister rule of Dictatorship and Nazism. I feared you might think England was afraid to stand up with her friends and that we

might be refusing our help to Czechoslovakia. I am by no means a convinced admirer of Chamberlain. I wish very much that Eden were back in the Cabinet. I have not been very pleased with the *Times* lately. In their rather blunt way nearly everybody here just says 'Hitler must be put a stop to'.

Britain and France did not, however, 'put a stop' to Hitler. They agreed to his absorbing the hitherto Czech-controlled Sudetenland. A desperate Tom Baily wrote to Heinz

There is a faint chance now of coming to some reasonable settlement in Europe. Very faint, perhaps, but still there. I'm sure that the most justifiable war is likely to end in the victory of little but wickedness and folly. But the price has been dreadful. It is reassuring to find people here [in Sheffield] inclined to be very ashamed. Very few of them would like to look a Czech in the face. So you'll see that I'm not quite in accordance with your views. I shall continue to vote unrepentantly for the National Government.

Heinz's mood was angrier. 'I recall almost physically,' he wrote many years later, 'the nauseating mixture of disgust and relief we felt when Chamberlain returned from Munich bringing "peace in our time".'

Heinz had by now fully committed himself to the pro-Soviet, anti-Nazi cause. Only five years after he had left Germany, anti-Jewish pogroms (*Kristallnacht*) had exploded in Germany. Late in 1938, an exhibition opened in Berlin in the Reichstag building designed to expose 'Jewish infamy', from the horrors of ritual animal slaughter to communism, surrealism and pornography and on to the Weimar *Judenrepublik*. The exhibition culminated with photographs of hollow-cheeked Jewish prisoners in Dachau's concentration camp. All Berlin students were compelled to visit the exhibition. Heinz applied for British naturalisation.

This turmoil made it harder for Heinz to find a detached voice for his thesis. By now it was clear that he had a great gift for research. The problem for the dons was to turn him from an argumentative communist into a scholar and academic.

Years later, Heinz agreed that his thesis was a poor one. It was not just his Mannheimian sociology, with its rejection of the idea of objective truth, which offended the dons. His understanding of British politics, especially

English conservatism, was superficial. Put bluntly, Heinz did not seem to know what he was talking about. His examiners would not give him a DPhil. They offered him a BPhil instead. But a BPhil was regarded as a public declaration of failure to obtain a DPhil. Heinz preferred to rewrite and resubmit his thesis in a year or two.

Meanwhile, he was unemployed. Manning Clark, who had just arrived in Oxford from Melbourne, told him of plans to establish a Department of Political Science at Melbourne University. Heinz wrote to MacMahon Ball, asking if it would be worthwhile applying to him for whatever vacancies might occur. He gave the names of G.D.H. Cole and Harold Laski as referees, but nothing came of it.

His hope now rested on the application he had made in September for a Leverhulme Research Studentship (£150 a year) at the LSE, where Mannheim conducted seminars, and which seemed a far more sympathetic centre than Oxford. He discussed his problems with Ivor Jennings of the LSE, who encouraged his idea of writing a sociology of *Verwaltungsrechtslehre*—the jurisprudence of administrative law. (This would certainly mean going to London because there were no books on it in Oxford.) They finally settled on the theme of the *Rechtsstaat* or the Theory of the Rule of Law. (Jennings said Heinz was ‘the only student I have met who understood what the subject was about’.)

Heinz submitted his proposal to the Leverhulme Selection Board

During the last ten years the problem arising out of the conflict between the traditional doctrine of the ‘Rule of Law’ and the actual development of modern administrative law has been one of the most hotly debated questions among political scientists and jurists in this country.

I therefore propose (i) to investigate the history of the doctrine and its development (a) by English lawyers and English constitutional and legal theory; and (b) by German, French, Italian, and perhaps American, jurists. I shall attempt to place each writer in his philosophical, political, and social background, showing particularly how the doctrine changed with changing political and economic conditions.

Secondly (ii), I intend to consider how far any such theory can be sustained in modern conditions. I can, of course, not yet indicate

what my conclusions will be. But I expect that I shall largely follow Mr Jennings with whose standpoint I agree in most respects. I shall devote special attention to those aspects of the doctrine which are immediately relevant to the practical problems of modern administrative law: such as the doctrine of the separation of powers and governmental functions; and the questions of the desirability of a separate system of administrative courts; of delegated legislation and jurisdiction; and of the English notion of the special immunities of the Crown as far as it concerns the responsibility of the State for the actions of its servants.

Harold Beeley, his old supervisor, supported the application: 'He has read widely in both the philosophy and the political theory of the period [the nineteenth century], German as well as English. From this unusual knowledge of its background, his work derives a richness of content and a sense of proportion.' Beeley added, in a reference to Mannheim: 'At the same time he is never unaware of the relationship between movements of thought and the social conditions in which they arise.'

G.D.H. Cole also wrote in support: 'I think very highly of his work. He has an excellent understanding of the background of English political thought in the eighteenth and early nineteenth centuries; and he writes good English. He has shown very good capacity as a research student, and in my view his thesis is of admirable quality. He is well worth helping to continue his researches.'

Ernest Barker had this to say

Mr Arndt has a lively and eager mind; he has a grip of modern philosophy; and he has already covered a wide field. He has the advantage of having combined a previous German training with the Oxford course of 'Modern Greats'; and he has been able to look at his subject, if I may use that phrase, through both German and through English spectacles—or, in other words, to consider it both from outside and from inside. Mr Arndt has still to simplify his style and to make his thinking more concrete; but he shows promise of bringing an original mind, and an original point of view to the interpretation of English political ideas.

Herman Finer, of the LSE, who was a member of the selection board, added his voice: 'He is a person of abnormally mature intellect, has a rapid intelligence, and is [a] brilliant thinker. He has a most engaging manner and is extremely well informed.'

Finally, Ivor Jennings wrote: 'Since Dr. [*sic*] H.W. Arndt is likely in due course to obtain some academic post, it would be useful both for him and the School to have him associated with us.'

Heinz's application was successful and he promptly enrolled at the LSE. It was 'a wonderfully exhilarating place' at its height as a centre of intellectual activity. There were Mannheim, Jennings, Lionel Robbins, R.H. Tawney, Eileen Power, Nicholas Kaldor, Frederic Benham, W.A. Robson and Friedrich Hayek. 'I saw much,' Heinz wrote, 'of Laski, [Herman] Finer and Robson, the triumvirate of Fabian political scientists who—far more than the predominantly conservative group of economists—were largely responsible for the "red" label attached to the LSE.'

Above all, he found himself working with and among 150 postgraduate students, many of whom were to be among the leading social scientists of the English-speaking world. These students welcomed Heinz in their journal with an ironic *Who's Who* entry

At present waiting for various people to make up their minds
 (a) for his Oxford examination, whether they will give him the D.Phil.;
 (b) for the Home Secretary, whether he will grant him the certificate of naturalisation;
 (c) for himself, whether he prefers London to Oxford or vice versa.
 Subject: politics and sociology; Hobbies: politics and music;
 Passions: politics and—never mind.

His politics remained Marxist and communist. He attended a Marxist study group of students and junior staff and made his friends among 'party members' and supporters. 'I did not join the Party—if only because my naturalisation was held up through some muddle in the Home Office and I did not want to endanger it by political activity.'

In 1939, he published his first major academic paper, 'Bentham on administrative jurisdiction', in the *Journal of Comparative Legislation*. He was 24. He was almost certainly the last person to examine the original

draft of Bentham's *The Constitutional Code* (1830), then in the University College Library, but later destroyed by German bombers. His conclusion conveys his position and mood.

Bentham realised—and he was perhaps the first to realise—that capitalism needed not only freedom from restraint but also efficiency of control where control was still possible. He realised that even a free economic system needs as its precondition an efficiently organised administrative system to look after the essentials of a stable social order. This insight saved him from the stupidities, and therefore, also from the cruelties, of the fanatics of *laissez-faire*.

The large number of governmental functions that Bentham laid down included the supervision of water, sewage and drainage; health inspection of schools, lunatic asylums, prisons and workhouses; and the maintenance of medical services in the armed services, certain hospitals and lazarettos. Heinz concluded that Bentham's discussion of 'the problem of administrative jurisdiction is not yet irrelevant to our own conditions'.

This period at the LSE was not only intellectually exhilarating, it was personally exciting. One momentous development was Heinz's birthday party in Bloomsbury in February 1939. When he was asked how he felt about inviting a German refugee girl, Heinz was unenthusiastic. He was more interested in meeting English girls. But the German girl came anyway—and 'that is how I met my wife'.

The girl was Ruth Strohsahl from Cuxhaven, a fishing town on the Elbe, down-river from Hamburg. Her mother was a leader of the Social Democratic faction in the city council and her father was the editor of the Social Democratic paper. There were no prominent National Socialists in Cuxhaven, but young men, including Ruth's boyfriend, gradually joined Hitler's party (they were often attracted by the Nazi uniform).

When Hitler became Chancellor, Ruth's father was briefly imprisoned and the swastika raised over the newspaper building in which the family lived. National Socialist officials searched their apartment. Louts, enraged by the peace badges that Ruth and her mother wore on their coat lapels, insulted them in the street. In her final examination in Germany, her *Arbitur*, she characteristically wrote an essay criticising National Socialist economic policy. It was called 'Problems of our time'. The education authorities failed her and advised the school that she would have no

place in the New Order unless she was removed from the influence of her parents.

Her Social Democrat teachers, determined to help, quickly found her a job as an *au pair* girl in England, where she arrived in 1935. She was 17, knew no one and owned a total sum of 10 shillings. At first, she worked *au pair* in London and Berkshire, and then enrolled in the LSE to study sociology, with the idea of becoming a social worker. She lived on two small grants, one from the International Student Service and one from George Strauss, a backbench MP. From time to time, her mother sent her parcels of clothes from Germany.

Meanwhile, Germany occupied all of Czechoslovakia. Franco took Madrid. Italy invaded Albania. But more sensationally, in August 1939, Hitler and Stalin agreed on a Pact of Friendship. At the airport in Moscow, the Red Army band played the Horst Wessel Song to welcome the Nazi Foreign Minister, Joachim von Ribbentrop, for the signing of the agreement.

The pact at first shook—yet later deepened—Heinz’s communist loyalty. At first, it was ‘unbelievable’. In this, the most critical moment, ‘a deal with the enemy by those whom we had come to see, indeed whom we knew to be, the leaders in the struggle against fascism!’ His misery soon turned to agony. Three weeks later, Hitler and Stalin partitioned Poland. In Wroclaw, or Hohensalza, as the Germans called it, two German soldiers began arresting prominent Jews, including Heinz’s Uncle Leo. Leopold, a former major in the Imperial German Army, demanded to see the commanding officer. Within minutes, he was shot dead. In Warsaw, Heinz’s Aunt Lala (Countess Ilnicka) was made to watch as her Jewish husband was executed.

To Heinz’s astonishment, the Communist Party denounced the war against Hitler as shadow-boxing while the imperialists of Britain and France prepared to attack the Soviet Union. ‘It was grotesque.’ For two full days and one night, Heinz argued against the new pro-Hitler line with an American communist who was the leading party member among the remaining research students. In the end, the American ‘supplied me with all the arguments I so badly needed to enable me to remain loyal to my communist faith in the face of this enormous about-turn’.

Heinz managed to persuade himself that Chamberlain and the French Premier, Édouard Daladier, were scheming to turn the German war machine against the Soviet Union, that the future of socialism and progress depended on the defence of the ‘socialist sixth of the world’ and

that the national interest of the Soviet Union was the touchstone of right and wrong in world affairs.

In London, however, Heinz had more mundane problems. When early in September 1939 Britain declared war on Germany, most of the LSE staff joined the government or armed services. The Ministry of Economic Warfare took over the school buildings and the remaining staff and students, including Heinz and Ruth Strohsahl, moved to Cambridge.

Heinz resubmitted his Oxford thesis for the DPhil and again the examiners rejected it. 'I had my viva [viva voce examination] with [A.D.] Lindsay and [E.F.] Carritt, and they failed me again for the DPhil although they gave the BLitt. Cole sent me their confidential report to the Board of the Faculty; it was very nasty. They seem to have misunderstood entirely what I wanted to show in the thesis and then declared that "this thesis is of course not original".'

They also complained again that Heinz showed 'a very inadequate understanding of how English politicians actually thought and acted' and was too concerned with fitting the facts into a preconceived system, which he accepted too uncritically. 'In the viva which lasted for two solid hours I had spent more than half an hour in what was practically a political argument with Lindsay. Well, it can't be helped now. I shall take the useless BPhil because it will enable me to explain how I spent my last two years at Oxford.'

Heinz now completed an *apologia pro vita sua*, which he called *The Social Outlook of British Philosophers*. It was his response to *An Autobiography* (1939) by R.G. Collingwood, a leading British philosopher and historian at the time, but it was also a statement of what Heinz had learned in Oxford about the English intelligentsia.

The theme of Collingwood's memoirs is his polemic against Realism, especially Oxford Realism, the philosophy that had supplanted Idealism, just as Idealism had supplanted Utilitarianism. The Realist doctrine is that nothing is affected by being known, that the authentic philosophical attitude is sceptical, critical and detached, and that philosophy can give no moral guidance. Oxford Realism, according to Collingwood, made its followers dupes of every adventurer in morals and politics.

Collingwood went further. He completed his book in the shadows of Munich and he condemned Realism as the principal cause of British appeasement of Hitler, of British moral capitulation. The Realists and the British intelligentsia who followed them were propagandists for fascist

nihilism. What was needed was a return to Idealist philosophy as a guide to life and morality.

Heinz gave Collingwood's critique of Oxford a more Marxist or Mannheimian interpretation. The problem was not so much that the Realists had abandoned their function as public mentors but that the progressive forces in society had abandoned the Realists. Utilitarianism had been the philosophy of the rising bourgeoisie. Idealism had been the philosophy of the established bourgeoisie. Realism was the philosophy of the bourgeoisie in decline. The rejuvenation of philosophy would come about, according to Heinz, only by association with the working class and socialism.

I see little reason to suppose that an intelligentsia largely recruited from the ruling class and for a large part dependent for their livelihood and comfort on the existing social system would throw themselves into the fray on behalf of the truth as I see it.

But Heinz also struck a note of caution against triumphalism. His conclusion demanded that the intellectual commit himself actively and with every instrument at his command to furthering what he believed to be true and right. 'It [also] asks him to preserve his intellectual and moral integrity, his preparedness to criticise the forces whom he supports (and on whose support he rests), knowing that events may prove him wrong and that he may be left to rot by the wayside.'

He submitted his apologia—part manifesto, part *cri de coeur*—to the New York journal *Science and Society: A Marxian Quarterly*. It was accepted for publication; by the time it appeared, however, Heinz was interned in a camp for enemy aliens on the other side of the Atlantic—'rotting by the wayside'. In May 1940, his nationality was still German and therefore he was an enemy alien. With Hitler's troops 20 miles away, the order from Whitehall was blunt: 'Collar the lot!'